

# CONTROLLED EQUIPMENT ORDINANCE (BMC 2.100) PRESENTATION

Public Safety Committee

**Date:** July 21, 2025

**Presented by:** Joshua Cayetano, Chair  
Police Accountability Board



# OVERVIEW OF PROPOSAL

1. Consolidate Controlled Equipment Report (BMC 2.100) and Military Equipment Report (AB 481) Into a Single Annual Report, Eliminating Duplicative Reporting and Reducing Administrative Burden
2. Retain BMC 2.100's Requirements that Promote Transparency and Accountability, Ensure Oversight and Accountability Mechanisms, and Build On AB 481's Framework
3. Issue Negative Recommendation to Item 2 (Proposal to Rescind Police Equipment and Community Safety Ordinance)
4. Issue Positive Recommendation to the PAB's Proposed Revision to BMC 2.100

# TIMELINE OF BMC 2.100 AND AB 481

April  
2021

THE BERKELEY CITY COUNCIL UNANIMOUSLY ADOPTS ORDINANCE NO. 7,760-N.S.,- POLICE EQUIPMENT & COMMUNITY SAFETY ORDINANCE

July  
2021

CITY OF OAKLAND PASSES ORDINANCE ESTABLISHING RULES FOR THE OAKLAND POLICE DEPARTMENT'S ACQUISITION AND USE OF MILITARY AND MILITARISTIC EQUIPMENT.

Sept.  
2021

CALIFORNIA ENACTS AB 481

2022-  
2025

AT LEAST TEN MUNICIPALITIES ENACT OR RENEW LOCAL ORDINANCES REQUIRING MILITARY EQUIPMENT REPORTING ALIGNED WITH AB 481

May  
2025

THE BERKELEY CITY COUNCIL EXPLORES PROPOSAL TO RESCIND POLICE EQUIPMENT & COMMUNITY SAFETY ORDINANCE ANNUAL REPORT.

# Components of BMC 2.100

## Reporting

Controlled Equipment Impact Report

Annual Reporting on Deployments and Uses

Promotes Transparency

## Oversight

Delegates Oversight of Controlled Equipment to the Police Accountability Board

PAB May Conduct Compliance Review and Recommend Modification or Revocation of Equipment if Non-Compliant

Promotes Accountability

# Consolidating Reports

1. Berkeley Police Department currently publishes two reports, but it does not need to.
2. It may publish a single report that satisfies both AB 481 and BMC 2.100.
3. Oakland's Municipal Code, like Berkeley's, imposes additional reporting requirements. (Attachment 4 to PAB's Supplemental Letter). Oakland Police Department submits one report that satisfies both State and Local law. (Attachment 3 to PAB's Supplemental Letter).
4. PAB's Sample Combined Military Equipment Report (Attachment 2).

# **AB 481 Encourages Local Governments to Adopt Stronger Protections**

**“Military equipment” means the following....**

**(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.” AB 481, Section 7070**

**.....“Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.” AB 481, Section 7075**

# Substantive Reporting Differences

## Berkeley city ordinance vs CA law AB 481

City law	State law	What would be lost without city law?
Deployment of weapons, defined	“Use” of weapons, undefined	Visibility into how many weapons are deployed, how often
How many used with warrant, and where	No requirement	Where and how often and what weapons were deployed, with and without a warrant?
Mitigation and alternatives	No requirement	No consideration of adverse impacts, mitigation options, alternatives
Includes assault rifles, deployed pepper spray	No pepper spray or “standard issue” assault rifles	BPD may end reporting on pepper spray, & assault rifle use through AB 481 exemption

**BERKELEY (BMC 2.100) AND  
STATE (AB 481)  
REPORTING TOTALS FOR 2024**

**50 Incidents Reported Under BMC 2.100**

Source: [BPD 2024 Police Equipment and Community Safety Ordinance Annual Report](#)

**13 Incidents Reported Under AB 481**

Source: [BPD 2024 Annual Military Equipment Report](#)

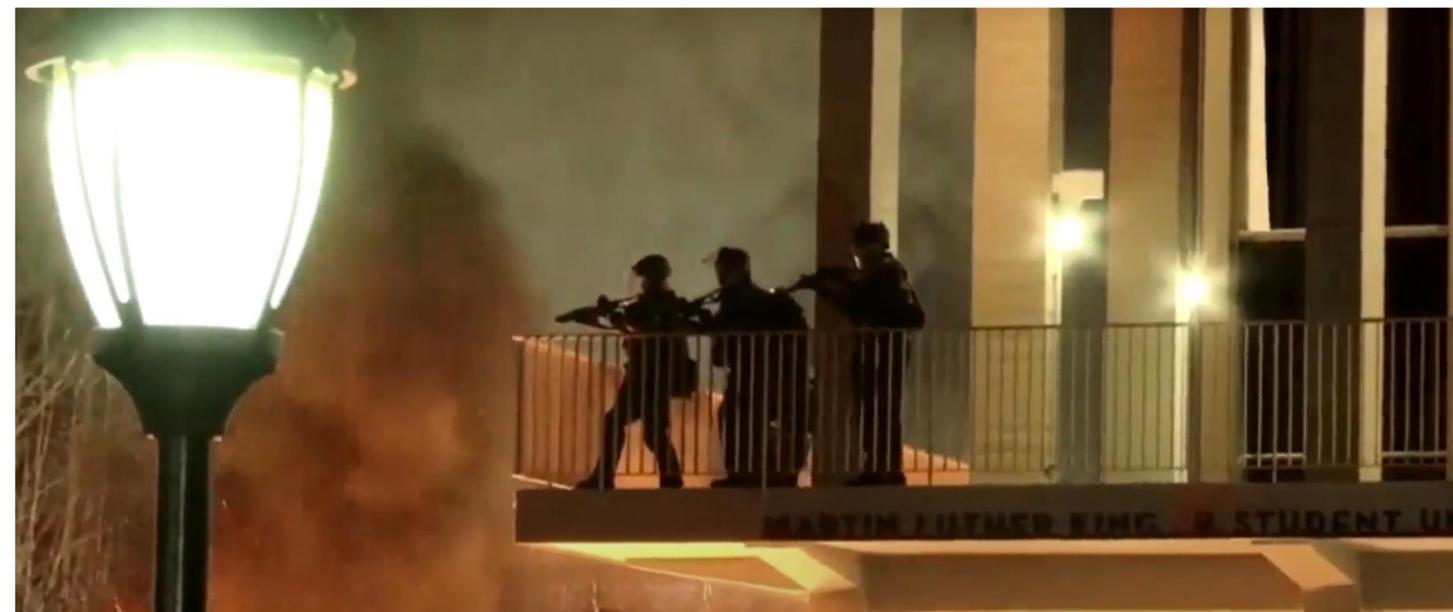
# Deployment Reporting

“‘Deployed’ means to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response.

‘Deployed’ shall not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person.

(1) Batons 30 inches or longer in length shall only be deemed ‘deployed’ when used for management or control of crowds.”  
BMC 2.100.020(D).

# Deployment Reporting



Source: 2024 Police Equipment and Community Safety Ordinance Annual Report pg. 5

#	<u>Equipment Deployed</u>	<u>Summary of Deployment</u>	<u>Beat</u>
1.	36" batons, FN 303 Launcher, Light/Sound Distraction Device, 40MM Launcher	For a scheduled protest at a public park, the Special Response Team deployed 36-inch batons, an FN 303 launcher, light/sound distraction devices, and a 40MM launcher. None of the equipment was used.	6

**NOT IN AB 481 REPORT**

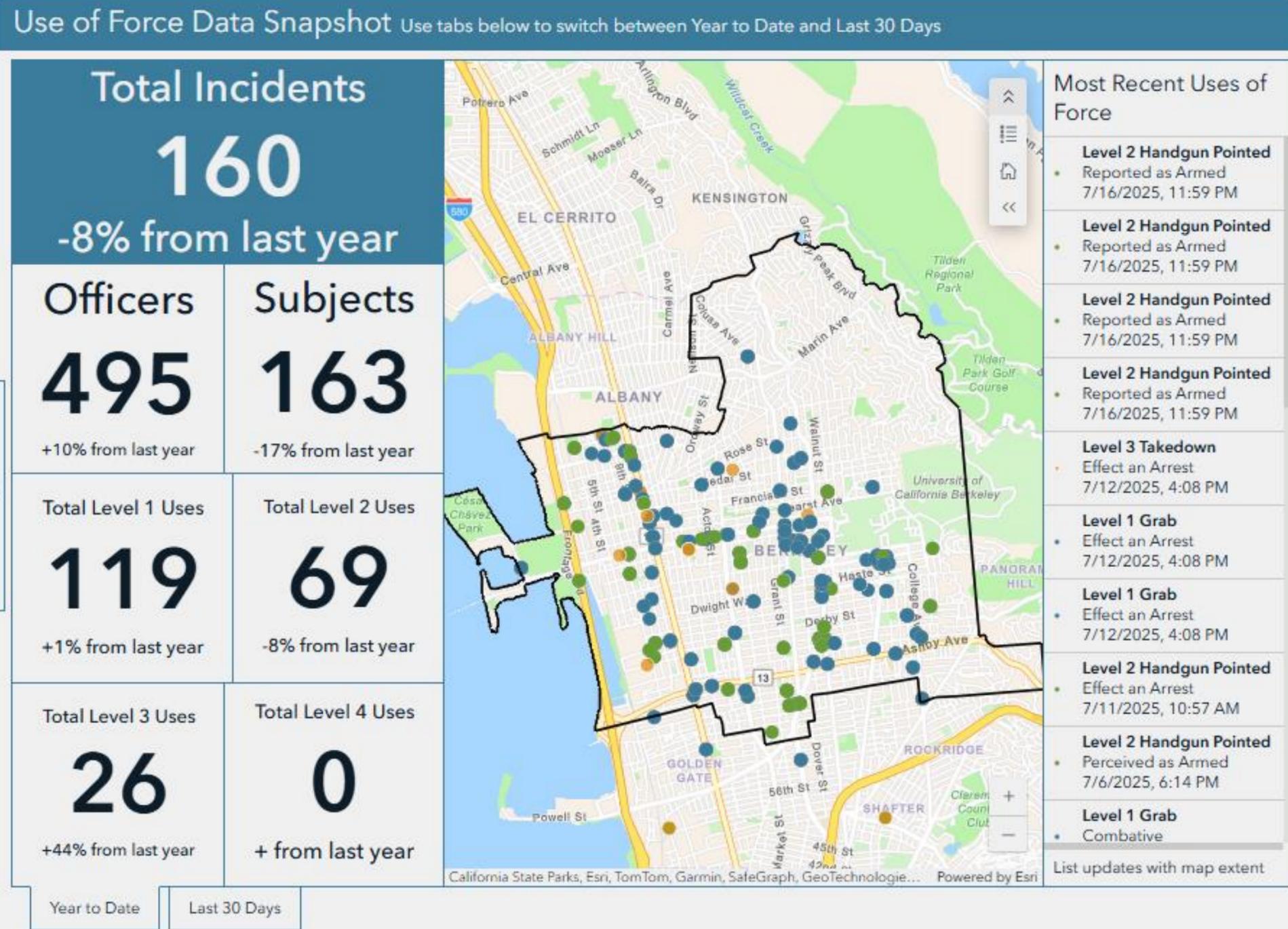
Source: 2024 Police Equipment and Community Safety Ordinance Annual Report pg. 7

20.	FN 303 Launcher, Light/Sound Distraction Device, Patrol Rifle, 40MM Launcher	The Special Response Team responded to arrest a suspect connected to a shooting. Officers spotted him walking down the street and used a light/sound distraction device to distract him. The subject complied and was detained without incident. All other listed equipment was deployed but not used,	Outside of Berkeley
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Source: 2024 Annual Military Equipment Report pg. 8

5.	Light/Sound Distraction Device	The Special Response Team responded to arrest a suspect connected to a shooting. Officers spotted him walking down the street and used a light/sound distraction device to distract him. The subject complied and was detained without incident.	Outside of Berkeley
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# Transparency Hub Reporting



**“BPD Use of Force Level 2: “....1. Firearm drawn from the holster or otherwise deployed during an interaction with an individual, and/or pointed at an individual. For the purposes of this section, "interaction" shall be defined as a situation in which an individual could reasonably believe the deployment and/or pointing of a firearm could be an attempt to gain compliance...”**

## **CATEGORY 2 – Mine-resistant ambush-protected vehicles or armored personnel carriers**

**2010 Ford F-550 Ballistic Armored Tactical Transport (BATT-S) Vehicle**

**Definitive Section:** CA Gov't Code Section [CA Gov't Code Section 7070\(c\)\(2\)](#)

**East Bay Regional Park District Police Department Policy:** 707.9

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### **2024 REPORTING REQUIREMENTS – CATEGORY 2**

**Authorized Usage: 4**

4/22/24 – Armed suspect at large

8/8/24 – Armed suspect at large

12/12/24 – Agency assist

12/19/24 – Agency assist

**Unauthorized Usages in 2024 | Audits, Violations & Actions Taken in Response:** There have been zero (0) reported violations of the military equipment use policy.

**Complaints/Concerns Raised:** There have been zero (0) reported complaints.

**Fiscal Impact:** General maintenance as needed. Approximately \$1,000 in maintenance and repair in 2024.

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# BMC 2.100 Oversight Mechanisms

BMC 2.100 requires that:

- PAB review and recommend, and City Council approve, New or Expanded Controlled Equipment Use Policies. Proposed Impact Reports and Use Policies must include PAB recommendations.
- BPD to submit the Report to PAB prior to Council.
- PAB to determine, based on the report, if each piece of military equipment complies with the standards set forth in the Ordinance, which are substantially similar to the standards set forth in AB 481;
  - If the PAB identifies any noncompliance it shall either recommend revocation of the authorization for that piece of Controlled Equipment or modify the Controlled Equipment Use Policy in a manner that will resolve the lack of compliance.
  - If the PAB does not act within 90 days (30 days in time-sensitive circumstances), BPD may proceed to City Council for approval.

## BMC 2.100 Oversight Mechanisms Ensure:

- Berkeley Police Department's Uses and Deployments of Military Equipment are:
  - Not excessive
  - Safeguarding the public's welfare, safety, civil rights, and civil liberties
  - Not discriminatory
- City Council receives an informed recommendation from an Independent Oversight Body regarding both Proposed Use Policies and annual Deployments and uses of Military Equipment
- All substantive reporting requirements are met

**END**

**THANK YOU. QUESTIONS?**