

Page numbers for this agenda packet are marked in **blue** to distinguish them from the numbering within individual documents.



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA PACKET  
MARCH 25, 2026  
6:30 PM**

**Board Members**

Joshua Cayetano (Chair) Leah Wilson (Vice-Chair)  
Randy Wells Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

**Agenda Item Materials**

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Item 2

March 25, 2026 PAB Regular Meeting Agenda



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA  
WEDNESDAY, MARCH 25, 2026  
6:30 P.M.**

**Board Members**

Joshua Cayetano (Chair)  
Randy Wells

Leah Wilson (Vice-Chair)  
Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

**PUBLIC NOTICE**

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/89007838093>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial 1 **669 900 6833** and enter Meeting ID **890 0783 8093**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

**LAND ACKNOWLEDGMENT**

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

**AGENDA**

1. **CALL TO ORDER AND ROLL CALL** (2 MINUTES)
2. **APPROVAL OF AGENDA** (2 MINUTES)
3. **CLOSED SESSION** (Estimated 1 HOUR)

**CLOSED SESSION ITEMS**

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPa:
  - i. 2023-CI-0016
  - ii. 2024-CI-0004
  - iii. 2025-CI-0018
  - iv. 2025-CI-0019
  - v. 2025-CI-0020
  - vi. 2025-CI-0026
  - vii. 2025-CI-0027
  - viii. 2025-CI-0029
  - ix. 2025-CI-0030
  - x. 2025-CI-0033
  - xi. 2025-CI-0034
  - xii. 2025-CI-0035
  - xiii. 2025-CI-0036
  - xiv. 2025-CI-0037
  - xv. 2025-CI-0038
  - xvi. 2025-CI-0041
  - xvii. 2026-CI-0001
  - xviii. 2026-CI-0002
  - xix. 2026-CI-0003
  - xx. 2026-CI-0004
  - xxi. 2026-CI-0005
  - xxii. 2026-CI-0006

**END OF CLOSED SESSION**

**4. ANNOUNCENMENT OF CLOSED SESSION ACTIONS (1 MINUTE)**

**5. PUBLIC COMMENT (TBD)**

*Speakers are generally allotted up to three minutes but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time, except confidential personnel matters.*

**6. APPROVAL OF MINUTES (5 MINUTES)**

- a. Minutes for the Regular Meeting of March 11, 2026.

**7. ODPa STAFF REPORT (10 MINUTES)**

Announcements, updates, and other items.

**8. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)**

The Chair and Board Members report on their activities.

**9. CHIEF OF POLICE'S REPORT (10 MINUTES)**

Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

**10. SUBCOMMITTEE REPORTS (10 MINUTES)**

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

**11. DISCUSSION AND ACTION ITEMS (Estimated 1 HOUR 30 MINUTES)**

- a. Discussion and action on follow-up items related to the March 23, 2026 Public Safety Policy Committee meeting and the March 24, 2026 Regular City Council meeting.
  - i. PSPC's review of Resolution Rescinding Resolution No. 51,408-N.S. Restricting the Use of Air Support and Canine Units and Updating Mutual Aid Policies (ODPA) – (15 Minutes)
  - ii. Council's consideration of Public Safety Technology: Surveillance Technology Ordinance and Police Equipment Ordinance Approvals, Policy Updates, and Contract Authority (ODPA) – (15 Minutes)
- b. Discussion and action of Charter Amendment to Rationalize Process for PAB Policy and Procedure Reviews (Cayetano) – (20 Minutes)
- c. Discussion and action on the review of BPD's Policy 300 "Use of Force" and next steps (Cayetano) – (20 Minutes)

- d. Discussion and action on proposed revisions to procedures regarding federal immigration enforcement that may impact policies governing federal immigration enforcement, including Policy 415 “Immigration Law” and Policy 1106 “Special Order 2025-0001: Response to Incidents Involving Federal Civil Immigration Enforcement,” as well as the related resolution. (Referral from Councilmember Blackaby’s Office) – (20 Minutes)

**12. PUBLIC COMMENT (TBD)**

*Speakers are generally allotted up to three minutes but may be allotted less time if there are many speakers; they may comment on any matter within the Board’s jurisdiction at this time, except confidential personnel matters.*


**13. ADJOURNMENT (1 MINUTE)**

**Off Agenda Reports**

1. Policy, Practice, and Procedure Review Status Report
  2. Legislative Updates Relevant to the PAB's Work
  3. 2025 BPD Annual Report
  4. 2026 PAB Meeting Calendar
- 

**Communications Disclaimer**

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.

 Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1900 Addison Street, Floor 3, Berkeley, CA 94704

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**Contact the Director of Police Accountability (Board Secretary) at:**

1900 Addison Street, Floor 3, Berkeley, CA 94704

TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

Website: <https://berkeleyca.gov/dpa>

Email: [dpa@berkeleyca.gov](mailto:dpa@berkeleyca.gov)

Item 6

Minutes for the Regular Meeting of March 11, 2026



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING MINUTES  
WEDNESDAY, MARCH 11, 2026  
6:30 P.M.**

**Board Members**

Joshua Cayetano (Chair)  
Randy Wells

Leah Wilson (Vice-Chair)  
Joshua Buswell-Charkow

**MEETING LOCATION**

Office of the Director of Police Accountability  
1900 Addison Street, Floor 3  
Berkeley, CA 94704

**MEETING MINUTES**

**1. CALL TO ORDER AND ROLL CALL AT 6:32 PM**

**Present:** Board Member Joshua Cayetano (Chair)  
Board Member Leah Wilson (Vice Chair)<sup>1</sup>  
Board Member Buswell-Charkow  
Board Member Randy Wells

**Absent:** None

**ODPA Staff:** Jose Murillo, Acting Director of Police Accountability (DPA)  
Syed Mehdi, Data Analyst  
Daniel Weinberg, Investigator

**BPD Staff:** Lt. Coats  
Deputy Chief Tate

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<sup>1</sup> Vice Chair Wilson arrived after rollcall at 6:36 PM

## **2. APPROVAL OF AGENDA**

### **Motion to approve the agenda**

Moved/Second (Buswell-Charkow/Wells) Motion carried.

Ayes: Cayetano, Wells, Buswell-Charkow.

Noes: None. Abstain: None. Absent: Wilson.

### **Motion to move table Item 9C and 9D to the end of the Agenda.**

Moved/Second (Cayetano/Wells) Motion carried.

Ayes: Cayetano, Wells, Buswell-Charkow, Wilson.

Noes: None. Abstain: None. Absent: None.

## **3. PUBLIC COMMENT**

*2 Physically Present Speakers*

*2 Virtually Present Speakers*

## **4. APPROVAL OF MINUTES**

- a. Minutes for the Regular Meeting of February 25, 2026.

### **Motion to approve the minutes for the Regular Meeting of February 25, 2026.**

Moved/Second (Buswell-Charkow/Wilson) Motion carried.

Ayes: Wells, Buswell-Charkow, Wilson.

Noes: None. Abstain: Cayetano. Absent: None.

## **5. ODPa STAFF REPORT**

Acting Director Murillo reported on the March 10, 2026 City Council meeting, during which the Council considered proposals related to pepper spray reporting requirements. He noted that several Council supplementals incorporated recommendations from the Police Accountability Board and that the Mayor's version was ultimately adopted with additional transparency reporting measures. He also reported that the appointment of the Interim Director of the Office of the Director of Police Accountability will be considered by the City Council on March 24, 2026, with a proposed start date of March 31, 2026.

## **6. CHAIR AND BOARD MEMBERS' REPORTS**

No activities have been reported since the last PAB meeting on February 25, 2026.

## **7. CHIEF OF POLICE'S REPORT**

Deputy Chief Tate reported that BPD leadership is currently focused on several initiatives directed by the City Council, including upcoming policy and technology discussions. Tate highlighted a community meeting scheduled for March 18 hosted by Mayor Ishii to discuss surveillance technologies that will be considered by the City Council at its March 24 meeting. Tate also noted that BPD recently circulated an updated version of Use of Force

Policy 300 to the PAB and indicated that the City Attorney's Office will review questions related to the policy's implementation.

## **8. SUBCOMMITTEE REPORTS**

Subcommittees report on their activities since the last PAB meeting on February 25, 2026.

## **9. DISCUSSION AND ACTION ITEMS**

- a. Discussion and action on the proposed policies and acquisition reports for unmanned aerial systems and drones as first responders (Wells) – (25 Minutes)

**Review Deadline:** March 11, 2026 (PAB meeting); the item will be presented to the City Council on March 24, 2026.

### **Motion to approve recommendations 1, 2, 6, 7 and 8.**

Moved/Second (Cayetano/Wilson) Motion carried.

Ayes: Wells, Cayetano, Wilson.

Noes: None. Abstain: Buswell-Charkow. Absent: None

### **Motion to adopt a friendly amendment to Recommendation 6 to reference the removal of six BPD positions.**

Moved/Second (Cayetano/Wilson) Motion carried.

Ayes: Wells, Cayetano, Wilson.

Noes: Buswell-Charkow. Abstain: None. Absent: None

### **Motion to approve Recommendation 3, bullets 1, 2 and bullet 4.**

Moved/Second (Cayetano/Wells) Motion carried.

Ayes: Wells, Cayetano, Buswell-Charkow, Wilson.

Noes: None. Abstain: None. Absent: None

### **Motion to modify Recommendation 3, bullet 3 by removing the parenthetical language and approve the recommendation as modified.**

Moved/Second (Wells/Wilson) Motion carried.

Ayes: Wells, Buswell-Charkow, Wilson.

Noes: Cayetano. Abstain: None. Absent: None

### **Motion to approve Recommendation 4 with revisions reflecting the agreed-upon audit provisions discussed by the Board.**

Moved/Second (Cayetano/Wells) Motion carried.

Ayes: Wells, Buswell-Charkow, Wilson, Cayetano.

Noes: None. Abstain: None. Absent: None

### **Motion to revise recommendation 5 in line with 1) Tailoring data retention to authorized uses and 2) Risks related to potential misuse by federal immigration authorities.**

Moved/Second (Cayetano/Wells) Motion carried.

Ayes: Wells, Buswell-Charkow, Wilson, Cayetano.

Noes: None. Abstain: None. Absent: None

**Motion to approve Recommendation 9 (Subsection A and B)**

Moved/Second (Cayetano/Wells) Motion carried.

Ayes: Wells, Wilson, Cayetano.

Noes: None. Abstain: Buswell-Charkow. Absent: None

- b. Discussion and action on the proposed master service agreement with Flock Safety for various surveillance technologies (Wilson)

**Review Deadline:** March 11, 2026 (PAB meeting); the item will be presented to the City Council on March 24, 2026.

**Motion to approve the Board letter with a friendly amendment to modify the reference from “federal agencies” to “non California agencies” and to add the Chair’s bullet regarding a private right of action to terminate access to data.**

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Wells, Cayetano, Wilson.

Noes: None. Abstain: Buswell-Charkow. Absent: None

- c. Discussion and action on the proposed update to BPD Policy 351 “External Fixed Video Surveillance Cameras” (ODPA)

**Review Deadline:** March 11, 2026 (PAB meeting); the item will be presented to the City Council on March 24, 2026.

**Motion to approve the Board letter to the City Council with modifications to change the recommendation on the CVS policy from “approve with modifications” to recommending that BPD take the specified actions outlined in the letter, and to revise the introductory paragraph to include context regarding the timing of the PAB’s receipt of the policy and the Board’s concerns regarding the review timeline.**

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Wells, Cayetano, Wilson, Buswell-Charkow.

Noes: Buswell-Charkow. None. Absent: None

- d. Discussion and action on the proposed policies and acquisition report for community video streams (ODPA)

**Review Deadline:** March 11, 2026 (PAB meeting); the item will be presented to the City Council on March 24, 2026.

**Motion to apply the action taken in Item 9.c to the Community Video Streams policy and acquisition report.**

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Wells, Cayetano, Wilson, Buswell-Charkow.

Noes: None. None. Absent: None

- e. Discussion and action on the proposed resolution rescinding Resolution No. 51,408-N.S. restricting the use of air support and canine units and updating mutual aid policies (Cayetano)

**Review Deadline:** March 11, 2026 (PAB meeting); the item will be presented to the PSPC in late March. Exact date to be determined.

**Motion directing staff to draft a letter to the Public Safety Policy Committee for its March 23 consideration of the item, expressing that the Board does not support the proposed rescission, raising concerns about access to tools without sufficient oversight and an emerging pattern of expanded authority, and emphasizing the importance of City Manager oversight with respect to helicopter use and related cost implications. The motion also delegated authority to the Chair to finalize the letter.**

Moved/Second (Wilson/Wells) Motion carried.

Ayes: Wells, Cayetano, Wilson.

Noes: Buswell-Charkow. None. Absent: None

- f. Discussion and action on BPD Policy 300 "Use of Force" as updated on March 6, 2026 (Cayetano)

**Motion to approve the Chair's letter to the City Council regarding the updated Use of Force Policy 300, with modifications to the final paragraph to reference the Police Accountability Board and to revise the second sentence to state that the Council should immediately direct action rather than respectfully request it.**

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Wells, Buswell-Charkow, Wilson, Cayetano.

Noes: None. Abstain: None. Absent: None

## **10. PUBLIC COMMENT**

*4 Physically Present Speakers*  
*0 Virtually Present Speakers*

## **11. CLOSED SESSION**

**CLOSED SESSION ITEMS**

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Conference With Labor Negotiators; Government Code § 54957.6  
Designated representatives: Leah Wilson, Designated PAB Representative;  
Jose Murillo, Acting Director of Police Accountability  
Employee organization: Berkeley Police Association

**No action taken.**

- b. Case Updates and Recommendations Regarding Complaints Received by the ODPa:

ODPA Case No. 2025-CI-0027

**Motion to approve staff recommendations for all but one allegation in ODPa Complaint 2025-CI-0027.**

Moved/Second (Wells/Wilson) Motion carried.  
Ayes: Wells, Wilson, Cayetano and Buswell-Charkow.  
Noes: None. Abstain: None. Absent: None

**Motion to modify one allegation in ODPa Complaint 2025-CI-0027.**

Moved/Second (Wilson/Wells) Motion carried.  
Ayes: Wells, Wilson, Cayetano and Buswell-Charkow.  
Noes: None. Abstain: None. Absent: None

**Motion to modify the disciplinary recommendation's section of the report in ODPa Complaint 2025-CI-0027.**

Moved/Second (Wilson/Cayetano) Motion carried.  
Ayes: Wells, Wilson, Cayetano and Buswell-Charkow.  
Noes: None. Abstain: None. Absent: None

**END OF CLOSED SESSION**

**12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS**

Chair Cayetano Announced the closed session actions.

**13. ADJOURNMENT AT 10:41 PM**

Motion to adjourn. Moved/Second (Wilson/Wells). The meeting was adjourned at 10:41 PM by unanimous consent.

Item 10  
Subcommittee List

Updated on 3/20/2026



### SUBCOMMITTEES LIST

**Important Note:** As of March 20, 2026, the PAB has 4 of its 9 seats filled, resulting in a quorum of 3 members. Subcommittees must be composed of fewer than a quorum and may not consist of a single member. Accordingly, vacancies must be filled or the subcommittee must be disbanded. If disbanded, its work can be reassigned to individual board members or formally paused or discontinued. For additional information on subcommittee requirements, please visit Chapter II Section 5 of the City of Berkeley’s Commissioner’s Manual:

<https://berkeleyca.gov/sites/default/files/documents/Commissioners%27%20%26%20Board%20Members%27%20Manual%202025%20Edition.pdf#Page=30>

Subcommittee	Board Members	Chair	BPD Reps
<b>Policy Reviews</b> Formed 11-08-2023 Scope Expanded 12-11-2024 to include BWC Policy Review	Cayetano [Vacant]  <u>Public members:</u> Kitt Saginor	N/A	Deputy Chief Tate Sgt. Rafferty
<b>Metrics &amp; Operations</b> Formed 02-05-2025 after the Budget & Metrics and Operations & Processes Subcommittees were consolidated into one	Wilson Wells	N/A	N/A
<b>Outreach &amp; Engagement</b> Formed 11-08-2023 Scope Expanded 03-02-2024 Formally “Commendations”	Wells Buswell-Charkow	N/A	N/A

Updated on 3/20/2026

<b>Policies and Practices on Encampment Clearances</b> Formed 6-25-2025	Wells Wilson	TBD	TBD
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**LIAISON LIST<sup>1</sup>**

<b>Liaison Name</b>	<b>Assignment</b>
Cayetano	Represent the PAB in the EIS Update Process
Wilson	Represent the PAB in FIP-related matters
Wilson	Represent the PAB in the Regulations Process

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<sup>1</sup> Liaison list does not include topics that were originally assigned to a Board Member but later assigned to a subcommittee.

Item 11.c.

Redlines of Proposed Policy 300 “Use of Force”

## Redlines of Use of Force Policy

### ~~300.1~~ ~~SANCTITY OF LIFE~~PURPOSE AND SCOPE

~~The Berkeley Police Department's highest priority is safeguarding the life, dignity, and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force. Officers must respect the sanctity of all human life, act in all possible respects to preserve human life, do everything possible to avoid unnecessary uses of force, and minimize the force that is used, while still protecting themselves and the public.~~

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

#### ~~300.1.1~~ ~~PURPOSE AND SCOPE~~

~~This policy sets forth criteria governing the use of force. All officers are responsible for knowing and complying with this policy and conducting themselves in a manner that reflects the Berkeley Police Department's Use of Force Core Principles. Violations of this policy may result in disciplinary action, including and up to termination, and may subject the officer to criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.~~

#### ~~300.1.2~~ ~~USE OF FORCE STANDARD~~

~~In dealing with suspects, officers shall use alternatives to physical force whenever reasonably possible. In all cases where physical force is used, officers shall use a minimum amount of force that is objectively reasonable, objectively necessary, and proportional to effectively and safely resolve a conflict.~~

~~The United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), held that, in order to comply with the U.S. Constitution, an officer's use of force must be objectively reasonable under the totality of circumstances known to the officer at the~~

~~time. Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force. But these standards merely set the minimum standard for police conduct, below which an officer's conduct would be regarded as unlawful.~~

~~In fulfilling this Department's mission to safeguard the life, dignity, and liberty of officers themselves and all members of the community they are sworn to protect and serve, this policy requires more of our officers than simply not violating the law. As a result, this policy is more restrictive than the minimum constitutional standard and state law in two important respects.~~

~~First, it imposes a higher duty upon officers to use a minimal amount of force objectively necessary to safely achieve their legitimate law enforcement objective. And, second, this policy imposes a stricter obligation on officers to exert only such force that is objectively proportionate to the circumstances, requiring a consideration of the seriousness of the suspected offense, the availability of de-escalation and other less aggressive techniques, and the risks of harm presented to members of the public and to the officers involved.~~

~~Additionally, Penal Code section 835(a) imposes further restrictions on an officer's use of force.~~

### 300.1.3 CORE PRINCIPLES

~~**A. DE-ESCALATION AND FORCE MINIMIZATION.** Every officer's goal, throughout an encounter with a member of the public, shall be to de-escalate wherever possible and resolve the encounter without resorting to the use of force. Wherever possible, officers shall employ de-escalation techniques to increase the likelihood of voluntary compliance with law enforcement requests or directives and, thereby, decrease the likelihood that a use of force will become necessary during an incident. Further, in any encounters that do call for applying force, officers must always use a minimal amount of force that is objectively reasonable and objectively necessary to safely achieve their legitimate law enforcement objective.~~

~~**B. PROPORTIONALITY.** When determining the appropriate level of force, at all times officers shall balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is unarmed or armed with a weapon other than a firearm.~~

~~**C. MINIMIZING THE USE OF DEADLY FORCE.** Deadly force may only be used when it is objectively reasonable that such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily harm. Officers shall not use deadly force if it is objectively reasonable that alternative techniques will eliminate the imminent danger and ultimately achieve the law enforcement purpose with less risk of harm to the officer or to other persons~~

~~**D. DUTY TO INTERCEDE.** Whenever possible, officers shall intervene when they know or have reason to know that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.~~

~~**E. VULNERABLE POPULATIONS.** Officers should be particularly sensitive when considering the use of force against vulnerable populations, including children, elderly persons, pregnant women, people with physical and mental disabilities, and people with limited English proficiency.~~

~~**F. FOSTER STRONG COMMUNITY RELATIONSHIPS.** The Berkeley Police Department understands that uses of force, even if lawful and proper, can have a damaging effect on the public's perception of the Department and the Department's relationship with the community. The Department is committed to fostering strong community relations by building on its historic tradition of progressive policing, ensuring accountability and transparency, and striving to increase trust with our community.~~

~~**G. FAIR AND UNBIASED POLICING.** Members of the Berkeley Police Department shall carry out their duties, including the use of force, in a manner that is fair and unbiased, in accordance with Policy 401, Fair and Impartial Policing.~~

#### 300.1.41 DEFINITIONS

Definitions related to this policy include:

~~**Minimal amount necessary**—The least amount of force within a range that is objectively reasonable and objectively necessary to safely effect an arrest or achieve some other legitimate law enforcement purpose.~~

#### ~~Deadly force~~

Blue Team (BT) – Computer software that allows officers to enter use of force and other incidents from a Department computer.

Control Hold - Any Department approved hold, designed to allow an officer to control the movement of a subject (e.g., twist lock, rear wrist lock, finger lock, etc.). A control hold can be applied without implementing pain.

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including

7

but not limited to

7

the discharge of a firearm ([Penal Code § 835a](#)).

~~Feasible – Reasonably capable of~~

~~Feasible - Reasonably capable of~~ being done or carried out under the circumstances to successfully achieve the arrest or

~~lawful objective without~~

~~lawful objective without~~ increasing risk to the officer or another person ([Government Code § 7286\(a\)](#)).

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows

~~themselves~~

~~him/herself~~ to be searched, escorted, handcuffed

~~or restrained.~~ **Less Than Lethal Force** – Any use of force which

~~due to possible physiological effects of application, presents less potential for causing death~~

or

~~serious injury than conventional lethal force options. Less than lethal force options include, but are not limited to, a specialized launcher, or other authorized device that can discharge, fire, launch or otherwise propel single or multiple flexible or non-flexible projectiles designed to cause physiological effects consistent with blunt force impact.~~

~~Non-Lethal Force~~ – Any use of force other than lethal force or less than lethal force.

~~Compliant Suspect~~ – Cooperative and/or responsive to lawful commands.

~~Passive Resistance~~ – When an individual does not follow the lawful verbal commands of a police officer, but does not physically resist in any way.

~~Examples: A person who goes completely limp, sits down and refuses to stand or walk, or who may stand with arms at their sides without attempting to strike at or physically resist officers.~~

~~Active Resistance~~ – An individual who is uncooperative and fails to comply with the lawful verbal commands of a police officer, and attempts to avoid physical control and/or

~~arrest by physically struggling to free oneself from being restrained. The individual may also use verbal non-compliance (refusing a lawful order or direction).~~

~~Examples: A person who attempts to avoid physical control and/or arrest by pulling or pushing away from the officer, tensing arm or muscles, hiding from the officer, and/or fleeing.~~

~~**Combative Resistance**—An individual not only resists the officer, but poses a threat of harm to the officer or others, in an aggressive manner that may cause physical injury.~~

~~Examples: A person who violently attempts to or attacks an officer. This action is sometimes preceded by “pre-assault” cues such as taking a threatening stance (clenching fists, facial expressions, threats, etc.) and verbal non-compliance.~~

~~**Control Hold**—Any Department approved hold, designed to allow an officer to control the movement of a subject (e.g., twist lock, rear wrist lock, finger lock, etc.). A control hold can be applied without implementing pain.~~

~~**Pain Compliance Technique**—Involves either the manipulation of a person’s joints or activating~~

~~restrained.~~

~~**Pain Compliance Technique** - Involves either the manipulation of a person's joints or activating certain pressure points intended to create sufficient pain for the purpose of motivating a person~~

~~to comply with verbal commands (examples of pressure points include buccal nerve, gum nerve~~

~~to comply with verbal commands (examples of pressure points include buccal nerve, gum nerve, sternum rub).~~

~~**Control Techniques**—Personal Impact Weapons and Take Downs.~~

~~**Personal Body Weapons**—An officer’s use of his/her body part, including but not limited to hand, foot~~

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~~**Personal Body Weapons**—An officer's use of their body part, including but not limited to hand, foot, knee, elbow, shoulder, hip, arm,~~

~~leg or head by means of kinetic energy transfer (impact) to~~

~~leg or head by means of impact to gain control of a subject.~~

~~**Blue Team (BT)**—Computer software that allows officers to enter use of force and other incidents from a Department computer.~~

~~**Concealment**—Anything which conceals a person from view.~~

~~**Cover**—Anything which provides protection from bullets or other projectiles fired or thrown. Cover is subjective and its effectiveness depends upon the threat's ballistic capability (handgun, rifle, etc.).~~

~~**Blocking**—The positioning of a police vehicle in the path of an occupied subject vehicle where contact between the vehicles is not anticipated or is anticipated to be minimal.~~

~~**Ramming**—The use of a vehicle to intentionally hit another vehicle~~

~~**Serious bodily injury**—A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement or results in a prolonged loss or impairment of the functioning~~

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~~**Serious Bodily Injury**—A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ~~

~~**Officer (or) Police Officer**—Any sworn peace officer.~~

~~**Authorized Employee**—Any non-sworn employee who has received defensive tactics training and has been authorized by the Chief of Police to use non-lethal force.~~

~~**Employee**—Any non-sworn employee of the Berkeley Police Department, including those deemed “authorized employees.”~~

~~**Objectively Reasonable**—“Objectively reasonable” means an officer’s conduct will be evaluated through the eyes of the hypothetically reasonable officer standing in the shoes of the involved officer.~~

~~**Totality of the circumstances**—~~

~~: a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).~~

~~**Totality of the Circumstances**—All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).~~

## **300.2 DUTY TO INTERCEDE AND DUTY TO REPORT POLICY**

~~Any officer who observes another officer or member of the Berkeley Police Department using force that is clearly in violation of this policy shall immediately take reasonable action to attempt to mitigate such use of force. This may include verbal intervention or, when in a position to do so, physical intervention. Further, any officer who learns of a potentially unauthorized use of force, even if the officer did not witness it personally, shall promptly report this information to an on-duty sergeant or a command officer at the first opportunity.~~

~~Any officer who observes an employee or member of a different law enforcement agency use force that exceeds the degree of force permitted by law shall promptly report these observations to an on-duty sergeant or a command officer at the first opportunity.~~

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 ~~FAILURE TO INTERCEDE~~ FAIR AND UNBIASED USE OF FORCE

~~An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary.~~ Officers are expected to carry out their duties, including the use of force, in a manner that is fair, unbiased (Government Code § 7286(b)). See the Fair and Impartial Policing Policy for additional guidance.

#### 300.2.2 DUTY TO INTERCEDE

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede (as defined by Government Code § 7286) to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement

officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

### 300.2.3 FAILURE TO INTERCEDE

An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary (Government Code § 7286(b)).

### 300.2.4 DUTY TO REPORT EXCESSIVE FORCE

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b)).

### **300.3 USE OF FORCE ~~TO EFFECT AN ARREST~~**

~~Any peace officer may use objectively reasonable, objectively necessary, and proportional force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. For the purpose of this policy, "retreat" does not mean tactical repositioning or other de-escalation tactics.~~

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or

authorized tools, weapons, or methods provided by the Berkeley Police Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

### ~~300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS, NECESSITY, AND PROPORTIONALITY OF FORCE~~ ALTERNATIVE TACTICS - DE-ESCALATION

~~When determining whether to apply force and evaluating whether an officer has used reasonable, objectively necessary, and proportional force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:~~

- ~~a. The apparent immediacy and severity of the threat to officers or others.~~
- ~~b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.~~
- ~~c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).~~
- ~~d. The conduct of the involved officer.~~
- ~~e. The effects of drugs or alcohol.~~
- ~~f. The individual's apparent mental state or capacity.~~
- ~~g. The individual's apparent ability to understand and comply with officer commands.~~
- ~~h. Proximity of weapons or dangerous improvised devices.~~
- ~~i. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.~~
- ~~j. The availability of other reasonable and feasible options and their possible effectiveness.~~
- ~~k. Seriousness of the suspected offense or reason for contact with the individual.~~
- ~~l. Training and experience of the officer.~~
- ~~m. Potential for injury to officers, suspects, bystanders, and others.~~
- ~~n. Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.~~
- ~~o. The risk and reasonably foreseeable consequences of escape.~~
- ~~p. The apparent need for immediate control of the subject or a prompt resolution of the situation.~~
- ~~q. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.~~
- ~~r. Prior contacts with the subject or awareness of any propensity for violence.~~
- ~~s. Any other exigent circumstances.~~

~~The level of resistance that an officer encounters is a key factor in determining the proportionate amount of force. It is not possible to determine ahead of time what the proportionate level of force is for every possible situation that officers may face. Nevertheless, one of the key factors in determining what level of force is objectively reasonable, objectively necessary, and proportionate in a given situation is the level of resistance that an officer encounters. In general, the less resistance an officer faces, the less force the officer should use. The types of resistance officers may encounter fall along a continuum, from a cooperative person to an active assailant. Consistent with training, the following general rules apply when officers are exercising judgment in determining what level of force is necessary and proportionate:~~

~~Compliant—In general, when dealing with a compliant person, officers may rely on police presence and/or verbal control techniques, but should not use greater force. Passive resistance—In general, when dealing with a suspect involved in passive resistance, officers may rely on police presence, verbal control techniques, or control holds, but should not use greater force. Active resistance—In general, in dealing with a suspect involved in active resistance, in addition to the options available for passive resistance, officers may rely on pain compliance techniques or takedowns, but should not use greater force. Combative resistance—In general, in dealing with a suspect involved in combative resistance, officers have all use of force options available to them, but deadly force shall only be used in compliance with this policy as described in Section 300.4.~~

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:

- a. Summoning additional resources that are able to respond in a reasonably timely manner.
- b. Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- c. Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers shall evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

- a. Attempts to de-escalate a situation.
- b. If reasonably available, the use of crisis intervention techniques by properly trained personnel.

### 300.3.2 USE OF FORCE ~~CONTINUUM~~TO EFFECT AN ARREST

~~The Department uses a "use of force continuum" that refers to the concept that there are reasonable responses for every threat an officer faces in a hostile situation. The force utilized need not be sequential (e.g., gradual or preceded by attempts at lower levels of force) if those lower levels are not appropriate. All Uses of Force must be objectively reasonable, objectively necessary, and proportional, based on a totality of the circumstances. All progressions must rest on the premise that officers shall escalate and de-escalate their level of force in response to the subject's actions.~~

### ~~Continuum of Force~~

- ~~**Officer Presence — No force is used. Considered the best way to resolve a situation.**~~
  - ~~The mere presence of a law enforcement officer works to deter crime or diffuse a situation.~~
  - ~~Officers' attitudes are professional and nonthreatening.~~
- ~~**Verbalization — Force is not physical.**~~
  - ~~Officers issue calm, nonthreatening commands, such as "Let me see your identification and registration."~~
  - ~~Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include "Stop," or "Don't move."~~
- ~~**Weaponless defense — Officers use bodily force to gain control of a situation.**~~
  - ~~Pain Compliance and control holds. Officers use grabs, holds and joint locks to restrain an individual.~~
  - ~~Personal body weapons. Officers may use punches and kicks to restrain an individual.~~
- ~~**Less-Lethal Force Methods — Officers use less-lethal technologies to gain control of a situation.**~~
  - ~~Blunt impact. Officers may use a baton or projectile to immobilize a combative person.~~
  - ~~Chemical. Officers may use chemical sprays or projectiles embedded with chemicals to restrain an individual (e.g., pepper spray).~~
- ~~**Lethal Force — Officers may use lethal weapons only in compliance with Section 300.4.**~~

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose their right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.3 USE FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE TO SEIZE EVIDENCE

~~In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Berkeley Police Department for this specific purpose.~~

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- a. The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d. The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- e. The effects of suspected drugs or alcohol.
- f. The individual's apparent mental state or capacity (Penal Code § 835a).
- g. The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- h. Proximity of weapons or dangerous improvised devices.
- i. The degree to which the subject has been effectively restrained and their ability to resist despite being restrained.
- j. The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- k. Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- l. Training and experience of the officer.
- m. Potential for injury to officers, suspects, bystanders, and others.
- n. Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- o. The risk and reasonably foreseeable consequences of escape.
- p. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- q. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- r. Prior contacts with the subject or awareness of any propensity for violence.
- s. Any other exigent circumstances.

300.3.4 ~~DE-ESCALATION TACTICS~~ PAIN COMPLIANCE TECHNIQUES

~~De-escalation tactics and techniques are actions used by officers which seek to minimize the need to use force during an incident. Such tactics and techniques may increase the likelihood of voluntary compliance when employed and shall be used when it is safe to do so. De-escalation tactics emphasize slowing an incident down to allow time, distance and flexibility for the situation to resolve. Officers shall continually assess the dynamics of a situation, and modulate their response and actions appropriately. Officers may be justified in using force at one moment, but not justified in using force the next moment due to a change in dynamics.~~

~~The application of these tactics is intended to increase the potential for resolution with a minimal reliance on the use of force, or without using force at all.~~

~~If immediate action is not necessary, an officer(s) shall attempt to use verbal de-escalation techniques. When available and when practicable, a Crisis Intervention Team (CIT) officer, crisis negotiator, or Berkeley Mental Health Mobile Crisis Team member shall be called upon as a resource.~~

~~Officers shall gather information about the incident, assess the risks, assemble resources, attempt to slow momentum and communicate and coordinate a response. In their interaction with subjects, officers should use advisements, warnings, verbal persuasion and other tactics and alternatives to any levels of force. Officers should move to a position that is tactically more secure or allows them greater distance to consider or deploy a greater variety of force options.~~

- ~~a. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as: slowing down the pace of an incident; "waiting out" subjects; creating distance (and thus the reactionary gap) between the officer and the threat; and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.~~
- ~~b. Officers should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance to de-escalate a situation.~~
- ~~c. Officers should consider a variety of options, including lesser force or no force options.~~
- ~~d. Officers should attempt to understand and consider possible reasons why a subject may be noncompliant or resisting arrest.~~
- ~~e. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.~~
- ~~f. Officers should continue de-escalation techniques, when feasible and appropriate, and take as much time as reasonably necessary to resolve the incident, in effort to avoid and/or minimize the use of force.~~
- ~~g. When an officer recognizes that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues are causing an individual to~~

- ~~behave erratically, the officer shall, when feasible and appropriate, try to de-escalate the situation using de-escalation and/or crisis Intervention techniques.~~
- ~~h. Establishing communication with non-compliant subjects is often most effective when officers establish rapport, use the proper voice intonation, ask questions and provide advice to defuse conflict and achieve voluntary compliance before resorting to force options.~~
  - ~~i. The officer's physical actions may also de-escalate a potentially volatile/violent situation; e.g., exhibiting relaxed body language.~~

~~When time and circumstances allow, officers shall consider the following tactical principles:~~

- ~~j. Make a tactical approach to the scene.~~
- ~~k. Maintain a safe distance.~~
- ~~l. Use available cover or concealment and identify escape routes.~~
- ~~m. Stage Berkeley Fire Department.~~
- ~~n. Control vehicle and pedestrian traffic.~~
- ~~o. Establish communication, preferably with one officer.~~
- ~~p. Create an emergency plan and a deliberate plan with contingencies.~~
- ~~q. The officer's physical actions may also de-escalate a potentially volatile/violent situation; e.g., exhibiting relaxed body language.~~

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- a. The degree to which the application of the technique may be controlled given the level of resistance.
- b. Whether the person can comply with the direction or orders of the officer.
- c. Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### 300.3.5 ~~PAIN COMPLIANCE TECHNIQUES~~ RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

~~Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:~~

- ~~a. The degree to which the application of the technique may be controlled given the level of resistance.~~
- ~~b. Whether the person can comply with the direction or orders of the officer.~~

- c. ~~Whether the person has been given sufficient opportunity to comply.~~

~~The purpose of pain compliance is to direct a person's actions. The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.~~

Officers of this department are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow any may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

### 300.3.6 RESTRICTION ON THE USE OF ~~NON-LETHAL FORCE~~ CHOKER HOLD

~~When lethal force and less than lethal force~~ Officers of this department are not authorized ~~, officers and authorized employees may use objectively reasonable, objectively necessary, and proportional approved non-lethal force techniques and weapons in the following circumstances:-~~

~~To protect themselves or another person from physical injury; To restrain or subdue a resistant individual; or To bring an unlawful situation safely and effectively under control.~~

to use a choke hold. A choke hold means any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe (Government Code § 7286.5).

### 300.3.7 ~~RESTRAINT AND CONTROL DEVICES~~

~~Restraint and control devices shall not be used to punish, to display authority or as a show of force. Handcuffs, body wraps and spit hoods shall only be used consistent with Policy 302. Batons, approved less-lethal projectiles, and approved chemical agents shall only be used consistent with Policy 303. As per City Council resolution (June 9, 2020), the use of tear gas by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited. Pepper spray or smoke for crowd control by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited during the COVID-19 pandemic, or until such time as the City Council removes the prohibition.~~

### 300.3.8 ~~CHOKER HOLD PROHIBITION~~

~~The use of a Carotid Restraint Hold is prohibited. Carotid Restraint Hold: Council Resolution No. 52,605 – N.S., February 14, 1985, “Prohibiting use of ‘chokehold’ for law enforcement purposes in the City of Berkeley” states: “Be it resolved by the Council of the City of Berkeley as follows: That the chokehold, including but not limited to the~~

~~carotid restraint and the bar-arm hold, is hereby banned from use for law enforcement purposes in the City of Berkeley.”~~

~~The term bar-arm refers to a variety of techniques. The use of any chokehold is strictly prohibited. A chokehold is any hold or contact with the neck — including a carotid restraint — that may inhibit breathing by compression of the airway in the neck, may inhibit blood flow by compression of the blood vessels in the neck, or that applies pressure to the front, side, or back of the neck. As defined in the City Council Resolution, “bar-arm hold” refers to any use of the forearm to exert pressure against the front of the neck. However, other types of arm hold techniques (e.g., those that involve control of the arm, wrist or elbow) remain authorized.~~

### 300.3.97 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once controlled, the individual is safely secured, the officers should promptly check and continuously monitor the individual's condition should for signs of medical distress (Government Code § 7286.5).

Per City Council Resolution (June 9, 2020), the use of tear gas by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited. Pepper spray or smoke for crowd control by employees of the Berkeley Police Department, or any outside department or agency called to respond to mutual aid in Berkeley, is prohibited during the COVID-19 pandemic, or until such time as the City Council removes the prohibition.

### 300.3.8 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Berkeley Police Department for this specific purpose.

### 300.4 USE OF DEADLY FORCE

~~An officer's use of deadly force is justified only when it is objectively reasonable, based on the totality of the circumstances, that such force is objectively necessary to, 1) defend against an imminent threat of death or serious bodily injury to the officer or another or 2) apprehend a suspected fleeing person for any felony that threatened or resulted in death or serious bodily injury, provided that it is objectively reasonable that the person will cause imminent death or serious bodily injury to another unless immediately apprehended.~~

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify

~~themselves~~

themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to

~~believe the~~

believe the person is aware of those facts

-

(Penal Code § 835a).

~~An officer shall not use deadly force against another person if it reasonably appears that doing so would unnecessarily endanger innocent people.~~

~~Lethal force is prohibited when its sole purpose is to effect an arrest, overcome resistance or prevent a subject from escaping when the subject does not present an immediate danger~~ If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

- a. An officer may use deadly force to protect themselves or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury

~~-Lethal force is also prohibited solely to prevent property damage or prevent the destruction of evidence~~

- b. to the officer or another person.

- c. An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

Additionally, an officer shall not use deadly force against a person whose actions are a threat solely to property unless the person poses an imminent danger of death or serious physical injury to the officer or others in close proximity.

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to ~~the officer~~ the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require ~~instant attention~~ instant attention. (Penal Code § 835a).

#### 300.4.1 ~~DRAWING AND POINTING~~ DISPLAYING OF FIREARMS

Given that individuals ~~may~~ might perceive the display of a firearm as a potential application of force, ~~officers~~ officers should carefully evaluate each tactical situation and use sound discretion when drawing ~~a firearm~~ a firearm in public by considering the following guidelines: (Government Code § 7286(b)).

- a. If the officer does not initially perceive a threat but it is objectively reasonable that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.
- b. If ~~it is objectively reasonable~~ the officer reasonably believes that a ~~significant~~ threat exists based on the totality of the circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward ~~said~~ such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

#### 300.4.2 DIRECTED FIRE

Officers may use controlled gunfire that is directed at the suspect, reducing the suspect's ability to return fire while a group or individual movement is conducted, such as in a rescue operation.

Officers may only employ this tactic when dealing with a suspect who poses an immediate and ongoing lethal threat and only under circumstances where the use of deadly force is legally justified. Target acquisition and communication are key elements in the successful use of this tactic. Officers remain accountable for every round fired under these circumstances. Officers must consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

### 300.4.3 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force. When feasible, officers shall take reasonable steps ~~to move~~ to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

~~Because this policy may not cover every situation that may arise, a deviation from this policy may be objectively reasonable and objectively necessary depending on the totality of the circumstances. A deviation from this policy would, for instance, be justified if the officer used a firearm in an attempt to stop an imminent vehicle attack on a crowd or a mass casualty terrorist event.~~

~~Factors that may be used to evaluate the reasonableness of the use of a firearm against a vehicle include:~~

- ~~a. The availability and use of cover, distance and/or tactical relocation~~
- ~~b. Incident command and personnel placement~~
- ~~c. Tactical approach~~
- ~~d. Regard for viable target acquisition and background including location, other traffic, the presence of innocent persons, and police officers.~~

### 300.65 REPORTING REQUIREMENTS THE USE OF FORCE

All ~~uses~~ use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident ~~and the level of force used~~. The officer should articulate the factors perceived and why they believed the use of force was ~~objectively~~ reasonable ~~and objectively necessary~~ under the circumstances. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or

law. Whenever an officer or employee uses Oleoresin Capsicum (pepper spray) they must also complete a "Use-"Use of Pepper Spray Report." ~~Whenever an officer or employee use body wrap or spit hood restraint devices they must also complete a "Use of Restraint Device Report" and document, review and report such uses in accordance with section 300.11."~~

Upon receiving notification of a use of force, an uninvolved supervisor, when feasible, shall determine the level of force reporting level, investigation, documentation and review requirements.

### 300.65.1 ~~SUPERVISOR RESPONSIBILITY~~ REPORT RESTRICTIONS

~~A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to:~~

- ~~a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.~~
- ~~b. Ensure that any injured parties are examined and treated.~~
- ~~c. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.~~
- ~~d. Identify any witnesses not already included in related reports.~~
- ~~e. Review and approve all related reports.~~
- ~~f. Review body worn camera footage related to the incident.~~

~~In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.~~ Officers shall not use the term "excited delirium" to describe an individual in an incident report. Officers may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as "excited delirium" (Health and Safety Code § 24402).

### 300.65.2 ~~USE OF FORCE REPORTING LEVELS~~ NOTIFICATION TO SUPERVISORS

#### ~~Level 1~~

~~The officer used any of the following, and the circumstances of the application would lead an objectively reasonable officer to conclude that the subject did not experience more than momentary discomfort:~~

- ~~1. Control holds/ pain compliance techniques~~

~~2. Leverage~~

~~3. Grab~~

~~4. Bodyweight~~

~~5. The officer lowered the subject to a seated position or to the ground while partially or completely supporting the person's bodyweight.~~

~~6. Takedown~~

~~If the incident fits the parameters for a Level 1 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.~~

## **Level 2**

- ~~a. No suspect injury or complaint of continuing pain due to interaction with officer.~~
- ~~b. Officer's use of force was limited to the following:~~

~~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.~~

~~2. Control hold, pressure point, leverage, grab, takedown, and/or bodyweight, and the application would lead a reasonably objective~~

- ~~a. The application caused a visible injury.~~
- ~~b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.~~

## **Level 3**

- ~~c. Suspect has sustained an injury or complains The application of control holds or pain compliance techniques (but not as part of routine handcuffing).~~
- ~~d. The individual subjected to the force complained of injury or continuing pain ~~due to interaction with the officer.~~~~
- ~~e. Would have otherwise been classified as a Level 2, except officer body worn camera was not activated in a timely manner, prior to the enforcement contact, per policy.~~
- ~~f. The officer used any of the following force options:
  - ~~1. Chemical Agents/Munitions~~
  - ~~2. Impact Weapon Strikes~~
  - ~~3. Personal Body Weapons~~~~
- ~~g. The officer used any of the following pursuit intervention tactics:~~

- ~~1. Vehicle Containment Tactic (VCT), if vehicle contact is made~~
- ~~2. Ramming~~
- ~~3. Pursuit Immobilization Technique (PIT)~~
- ~~4. Roadblocks, if vehicle contact is made~~

~~An uninvolved supervisor, when feasible, will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses, and that photos are taken of all involved parties. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.~~

~~An uninvolved supervisor, when practical, will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into the Blue Team template.~~

~~The supervisor will also complete a Use of Force Investigation Report narrative in Blue Team for review through the Use of Force Review process. Suspect and witness statements from the crime report will be attached to the use of force investigation.~~

#### **Level 4**

~~Any incident involving deadly force or any force likely to cause death or serious bodily injury will be investigated under the protocols outlined in Policy P-12~~

- a. ~~.~~
- b. The individual indicates intent to pursue litigation.
- c. Any application of a conducted energy device or control device.
- d. Any application of a restraint device other than handcuffs, shackles, or belly chains.
- e. The individual subjected to the force was rendered unconscious.
- f. An individual was struck or kicked.
- g. An individual alleges unreasonable force was used or that any of the above has occurred.

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

#### **300.65.3 ~~EMPLOYEE USE OF FORCE~~REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

~~When any Berkeley Police Department employee has engaged in a~~ Statistical data regarding all officer-involved shootings and incidents involving use of force as defined in this policy, ~~the use of force must be reported to a Berkeley Police supervisor and investigated in accordance with this policy.~~

- a. ~~In the event a use of force as described as Level 1, Level 2, or Level 3 occurs during an unusual occurrence, such as a widespread disaster or civil disturbance, the officer shall prepare a supplemental report as soon as practical following the incident.~~

~~Each officer shall include in the report, to the extent possible, specific information regarding each use of force, e.g. the reason for the use of force, location, description of the individual(s) upon whom force was used, type of force used, etc.~~

resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Maintenance Policy.

#### ~~300.6.4 PUBLIC RECORDS~~

~~Records related to use of force incidents shall be retained and disclosed in compliance with California Penal Code section 832.7, California Government Code section 6254(f), and the Records Management and Release policy.~~

#### **300.76 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, properly trained officers should promptly provide or procure medical assistance for any person injured or claiming to have been injured in a use of force incident (Government Code § 7286(b)).-

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

See the Medical Aid and Response Policy for additional guidelines.

### **300.87 USE OF FORCE ADMINISTRATIVE REVIEW SUPERVISOR RESPONSIBILITY**

~~The Division Captain shall review the Use of Force Report (and when applicable, Use of Pepper Spray Report or Use of Restraint Device Report) and route the report to the Chief of Police with a recommendation of findings. The Chief of Police may convene a Review Board as outlined in Policy 301 instead of utilizing Division Captain Review.~~

~~The Chief of Police shall make a finding that the use of force was either within policy or initiate additional administrative review/investigation as may be appropriate.~~

~~Any determination concerning the propriety of force used shall be based on the facts and information available to the officer at the time the force was employed, and not upon information gained after the fact.~~

~~All Use of Force Reports shall be reviewed to determine whether Departmental use of force regulations, policies, or procedures were: 1) violated or followed; 2) clearly understood, effective, and relevant to the situation; 3) require further investigation; and/or, 4) require revision or additional training.~~

~~Use of Force Reports shall be held in file for at least five (5) years~~

A supervisor should respond to any reported use of force, if reasonably available. The responding supervisor is expected to (Government Code § 7286(b)):

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. For Level 3 Uses of Force or when otherwise appropriate, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived their Miranda rights, the following should apply:
  1. The content of the interview should not be summarized or included in any related criminal charges

2. The fact that a recorded interview was conducted should be documented in a property or other report.
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.
- g. Review body worn camera footage related to the incident.
- h. Determine if there is any indication that the subject may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### 300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within their command to ensure compliance with this policy.

#### 300.7.2 USE OF FORCE REPORTING LEVELS

##### Level 1

The officer used any of the following, and the circumstances of the application would lead an objectively reasonable officer to conclude that the subject did not experience more than momentary discomfort:

- a. Control holds/ pain compliance techniques (but not as part of routine handcuffing)
- b. Takedown

If the incident fits the parameters for a Level 1 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.

##### Level 2

- a. No suspect injury or complaint of continuing pain due to interaction with officer.
- b. Officer's use of force was limited to the following:
  - 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.
  - 2. Control hold, pressure point, leverage, grab, takedown, and/or bodyweight, and the application would lead a reasonably objective officer to conclude that the individual may have experienced more than momentary discomfort.

An uninvolved supervisor, when feasible, will respond to the scene and conduct a Use of Force Investigation. If the incident fits the parameters for a Level 2 incident, the supervisor will enter all applicable data into the Blue Team template with a brief summary.

### Level 3

- a. Suspect has sustained an injury or complains of injury or continuing pain due to interaction with the officer.
- b. Would have otherwise been classified as a Level 2, except officer body worn camera was not activated in a timely manner, prior to the enforcement contact, per policy.
- c. The officer used any of the following force options:
  - 1. Chemical Agents/Munitions
  - 2. Impact Weapon Strikes
  - 3. Personal Body Weapons
- d. The officer used any of the following pursuit intervention tactics:
  - 1. Vehicle Containment Tactic (VCT), if vehicle contact is made
  - 2. Ramming
  - 3. Pursuit Immobilization Technique (PIT)
  - 4. Roadblocks, if vehicle contact is made

An uninvolved supervisor, when practical, will respond to the scene and conduct a Use of Force Investigation, ensuring that statements are taken from the suspect and witnesses and that photos are taken of all involved parties. If the incident fits the parameters for a Level 3 incident, the supervisor will enter all applicable data into the Blue Team template.

The supervisor will also complete a Use of Force Investigation Report narrative in Blue Team for review through the Use of Force Review process.

### Level 4

Any incident involving deadly force or any force likely to cause death or serious bodily injury will be investigated under the protocols outlined in Policy P-12.

### **300.98 ~~WATCH COMMANDER RESPONSIBILITY~~ USE OF FORCE ADMINISTRATIVE REVIEW**

The ~~Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy.~~ Division Captain shall review the Use of Force Report (and when applicable, Use of Pepper Spray Report) and route the report to the Chief of Police with a recommendation of findings. The Chief of Police may convene a Review Board as outlined in the Use of Force Review Board Policy instead of utilizing Division Captain Review.

The Chief of Police shall make a finding that the use of force was either within policy or initiate additional administrative review/investigation as may be appropriate.

Any determination concerning the propriety of force used shall be based on the facts and information available to the officer at the time the force was employed, and not upon information gained after the fact.

All Use of Force Reports shall be reviewed to determine whether Departmental use of force regulations, policies, or procedures were: 1) violated or followed; 2) clearly understood, effective, and relevant to the situation; 3) require further investigation; and/or, 4) require revision or additional training.

Use of Force Reports shall be held in file for at least five (5) years.

### **300.9 USE OF FORCE COMPLAINTS**

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with the Personnel Complaints Policy (Government Code § 7286(b)).

### **300.10 TRAINING**

Officers, investigators, and supervisors will receive annual training on this policy and demonstrate their knowledge and understanding (Government Code § 7286(b)).

#### **300.10.1 TRAINING REQUIREMENTS**

Required annual training shall include:

1. Legal updates.
2. De-escalation tactics, including alternatives to force.
3. The duty to intercede.
4. The duty to request and/or render medical aid.

5. All other subjects covered in this policy (e.g., use of deadly force, chokehold and carotid hold prohibition, discharge of a firearm at or from a moving vehicle, verbal warnings).
6. Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

See the Training Policy for restrictions relating to officers who are the subject of a sustained use of force complaint.

### 300.10.2 STATE-SPECIFIC TRAINING REQUIREMENTS

Required state-specific training shall include guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities (Government Code § 7286(b)).

Additionally, training should include training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

### 300.11 USE OF FORCE ANALYSIS

~~The Professional Standards Division Captain or his or her designee shall prepare a comprehensive~~

At least annually, the Office of Strategic Planning and Accountability shall prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police, Police Accountability Board, and as part of the Department's annual report to City Council. ~~The report~~ shall not contain the names of officers, suspects, or case numbers, and should include

~~but not be limited to~~

:

- a. An analysis of use of force incidents ~~with demographic details of the individual impacted including, but not limited to race, gender and age.~~
- b. ~~All types of force as delineated in Levels 1, 2, 3 and 4 in Section 300.6.(2).~~
- c. ~~The identification of any trends in the use of force by members.~~
- d. Training needs recommendations.
- e. Equipment needs recommendations.
- f. Policy revisions recommendations.

### 300.11.1 REPORTING FREQUENCY

- a. On a quarterly basis via the City's Open Data Portal website;
- b. On a ~~quarterly basis to the Police Accountability Board; and~~ On a yearly basis as part of the Police Department's Annual Report to City Council

### **300.12 CIVILIAN COMPLAINTS**POLICY REVIEW

~~Complaints by members of the public related to this policy may be filed with the Berkeley Police Department Internal Affairs Bureau (IAB) and/or the Police Accountability Board (PAB). Complaints will be investigated in compliance with the respective applicable procedures of the IAB and the PAB.~~ The Chief of Police or the authorized designee shall regularly review and update this policy to reflect developing practices and procedures. (Government Code § 7286(b)).

### **300.13** POLICY AVAILABILITY

The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).

### **300.1314** ~~POLICY REVIEW AND UPDATES~~ PUBLIC RECORDS REQUESTS

~~This policy shall be regularly reviewed and updated to reflect developing practices and procedures.~~

~~At least annually, the Berkeley Police Department and the PAB shall convene to review and update the Use of Force Policy to reflect developing practices and procedures per SB 230.~~

Requests for public records involving an officer's personnel records shall be processed in accordance with Penal Code section 832.7, and the Personnel Records and Records Management and Release policies (Government Code § 7286(b)).

-

### **300.5** ~~USE OF VEHICLES~~

~~Officers shall not use police vehicles to ram other vehicles, persons, or moving objects in a manner that reasonably appears to constitute the use of lethal force, except under circumstances outlined in section 300.4 and in Policy V-6 that covers vehicle operations.~~

~~The Vehicle Containment Technique (VCT) is the positioning of a police vehicle in the path of a suspect vehicle where contact between the vehicles is not anticipated or is anticipated to be minimal. VCT shall only to be used on vehicles that are either stationary or moving at a slow speed. This technique is designed to contain a suspect vehicle to a single stationary location, thereby preventing a pursuit from initiating, or a potentially violent situation (e.g. a hostage situation or person barricaded inside a vehicle) from becoming mobile.~~

~~When properly utilized, the VCT can give officers time, distance, and cover in order to safely and effectively resolve a situation. See the VCT policy for more details on this tactic.~~

#### ~~300.5.1 REPORT RESTRICTIONS~~

~~Officers shall not use the term "excited delirium" to describe an individual in an incident report. Officers may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as "excited delirium" (Health and Safety Code § 24402).~~

Item 11.d.

Agenda Item Submitted by Councilmember Blackaby  
“Clarifying BPD Protocols to Protect Berkeley Residents,  
Support Public Safety and Safeguard Constitutional Rights  
During Federal Immigration Enforcement Activities”



Brent Blackaby  
Councilmember District 6

ACTION CALENDAR  
April 14, 2026

To: Honorable Mayor and Members of the City Council  
From: Councilmember Blackaby (Author)  
Subject: Clarifying BPD Protocols to Protect Berkeley Residents, Support Public Safety and Safeguard Constitutional Rights During Federal Immigration Enforcement Activities

RECOMMENDATION

Adopt a Resolution to clarify Berkeley Police Department (BPD) protocols in order to protect all Berkeley residents and peaceful protestors during any potential Federal immigration enforcement activities in Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

No fiscal impact. Actions to be completed by existing staff.

CURRENT SITUATION AND ITS EFFECTS

Recent high profile immigration enforcement operations throughout the U.S. have resulted in violence against residents and peaceful protestors, most notably, in Minneapolis, highlighting potential public safety risks to the broader community during periods of increased federal immigration enforcement activity.

In order to prepare for these potentially public safety impacts associated with these operations and proactively assure Berkeley residents about their safety during any periods of heightened federal immigration enforcement activity, it is necessary to clarify and clearly communicate BPD protocols to maintain public safety during these situations.

Berkeley is a city grounded in trust, safety, and the conviction that every individual deserves dignity and respect. When civil immigration enforcement actions disrupt our neighborhoods, they do more than target specific individuals—they create fear, separate families, and weaken the trust that binds our community. These actions place both residents and law enforcement at risk and run counter to the values we uphold.

It is our responsibility to strive to protect those who call Berkeley home and stand firm against federal overreach. This requires establishing clear expectations within our city.

This Resolution lays out the City Council's principles and expectations of the Berkeley Police Department and City of Berkeley staff related to interactions with Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) before, during, and after federal immigration enforcement actions. The Council directs the City Manager, in consultation with the Berkeley Police Chief, to update to BPD's existing protocols consistent with state law and the Department, using the following specific guidance around Transparency, De-escalation, and Investigations.

#### TRANSPARENCY IN LAW ENFORCEMENT CONDUCT

1. The Berkeley Police Department ("BPD") shall instruct its personnel that the BPD on-scene supervisor(s) at any federal immigration enforcement site shall attempt, when feasible and consistent with officer safety and operational considerations, to identify, verify, and record, when it's tactically safe and won't interfere with immigration law enforcement operations, the on-scene supervisory immigration officer's name, badge, or identification number.
2. Given the inherently unpredictable and contentious nature of immigration enforcement matters, officers shall activate their BWCs in compliance with Departmental Policy 425 (e). BPD personnel shall preserve the video pursuant to their evidence preservation protocols.

#### DE-ESCALATION AND FEDERAL PROVOCATIONS AND PROVISION OF FIRST AID

1. In the event of civil immigration enforcement operations, including a surge in ICE agents or other federal law enforcement personnel, BPD shall use its established de-escalation protocols to protect the safety and constitutional rights of all individuals present, including those engaged in lawful First Amendment activity.
2. When feasible BPD shall use its agency-approved tactics and techniques to maintain the peace and de-escalate potential conflicts while maintaining neutrality and enforcing applicable laws.
3. On-scene BPD personnel should provide clear communication to bystanders explaining that their presence is intended to maintain public safety and are not participating in civil immigration enforcement activities, consistent with state law and Department Policy 415.
4. BPD shall instruct its personnel that they must protect and aid people in life-threatening situations, regardless of the involved party or agency affiliation. BPD shall instruct its personnel to summon emergency medical assistance and immediately render aid to anyone injured at the scene of any immigration enforcement action. First responders shall render aid according to their existing protocols and established standards of care.

## INVESTIGATION OF CRIMINAL CONDUCT BY CIVIL IMMIGRATION ENFORCEMENT PERSONNEL

1. BPD shall document and investigate potential violations of state or local law occurring within its jurisdiction, consistent with applicable law. Such investigations shall occur in coordination with appropriate prosecutorial and government authorities, as permitted by law. BPD shall work in collaboration with the City Attorney's Office, the Alameda County District Attorney, and/or the California Attorney General to refer cases for review and potential charging, as appropriate.
2. BPD personnel who receive information from the public regarding conduct by civil immigration enforcement personnel that constitutes an apparent violation of City, state, or federal law, shall notify their supervisor who will ensure a report is taken and an investigation occurs.
3. BPD may conduct investigations within its jurisdiction and authority reported violations of California state law and make referrals of felony matters to the Alameda County District Attorney or California Attorney General, while coordinating, as appropriate, with other investigating agencies.
4. BPD shall evaluate lawful and operationally appropriate methods for publicly sharing aggregated data regarding reported incidents involving alleged violations of law arising from federal immigration enforcement activity within the City. Any such reporting shall be prepared in a manner consistent with applicable law, privacy requirements, evidentiary considerations, and Department practice, and may be provided periodically to the City Attorney, Mayor and City Council no less than quarterly and, if possible, on the Transparency Hub.
5. The City of Berkeley's Public Information Officer shall, in partnership with BPD, provide communications to residents regarding BPD's policy to investigate and document any such incidents.

### BACKGROUND

Local law enforcement is prohibited from intervening with federal immigration enforcement operations, giving local government little power to stop immigration raids.

However, local law enforcement can play a critical role in ensuring transparency and accountability consistent with applicable law by observing federal operations closely, documenting key details, and recording interactions. They can also help protect the public through clear communication, the use of de-escalation tactics, taking appropriate action to maintain public safety and enforce applicable laws when necessary, and providing medical assistance to anyone in need.

The City and County of Denver executed an Executive Order to protect its residents from unconstitutional and dangerous federal operations, Executive Order No. 152. This Resolution is modeled after that order.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No direct impact.

CONTACT PERSON

Councilmember Brent Blackaby    District 6    (510) 981-7160

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

PROTECT BERKELEY RESIDENTS, SUPPORTING PUBLIC SAFETY AND  
SAFEGUARDING CONSTITUTIONAL RIGHTS DURING FEDERAL IMMIGRATION  
ENFORCEMENT ACTIVITIES

WHEREAS, recent high profile immigration enforcement operations throughout the U.S. have resulted in violence against residents and peaceful protestors, most notably, in Minneapolis, demonstrating clear threats to community safety, public trust, and the exercise of constitutional rights during periods of increased federal immigration enforcement activity; and

WHEREAS, in order to prepare for potential public safety impacts associated with periods of heightened federal immigration enforcement activity, it is necessary to clarify and clearly communicate BPD protocols governing the Department's response in a manner consistent with state law and Department policy; and

WHEREAS, Berkeley is a city grounded in trust, safety, and the conviction that every individual deserves dignity and respect; and

WHEREAS, when civil immigration enforcement actions disrupt our neighborhoods, they do more than target specific individuals—they create fear, separate families, and weaken the trust that binds our community; and

WHEREAS, public safety risks arising during federal enforcement operations may affect residents, bystanders, and law enforcement personnel and warrant a clear, lawful, and safety focused local response; and

WHEREAS, establishing clear expectations for how BPD Personnel will respond to federal immigration enforcement activity within the City, protect public spaces, and ensure accountability for violations of applicable law will help protect those who call Berkeley home while maintaining compliance with state law and Department policy.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley directs the City Manager, in consultation with the Berkeley Police Chief, to update BPD's existing protocols as necessary, consistent with state law and the Department, using the following specific guidance around Transparency, De-escalation, public safety response and documentation and investigation of potential violations of law:

TRANSPARENCY IN LAW ENFORCEMENT RESPONSE

1. The Berkeley Police Department ("BPD") shall instruct their personnel that, when feasible, tactically appropriate, and consistent with officer safety and operational considerations, on-scene supervisor(s) may attempt to identify and document available identifying information of federal supervisory personnel present at an

immigration enforcement site, providing doing so does not interfere with lawful public safety operations.

2. Given the inherently unpredictable and contentious nature of immigration enforcement matters, officers shall activate their BWCs in compliance with Departmental Policy 425 (e). BPD personnel shall preserve the video pursuant to their evidence preservation protocols.

#### DE-ESCALATION, PUBLIC SAFETY RESPONSE, AND PROVISION OF FIRST AID

1. In the event of civil immigration enforcement operations, including the presence of ICE agents or other federal law enforcement personnel, BPD shall use their established de-escalation protocols to protect public health, welfare, safety, and to safeguard the constitutional rights of all individuals present, including those engaged in lawful First Amendment activity.
2. BPD shall use their agency-approved tactics and techniques to maintain the peace, preserve public safety, and de-escalate potential conflicts while remaining neutral and enforcing applicable state and local laws.
3. When appropriate, on-scene BPD personnel shall provide clear communication to bystanders that BPD is present to protect public health, welfare, and safety, preserve the peace, and is not participating in civil immigration enforcement activities, consistent with state law and Department Policy 415.
4. BPD shall instruct their personnel that they must protect and aid people in life-threatening situations, regardless of the involved party or agency affiliation. BPD personnel shall summon emergency medical assistance and render aid to injured persons at the scene of any immigration enforcement action. First responders shall render aid according to their existing protocols and established standards of care.

#### DOCUMENTATION AND INVESTIGATION OF POTENTIAL VIOLATIONS OF LAW

1. BPD shall document and investigate potential violations of state or local law occurring within its jurisdiction, consistent with applicable law. Such investigations shall occur in coordination with appropriate prosecutorial and government authorities, as permitted by law. BPD shall work in collaboration with the City Attorney's Office, the Alameda County District Attorney, and/or the California Attorney General to refer cases for review and potential charging, as appropriate.
2. BPD personnel who receive information from the public regarding conduct occurring within the City that may constitute a violation of City, state, or federal law, shall notify a supervisor, who will ensure that the information is

documented, a report is taken when appropriate, and the matter is handled in accordance with Department procedures and applicable law.

3. BPD may investigate i reported violations of California state law occurring within its jurisdiction and may refer felony matters to the Alameda County District Attorney, California Attorney General, or other appropriate prosecutorial authority, as permitted by law and consistent with jurisdictional limitations.
4. BPD shall evaluate lawful and operationally appropriate methods for publicly sharing aggregated data regarding reported incidents involving alleged violations of law arising from federal immigration enforcement activity within the City. Any such reporting shall be prepared in a manner consistent with applicable law, privacy requirements, evidentiary considerations, and Department practice, and may be provided periodically to the City Attorney, Mayor and City Council no less than quarterly and, if possible, on the Transparency Hub.
5. The City of Berkeley's Public Information Officer shall, in partnership with BPD, provide communications to residents regarding BPD's policy to investigate and document any such incidents.

Off-Agenda Report 1  
Policy Review Status Updates

Updated March 20, 2026



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## POLICY REVIEW STATUS REPORT

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### Guiding Authority

*Section 125(3)(a)(1) and Section 125(17)(a) of the Berkeley City Charter<sup>1</sup>*

### Case Load Overview

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As of March 20, 2026, the Police Accountability Board (PAB) has six (6) policy reviews currently open.

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<b>Policy Review Number</b>	2023-PR-0007 <sup>2</sup>
<b>Policy Topic</b>	Restraining Orders & Interactions with the Elderly
<b>Relevant Policy</b>	BPD Policy 313 "Senior and Disability Victimization" BPD Policy 430 "Civil Disputes"
<b>Status</b>	Review In Progress; Records Obtained
<b>Date Presented to the PAB</b>	7/24/2024
<b>Anticipated Completion</b>	March 2026
<b>Assigned To</b>	ODPA

#### Summary

The complainant reports ongoing disturbances, harassment, and restraining order violations by a neighbor's caretaker, raising concerns about enforcement by the Berkeley Police Department. This policy review will examine BPD's handling of interactions with elder adults and its practices regarding restraining orders, as the complainant indicates possible misunderstandings of order terms. Despite multiple

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<sup>1</sup> Berkeley City Charter: <https://berkeley.municipal.codes/Charter/125>

<sup>2</sup> On December 11, 2024, the PAB voted to divide this review in two parts. The first looking at the issue of restraining orders and the second into BPD's interactions with the elderly. The PAB was presented with part one on January 8, 2025.

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encounters and existing orders, the complainant reports continued issues with enforcement.

**Activity Report**

ODPA staff is finalizing the report and is slated for presentation at a forthcoming Meeting.

<b>Policy Review Number</b>	2023-PR-0008
<b>Policy Topic</b>	Off-Duty Conduct
<b>Relevant Policy</b>	BPD Policy 321 “Standard of Conduct” BPD Policy 401 “Fair and Impartial Policing” BPD Policy 344 “Off-Duty Law Enforcement Actions”
<b>Status</b>	Review in Progress; Assigned to Policy Review Subcommittee
<b>Date Presented to the PAB</b>	10/11/2023
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB – Assigned to Policy Review Subcommittee

**Summary**

The complainant expresses concerns about off-duty police officers exhibiting harmful behavior and recommends improving the Police Accountability Board’s oversight of off-duty conduct, including anti-racist hiring practices, stronger discipline measures, and increased transparency on racial profiling. They highlighted relevant policies and noted that the PAB is considering a subcommittee dedicated to off-duty law enforcement actions.

**Activity Report**

Evaluating potential referrals to subcommittee or PAB members.

<b>Policy Review Number</b>	2024-PR-0008
<b>Policy Topic</b>	Records Retention
<b>Relevant Policy</b>	BPD Policy 804 “Record Maintenance and Release”
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	1/8/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	ODPA

**Summary**

The ODPA received a complaint regarding BPD’s inability to provide past officer rosters in response to a PRA request, as the records are no longer maintained. The

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complainant recommended that BPD adopt a policy to retain and provide such rosters upon request.

**Activity Report**

ODPA staff are currently reviewing relevant materials in preparation for a future presentation to the PAB.

<b>Policy Review Number</b>	2025-PR-0001
<b>Policy Topic</b>	Contact Between Complaint Subject Officer and Complainant During Calls for Service
<b>Relevant Policy</b>	BPD Policy 1004 "Anti-Retaliation" BPD Policy 1010 "Personnel Complaints"
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	02/19/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Member w/ Support of ODPA

**Summary**

The Complainant reported two interactions with BPD in January 2025, involving officers who were either subjects of their prior complaints to the PAB or involved in other litigation. They expressed concerns about potential retaliation or bias, believing they should not interact with officers they had previously filed complaints against.

**Activity Report**

Board Member Calavita updated the PAB during its regular meeting on April 23, 2025. Policy Analyst Murillo and Board Member Calavita will collaborate to draft potential language and consult with BPD about feasibility and any potential concerns. ODPA Staff drafted and forwarded that request on May 12, 2025 and is awaiting a response.

<b>Policy Review Number</b>	2025-PR-0004
<b>Policy Topic</b>	Public Recording of Police Activity
<b>Relevant Policy</b>	BPD Policy 426 "Public Recording of Police Activity"
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	6/25/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Member w/ Support of ODPA

**Summary**

The Complainant expressed concerns with the Berkeley Police Department's General Order D-2, "Public Recording of Police Activity," (now BPD Policy 426) following an

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incident on June 4, 2025, in which they allege they were physically prevented by three officers from observing and documenting police activity at 8th and Harrison Street. The Complainant argues that the policy fails to clearly affirm the First Amendment rights of onlookers and does not adequately direct officers to limit the use of “police lines” to situations where such restrictions are necessary for officer safety or to protect the integrity of an investigation.

**Activity Report**

Board Member Calavita reviewed BPD Policy 426 and identified sections that may merit closer examination. ODPa staff is providing support by comparing policies from other jurisdictions and researching best practices.

<b>Policy Review Number</b>	2025-PR-0005
<b>Policy Topic</b>	Encampment Clearing Operations
<b>Relevant Policy</b>	Practice and procedure review
<b>Status</b>	Open
<b>Date Presented to the PAB</b>	6/25/2025
<b>Anticipated Completion</b>	The review is currently being evaluated to determine the appropriate next steps and timeline for completion.
<b>Assigned To</b>	PAB Subcommittee

**Summary**

The Complainant raised concerns about a June 4, 2025, multi-department operation at an encampment on 8th and Harrison Streets, alleging excessive force, improper use of less-lethal weapons, suppression of public observation, and lack of notice to residents in violation of due process. They further argued that accountability should extend beyond individual officers to command staff who design and authorize operational plans, and recommended the PAB adopt policies creating a new category of misconduct for such leadership decisions.

**Activity Report**

The subcommittee has met and identified preliminary data and information needs. ODPa staff collected the requested materials and provided them to the subcommittee.

*Updated March 20, 2026*

The following policy reviews have been temporarily suspended and will be reconsidered at a future date:

<b>Policy Review No.</b>	<b>Topic</b>
2487	Involuntary Injections / Medical Care
2488	Use of Force During Arrest
17	Mental Health Response Use of Force
2023-PR-0006	Parking Enforcement Practices
2023-PR-0009	Use of Force – Handcuffing
2024-PR-0005	Downtown Ambassador Program
2024-PR-0006	Specialized Care Unit

Off-Agenda Report 2  
Legislative Updates Relevant to the PAB's Work

Public



**MEMORANDUM**

**Date:** March 20, 2026  
**To:** Honorable Members of the Police Accountability Board  
**From:** Jose Murillo, Acting Director of Police Accountability *JM*  
Syed Mehdi, ODPa Data Analyst  
**Subject:** Legislative Updates

The purpose of this memorandum is to provide a legislative update to the PAB, enabling them to stay informed about changes in local, state, and federal law.

**State Legislative Updates**<sup>1</sup>

The following bills passed in 2025 and went into effect on January 1, 2026:

NAME OF LEGISLATION	STATUS	SUMMARY/PURPOSE
<a href="#"><u>SB 385 “Peace Officers”</u></a>	<i>(Passed) 2025-10-01 - Chaptered by Secretary of State. Chapter 218, Statutes of 2025.</i>	This bill, SB 385, requires peace officers hired on or after January 1, 2029, to obtain a modern policing degree or a bachelor's or advanced degree from an accredited institution within 36 months of employment. It builds on existing certification and educational requirements and takes effect immediately as an urgency statute.
<a href="#"><u>AB 572 “Criminal Procedure: Interrogations”</u></a>	<i>(Passed) 2025-10-13 - Chaptered by Secretary of State - Chapter 697, Statutes of 2025.</i>	AB 752 required law enforcement officers to clearly identify themselves and provide specified information before interviewing family members of individuals who have been killed or seriously injured by police.
<a href="#"><u>AB1178 “Peace</u></a>	<i>(Passed) 2025-10-11 - Chaptered by</i>	This bill expands redaction requirements under the California Public Records Act,

<sup>1</sup> <https://post.ca.gov/Status-of-Current-Legislation>

<p><b><u>Officers: Confidentiality of Records</u></b></p>	<p>Secretary of State - Chapter 635, Statutes of 2025.</p>	<p>requiring law enforcement agencies to remove identifying details of undercover officers, task force members, and those with verified death threats. It imposes a state-mandated local program and includes legislative findings justifying access limitations.</p>
<p><b><u>AB1388 “Law enforcement: settlement agreements.”</u></b></p>	<p>(Passed) 2025-10-13 - Chaptered by Secretary of State - Chapter 729, Statutes of 2025.</p>	<p>AB 1388 aims to enhance transparency in law enforcement by prohibiting agencies from entering into nondisclosure agreements regarding police misconduct.</p>
<p><b><u>SB707 “Open Meetings: Meeting and teleconference requirements”</u></b></p>	<p>(Passed) 2025-10-03 - Chaptered by Secretary of State. Chapter 327, Statutes of 2025.</p>	<p>SB 707 expands public meeting access by requiring remote participation, interpretation services, and multilingual agendas for local government bodies until 2030. It revises teleconferencing rules and extends provisions for emergencies and just cause absences.</p>
<p><b><u>SB-627 “Law enforcement: masks.”</u></b></p>	<p>(Passed) 2025-09-20 - Chaptered by Secretary of State. Chapter 125, Statutes of 2025.</p>	<p>SB 627 would make it a misdemeanor for law enforcement officers to wear masks or personal disguises while interacting with the public, with certain exceptions, and expresses intent to allow protective gear for SWAT officers and require visible identification on uniforms.</p>
<p><b><u>SB524 “Law Enforcement Agencies: Artificial Intelligence”</u></b></p>	<p>(Passed) 2025-10-10 - Chaptered by Secretary of State. Chapter 587, Statutes of 2025.</p>	<p>This bill requires law enforcement agencies to adopt policies on the use of AI in preparing official reports, including disclosure statements, officer signatures, retention of AI-generated drafts, and audit trails. It also restricts vendors from using agency data and provides for state reimbursement of mandated local costs.</p>
<p><b><u>AB487 “Peace officers: confidentiality of records.”</u></b></p>	<p>(Passed) 2025-10-06 - Chaptered by Secretary of State - Chapter 383, Statutes of 2025.</p>	<p>This bill would extend access to otherwise confidential peace officer personnel records to civilian law-enforcement oversight boards and county inspectors general for use in their investigations, while requiring these entities to maintain confidentiality and allowing them to meet in closed session to review the records. It would also incorporate</p>

Public

		additional changes to Penal Code Section 832.7 if AB 1178 or AB 1388 are enacted and this bill is enacted last.
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Additional legislation pertaining to public safety in the state of California may be monitored here: <https://legiscan.com/CA/legislation> . ODPa staff will continuously monitor new legislation and update the PAB throughout the year.

The BPD’s Policy and Training Bureau issues an annual legislative update that summarizes legal changes impacting law enforcement. Unless stated otherwise, the changes outlined in the updates took effect in January of the corresponding year. The following BPD Policies include the legislative updates for 2026.

SOURCE	LINK
<b>BPD Policy 1507 “2026 Legislative &amp; Case Law Update”</b>	<a href="https://berkeleyca.gov/sites/default/files/2026-02/RELEASE_20260127_T171031_Berkeley%20PD%20Policy%20Manual.pdf#Page=1061">https://berkeleyca.gov/sites/default/files/2026-02/RELEASE_20260127_T171031_Berkeley%20PD%20Policy%20Manual.pdf#Page=1061</a>
<b>The California Peace Officers Association also provides a yearly California Legislative and Legal Digest.</b>	<a href="https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf">https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf</a>

**Lexipol Policy Updates**

Updates to the following policies have been implemented since the PAB’s last meeting on March 25, 2026.

Policy Title	Summary
<b>BPD Policy 300 “Use of Force”</b>	Reinstates the 2024 version of BPD Policy 300.

**Berkeley City Council & Council Committee Meeting Updates**

The following items are under consideration by the City Council or its committees and are relevant to the PAB:

Upcoming City Council Meetings

March 23, 2026 Public Safety Policy Committee Meeting

Item No.	Title	Recommendation
2	<a href="#">Resolution Rescinding Resolution No. 51,408-N.S. Restricting the Use of Air Support and Canine Units and Updating Mutual Aid Policies</a>	Adopt a resolution to rescind Resolution No. 51,408-N.S. which currently restricts the use of helicopters and police canine units by the Berkeley Police Department (BPD) and to update policies authorizing BPD to deploy these resources through mutual aid agreements directly with external agencies. The revised policy framework will replace the prior requirement for City Manager approval with post-deployment notification, ensuring rapid and effective responses during critical incidents. The policy will continue to explicitly prohibit the use of canines for crowd control.

March 24, 2026 City Council Special Meeting

The following items are under consideration at the Council’s March 24<sup>th</sup> Special Meeting:

Item No.	Title	Recommendation
1	<a href="#">2025 Berkeley Police Department Annual Report</a>	N/A

March 24, 2026 City Council Regular Meeting

The following items are under consideration at the Council’s March 24<sup>th</sup> Regular Meeting:

Item No.	Title	Recommendation
25	<a href="#">Adopt a Resolution Authorizing Temporary Employment of Retired Annuitant Kathy Lee as Interim Director of Police Accountability</a>	Adopt a Resolution authorizing the appointment of Kathy Lee as a retired annuitant to serve as Interim Director of Police Accountability pursuant to Government Code Sections 21221(h) and 7522.56 and the Mayor to execute the attached employment agreement establishing an hourly rate of \$122.44, consistent with the publicly approved pay schedule for the Director of Police

Public

		Accountability, with no additional benefits, per CalPERS rules for retired annuitants.
26	<a href="#"><u>Public Safety Technology: Surveillance Technology Ordinance and Police Equipment Ordinance Approvals, Policy Updates, and Contract Authority</u></a>	Note: This language is paraphrased. Adopt a resolution to: (1) accept Surveillance Acquisition Reports and approve Surveillance Use Policies for the UAS and Community Video Streams programs, and approve updated policies for fixed cameras; (2) accept the Police Equipment Impact Statement and approve the UAS Police Equipment Use Policy; and (3) authorize the City Manager to amend the Flock Safety contract to add DFR services, Condor PTZ cameras, and Nova software, and to renew ALPRs, within the specified terms and funding limits.

Off-Agenda Report 3  
2025 BPD Annual Report



# 2025 Berkeley Police Department Annual Report

March 24, 2026

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## Introduction

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The Berkeley Police Department's 2025 Annual Report provides an annual snapshot of our activities, progress, and challenges over the past year. Additional information and daily updates can be found on our Transparency Hub. This year's report reflects a department that continued to deliver high-quality professional service under persistent staffing constraints. Our standard of care does not change because staffing is lean. To meet that standard, we made deliberate investments in the tools and strategies that allow us to do more with our limited resources.

**Mission:** United in service, our mission is to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect.

**Vision:** The Berkeley Police Department will be a team of leaders at every level. We will foster strong relationships with our community, inspiring trust through our service, building on our historic tradition of progressive policing, and dedicated to the safety of all.

**Values:** Service is our calling. As members of this community, the Berkeley Police Department team is committed to proactive law enforcement and problem solving, holding these as our core values:

- **Integrity:** We are ethical, fair, and trustworthy in all we do.
- **Safety:** We strive to keep our community and each other safe.
- **Respect:** We fulfill our duties with dignity, compassion, and empathy.
- **Diversity:** We value the strength of a diverse workplace and community. We endeavor to reflect the community we serve, promoting inclusion and fairness.
- **Professionalism:** We commit to organizational excellence through progressive training, positive attitude, and superior performance.

In 2025, we built on the foundational work of recent years and began to see results. Our staffing remains a challenge but we made progress in how we use the resources we have. The establishment of a Flex Team framework, initially staffed on a part-time basis, brought focused, data-driven operations to problems like organized retail theft and produced 141 arrests across 23 operations. Building on those results, BPD is standing up a full-time Flex Team in Spring 2026 with three dedicated officer positions. Our Automated License Plate Reader program directly contributed to 58 arrests in its first full year. And while we investigated one homicide via knife, for the first time in at least a decade, Berkeley recorded zero fatal or injury shootings.

These results reflect a deliberate shift: rather than asking our officers to simply absorb more with less, we are working to match the right resources and tools to the right problems.

This report documents our progress in 2025 and outlines where we are headed. As you will see in the data and initiatives that follow, the investments this department has made in people, in community partnerships, and in technology are producing measurable improvements in public safety outcomes. We invite our community and its representatives to review these results and join us as we continue this work together.

## Staffing & Workload

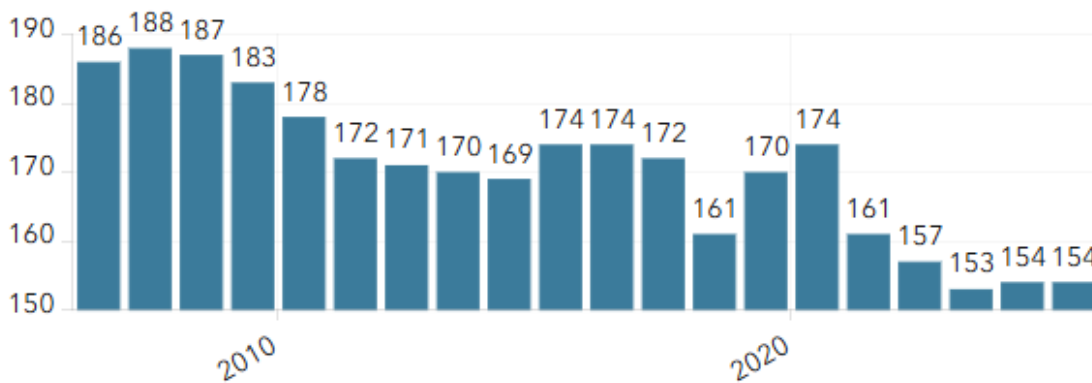
Berkeley police responded to 60,374 calls for service in 2025 while operating well below authorized staffing levels. Despite these constraints, the department maintained competitive response times and continued expanding the Community Service Officer program. Recruitment efforts for dispatchers were a particular focus, with the department hosting specialized hiring events and participating in public safety recruitment fairs throughout the year.

### Staffing

The department currently employs 154 officers, 144 of whom are available to work as solo police officers- well below the current authorized strength of 174 sworn personnel (reduced from 181 prior to the last budget cycle).

### Sworn Staff

Annual Peak Staffing Levels



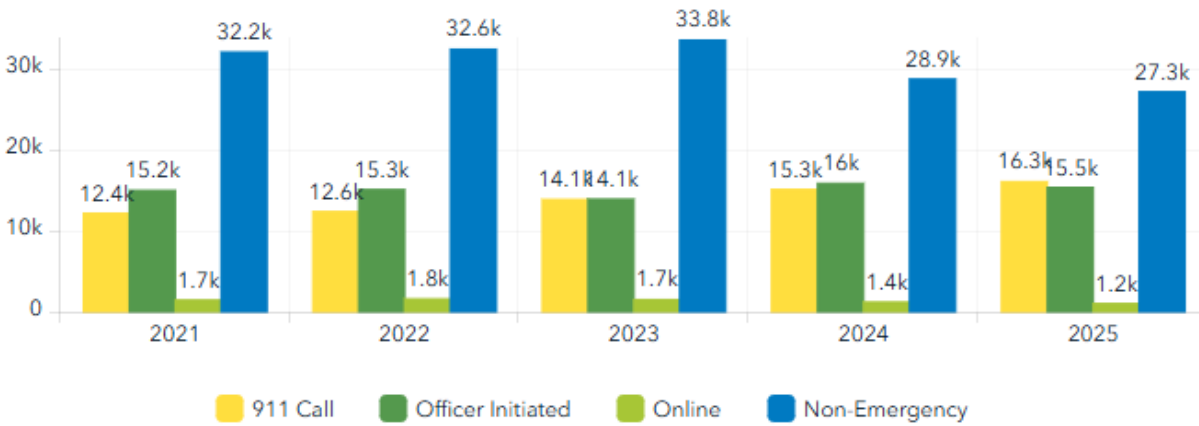
The department is authorized for 32 dispatcher positions (reduced from 36 prior to the last budget cycle) and 4 dispatch supervisor positions (down from 5) but is currently staffed with 20 dispatchers and 4 supervisors- also well below ideal staffing levels. To address this shortage in the Communications Center, the team leveraged dispatch-qualified personnel while intensifying recruitment. Key efforts in 2025 included hosting a specialized BPD dispatch seminar in April and participating in several public safety recruitment fairs to attract qualified candidates.

We have continued expanding our Community Service Officer (CSO) capacity, with authorization having increased from 22 to 28 positions in the Fiscal Year 2024 budget, where it remains today. We continue working towards full CSO staffing to enable additional CSOs to transition to our patrol teams. Additional information on the CSO program follows below.

Calls for Service

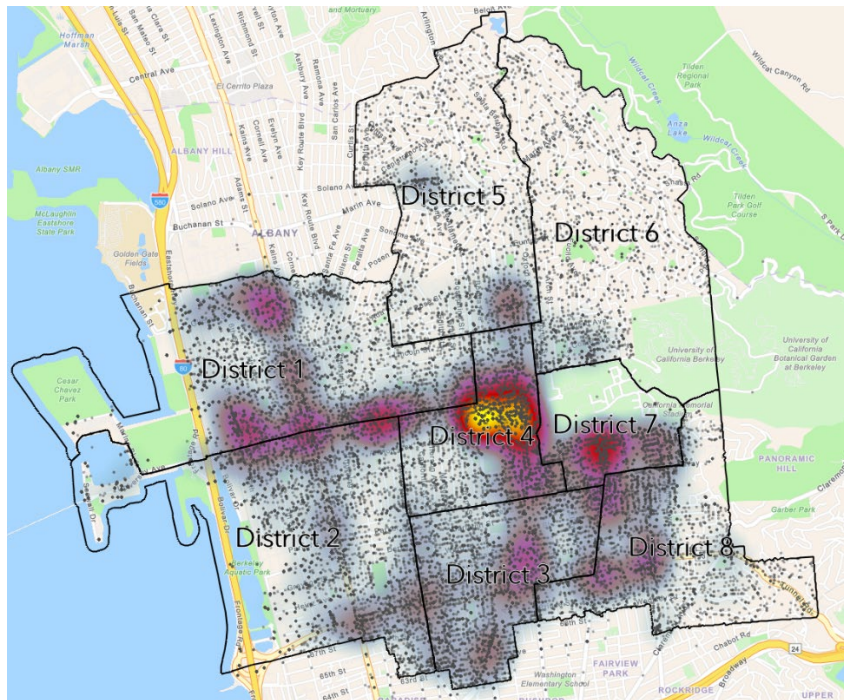
BPD responded to 60,374 calls for service in 2025, a slight decrease of approximately 2% from 2024. Of those, 27,341 were non-emergency calls, 15,543 were officer-initiated, 16,255 were 911 calls, 1,214 were submitted online, and 21 were transferred from an automated service.

Calls for Service  
by Call Source



Non-emergency calls dropped by roughly 5% and online reports declined by nearly 14%, while officer-initiated calls decreased slightly by about 3%. The most significant trend was a continued rise in 911 calls- up around 6%, reaching their highest level in several years. Because 911 calls require the department's most urgent response, this increase signals growing demand for immediate assistance in critical situations.

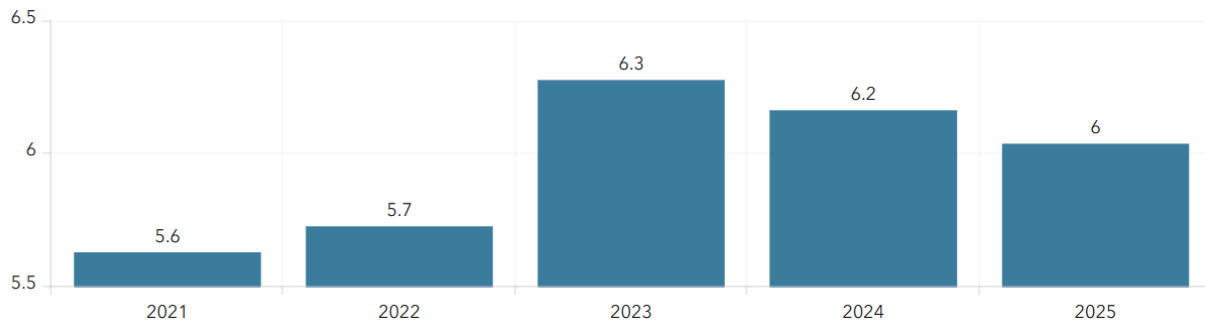
Call volume continues to vary significantly across the city. As illustrated in the heat map, City Council District 4 again recorded the highest call count among all districts in 2025. These patterns directly inform BPD's deployment decisions, including where to direct additional resources such as the Bike Unit to maintain timely response in areas with elevated demand.



## Workload

Average calls for service per officer per shift rose sharply through 2023, peaking at 6.3 before beginning to come down. In 2024 and 2025, that number declined to 6.2 and then 6.0, reflecting the early impact of programs designed specifically to reduce the burden on patrol officers.

Average Calls Handled per Officer per Shift  
Non-Officer-Initiated Calls



The most direct contributors to that decline are the CSO patrol program, the Bike Unit, and the Flex Team. Each of these programs was built with the goal of bringing the right resources to each community need.

The three patrol CSOs who completed field training in 2025 independently handled over 1,500 non-emergency calls, routine reports, and traffic control assignments, all calls that previously would have gone to patrol. The Bike Unit has similarly allowed BPD to maintain timely response in high-demand areas like District 4 without pulling officers from other beats. The Flex Team's proactive retail theft operations target the organized offenders driving repeat calls for service rather than waiting to respond after the fact.

The result is a workload trend that, for the first time in several years, is moving in the right direction. With three additional CSOs transferring to patrol in 2026 and the Flex Team expanding to three dedicated officer positions, the department expects this trend to continue. Overtime remains essential for maintaining minimum staffing on every shift, and overall call volumes remain elevated compared to Covid-era levels, but the investments made in 2024 and 2025 are producing measurable relief for the officers handling them.

## Department Initiatives

### What We've Done

#### Community Service Officers in Patrol and Investigations

The CSO patrol program, which revives a successful approach from the early 2000s, was created in 2024 and fully rolled out in 2025. Three CSOs completed their field training and began independently handling non-emergency calls, routine reports, and traffic control on patrol. Together, they responded to over 1,500 calls for service in their first year.

That volume matters. Every call a CSO handles is one that doesn't pull a sworn officer away from higher-priority work. With emergency call volumes elevated and staffing still below authorized levels, CSOs give us a practical way to keep up with demand while freeing officers for the situations that require them most.

We hope to be fully staffed at the CSO position soon, enabling additional CSOs to transition to our patrol teams. As the program grows, we also plan to expand CSO roles into investigations, where they can support detectives with evidence collection, report preparation, and data entry.

The CSO program is also a key piece of the City's broader Reimagining Public Safety initiative, which has been working since 2020 to build a more community-centered approach to public safety in Berkeley. A core goal of that effort is shifting work that doesn't require a sworn officer to other trained professionals. Patrol CSOs are one of the most concrete examples of that idea in practice, and their results in 2025 show the model works.



How We're Doing

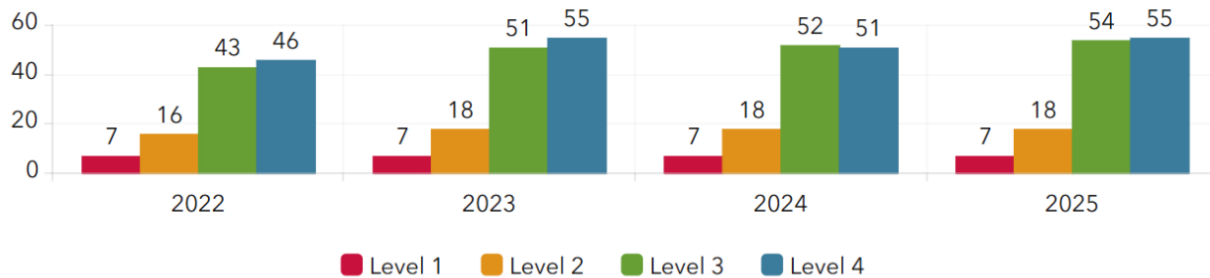
Even as the Department navigates staffing challenges and rising 911 call volume, response times remain strong. Speed of response is one of the most direct measures of whether our community receives the service it needs in critical moments, and our 2025 data shows BPD continues to perform well relative to the region.

*Our median response time for Priority 1 calls was 7 minutes, meeting or exceeding regional standards.*

The table below provides a snapshot of median response times across priority levels for Berkeley and nearby cities. Priority levels, with 1 being the most urgent, are determined by the whether the call is in progress or “cold” as well as the seriousness of the call type. Definitions for priority levels vary by jurisdiction, so we have included the corresponding share of calls for each level where data was available to illustrate the differences in definitional boundaries. The figures shown below reflect the most recent data published by that agency.

Median Response Times

First Unit, Minutes



\*Excludes Officer Initiated calls and call types: Audible Alarms and Traffic Stop

Median Response Times (minutes)	Level 1 (% of all calls)	Level 2 (% of all calls)	Level 3 (% of all calls)	Level 4 (% of all calls)
Berkeley (2025)	7 (12%)	18 (30%)	54 (17%)	55 (30%)
San Francisco (2025)	9 (11%)	28 (23%)	77 (65%)	-
Oakland (2024)	9 (20%)	240 (50%)	-	-
San Jose (2025)	7 (3%)	28 (28%)	-	-

*Comparison cities chosen based on data availability and region*

While our response times compare favorably to nearby agencies, the increasing volume of 911 calls and persistent staffing constraints mean that maintaining these numbers will require more than personnel alone. Tools like a Drone as First Responder program offer the potential to get eyes on scene even faster, not because our current times are inadequate, but because faster situational awareness leads to better outcomes for officers and the community alike.

What's Next

**Communication Center Initiatives**

BPD's Communications Center has operated below strength for years, and by the start of 2025, almost half of our dispatch positions were vacant. That level of shortage put real strain on working dispatchers and limited our ability to operate at the pace our community needs. Closing that gap is a top priority and the investments we've made this year position us for meaningful progress in 2026.

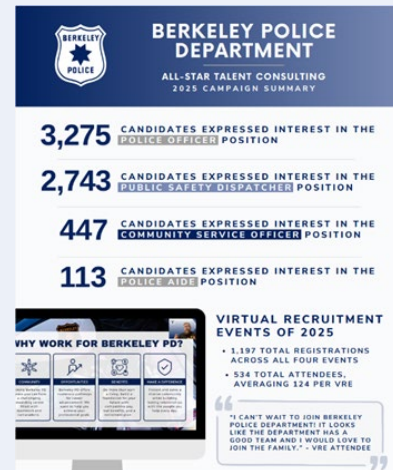
As part of an ongoing workgroup in collaboration with the Fire Department, we have built a foundation of initiatives designed to grow and sustain the Communications Center for the long term.

On the recruiting side, quarterly Virtual Recruiting Events have reached 1,197 potential candidates, and our partnership with All Star Recruiting continues to expand our applicant pool. We also rolled out CriteCall, a pre-employment assessment candidates can complete on their own time. By testing for the core skills the job actually requires like typing speed, data entry, decision-making, listening, and multitasking under pressure, we can direct our resources toward candidates most likely to succeed, and those who advance come in better prepared.

The training pipeline itself has been redesigned to support stronger outcomes. A new Call Taker position gives recruits a more manageable entry point, allowing them to build foundational skills before taking on the full scope of dispatch operations. Early results are encouraging, with new Call Takers completing training at a higher rate and we expect this model to pay dividends as we continue hiring.

Two additional initiatives are moving toward implementation. Protocol-based dispatching tools have been identified, and stakeholder discussions are being finalized; once in place, standardized call-handling procedures are expected to improve training outcomes, reduce workload stress, and increase overall efficiency. We are also exploring a virtual agent to triage non-emergency calls, which would reduce routine call volume for dispatchers and improve response times for higher-priority requests.

We hired nine new dispatchers in 2025, though attrition resulted in a net gain of three. That is a reminder of why recruiting alone isn't enough. Retaining and better onboarding the people we bring in is just as critical as filling seats. With the structural changes now underway, we enter 2026 with a clearer path toward a Communications Center that is adequately staffed and built to stay that way.



## Crime & Investigations

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Berkeley saw broad improvements in crime trends in 2025. Shootings fell 40%, robberies dropped 20%, commercial burglaries declined 31%, and vehicle thefts were cut nearly in half. Total Group A offenses fell 11% overall, driven primarily by an 18% reduction in property crimes. Robberies continued their decline below pre-COVID levels, and vehicle thefts- while still above pre-pandemic rates- dropped to their lowest point since 2021.

Not all trends moved in the right direction. Felony sexual assaults rose from 78 to 96, aggravated assaults increased 16%, and hate crimes reached their highest five-year total at 50.

On the enforcement side, BPD recovered 114 firearms, the Flex Team conducted 23 retail theft operations.

### Crime Data

To accurately interpret our crime data, it is essential to distinguish between the three primary stages of police response: calls for service, case reports, and formal criminal charges. Calls for service represent the public's initial request for assistance, or a report of criminal activity requiring police response and investigation. When our response yields evidence that suggests that a crime has occurred, officers conduct investigations and document their findings in a case report. Once complete, these cases undergo a legal review to determine if the evidence warrants formal charges by the District Attorney. Simultaneously, this data is processed and compiled for submission to the California Department of Justice (DOJ), ensuring our local activity is accurately reflected in state and federal crime reporting databases.



In 2024, we transitioned from the Uniform Crime Reporting (UCR) Summary Reporting System (SRS) to the National Incident-Based Reporting System (NIBRS) for data submitted to the California Department of Justice. NIBRS provides a more complete picture of criminal incidents: it records every offense in an incident rather than just the most serious one, distinguishes between attempted and completed offenses, collects weapon details for all violent crimes, and gathers detailed information about victims, offenders, and their relationships. With two years of NIBRS data now in hand, we are beginning to establish the year-over-year baselines that will support more meaningful trend analysis going forward.

**NIBRS Group A**

NIBRS Group A offenses fall into three categories: Crimes Against Persons, Crimes Against Property, and Crimes Against Society. Unlike the older Summary Reporting System, NIBRS records every offense in an incident, providing a more detailed and accurate picture of criminal activity. 2025 marks the second year of Berkeley's NIBRS reporting, allowing for the first direct year-over-year comparisons under this system.

The Berkeley NIBRS report is as follows:

**Group A Crimes**

**CRIMES AGAINST PERSONS**

		<b>2024</b>	<b>2025</b>	<b>Percent Change</b>
<b>HOMICIDE OFFENSES</b>	Murder	4	1	-75%
	Negligent Manslaughter	1	0	-100%
	Justifiable Homicide	0	0	NC
<b>SEX OFFENSES</b>	Rape	43	63	47%
	Sodomy	11	12	9%
	Sexual Assault with Object	11	15	36%
	Fondling	57	45	-21%
	Incest	0	0	NC
	Statutory Rape	4	1	-75%
<b>ASSAULT OFFENSES</b>	Aggravated Assault	482	561	16%
	Simple Assault	840	838	0%
	Intimidation	296	248	-16%
<b>KIDNAPPING / ABDUCTION &amp; HUMAN TRAFFICKING</b>	Kidnapping / Abduction	60	65	8%
	Human Trafficking, Commercial Sex Acts	0	0	NC
	Human Trafficking, Involuntary Servitude	0	0	NC
<b>TOTAL CRIMES AGAINST PERSONS</b>		<b>1,809</b>	<b>1,849</b>	<b>2%</b>
<i>NC – NON-CALCULABLE</i>				

**CRIMES AGAINST PROPERTY**

		<b>2024</b>	<b>2025</b>	<b>Percent Change</b>
ROBBERY	Robbery	221	177	-20%
BURGLARY/ THEFT	Burglary/ Breaking & Entering	788	719	-9%
	Larceny / Theft Offenses	4,420	3,696	-16%
	Motor Vehicle Theft	1093	572	-48%
PROPERTY DESTRUCTION	Arson	48	58	21%
	Destruction of Property	770	658	-15%
FRAUD & FINANCIAL CRIME	Counterfeiting / Forgery	77	115	49%
	Fraud Offense	680	662	-3%
	Embezzlement	15	8	-47%
	Extortion / Blackmail	25	32	28%
	Bribery	0	1	NC
MISC. PROPERTY CRIME	Stolen Property Offenses	140	118	-16%
<b>TOTAL CRIMES AGAINST PROPERTY</b>		<b>8,277</b>	<b>6,816</b>	<b>-18%</b>
				<i>NC – NON-CALCULABLE</i>

**CRIMES AGAINST SOCIETY**

		<b>2024</b>	<b>2025</b>	<b>Percent Change</b>
DRUG OFFENSES	Drug/ Narcotics Violations	313	338	8%
	Drug Equipment Violations	360	536	49%
REGULATORY OFFENSES	Gambling Offenses	0	0	NC
	Pornography/ Obscene Material	12	14	17%
	Prostitution	0	0	NC
	Weapons Law Violations	240	216	-10%

ANIMAL CRUELTY	Animal Cruelty	8	7	-13%
<b>TOTAL CRIMES AGAINST SOCIETY</b>		<b>933</b>	<b>1,111</b>	<b>19%</b>
<i>NC – NON-CALCULABLE</i>				

**TOTAL GROUP A OFFENSES**

	<b>2024</b>	<b>2025</b>	<b>Percent Change</b>
CRIMES AGAINST PERSONS	1,809	1,849	2%
CRIMES AGAINST PROPERTY	8,277	6,816	-18%
CRIMES AGAINST SOCIETY	933	1,111	19%
<b>TOTAL GROUP A OFFENSES</b>	<b>11,019</b>	<b>9,776</b>	<b>-11%</b>
<i>NC – NON-CALCULABLE</i>			

*Note: The 2024 figures shown in this report reflect finalized data submitted to the California Department of Justice and may differ slightly from the preliminary figures published in last year's annual report. These revisions are a normal part of the NIBRS reporting process as incidents are reclassified or updated.*

Select Crime Categories

With only two years of NIBRS data available, the following section uses statutes and internally tracked categories to monitor trends across key crime types. This framework draws on legal definitions alongside in-house classifications and provides the first year-over-year comparisons under our current reporting system. The five-year view in each table combines pre-NIBRS and NIBRS-era figures to preserve historical context while the newer system matures. Because these categories are tracked independently from NIBRS, totals for a given offense may differ slightly from the NIBRS Group A figures above. Prior-year figures in these tables reflect the numbers as originally published in each year's annual report.

**Robberies**

<b>Robberies</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Pedestrian</i>	119	148	205	106	88
<i>Commercial</i>	118	117	135	97	64
<i>Home Invasion</i>	8	8	5	2	9
<i>Bank/ ATM</i>	6	4	2	1	2
<i>Carjacking</i>	14	15	39	15	14
<b>Total</b>	<b>265</b>	<b>292</b>	<b>386</b>	<b>221</b>	<b>177</b>
<i>By Gun (% of total)</i>	74 (28%)	69 (24%)	111 (29%)	41 (19%)	20 (11%)

**Shootings**

<b>Shootings</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Non-Injury</i>	44	38	24	17	15
<i>Injury</i>	6	12	8	5	0
<i>Fatal</i>	0	3	2	3	0
<b>Total</b>	<b>50</b>	<b>53</b>	<b>34</b>	<b>25</b>	<b>15</b>

**Sexual Assaults**

<b>Sexual Assaults</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Felony</i>	57	89	97	78	96
<i>Misdemeanor</i>	50	81	62	42	40
<b>Total</b>	<b>107</b>	<b>170</b>	<b>159</b>	<b>120</b>	<b>136</b>

**Property Crimes**

<b>Select Property Crimes</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Commercial Burglaries</i>	316	435	574	396	274
<i>Vehicle Thefts</i>	1098	836	1350	1053	567
<i>Catalytic Converter Thefts</i>	573	847	457	312	248

**Hate Crimes & Incidents**

<b>Hate Crimes</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Race/Ethnicity/National Origin</i>	29	24	27	20	28
<i>Religion</i>	11	3	9	10	13
<i>Sexual Orientation</i>	2	11	9	14	9
<i>Gender</i>	0	0	0	0	0
<i>Disability</i>	0	0	1	1	0
<b>Total</b>	<b>42</b>	<b>38</b>	<b>46</b>	<b>45</b>	<b>50</b>

<b>Hate Incidents*</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
<i>Race/Ethnicity/National Origin</i>	16	22	24	21	33
<i>Religion</i>	1	5	19	12	4
<i>Sexual Orientation</i>	4	4	7	4	5
<i>Gender</i>	0	0	0	0	1
<i>Disability</i>	1	0	0	0	1
<b>Total</b>	<b>22</b>	<b>31</b>	<b>50</b>	<b>37</b>	<b>44</b>

*\*Hate incidents are acts of prejudice that are not crimes and do not involve violence, threats, or property damage.*

## Department Initiatives

### What We've Done

#### Combatting Gun Violence

The foundation for BPD's approach to gun violence was built over the last several years. In 2025, that work matured into measurable results: zero gun violence related homicides or injuries for the first time in at least a decade, and a 40% drop in shootings (from 25 to 15).

Our partnership with the City-run Gun Violence Intervention and Prevention Program (GVIPP) and community-based organizations Live Free and the National Institute for Criminal Justice Reform (NICJR) continued to anchor the prevention side. GVIPP provides life coaching, mentorship, and direct support services to individuals most at risk, and responds to incidents including shooting scenes and hospital visits. GVIPP also continued its capacity-building work with Berkeley-based organizations like Berkeley Tech and the Berkeley HUB, and maintained regional coordination with Oakland's Department of Violence Prevention and Richmond's Office of Neighborhood Safety.

On the enforcement side, gun arrests rose 31% (from 58 to 76) even as overall gun cases dropped 38% (from 150 to 93). That combination tells an important story: there are fewer gun incidents in Berkeley, and when they do happen, we are making arrests at a higher rate. Detectives continued expanding proactive follow-up investigations and search warrants, recovering 114 firearms associated with crimes. Of those, 52 came from search warrants and 17 from proactive traffic stops.

	2021	2022	2023	2024	2025
<b>Total Guns Seized as Evidence</b>	108	121	86	110	114

Every recovered firearm is processed through the National Integrated Ballistic Information Network, a nationwide collaboration coordinated by the Bureau of Alcohol, Tobacco, and Firearms that connects ballistic evidence from shooting scenes with records of firearm ownership and purchase. The department also processes each weapon for DNA and fingerprints to identify individuals involved in shootings or illegal possession.

Beyond enforcement, detectives and patrol officers continued to coordinate with GVIPP to connect impacted individuals and families to life coaching, mentorship, and support services in line with the department's dual approach of holding offenders accountable while investing in the community conditions that prevent future violence.

These results reflect what a sustained, multi-year investment in both community partnerships and targeted enforcement can produce. The goal for 2026 is to sustain this momentum through the same combination of enforcement, investigation, and community partnership.

### Automated License Plate Readers (ALPR)

With Council approval, BPD deployed its ALPR network citywide in 2025. The technology has fundamentally improved how officers patrol and how detectives investigate crimes spanning a range of serious offenses including robbery, kidnapping, carjacking, burglary, weapons violations, organized retail theft, stolen property, and DUI.

On the patrol side, ALPRs give officers real-time alerts when a stolen vehicle or a vehicle linked to a felony enters the city. Before ALPRs, spotting these vehicles depended almost entirely on an officer happening to recognize a plate or match a description. Now, officers are notified immediately and can respond with confirmed information rather than suspicion. In 2025, the system generated 621 stolen vehicle alerts and 78 felony vehicle alerts. Each one of those is a moment where an officer received actionable information they otherwise would not have had. That precision means more targeted stops and less risk for both officers and the public.

For investigations, the impact has been just as significant. Detectives now have access to historical plate data that lets them track suspect vehicle movements after the fact, build timelines, and connect cases that might otherwise stay isolated. This has been especially valuable in robbery investigations, where suspect vehicles often appear across multiple incidents. ALPR data gives detectives the ability to link those cases together and identify patterns that would have been extremely difficult to piece together manually.

In its first full year, the ALPR program contributed to at least 37 stolen vehicle recoveries, played a role in 58 arrests, and supported 121 cases.

The value of the ALPR system multiplies when it operates as part of a regional network. Vehicles involved in crimes frequently travel across city lines, and when neighboring agencies share ALPR data, a suspect vehicle flagged in one jurisdiction can be identified in another and apprehended by local officers. Berkeley Police Department's system is integrated into this broader regional infrastructure, enabling officers and detectives to track suspect vehicles throughout the East Bay. This regional connectivity transforms ALPRs from a local tool into a resource multiplier for public safety across the region, allowing for coordinated, timely, and effective law-enforcement responses.

ALPRs are a critical component of a broader strategy to provide officers with better real-time information. When patrol officers have more accurate intelligence before arriving on scene, they make better, safer decisions. When detectives can analyze vehicle movement across both time and geography, they can solve cases more efficiently and effectively.

The ALPR program's first year has shown what that looks like in practice, and its role will only grow should Council approve to continue and expand public safety technologies.



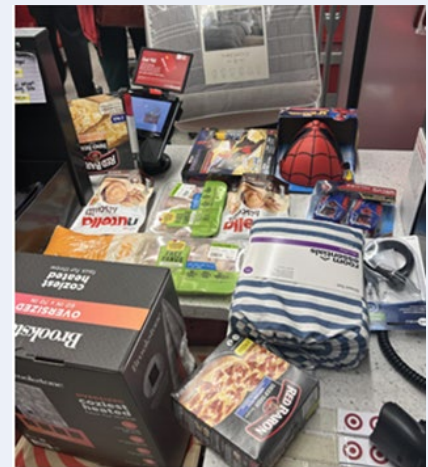
### Flex Team Operations

In 2025, BPD stood up a dedicated Flex Team by creating a new Flex Team Sergeant position to run targeted, data-driven operations. The results speak for themselves: 23 operations, 141 arrests, and a theft clearance rate that has jumped from around 10% in prior years to 20% since operations began.

The Flex Team's primary focus has been organized retail theft, which has evolved from a series of isolated shoplifting calls into a more organized, regional problem. Rather than responding to these incidents one by one after the fact, the Flex Team uses crime data and partnerships with local businesses and loss prevention teams to run proactive operations that catch suspects during the commission of a theft. Apprehending people in the act significantly increases the likelihood of successful prosecution and sends a clear deterrent signal to regional theft crews.

What those operations uncovered went well beyond retail theft: nearly 72% of those arrested faced additional criminal charges including identity fraud, possession of burglary tools, narcotics offenses, and outstanding warrants for crimes as serious as kidnapping and carjacking. On two occasions, individuals were arrested with illegally possessed firearms. 42% of those arrested were on probation or parole at the time, or their arrest qualified as a felony under Proposition 36.

Feedback from retail partners has been overwhelmingly positive, with some reporting that their shrinkage has dropped by nearly \$1 million since operations began. The logic behind the Flex Team is straightforward: disrupting organized theft crews means fewer repeat offenders and, over time, fewer calls for service flowing back to patrol. Based on these results, BPD is allocating 3 dedicated officer positions to the Flex Team in 2026, allowing the team to run more operations, respond faster to emerging patterns, and build stronger cases alongside our retail and business partners.



How We're Doing

Group A crimes (the more serious group of crimes defined by NIBRS) per capita and clearance rates are two of the most important measures of our department's effectiveness.

With a population of approximately 121,749, Berkeley experienced about 152 Crimes Against Persons per 10,000 residents in 2025, roughly 560 Crimes Against Property per 10,000 residents, and 91 Crimes Against Society per 10,000 residents.

Clearance rates (defined here as the percentage of cases closed within a year of being reported) improved in most categories. Robbery clearance rose from 34% to 49%, reflecting the impact of ALPR-supported investigations. Theft clearance jumped from 17% to 20%, and felony assault clearance reached 63%, the highest in the five-year window. Homicide clearance remained at 100% for the fifth consecutive year.

<b>Clearance Rates*</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>CA Avg.</b>
<i>Homicide</i>	100%	100%	100%	100%	100%	64%
<i>Felony Sexual Assault</i>	22%	32%	31%	33%	32%	27%
<i>Robbery</i>	36%	39%	30%	34%	49%	30%
<i>Felony Assault</i>	62%	53%	49%	52%	63%	50%
<i>Burglary</i>	12%	8%	9%	10%	12%	11%
<i>Theft</i>	11%	11%	10%	17%	20%	11%
<i>Stolen Vehicle</i>	9%	12%	11%	12%	11%	6%
<i>Arson</i>	30%	30%	29%	33%	41%	30%

*\*Here we show 1-year clearance rates for BPD cases. A 1-year clearance rate is the percentage of cases that were closed within a year of being reported. The CA Avg is the number of cases cleared divided by the number of reported cases in 2024.*



What's Next

**Drone as First Responder**

In 2026, BPD will ask Council to authorize a Drone as First Responder (DFR) program. When a call comes in, a drone would launch from the roof of the Public Safety Building and arrive on scene ahead of officers, streaming live video of the incident (not the flight path) back to dispatch. Before a single patrol car pulls up, officers would already have eyes on the situation and a better understanding of what they're responding to.

The operational advantages are significant. A drone can reach most locations in the city in a fraction of the time it takes a patrol car, especially during peak traffic. For some call types, the aerial view may be enough to resolve the situation without dispatching an officer at all, thereby freeing that unit for calls that require a physical presence. For calls that do need an officer, the live feed means they arrive with real-time information about the scene: how many people are involved, whether there's an immediate threat, and where exactly the activity is happening. That kind of situational awareness leads to better decisions and safer outcomes for officers and the community.

The DFR program also fits into BPD's broader investment in technology that multiplies the impact of existing staff. Like the ALPR network, it's a tool that makes each officer more effective rather than asking more of an already lean roster.

The program's success can be measured by four metrics: response time from dispatch to eyes on scene, the number of calls cleared without sending an officer, case clearance rates for DFR-supported incidents, and the speed at which those cases move from report to resolution.

## Road Safety & Collisions

Berkeley recorded 784 total collisions in 2025, including 5 fatal incidents, 499 injury collisions, and 280 non-injury collisions — an overall decrease of 11% from 2024, though fatal collisions rose from 4 to 5. The most hazardous intersection was University Ave & West Frontage, with 15 collisions and 13 resulting in injuries.

Throughout 2025, the department conducted targeted High Intensity Traffic Enforcement operations at high-collision locations, guided by both historical data and community input from the public-facing Traffic Concern Survey. Our three-pronged approach to traffic safety continued to show strong alignment between the moving violations recorded during vehicle stops and the primary collision factors identified in our data. The department also deepened its collaboration with Vision Zero stakeholders, expanded Drive Safer, Drive Longer classes for aging drivers, increased DUI checkpoints, and continued using collision data from the Transparency Hub to guide enforcement priorities.



### Collision Data

Collision Totals:

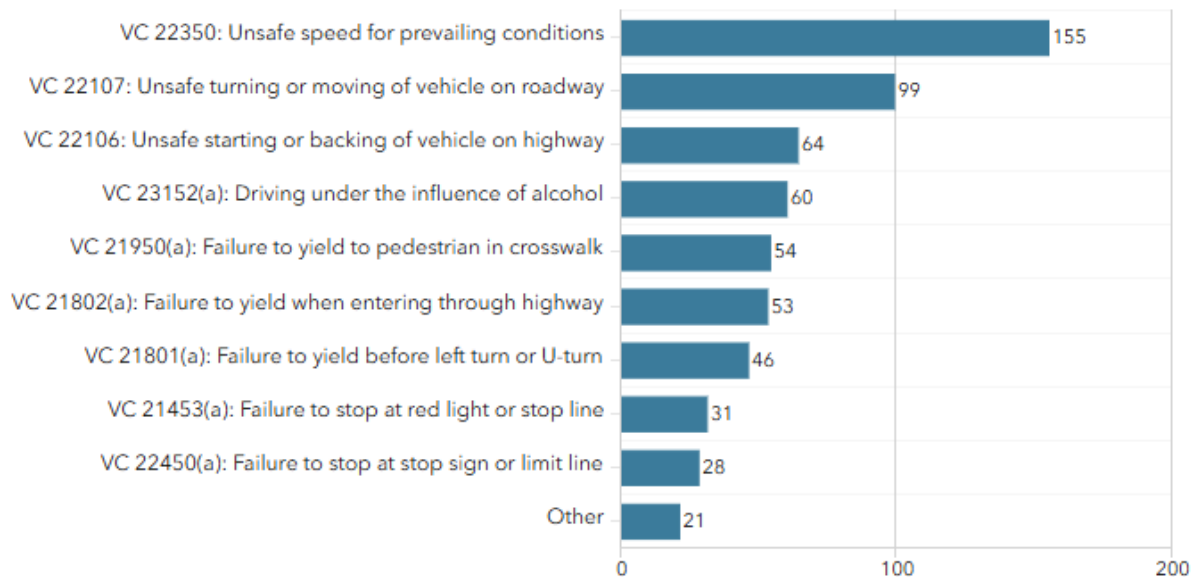
<b>Collisions</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Fatal collisions	7	2	0	4	5
Injury collisions	431	548	514	559	499
Non-injury collisions	351	346	359	314	280
<b>Total</b>	<b>789</b>	<b>896</b>	<b>873</b>	<b>877</b>	<b>784</b>

Top collision locations:

<b>High Collision Intersections, 2025</b>	<b>Total Collisions</b>	<b>Injury Collisions</b>	<b>Suspected Serious Injury*</b>
University Ave / West Frontage	15	13	1
Haste Street / Shattuck Ave	13	13	1
Ashby Ave / Sacramento St	10	7	0
Ashby Ave / Shattuck Ave	8	2	0
Ashby Ave / Telegraph Ave	8	7	1
Ashby Ave / College Ave	7	3	0
Curtis St / University Ave	7	5	1
California St / University Ave	6	5	0
Channing Way / College Ave	6	4	0
Oxford St / University Ave	6	4	0

*\*Suspected serious injury is any injury other than a fatality that results in significant injury as defined in the CHP Collision Investigation Manual (CHP, 2017, p. 5-5).*

**Primary Collision Factors**



## Department Initiatives

### What We've Done

#### **Traffic Safety Partnerships**

In 2025, BPD deepened its collaboration with Vision Zero stakeholders to identify high-risk locations, study the root causes of collisions, and design targeted interventions. Our High Intensity Traffic Team (HITT) operations brought together 11 local law enforcement agencies, including the Alameda County Sheriff's Office, CHP, and departments from across the East Bay. A single HITT operation in February put 17 officers on Berkeley streets and produced 185 citations in five hours, targeting speed, cell phone use, seatbelt violations, and locations identified through collision data and community complaints.

We continued using Office of Traffic Safety grant funding to support both enforcement and education. The Drive Safer, Drive Longer program hosted four classes at the North and South Berkeley Senior Centers, helping aging drivers maintain their mobility and independence while staying safe on the road. We expanded DUI checkpoints and used collision data from the Transparency Hub's Traffic Safety page to guide where and when we deploy enforcement resources.

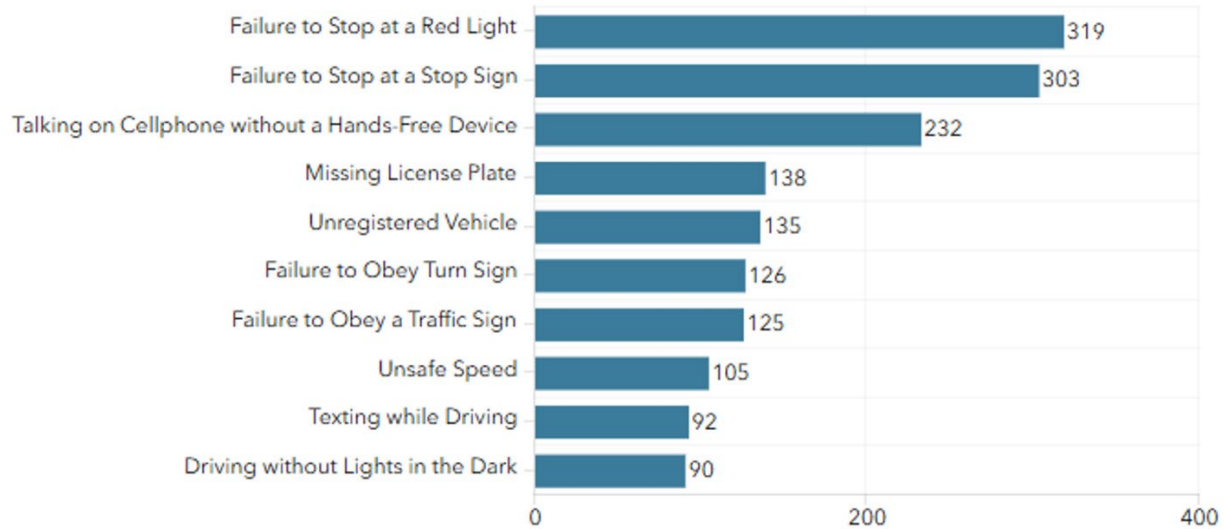
Our three-pronged approach to traffic safety continued to show strong alignment between the moving violations recorded during vehicle stops and the primary collision factors identified in our data (more on that below). That connection between what we enforce and what actually causes collisions is what keeps the strategy grounded in real-world impact.

How We're Doing

Moving Violations

The chart below compares moving violations recorded during vehicle stops against the primary collision factors (PCFs) identified in our collision data. As in prior years, there is substantial overlap between the violations officers enforce and the behaviors that actually cause collisions, which indicates that our enforcement strategy remains well-aligned with real-world safety risks.

Most frequent vehicle violations



\*Excludes stops made in response to calls for service and information-based stops

What's Next

**Expanding Speed Enforcement**

Speed remains one of the most consistent factors in serious and fatal collisions. In 2026, BPD is making a targeted investment in our ability to enforce it. We are acquiring 5 new LIDAR units and expanding LIDAR training beyond the Traffic Unit into patrol, so that speed enforcement capability is spread across the department rather than concentrated in a single team.

This matters because the Traffic Unit can only cover so many locations at once. By training patrol officers on LIDAR, we can run speed enforcement at high-collision intersections during regular patrol shifts, not just during dedicated traffic operations. More coverage at more locations means a stronger deterrent and more consistent enforcement at the places where speed-related collisions are most likely to happen.

These efforts build on our existing partnerships with Vision Zero stakeholders and our continued use of Office of Traffic Safety grant funding, and will be guided by the same collision data that has driven our enforcement strategy to date.

## Accountability

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Accountability is foundational to the trust between BPD and the community we serve. We analyze stop data and use-of-force incidents in detail each year, applying statistical tests to detect potential bias and ensure our practices are fair and impartial. In 2025, our data continued to support the conclusion that enforcement actions are driven by behavior and circumstances rather than race. Our search yield rates improved, our force rates remained low relative to call volume, and our bias testing methods continue to show alignment with race-neutral policing.

### Stop Data Report

In 2025, BPD conducted 4,587 stops: 3,144 vehicle stops, 1,369 pedestrian stops, and 74 bicycle stops. Discretionary stops accounted for approximately 61% of encounters, largely addressing traffic violations; the remaining 39% resulted from calls for service or specific information.

Of these stops, 967 led to at least one arrest, 1,449 resulted in citations, and 1,776 concluded with warnings.

Officers conducted searches in 11% of stops, with contraband found in 61% of those searches, up from 51% in 2024. Searches resulted in the seizure of 62 weapons, including 21 firearms. Discretionary searches, or those not driven by an arrest, search warrant, vehicle inventory, or emergency, had a yield rate of 58%.

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*According to data published in the most recent RIPA board report, Berkeley's yield rate was higher than 93% of all agencies in California.*

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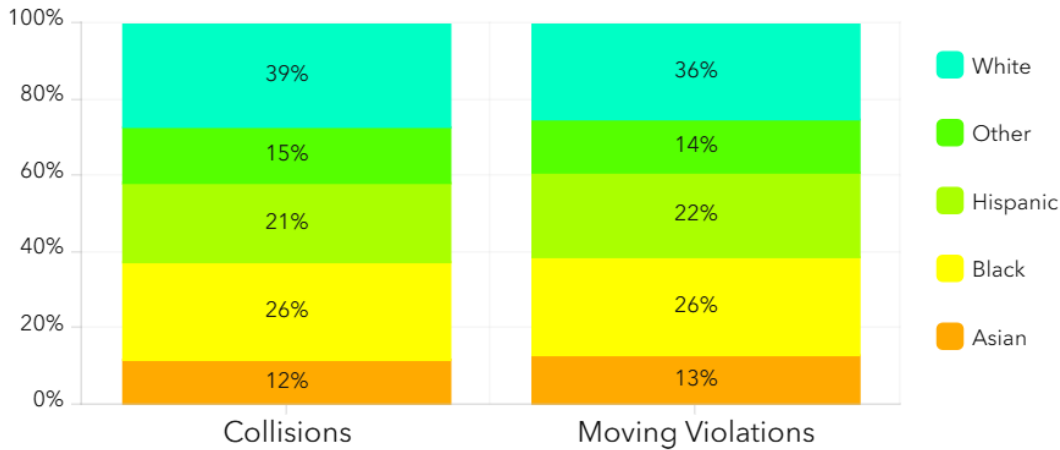
### Tests for Bias

We apply three statistical tests each year to evaluate whether implicit bias influences officer decision-making. These tests are designed to isolate the impact of officer discretion from other factors that might drive disparities between stop demographics and census demographics. Our methods and results for 2025 are summarized below.

*At-Fault Collision Demographics*

We compare the demographics of at-fault collision drivers with those stopped for moving violations. This is a meaningful benchmark because moving violations made up 73% of discretionary stops in 2025. If enforcement is race-neutral, the two groups should closely align. Our 2025 analysis showed strong alignment, consistent with prior years, suggesting that traffic stops result from driving behavior rather than implicit bias.

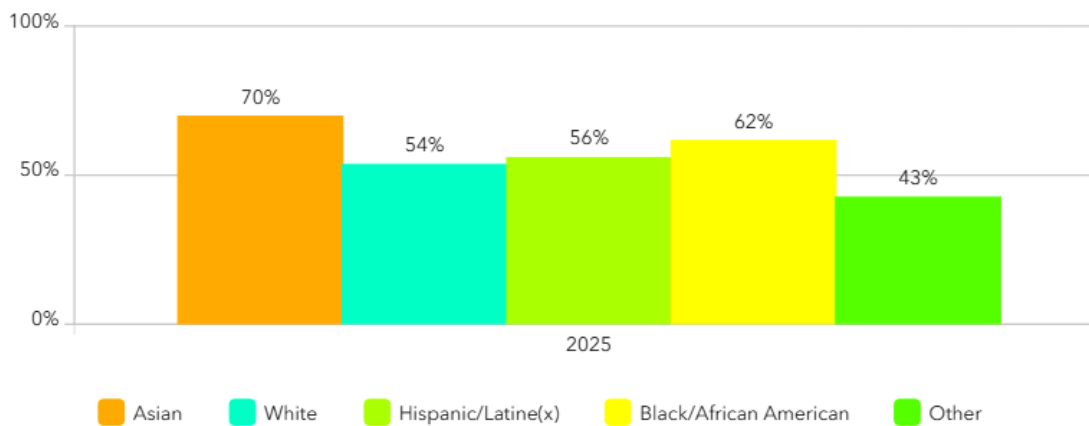
At-Fault Collision & Discretionary Moving Violation Demographics, 2025



*Yield Rate Analysis*

The yield rate measures how often searches produce contraband. If officers were applying a lower threshold of suspicion for any racial group, we would expect lower yield rates for that group, meaning officers searched with less race-neutral indicators of contraband present. Our 2025 data again showed lower yield rates for White individuals than for other groups, suggesting that search decisions are not influenced by racial bias.

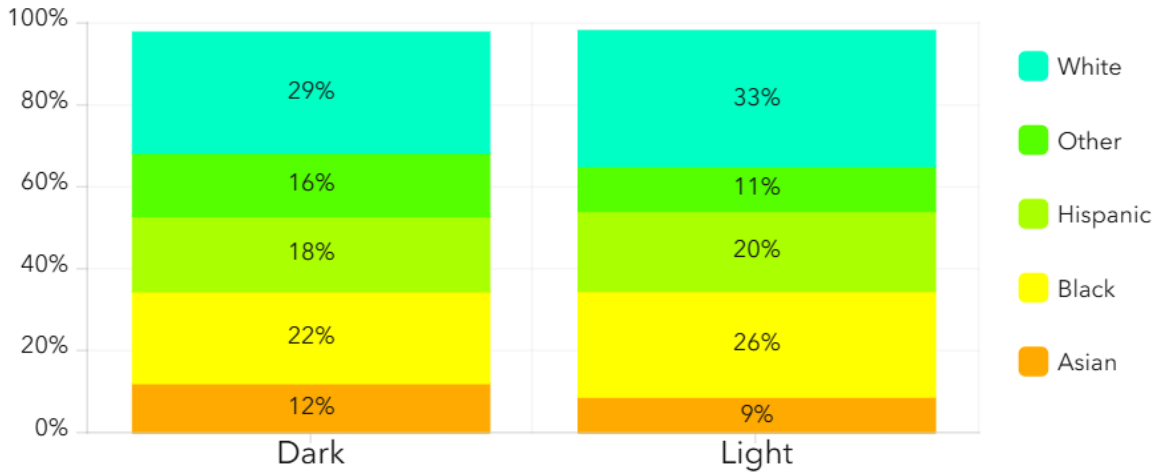
Discretionary Yield Rate by Race, 2025



*Veil of Darkness*

This test compares the racial composition of stops made in daylight versus after dark. If visible race influences the decision to stop, we would expect a higher proportion of stops of a given racial group during daylight, when race is visible. The 2025 data showed close alignment across demographic groups between daylight and darkness stops, consistent with race-neutral decision-making.

Discretionary Stop Demographics during Inter-twilight Period, 2025



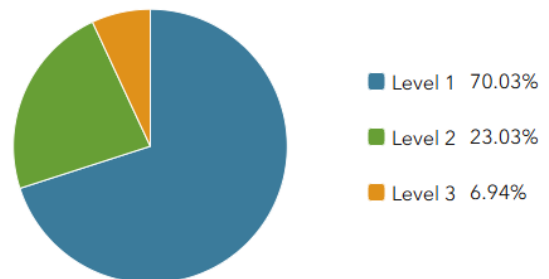
A note on census comparisons: It is common to compare the racial composition of police stops against residential census demographics. However, as the annual RIPA Board report notes, differences between stop demographics and residential demographics can result from many factors beyond officer bias, including differences in exposure to criminogenic factors, resource allocation, and non-resident populations that concentrate in particular areas. For this reason, we focus our bias analysis on officer-initiated discretionary stops, where the research shows implicit bias is most likely to surface. This approach allows us to hold ourselves accountable for the factor we can control, namely officer decision-making, rather than conflating it with external variables.

Use of Force Report

The Berkeley Police Department takes pride in accomplishing our work with minimal reliance on force, emphasizing de-escalation techniques, mental health crisis response, and proportional action, all reinforced through regular training. Under our policy, reportable force is divided into four levels:

Level 1 – Involves grabs, control holds, the use of leverage, or body weight with no injury or complaint of pain.

Use of Force Level



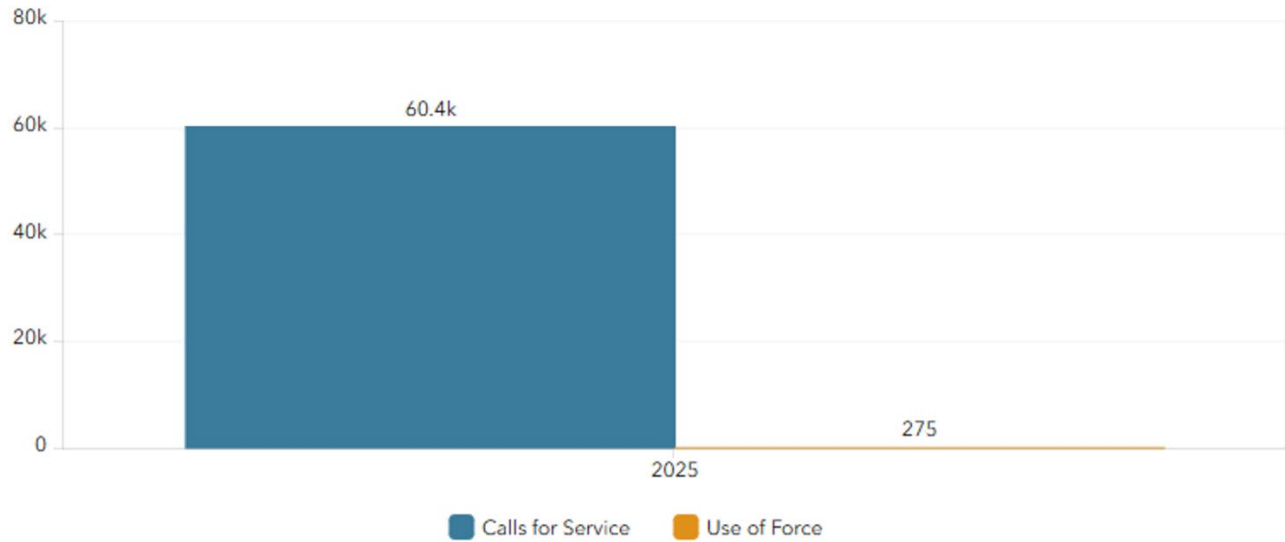
Level 2 – Applies when an officer points or deploys a firearm while interacting with someone. It also applies to a Level 1 force that involves more than momentary discomfort but does not have an injury or complaint of pain.

Level 3 – Involves the use of a weapon, subject injury, or complaint of pain. This category also applies to specific circumstances when an officer does not activate their body-worn camera.

Level 4 – Applies when an officer uses a firearm or when there is an in-custody death.

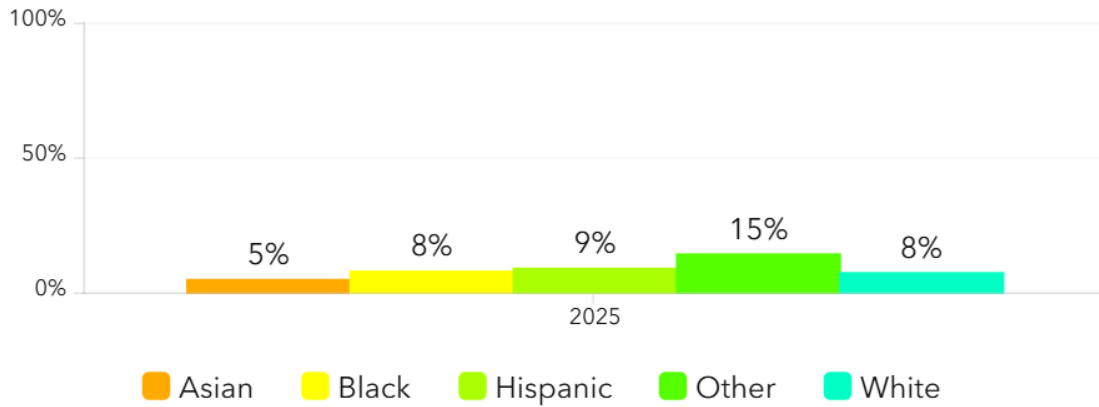
Officers report all uses of force to their sergeant, who documents the incident in a formal report reviewed by a lieutenant and captain.

Calls for Service and Use of Force Incidents



In 2025, there were 275 incidents involving 1,273 uses of force. Level 1 and Level 2 actions accounted for 93% of all uses (70% and 23%, respectively). Of the 60,374 calls for service received in 2025, 0.46% resulted in the use of force, and 0.07% (45 incidents) involved level 3 or level 4 force.

Arrest Use of Force Rates, 2025  
All use of Force Levels



We test for bias in force decisions by comparing the percentage of arrests in which force is used across racial groups. Using arrests as the baseline isolates the scenario in which force most commonly occurs.

The consistent percentages across racial groups suggests that force decisions are driven by the circumstances of the arrest rather than by race.

Use of Force Complaints

Every use of force is reviewed through the supervisory chain. When a use-of-force incident is also the subject of a personnel complaint, the Internal Affairs Bureau conducts an additional investigation. Results, including body-worn camera footage, are submitted with recommendations to the Chief.

In 2025, the department received a total of 26 allegations across 11 complaints regarding use-of-force incidents. To date, investigations of 10 allegations have been completed, while 16 remain under evaluation. 2 allegations within the 10 completed allegation investigations resulted in sustained findings of misconduct.

**2025 INTERNAL AFFAIRS BUREAU STATISTICS**

<b>Complaints</b>							
	Complaints Received	Sustained	Not Sustained	Exonerated	Unfounded	Admin Closed	Active Complaints
External PAB	33						
*External IAB	42						
*Total External	42	1	1	2	5	17	16
**Total Internal	16	14	0	0	0	1	1
Total Complaints	58	15	1	2	5	18	17
<b>Allegations</b>							
	Received	Sustained	Not Sustained	Exonerated	Unfounded	Admin Closed	Active
Improper Use of Force	26	2	0	0	3	5	16
Discourtesy	33	1	0	0	9	6	17
Improper Stop/Search/Seizure/Arrest	38	0	0	2	1	17	18
Inadequate Investigation	50	5	1	0	9	14	21
Improper Detention (Jail)	0	0	0	0	0	0	0
Discrimination	31	0	0	0	6	9	16
Harassment	13	0	0	1	4	4	4
Improper Procedure	54	12	3	8	3	12	16
Improper Citation / Tow	7	0	0	1	0	2	4
Other	6	0	0	0	0	1	5
Dishonesty	3	0	3	0	0	0	0
Total Allegations	261	20	7	12	35	70	117

## Looking Ahead

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The results in this report make a clear case: when our officers have better tools and better information, outcomes improve. Shootings dropped 40%. Robberies fell 20%. Vehicle thefts declined 48%. Our ALPR program and Flex Team operations combined for nearly 200 arrests. These gains came without adding sworn officers- they came from putting the right technology and strategy behind the people we already have.

Our staffing reality has not changed. We continue to operate well below authorized strength, and that is unlikely to reverse quickly. What has changed is our ability to multiply the impact of each officer on the street. Technology that provides real-time information like the license plate readers we already have or the future addition of surveillance cameras and drones makes each officer more effective: faster to respond, better informed on arrival, and more precise in enforcement so that we reduce unnecessary stops and focus on confirmed criminal activity.

This approach also matters for recruitment and retention. The next generation of officers expects to work with modern tools. Departments that invest in technology are better positioned to attract and keep qualified candidates. Falling behind puts us at a competitive disadvantage in an already difficult hiring environment.

In 2026, we will bring forward proposals to expand our public safety technology capabilities, including renewal of our ALPR program, deployment of fixed surveillance cameras in high-pedestrian areas, and a Drone as First Responder program. The larger vision is to bring these tools together in a Real-Time Intelligence Center: a centralized hub where camera feeds, license plate data, and aerial footage are monitored and relayed to officers in the field as incidents unfold. The best available research supports this model. A peer-reviewed study of the Miami Police Department's Real-Time Crime Center, published in Justice Quarterly, found that cases supported by the center had 66% better odds of being cleared than comparable cases without that support. That is the kind of difference that translates directly into more crimes solved, more victims served, and a safer community.

These investments extend beyond sworn operations. The Communications Center initiatives now underway, from protocol-based dispatching to virtual call triage, along with the continued expansion of CSOs into patrol and investigations, are equally central to our ability to deliver faster, more effective service with the resources we have.

We remain equally committed to the partnerships and community-centered work that underpin everything we do, from the Gun Violence Intervention and Prevention Program to Vision Zero to our business district engagement. Technology supports this work; it does not replace it. We look forward to presenting these proposals and to continued partnership with City Council and our community as we work toward a safer, more responsive Berkeley.



Off-Agenda Report 4  
2026 PAB Meeting Calendar

# 2026 PAB MEETING CLENDAR

## JAN

S	M	T	W	T	F	S
				1	2	3
4	5	6	7*	8	9	10
11	12	13	14	15	16	17
18	19	20	21*	22	23	24
25	26	27	28	29	30	31

\*PAB Nominations and Election of Chair and Vice Chair

## FEB

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

## MAR\*

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22	23	24	25	26	27	28
29	30	31				

\*Annual Report to be presented in March

## APR

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## MAY

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24	25	26	27	28	29	30
31						

## JUN

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28	29	30				

## JUL

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## AUG

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23	24	25	26	27	28	29
30	31					

## SEP

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27	28	29	30			

## OCT

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25	26	27	28	29	30	31

## NOV

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

## DEC

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

NACOLE from 11/8-11/12

City Council Meeting   BMC 2.100.050 Due Date   \*City Holiday   \*PAB Meeting   \*Reduced Service Day

<https://berkeleyca.gov/sites/default/files/work-plans/PAB%20Meeting%20Calendar%202026.pdf>