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PUBLIC MEETING MATERIAL



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
SUPPLEMENTAL**

**June 17, 2026
6:30 PM**

Board Members

Joshua Cayetano (Chair)

Leah Wilson (Vice-Chair)

Randy Wells
Benjamin Nash
Patrick DeTemple

Joshua Buswell-Charkow
Stephanie Allan

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 9.d.

Memorandum from Director Lee titled "MOU Compendium, SAR Report, and Proposed Revision to the Review Schedule Submitted by the Berkeley Police Department (Agenda Item #9.d. of the PAB's June 17, 2026 meeting)."



MEMORANDUM

Date: June 16, 2026

To: Honorable Members of the Police Accountability Board

From: Katherine Lee, Interim Director of Police Accountability

Subject: MOU Compendium, SAR Report, and Proposed Revision to the Review Schedule Submitted by the Berkeley Police Department (Agenda Item #9.d. of the PAB's June 17, 2026 meeting)

Background:

Memoranda of Understanding (MOU) Compendium. The report to the City Council prepared by Police Chief Jen Louis beginning on p. 87 of the PAB's June 17, 2026 agenda packet provides a comprehensive background of the nature of the City's Memoranda of Understanding with other law enforcement agencies and private organizations and the current action requested, as required by Berkeley Municipal Code (BMC) §§ 2.04.150 - 2.04.210.

Staff did not attach the entire Compendium to the agenda packet; it is accessible here: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2026/MOU PDF Binder.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2026/MOU%20PDF%20Binder.pdf)

Among the enumerated powers and duties granted to the Police Accountability Board in Charter §125(3)(a) are:

- (2) Review and recommend for City Council approval all agreements, letters, memoranda of understanding, or policies which express terms and conditions of mutual aid, information sharing, cooperation and assistance between the Berkeley Police Department and all other local, state and federal law enforcement, intelligence, and military agencies or private security organizations;

Suspicious Activity Report (SAR).

With its submission of the MOU Compendium, the BPD also provides a list of all Suspicious Activity Reports (SAR) that it has submitted to the Northern California Regional Intelligence Center (NICRIC). (See pp. 100-102 of the PAB agenda packet).

Suspicious Activity Reporting is governed by BPD Policy 432 (Attachment 1), and the MOU with NICRIC (Item #3.12 of the Compendium).¹

Proposed Revision to the Review Schedule. A separate Council item submitted by Chief Louis (see p. 90 of the PAB agenda packet) proposes an amendment to the Ordinance relating to the MOU Compendium that would change the review cycle for all of BPD's agreements with law enforcement and private organizations to a triennial (every three years) schedule, instead of an annual one.

Discussion and Recommendations:

Memoranda of Understanding (MOU) Compendium.

The BPD identified one new agreement, three agreements removed or discontinued, one existing agreement with minor updates, and 15 agreements that remain unchanged since last year.

As the operational period for the new agreement (Item #1.2) with the San Francisco Police Department for bomb squad services (January 31 – February 8, 2026) has passed without raising any apparent issues, and the reasons for removing or discontinuing the three agreements (Item #1.8, #1.11 and #4.5) appear logical and sound, staff sees no issue with them.

As for the existing agreement renewed with minor updates (Item #1.4) between the BPD and Alameda County District Attorney's Office Victim/Witness Assistance Division and the remaining, unchanged agreements, staff has not had time to evaluate them in detail. We note the update agreement raises no concerns on its face, and the remaining agreements were reviewed last year.

In order for ODPa staff and PAB members to engage in a more thorough and meaningful evaluation of the MOUs, the BPD should allow us more time for review. The BPD provided the materials before you to staff on June 5, 2026, advising that they would be presented to the City Council at its July 7, 2026 meeting.

Suspicious Activity Report (SAR).

In reviewing the Suspicious Activity Reports (SARs) from 2025, a couple of entries raise concerns, and a third requires further context to fully evaluate:

- Case #2025-06082 (02-07-2025) describes the announcement of a restaurant disruption by a group protesting the use of chicken processed by a particular company – no apparent crime is detailed, nor is any nexus to criminal or terrorist activity.

¹ Item 3.12 BPD MOU Compendium Pg. 78 - 86: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2026%20MOU%20PDF%20Binder.pdf#page=78>

- Case #2025-46633 (10-12-2025) describes an Israeli flag being stolen from the outside of a residence – while there is potential criminal activity, it contains no nexus to a larger suspicious operation or terrorist activity.
- Case #2025-09651 (03-01-2025) describes a group marching “with a banner containing markings consistent with the ANTIFA movement,” with one member of this group later throwing paint on a storefront. As there does not appear to be a nexus to terrorist activity, it would be helpful to gain more clarity on why this was reported.

Proposed Revision to the Review Schedule.

Last year, the PAB recommended in its June 27, 2025 letter to the Council that BMC § 2.04.190 permit a multi-year review cycle for MOUs, understanding the recurring and administrative burden imposed on the BPD by an annual review requirement.

The PAB also recommended last year that a lengthened review schedule provide for earlier review at the discretion of Council or upon the recommendation of the City Manager, BPD, or the PAB. Unanticipated and critical events may warrant a review sooner than three years. Therefore, while the PAB should endorse the move to a triennial review schedule, it may wish to request that a proposed ordinance amendment allow for an earlier review as the PAB had suggested.

The PAB should also consider whether to recommend bifurcating SAR reporting from the MOU Compendium review.

Attachment:

1. BPD Policy 432, Suspicious Activity Reporting

Suspicious Activity Reporting

432.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity related to criminal conduct and potential acts of terrorism.

432.1.1 DEFINITIONS

Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Situational Awareness Group (SAG) – A group of trained officers within the Berkeley Police Department who maintain working relationships with surrounding allied agencies and courts in order to maximize the sharing of criminal intelligence. The mission of SAG is to support criminal investigations and enhance officer safety within the Berkeley Police Department. SAG will gather, analyze, retain and disseminate criminal intelligence to aid patrol and investigative personnel, see the Situational Awareness Group policy for further.

Suspicious activity - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity are included at the end of this policy.

Suspicious Activity Report (SAR) - An incident report used to document suspicious activity.

Terrorism Liaison Officer (TLO) - An officer who has received training in the identification, handling and reporting of potential terrorism related incidents.

Terrorism Liaison Officer Coordinator (TLOC) – A Situational Awareness Group (SAG) Sergeant who has received training in the identification, handling and reporting of potential terrorism related incidents and also acts as a liaison between the TLOs and Command Staff.

432.2 POLICY

The Berkeley Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

432.3 LIMITATIONS

If the information gathered is developed into criminal intelligence, the Department will ensure that the information privacy and legal rights of all persons will be recorded and maintained while maintaining strict compliance with existing federal, state and Department guidelines regarding criminal intelligence systems as defined in (28 Code of Feral Regulations (CFR), Part 23 including

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subsections 23.20 (a) and 23.20 (b)), the California Constitution and the California Attorney General's Model Standards and Procedures for maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities and the California State Threat Assessment System Concept of Operations.

- (a) A SAG member shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.
- (b) A SAG member shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

432.4 SITUATIONAL AWARENESS GROUP LIEUTENANT RESPONSIBILITIES

The Situational Awareness Group (SAG) Lieutenant and authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the SAG Lieutenant include, but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.
- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).
- (i) Reviewing of proposed SARs, and approving/rejecting as appropriate.

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- (j) Forwarding all SARs to the Chief of Police and City Manager for review.
- (k) Ensuring a written log is maintained and an annual report is prepared by the TLOC.

432.5 SUPERVISOR RESPONSIBILITIES

- (a) Determining if any further law enforcement response is needed.
- (b) Consulting with a TLO, if available, to determine if immediate notifications to the Chief of Police, and/or the City Manager or their designee is required.
- (c) Providing information in written form to the TLO for consideration of SAR submittal.

432.6 TLO AND TLOC RESPONSIBILITIES

- (a) TLOs will review proposed SARs from officers, and supervisors, and forward them to the TLO Coordinator (TLOC) for further review. If the reports meet sufficient criteria for submission as a SAR, the TLOC, or their designee will submit it to the Situational Awareness Group Lieutenant.
- (b) The TLOC shall maintain a written log of all SARs submitted to the Northern California Regional Intelligence Center (NCRIC). The log will be submitted to City Council in the annual MOU Compendium Report.

432.7 EMPLOYEE RESPONSIBILITIES

All personnel are reminded that Constitutional rights will be honored at all times and nothing in this policy diminishes Constitutional protections. Any BPD employee receiving any information regarding suspicious activity potentially related to terrorism shall:

- (a) Notify their direct supervisor,
- (b) Notify a department Terrorism Liaison Officer (TLO), and
- (c) Document the incident as described in this policy.

432.8 THE RESPONSIBILITIES OF THE NCRIC

It is the responsibility of the NCRIC to make every effort to accurately and appropriately gather, record, analyze, and disseminate information that could indicate activity or intentions related to threats to homeland security and submit such information to the Federal Bureau of Investigations-Joint Terrorism Task Force (FBI-JTTF) and the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) in the form of an NSI suspicious activity report. These efforts shall be carried out in a manner that protects the information and information shall be recorded and maintained in strict compliance with existing federal and state guidelines.

The NSI has established a unified process for reporting, tracking, and assessing terrorism-related SARs throughout the nation. The NSI adheres to the guidelines established by the Intelligence Reform and Terrorism Prevention Act and the Information Sharing Environment Suspicious Activity Reporting (ISE-SAR) Functional Standard. These guidelines call for all terrorism-related suspicious activity reporting to be routed through designated fusion centers for appropriate vetting and review before the information can be shared within the nationwide system. The NCRIC, as a

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component of California's State Threat Assessment System, has been designated as the review agents for all terrorism-related suspicious activity reporting in the region.

The NCRIC will then make the decision to share the SAR information with the NSI based on the standards established by the NSI. The NCRIC is also responsible for ensuring all TLOs, line officers, and other first responders in the region have received appropriate training in the collection and reporting of terrorism-related suspicious activities and the responsibilities related to protection of privacy, civil rights, and civil liberties of individuals. The NCRIC also works closely with the NSI Program Management Office to ensure a statewide implementation of suspicious activity reporting.

432.8.1 REPORTS AND TRAINING OPPORTUNITIES FROM NCRIC

BPD officers may choose to receive, via email, reports and training opportunities from NCRIC. They are described as follows:

- (a) Suspicious Activity Reports (SARS): NCRIC's "Partner Update Briefs" include SARS from other agencies. SARS reports can include information about bomb threats, stolen law enforcement equipment, threats of school shootings, suspicious packages, unusual weapons, individuals posing as law enforcement, and other incidents which qualify.
- (b) Advisory Reports: These may include sensitive information about cyber-attacks, terror attacks, active shooter situations and other developing stories which will aid management and intelligence officers in making decisions regarding the allocation of resources.
- (c) Training Opportunities: These may include first responder debriefs of active shooter incidents as well as classes on search and seizure, methamphetamine lab safety, human trafficking, drug endangered children, etc.

432.9 REPORTING AND INVESTIGATION

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any non-sworn member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the suspicious activity should be documented in an Incident Report or Case Report and include information about involved parties and the circumstances of the incident. The report number should be included in the SAR as a cross reference.

432.10 FORWARDING INFORMATION

- (a) All SARs should be routed via the Chain of Command to the SAG Lieutenant.
- (b) The SAG Lieutenant will review the SAR and, if approved, forward it via the Operations Division Captain to the Chief of Police and the City Manager.

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- (c) If the Chief of Police and City Manager agree a NCRIC review is warranted, it will be the responsibility of the SAG Lieutenant, or their designee, to forward the SAR, in a timely manner, to NCRIC.
- (d) All SARs will be submitted through the www.ncric.org website. When a SAR involves a criminal act or attempted criminal act, a BPD case report shall be submitted identifying the suspected criminal behavior and referencing the systems and personnel notified of the SAR.

432.11 EXAMPLES OF SAR REPORTING

DEFINED CRIMINAL ACTIVITY AND POTENTIAL TERRORISM NEXUS ACTIVITY

Breach/Attempted Intrusion	Unauthorized personnel attempting to or actually entering a restricted area or protected site. Impersonation of authorized personnel (e.g. police/security, janitor).
Misrepresentation	Presenting false or misusing insignia, documents, and/or identification, to misrepresent one's affiliation to cover possible illicit activity.
Theft/Loss/Diversions	Stealing or diverting something associated with a facility/infrastructure (e.g., badges, uniforms, identification, emergency vehicles, technology or documents (classified or unclassified), which are proprietary to the facility.
Sabotage/Tampering/ Vandalism	Damaging, manipulating, or defacing part of a facility/ infrastructure or protected site.
Cyber Attack	Compromising, or attempting to compromise or disrupt an organization's information technology infrastructure.
Expressed or Implied Threat	Communicating a spoken or written threat to damage or compromise a facility/infrastructure.
Aviation Activity	Operation of an aircraft in a manner that reasonably may be interpreted as suspicious, or posing a threat to people or property. Such operation may or may not be a violation of Federal Aviation Regulations.

POTENTIAL CRIMINAL OR NON-CRIMINAL ACTIVITY REQUIRING ADDITIONAL FACT INFORMATION DURING INVESTIGATION

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Eliciting Information	Questioning individuals at a level beyond mere curiosity about particular facets of a facility's or building's purpose, operations, security procedures, etc., that would arouse suspicion in a reasonable person.
Testing or Probing of Security	Deliberate interactions with, or challenges to, installations, personnel, or systems that reveal physical, personnel or cyber security capabilities.
Recruiting	Building of criminal operations teams and contacts, personnel data, banking data or travel data.
Photography	Taking pictures or video of facilities, buildings, or infrastructure in a manner that would arouse suspicion in a reasonable person. Examples include taking pictures or video of infrequently used access points, personnel performing security functions, or security-related equipment (e.g. perimeter fencing, security cameras).
Observation/ Surveillance	Demonstrate unusual or prolonged interest in facilities, buildings, or infrastructure beyond mere casual (e.g. tourists) or professional (e.g. engineers) interest and in a manner that would arouse suspicion of terrorism or other criminality in a reasonable person. Examples include observation through binoculars, taking notes, attempting to mark off or measure distances, etc.
Materials/ Acquisition/ Storage	Acquisition and/or storage of unusual quantities of materials such as cell phones, pagers, radio control toy servos or controllers; fuel, chemicals, or toxic materials; and timers or other triggering devices in a manner that would arouse suspicion of terrorism or other criminality in a reasonable person.
Acquisition of Expertise	Attempts to obtain or conduct training or otherwise obtain knowledge or skills in security concepts, military weapons or tactics, or other unusual capabilities in a manner that would arouse suspicion of terrorism or other criminality in a reasonable person.

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Weapons Collection or Discovery

Collection or discovery of unusual amounts or types of weapons, including explosives, chemicals, and other destructive materials, or evidence, detonations or other residue, wounds, or chemical burns, that would arouse suspicion of terrorism or other criminality in a reasonable person.

Sector Specific Incident

Actions associated with a characteristic of unique concern to specific sectors (e.g. the public health sector), with regard to their personnel, facilities, systems, or functions in a manner that would arouse suspicion of terrorism or other criminality in a reasonable person.

Note: These activities are not inherently criminal behaviors and may include constitutionally protected activities that must not be documented in an ISE-SAR that contains PII unless there are articulable facts or circumstances that clearly support the determination that the behavior observed is not innocent, but rather reasonably indicative of pre-operational planning associated with terrorism. Race, ethnicity, gender, national origin, religion, sexual orientation, or gender identity must not be considered as factors creating suspicion (but attributes may be documented in specific suspect descriptions for identification purposes). The activities listed as "Potential Criminal or Non-Criminal Activity" are not inherently criminal behaviors and are potentially constitutionally protected; thus, additional facts or circumstances must be articulated in the incident.

432.12 EXAMPLES OF BEHAVIOR WHICH CANNOT BE REPORTED AS SAR*

Non-violent civil disobedience is specifically exempted from SARs reporting, and such activities shall not be reported as SARs.

SARs must not be submitted based on ideology, social or political opinion, advocacy of religious beliefs, or association with a particular group. Criminal activity that would not ordinarily result in a SAR does not become worthy of a SAR when the subject's speech or expression indicates a particular ideological viewpoint or association.

*Unless: 1) the activity rises to the level of criminal conduct, or 2) the person taking part in the activity is not identified, and therefore, not subject to possible investigation by state and federal investigative agencies.

Item 9.f.

Letter from Chair Cayetano to Council titled "The Police Equipment Ordinance (Berkeley Municipal Code Chapter 2.100) and the Oversight Role of the Police Accountability Board."



Joshua Cayetano | Chair
 Police Accountability Board
JCayetano@berkeleyca.gov

June 16, 2026

VIA ELECTRONIC MAIL [Email]

Honorable Mayor & Members of the City Council
 City of Berkeley
 2180 Milvia Street
 Berkeley, CA 94704

Re: The Police Equipment Ordinance (Berkeley Municipal Code Chapter 2.100) and the Oversight Role of the Police Accountability Board

Dear Honorable Mayor and Members of the City Council,

On January 27, 2026, the Council adopted Ordinance No. 8,001-N.S., which rescinded and replaced the former Police Equipment and Community Safety Ordinance with a streamlined Police Equipment Ordinance, codified at Berkeley Municipal Code Chapter 2.100. As the Police Accountability Board (the “Board”) takes up the first annual report submitted under that revised framework, the Board writes to summarize, at a high level, what the revised Ordinance empowers the Board to do, and to underscore that the new framework accomplishes the consolidation the Board recommended last year.

What the Police Equipment Ordinance Empowers the Board to Do

The Ordinance positions the Board as the City’s standing civilian reviewer of the Department’s acquisition and use of covered police equipment, advising the Council at three principal stages.

Before acquisition or use. Before the Department may fund, acquire, or use a piece of covered police equipment, it must bring the Council a proposed Impact Statement and Use Policy, and it may not proceed until the Board has reviewed the proposal and made a recommendation and the Council has approved it. (BMC 2.100.050(A).) The Board reviews these items in open session, recommends that the Council adopt, modify, or reject the proposed Use Policy, and must recommend denial where the equipment does not meet the approval standards of Government Code section 7071(d)(1). The Impact Statement requirement is itself a local safeguard that state law does

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not impose: it obliges the Department to set out each item’s capabilities, purpose, and fiscal cost, its potential impacts on the public’s welfare, safety, civil rights, and civil liberties, the mitigations the Department will adopt, the alternatives it considered, and any reliance on third-party vendors. (BMC 2.100.040(C).)

Through annual review. Each year, the Department submits a single report on its covered equipment. The Board must agendaize that report for an open session within sixty days, and may determine whether each type of equipment has complied with the substantive standards in state law. Where the Board finds non-compliance, it may recommend that the Council revoke the authorization for that equipment or modify the governing Use Policy to cure the deficiency, and it transmits its recommendations to the Council. (BMC 2.100.060.) The Board is exercising precisely this authority in its review of the 2025 Annual Police Equipment Report.

On a continuing basis. As part of its annual Work Plan, the Board may revisit any previously approved equipment or use policy and recommend that the Council revoke a prior approval; if the Council does not act on such a recommendation within four meetings, the Department must cease using the equipment. (BMC 2.100.050(E).)

Beyond these review functions, the Ordinance preserves the substantive scope and transparency features that distinguish Berkeley’s local framework from AB 481 alone. It extends oversight to categories of equipment that state law does not reach—including specialized firearms and ammunition under .50 caliber and batons thirty inches or longer—and requires the Department to report not only on “uses” but on “deployments,” together with a geographic breakdown of where equipment was used. (BMC 2.100.040.) It also renders unenforceable any contract term, including any non-disclosure agreement, that conflicts with the Ordinance, directs public disclosure of covered-equipment contracts, and preserves whistleblower protections. (BMC 2.100.070–.080.)

The Revised Ordinance Achieves the Consolidation the Board Recommended

In its July 18, 2025 recommendation to the Public Safety Policy Committee, the Board urged the City to revise rather than repeal Chapter 2.100—to eliminate duplicative reporting without discarding the substantive oversight the Ordinance provides. The Board’s central observation was that the Department had been submitting two annual reports on military equipment that were nearly identical, and that this administrative duplication could be eliminated simply by consolidating them into a single report satisfying both AB 481 and local law, as the City of Oakland does. The Board cautioned that the duplication problem neither required nor justified discarding the local safeguards the community had spent years building.

The revised Ordinance incorporates the PAB’s recommendation. It now states, as an express purpose, the avoidance of “duplication of reporting and other effort” by the Department and the Board and it requires a single annual report that “incorporates the reporting requirements of both Government Code Section 7072 and local law.” The 2025 Annual Police Equipment Report now before the Board—a single, consolidated report containing both state and local reporting

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requirements—is the first product of that revised framework. The PAB concludes, based on its review of the report, [**INSERT CONCLUSION BASED ON BOARD DISCUSSION.**]

The Board appreciates the Council’s decision to streamline the Ordinance rather than repeal it and looks forward to continuing to serve the Council and the public in this oversight role. We welcome any questions the Council may have about the Board’s authority under the revised Ordinance.

Sincerely,

Joshua Cayetano, Chair
Police Accountability Board

Cc: Paul Buddenhagen, City Manager
David White, Deputy City Manager
Jennifer Louis, Chief of Police
Jen Tate, Deputy Chief of Police
Farimah Brown, City Attorney
Mark Numainville, City Clerk
Katherine Lee, Interim Director of Police Accountability