

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

PUBLIC MEETING MATERIAL



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
September 9, 2026
6:30 PM**

Board Members

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Joshua Buswell-Charkow	Stephanie Allan
Patrick DeTemple	Jasmina Viteskic
Anay Sharma	Dwayne Phillips (Alternate)

MEETING LOCATION

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

Agenda Item Materials

Item	Description	Page
2	September 9, 2026 PAB Regular Meeting Agenda	1
4	Minutes for the Regular Meeting of July 22, 2026	7
8	Subcommittee List	13
9.b.	Materials Related to the Request for Proposals for Public Safety Technology	16
9.c.	ODPA Memorandum to the PAB Titled "Review of Proposed BPD Policy 1308 and Mutual Aid Air Support Acquisition Report"	55
9.d.	ODPA Memorandum to the PAB Titled "Reevaluation and Prioritization of Pending Policy Reviews and Recommended Actions"	90

Off Agenda Reports

Item	Description	Page
1	Legislative Updates Relevant to the PAB's Work	163
2	List of Remaining 2026 PAB Meetings	168
3	September 4, 2026 PAB Correspondence to the City Council re: Resolution Reinstating the Berkeley Police Department's Ability to Use Tear Gas for Critical Life-Threatening Incidents Only and Lifting the COVID-19 Moratorium on Smoke and Oleoresin Capsicum (OC) Spray	170

Item 2

September 9, 2026 PAB Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, SEPTEMBER 9, 2026
6:30 P.M.

Board Members

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Joshua Buswell-Charkow	Stephanie Allan
Patrick DeTemple	Jasmina Viteskic
Anay Sharma	Dwayne Phillips (Alternate)

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 uncanceled 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. 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.

4. APPROVAL OF MINUTES (5 MINUTES)

- a. Minutes for the Regular Meeting of July 22, 2026.

5. ODPa STAFF REPORT (10 MINUTES)

Announcements, updates, and other items.

6. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)

The Chair and Board Members report on their activities.

7. CHIEF OF POLICE'S REPORT (10 MINUTES)

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

8. 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.

9. DISCUSSION AND ACTION ITEMS (ESTIMATED TIME: 1 Hour, 10 Minutes)

The PAB will discuss and may act on the following items, including providing feedback, recommendations, or other directions, as appropriate.

- a. BPD Policy 300 “Use of Force” (Cayetano) – (20 Minutes)
- b. Status of Responses to Request for Proposals for Public Safety (Wilson) – (10 Minutes)
- c. Surveillance Technology Ordinance Review: Mutual Aid Air Support (ODPA) – (15 Minutes)
- d. Open PAB Policy Reviews and Next Steps (ODPA) – (15 Minutes)
- e. PAB Training and Subcommittee Participation Reporting Procedures (ODPA) – (10 Minutes)

10. 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.

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;
Katherine Lee, Interim Director of Police Accountability
Employee organization: Berkeley Police Association
- b. Case Updates and Recommendations Regarding Complaints Received by the ODPA:

- | | |
|--------------------|---------------------|
| i. 2023-CI-0016 | xiv. 2026-CI-0012 |
| ii. 2024-CI-0004 | xv. 2026-CI-0015 |
| iii. 2025-CI-0018 | xvi. 2026-CI-0016 |
| iv. 2025-CI-0030 | xvii. 2026-CI-0018 |
| v. 2025-CI-0037 | xviii. 2026-CI-0019 |
| vi. 2026-CI-0001 | xix. 2026-CI-0020 |
| vii. 2026-CI-0002 | xx. 2026-CI-0021 |
| viii. 2026-CI-0005 | xxi. 2026-CI-0022 |
| ix. 2026-CI-0007 | xxii. 2026-CI-0023 |
| x. 2026-CI-0008 | xxiii. 2026-CI-0024 |
| xi. 2026-CI-0009 | xxiv. 2026-CI-0025 |
| xii. 2026-CI-0010 | xxv. 2026-CI-0026 |
| xiii. 2026-CI-0011 | xxvi. 2026-CI-0027 |

END OF CLOSED SESSION

12.ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

13.ADJOURNMENT (1 MINUTE)

Off Agenda Reports

1. Legislative Updates Relevant to the PAB's Work
2. 2026 PAB Meeting Calendar
3. September 4, 2026 PAB Correspondence to the City Council re: Resolution Reinstating the Berkeley Police Department's Ability to Use Tear Gas for Critical Life-Threatening Incidents Only and Lifting the COVID-19 Moratorium on Smoke and Oleoresin Capsicum (OC) Spray

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

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

1900 Addison Street, Floor 3, Berkeley, CA 94704

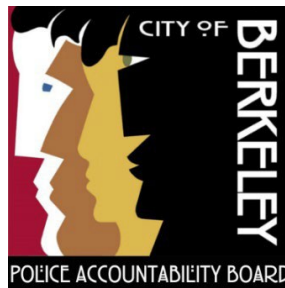
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

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

Email: dpa@berkeleyca.gov

Item 4

Minutes for the Regular Meeting of July 22, 2026



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
WEDNESDAY, July 22, 2026
6:30 P.M.

Board Members

Joshua Cayetano (Chair)	Leah Wilson (Vice-Chair)
Randy Wells	Joshua Buswell-Charkow
Benjamin Nash	Stephanie Allan
Patrick DeTemple	Jasmina Viteskic
Dwayne Phillips (Alternate)	

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 6:33 PM

Present:	Board Member Joshua Cayetano (Chair)
	Board Member Leah Wilson (Vice Chair)
	Board Member Benjamin Nash
	Board Member Stephanie Allan
	Board Member Patrick DeTemple
	Board Member Jasmina Viteskic
	Board Member Joshua Buswell-Charkow
Absent:	Board Member Randy Wells ¹
ODPA Staff:	Kathy Lee, Interim Director of Police Accountability
	Jose Murillo, Policy Analyst
	Syed Mehdi, Data Analyst
	Daniel Weinberg, Investigator
BPD Staff:	Deputy Chief Jen Tate
	Lt. Christopher Bonaventure

¹ Board Member Wells was out with an unexcused absence

2. APPROVAL OF AGENDA

Motion to approve the agenda.

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

Ayes: Cayetano, Wilson, Allan, Buswell-Charkow, DeTemple, Viteskic and Nash.

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

3. PUBLIC COMMENT

1 Physically Present Speakers

1 Virtually Present Speakers

4. APPROVAL OF MINUTES

- a. Minutes for the Regular Meeting of July 8, 2026.

Motion to approve the minutes for the Regular Meeting of July 8, 2026.

Moved/Second (Allan/DeTemple) Motion carried.

Ayes: Cayetano, Wilson, Allan, Buswell-Charkow, DeTemple, Viteskic and Nash.

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

5. ODPA STAFF REPORT

Interim Director Lee reported on the presentation of the 2025 Annual Report to City Council and summarized Council discussion and feedback. Director Lee also provided an update on the recruitment process for the Director of Police Accountability position and ongoing Board member orientation and training efforts.

6. CHAIR AND BOARD MEMBERS' REPORTS

The Chair and Board Members reported on their activities since the last PAB meeting on July 8, 2026.

7. CHIEF OF POLICE'S REPORT

Deputy Chief Tate provided an update on department staffing, patrol operations, recruitment efforts, recent incidents, community engagement activities, and public safety technology initiatives. Board members asked questions regarding staffing levels, response times, and department operations.

8. SUBCOMMITTEE REPORTS

Subcommittee chairs provided updates on ongoing policy review work, legislative matters, and other committee activities.

9. DISCUSSION AND ACTION ITEMS

- a. BPD Policy 300 "Use of Force" (Cayetano)

The Board discussed Berkeley Police Department Use of Force Policy 300, including

access to records, confidentiality, and proposed policy revisions. No action was taken.

- b. Council proposal to reinstate use of tear gas for critical life-saving incidents and lifting the COVID-19 moratorium on smoke and OC spray (Cayetano)

Motion to approve a revised letter to the City Council that references the PAB's initial submission regarding tear gas; recommends amending the proposed tear gas policy in accordance with Appendix A of Supplemental Letter No. 1, including revising subsection (b) to state, "Service of a high-risk warrant during which a suspect is actively presenting a threat of death or serious injury to officers or others," and prohibiting the use of tear gas for crowd management, in addition to crowd control; recommends that, if the Council does not adopt the proposed policy revisions, it defer consideration of the item until after completion of the Policy 300 review; and authorizes the Chair, in coordination with the Interim Director of Police Accountability, to finalize the letter prior to submission.

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

Ayes: Cayetano, Wilson, Buswell-Charkow, DeTemple, Viteskic and Nash.

Noes: None. Abstain: Allan. Absent: Wells.

- c. Recap of PAB-ODPA 2025 Annual Report Presentation to City Council (ODPA)

The Board discussed the presentation of the PAB-ODPA 2025 Annual Report to the City Council and reflected on Councilmember feedback. No action was taken.

- d. Presentation on the PAB's governing authorities and current operating procedures (ODPA)

The Board discussed the draft Governing Authorities and Procedures document, including Board authority under the Charter, regulations, and access to City records. No action was taken.

- e. Update on the recruitment of the Director of Police Accountability (ODPA)

The Board received an update on the recruitment process for the Director of Police Accountability. No action was taken.

10. PUBLIC COMMENT

0 Physically Present Speakers

1 Virtually Present Speaker

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; Katherine Lee, Interim Director of Police Accountability Employee organization: Berkeley Police Association

Motion to authorize the Designated PAB Representative to proceed as recommended.

Moved/Second (Cayetano/Wilson) Motion carried.

Ayes: Cayetano, Wilson, Allan, DeTemple, Buswell-Charkow, Viteskic and Nash.

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

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

Motion to approve the Staff's recommendations and modify one section in ODPa Complaint 2026-CI-0001.

Moved/Second (Cayetano/Viteskic) Motion failed.

Ayes: Cayetano, DeTemple, Viteskic and Nash.

Noes: Buswell-Charkow, Allan, Wilson. Abstain: None. Absent: Wells.

Motion to approve Staff's recommendations in ODPa Complaint 2026-CI-0001.

Moved/Second (Wilson/Allan) Motion carried.

Ayes: Buswell-Charkow, DeTemple, Viteskic, Wilson and Allan.

Noes: Nash and Cayetano. Abstain: None. Absent: Wells.

Motion to approve Staff's recommendations in ODPa Complaint 2026-CI-0003.

Moved/Second (Allan/Cayetano) Motion carried.

Ayes: Cayetano, Wilson, Allan, DeTemple, Buswell-Charkow, Viteskic and Nash.

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

Motion to administratively close ODPa Complaint 2026-CI-0017.

Moved/Second (Viteskic/Cayetano) Motion carried.

Ayes: Cayetano, Wilson, Allan, DeTemple, Buswell-Charkow, Viteskic and Nash.

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

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Cayetano announced the closed session actions.

13. ADJOURNMENT AT 9:22 PM

Motion to adjourn. Moved/Second (Wilson/Viteskic). The meeting was adjourned at 9:22 PM by unanimous consent.

DRAFT

Item 8
Subcommittee List

Updated on 9/4/2026



SUBCOMMITTEE LIST

Important Note: As of September 1, 2026, the PAB has 7 of its 9 seats filled, resulting in a quorum of 4 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
Policy Reviews Formed 11-08-2023 Scope Expanded 12-11-2024 to include BWC Policy Review	Cayetano DeTemple <u>Public members:</u> Kitt Saginor	N/A	Deputy Chief Tate Sgt. Rafferty
Metrics & Operations Formed 02-05-2025 after the Budget & Metrics and Operations & Processes Subcommittees were consolidated into one	Wilson Vacant	N/A	N/A
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formerly "Commendations"	Allan Buswell- Charkow	N/A	N/A

Updated on 9/4/2026

Policies and Practices on Encampment Clearances Formed 6-25-2025	Wilson Vacant	TBD	TBD
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LIAISON LIST

Liaison Name	Assignment
Cayetano	Represent the PAB in the EIS Update Process
Cayetano	Represent the PAB in the BPD UOF Policy Update Process
Wilson	Represent the PAB in the Regulations Negotiation Process
Wilson	Tier 1 Evaluator for Public Safety Technology Proposals

Item 9.b.

**Materials Related to the Request for Proposals for Public Safety
Technology**

Internal



Finance Department
Purchasing Division

REQUEST FOR PROPOSALS (RFP)
Specification No. 26-11794-C
FOR
Public Safety Technology
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY

ADDENDUM “A”
07/27/2026

Dear Proposer:

Questions received from proposers along with answers are attached.

Proposals/bids must be received no later than 2:00 pm, on Thursday, August 20th, 2026

All responses should be sent via email to Solicitations@berkeleyca.gov and have “**Public Safety Technology**” and **Specification No. 26-11794-C** indicated in the subject line of the email.

Please submit one (1) PDF of the technical proposal. Corresponding cost proposal shall be submitted as a separate PDF document.

Proposals will not be accepted after the date and time stated above.

We look forward to receiving and reviewing your proposal.

Sincerely,

Henry Oyekanmi
Finance Director

Internal

Addendum “A”

Questions and Answers for Specification No. 26-11794-C
Public Safety Technology

The City of Berkeley has received questions from some potential respondents regarding **Specification No. 26-11794-C**, Public Safety Technology. In an effort to provide the same information to all, listed below are the questions received to date, with responses from City staff.

Question 1: RFP page 5 states "BPD currently operates a network of approximately 52 ALPR cameras". Should vendors propose replacing the current camera network, integrating with existing cameras, or propose either approach?

Answer: Proposers shall propose full replacement of the existing ALPR camera network. Proposals premised on retaining or integrating the existing cameras will not be considered. Pricing must reflect a complete, fully operational 52-camera network meeting all Area 1 specifications, with unit pricing for additional cameras as stated in the RFP.

Question 2: Please provide details on the BPD's current CAD, RMS, RTIC, and digital evidence platforms. Are vendors expected to provide firm integration commitments in their proposals?

Answer: The City's CAD and RMS are provided by Tyler Technologies. The City's digital evidence platform is Axon Evidence.com. Regarding the RTIC, see response to Question 13. Proposers must identify supported systems, describe their integration approach, and disclose any dependencies (including third-party partnership agreements not fully executed at time of proposal) per Section II. Capabilities represented in a proposal are expected to be delivered as contractual commitments by the awarded vendor.

Question 3: Will the City provide candidate installation locations, traffic studies, or operational requirements for the ALPR and PTZ camera deployments, or should vendors develop location recommendations independently?

Answer: The 16 PTZ camera locations approved by the City Council are: (1) Center St & Martin Luther King Jr. Way; (2) College & Ashby Aves; (3) Milvia St & Allston Way; (4) 9th & Gilman Sts; (5) Center St & Shattuck Ave; (6) University & Shattuck Aves; (7) Cedar St & Shattuck Ave; (8) Durant & Telegraph Aves; (9) 4th & Virginia Sts; (10) University Ave & Martin Luther King Jr. Way; (11) Solano & Colusa Aves; (12) 4th St & Hearst Ave; (13) Adeline & Fairview Sts; (14) Shattuck & Ashby Aves; (15) 62nd & King Sts; (16) College & Alcatraz Aves. See the Surveillance Acquisition Report approved by the City Council on July 22, 2025. Locations are subject to change prior to installation. The City will not provide traffic studies; proposers are responsible for their own site-assessment methodology, and final siting details will be confirmed with the selected vendor. For ALPR, the City will finalize siting with the selected vendor, informed by the existing 52-camera deployment.

Question 4: Will the City evaluate data sharing and access controls at the platform level, or will the City accept vendor-managed sharing networks where the vendor determines default access permissions?

Internal

Answer: Data sharing and access controls will be evaluated at the platform level against the City's requirements: restrictive by default, no data sharing enabled without affirmative City action, and opt-in-only participation in any cross-jurisdictional network. Vendor-managed sharing networks in which the vendor determines default access permissions do not satisfy these requirements.

Question 5: Does the City have minimum expectations for retention and exportability of audit logs beyond the ALPR data retention requirements?

Answer: The City has not established a fixed minimum audit-log retention period beyond the requirements stated in Section II. Per the Auditing and Reporting requirements, proposers must describe configurable retention parameters for access logs including retention period, fields captured per log entry, and whether the City can configure duration, and audit data must be exportable by the City. Access logs are distinct from ALPR detection data subject to the 30-day retention policy.

Question 6: Will the City consider a solution non-responsive if the vendor retains rights to use, analyze, or derive value from City-generated ALPR data beyond the scope of the agreement?

Answer: The City owns all City data, including anonymized derivatives, and any license to use anonymized or de-identified data terminates with the agreement. A proposal conditioned on vendor rights to use, analyze, or derive value from City data beyond the scope or term of the agreement would constitute a material exception to required data-ownership terms and may be deemed grounds for reduced scoring per Section II (Contractual Protections).

Question 7: What type of support is required, would this be remote support or a combination of remote & on-site support?

Answer: A combination. Remote support is acceptable for software and administrative functions; on-site service is required as necessary to maintain deployed hardware for the contract term. Proposers should describe their support model, response times, and escalation procedures.

Question 8: During the 3 year maintenance & support contract, will the city be responsible for covering the cost for hardware replacement not covered by warranty & installation cost for any devices damaged due to vandalism?

Answer: The City seeks an all-inclusive, vendor-managed solution. Proposers must clearly state whether replacement and reinstallation of devices damaged by vandalism or theft are included in base pricing. If excluded, proposers shall provide per-unit replacement and reinstallation pricing. Completeness of coverage will be considered in the evaluation of cost and total cost of ownership.

Question 9: During the 3 year maintenance & support contract, will the city be responsible for covering the cost for installation of any device damaged due to hardware failure covered by warranty?

Answer: No. Labor and installation associated with replacing hardware that fails under warranty must be included in the all-inclusive pricing at no additional cost to the City.

Question 10: Could you elaborate on the required "City permitting and inspection fees"?

Internal

Answer: Installations on City infrastructure or within the public right-of-way may require City permits and associated inspections. All such City fees, and the vendor labor required to obtain permits and pass inspection, must be included in proposal pricing.

Question 11: Could you define the "mobile deployment" of the ALPR cameras with an example?

Answer: For clarification, the City is not seeking trailer-mounted, vehicle-mounted, or similar portable ALPR units. The reference to "mobile deployment" reflects the City's interest in the ability to relocate a fixed-installation camera to an alternative location during the contract term if a deployed location proves ineffective. Proposers should describe their process and timeline for relocating a camera and identify any associated costs, including permitting, or confirm that relocation is included in all-inclusive pricing.

Question 12: May the vendor fully replace the existing ALPR and surveillance cameras, or must any existing equipment be retained or integrated?

Answer: For ALPR, proposers shall propose full replacement; see response to Question 1. For existing City-owned fixed cameras, see response to Question 25. Proposers are responsible for delivering complete, fully operational systems meeting the specifications of each proposed Area.

Question 13: Is the City currently utilizing Axon Fusus as its Real-Time Information Center platform, or has another RTIC platform been deployed?

Answer: The City has not deployed an enterprise RTIC platform. BPD's existing 52-camera ALPR network is accessed through that vendor's interface (FlockOS) for that system only; no continuation of the existing system or vendor relationship should be assumed. Proposers should assume the platform procured under Technology Area 6 will establish the City's RTIC.

Question 14: If an RTIC platform is currently in use, which Technology Areas are already integrated (e.g., CAD, RMS, ALPR, fixed cameras, drones, Evidence.com)?

Answer: None; see response to Question 13.

Question 15: If Axon Fusus or another RTIC platform has not yet been deployed, should proposers assume the Investigative Software (Technology Area 6) will establish the City's initial RTIC platform?

Answer: Yes; see response to Question 13.

Question 16: For solutions involving both a manufacturer (hardware/software provider) and a systems integrator/installer, how does the City intend to assign responsibility for contractual data breach and unauthorized disclosure liabilities? Would these obligations apply to the manufacturer, or the prime contractor.

Answer: The City will contract with a single prime contractor for each award. The prime contractor bears full contractual responsibility for all requirements, including data breach and unauthorized-disclosure penalties, regardless of the allocation of roles between manufacturers and integrators. Proposers should describe their teaming arrangements and how obligations flow down to subcontractors.

Internal

Question 17: Of the anticipated sixteen (16) PTZ camera locations, how many are expected to require completely off-grid (solar/battery/cellular) installations versus locations where commercial power and/or network connectivity are already available? Additionally, if this determination has not yet been finalized, should proposers assume that all sixteen (16) locations require fully self-contained remote deployments?

Answer: Proposers should assume all 16 locations require fully self-contained (solar/battery/cellular) operation, consistent with the Area 2 specifications. Where site power or connectivity proves available, proposers should describe any resulting cost or configuration differences as provided in Area 2. See response to Question 3 for the approved locations.

Question 18: Does the City anticipate that ALPR data will remain within a City-managed environment, or does the City intend to participate in regional or statewide inter-agency ALPR data-sharing networks? If inter-agency sharing is anticipated, are there any preferred interoperability standards or partner agencies that proposers should consider?

Answer: City ALPR data remains City-owned and under City control. Participation in any regional, statewide, or national sharing network is opt-in only and requires affirmative City action, consistent with the City's ALPR Use Policy, sanctuary policies, and applicable law including SB 34 and SB 54. Proposers must disclose all cross-jurisdictional access networks their platform supports. The City is not identifying preferred partner agencies or interoperability standards in this RFP.

Question 19: Does the City expect proposers to incorporate or leverage any existing poles, mounts, power, or communications infrastructure as part of their proposed solution?

Answer: Proposals must be all-inclusive and must not assume the availability of City power or network backhaul. Proposers may propose mounting on existing City-owned poles or structures subject to City review and permitting, with all associated costs included in pricing.

Question 20: To assist proposers in accurately describing interoperability and integration, will the City identify the CAD, RMS, and any other public safety systems currently in use that are expected to interface with the proposed solution?

Answer: See response to Question 2.

Question 21: Can the City clarify its expectations regarding remote health monitoring? Specifically, should the proposed solution include automated alerts for device offline status, power conditions, storage utilization, cellular connectivity, firmware status, and camera health, or are additional monitoring capabilities expected?

Answer: Yes. The solution should provide automated alerting for device offline status, power/battery condition, cellular connectivity, storage utilization where applicable, firmware status, and camera/device health, with administrator visibility. The City prefers solutions in which the vendor also receives these health alerts directly and proactively initiates diagnosis and resolution, rather than relying on City staff to detect and report issues. Proposers should describe their full monitoring and alerting capabilities, including whether the City can report issues to the vendor directly through the platform, and shall define the process by which reported issues are routed to the team responsible for resolution, including how the City can track the status of open issues through closure. See also response to Question 7.

Internal

Question 22: The RFP references AI-generated alerts and classifications. Should proposers include native edge-based video analytics (such as person, vehicle, line crossing, loitering, occupancy, and object detection) as part of the AI capabilities being evaluated?

Answer: Proposers may describe available video analytics capabilities. All AI capabilities will be evaluated subject to the Cross-Cutting Artificial Intelligence and Human-in-the-Loop requirements in Section II: proposers must identify every automated function, describe the City's controls to restrict, audit, or disable each, and ensure enforcement-adjacent automation is off by default. Facial recognition is prohibited.

Question 23: Can the City provide minimum image quality expectations (minimum resolution, frame rate, optical zoom, and nighttime performance) for the PTZ camera deployments?

Answer: The City has not established numeric minimums. Proposers shall specify resolution, frame rate, optical zoom, and low-light/nighttime performance for proposed hardware; imaging quality will be evaluated under the Technical Solution and Functional Capabilities criteria.

Question 24: Will demonstration scenarios and evaluation criteria be standardized across all proposers? If so, will those scenarios be provided in advance?

Answer: The City will not prescribe standardized demonstration scenarios, and no scenarios will be provided in advance. If demonstrations are requested, they will be used to gather additional information in support of the published selection criteria in Section IV, which apply equally to all proposers; demonstrations will not be scored against separate criteria.

Question 25: Will any existing fixed surveillance cameras remain operational as part of the City's long-term architecture, and if so, does the City anticipate requiring interoperability between newly proposed systems and existing video infrastructure?

Answer: Yes. The City owns a limited number of existing Avigilon fixed cameras that are expected to remain operational. Integration of these cameras into the proposed platform, particularly the Area 6 single pane of glass, is desirable but not required. Proposers should describe their capability to integrate third-party cameras, any limitations, and associated costs; this will be considered under the Integration and Interoperability criterion.

Question 26: The RFP emphasizes interoperability across multiple Technology Areas while also allowing awards to multiple vendors. In evaluating proposals, how will the City weigh native interoperability within a single manufacturer's ecosystem versus interoperability achieved through published APIs, open standards, or third-party integration platforms?

Answer: Neither approach is inherently favored. The Integration and Interoperability criterion evaluates the demonstrated ability to deliver the required outcomes (correlated data across systems, a single pane of glass, consolidated alerts, and a single audit trail) whether achieved through native interoperability or through documented APIs and open standards.

Question 27: For Technology Area 6, does the City require the platform to ingest and store the underlying video streams from ALPR/cameras/drones, or will URLs/metadata pointers to the evidence repositories (e.g., Axon Evidence.com) be sufficient?

Answer: Full ingestion and duplicate storage of underlying video is not required, provided the platform delivers the required real-time viewing, correlation, alerting, and audit

Internal

capabilities. Links or metadata pointers to the evidentiary system of record are acceptable for stored evidence. Proposers should describe their architecture, including any latency, retention, or auditability implications.

Question 28: Please identify the City's current CAD and RMS systems (vendor and version) and confirm that API or data-export access will be made available to the awarded vendor for real-time integration.

Answer: The City's CAD and RMS are provided by Tyler Technologies; see response to Question 2. The City will facilitate access to available APIs or data exports for the awarded vendor(s), subject to the terms of the City's agreements with those system providers. Proposers should identify the specific access their integration approach requires and include any vendor-side integration costs in pricing.

Question 29: Will the City accept CJIS-compliant hosting in AWS GovCloud (US-West), and can you confirm whether on-premise components are prohibited or merely optional?

Answer: CJIS-compliant cloud hosting, including AWS GovCloud (US), is acceptable. On-premise components are not prohibited; however, the City prefers vendor-managed solutions, and proposers should identify any on-premise components together with their requirements and costs.

Question 30: Approximately how many sworn officers, analysts, and civilian staff are expected to be concurrent users of the investigative platform for tiered pricing purposes?

Answer: The City is not providing a fixed user count. Proposers shall provide tiered pricing at the increments specified in Technology Area 6 (up to 25 users, 26–75, 76–150, and 150+), and shall separately identify fixed platform, integration, and data-ingestion costs. The City may license any subset of personnel from a limited investigative/RTIC user group to department-wide access and will determine licensing scope at award based in part on tiered pricing.

Question 31: If a bidder proposes only Technology Area 6, will the City still require a live on-site hardware demonstration, or will a remote software demo suffice?

Answer: A virtual/remote software demonstration will suffice for proposals limited to Technology Area 6, if a demonstration is requested.

Question 32: Integrated vs. Modular Responses: May proposers respond to only a subset of the six technology areas identified in the solicitation (e.g., drone-related technologies only), or is the City seeking a single integrated solution covering all technology categories?

Answer: Yes. This is a modular solicitation: proposers may submit on a single Technology Area, any combination of Areas, or all Areas (Section I).

Question 33: Multiple Awards: Does the City anticipate making multiple awards across different technology areas, or does it currently intend to select a single provider/integrator?

Answer: The City may award by individual Area, by combination, or in whole, and may select more than one vendor. No predetermination has been made; Section I describes how the City will compare single-Area and combined awards.

Internal

Question 34: Drone as First Responder (DFR): Has the City already identified preferred DFR operational concepts, aircraft platforms, docking systems, or software ecosystems, or is it seeking vendor recommendations as part of the proposal process?

Answer: The City has not pre-selected aircraft platforms, docking systems, or software ecosystems and has no vendor preference. Proposers should recommend an operational concept and solution meeting the Area 3 specifications, including the NDAA-compliance pathway and support for applicable FAA authorizations.

Question 35: Drone Mission Priorities: What are the City's highest-priority operational use cases for the DFR and field-deployed drone components (e.g., patrol support, incident response, traffic management, search and rescue, event monitoring, situational awareness, infrastructure assessment)?

Answer: Priority use cases include rapid response to calls for service with real-time video to dispatch and responding officers (Area 3), and tactical operations, critical incidents, building searches including indoor/GPS-denied environments, traffic-collision documentation, and disaster response (Area 4), consistent with City use policies adopted under BMC 2.100 and AB 481.

Question 36: Existing UAS Capabilities: Does the City currently operate any drone platforms, drone software systems, or related public-safety aviation assets that proposers should consider for integration?

Answer: The City does not currently operate any UAS platforms, drone software systems, or related public-safety aviation assets.

Question 37: Future Expansion: Is the City interested in future capabilities such as autonomous operations, AI-assisted analytics, sensor fusion, remote inspections, or other emerging UAS technologies beyond the immediate procurement scope?

Answer: Proposals will be evaluated on the scope defined in this RFP. Proposers may briefly describe roadmap capabilities, but any future expansion (e.g., autonomous operations or additional analytics) may require separate City approval processes under BMC 2.99 and 2.100 and should not be assumed or priced in this proposal.

Question 38: Teaming Arrangements: Will the City accept proposals submitted by prime contractors utilizing specialty subcontractors for areas such as drone operations, sensor integration, AI analytics, autonomy technologies, or systems engineering support?

Answer: Yes. Proposals may be submitted by a prime contractor utilizing specialty subcontractors. The prime contractor holds full contractual responsibility, and third-party installers or maintenance providers must be disclosed and approved (Section II). See also response to Question 16.

Question 39: Small Business Participation: Does the City have any goals, preferences, or evaluation considerations related to small-business participation, disadvantaged businesses, or technology-focused subcontractors?

Answer: The City has not established small or disadvantaged business participation goals for this solicitation. The Local Vendor Preference described in Section VII.F applies as stated.

Internal

Question 40: Data Ownership: Can the City clarify expectations regarding ownership, retention, and access rights for video, drone, sensor, and related investigative data collected under the contract?

Answer: The City owns all City data, including anonymized derivatives. Vendor use of de-identified data is limited to the term of the agreement; retention is governed by City policy with configurable parameters and automatic purge; and the City's ownership, access, and export rights survive termination (Section II).

Question 41: Open Architecture: Does the City have a preference for open-architecture solutions and interoperability with future technologies that may be added after contract award?

Answer: Yes. Documented integrations and APIs are required of every component (Section II, Interoperability) and are scored under the Integration and Interoperability criterion. See also response to Question 26.

Question 42: If a proposer identifies limited exceptions or alternative language to the RFP's required contractual and data-governance terms (such as financial recourse), will the proposal still be considered responsive, or would any such exception be treated as grounds for disqualification or score reduction.

Answer: Identifying exceptions or alternative language does not automatically render a proposal non-responsive; proposers must either explicitly accept the required terms or clearly identify proposed exceptions or alternative formulations. However, the City may deem material exceptions to required privacy, data ownership, data-sharing, security, auditability, sanctuary policy, or breach accountability provisions grounds for reduced scoring, per Section II (Contractual Protections).

Question 43: For Technology Areas involving deployed hardware and/or streaming operations, please confirm the City's expectation regarding connectivity responsibility. When the RFP refers to an "all-inclusive" solution and requires pricing to include connectivity, does the City expect the proposer to furnish, manage, and price all network/connectivity components required for operation (for example cellular service, networking equipment, and related configuration), or may proposers assume the City will provide certain site-level services such as internet backhaul and power at deployment locations? Please also clarify whether this expectation differs by Technology Area.

Answer: In every Technology Area involving hardware, the proposer is responsible for furnishing, managing, and pricing all connectivity required for operation including cellular service, networking equipment, and configuration except as expressly stated below for Area 3. Areas 1 and 2 must operate fully independent of wired power and network infrastructure per their specifications, and proposers should not assume City-provided power or backhaul at those deployment locations. For Area 3, the City will provide commercial power and wired network backhaul at the approved docking station sites; proposers shall identify their site requirements (e.g., bandwidth, latency, and network/security configuration) for City review, and shall describe their approach to connectivity redundancy, including any cellular failover, with associated costs identified. All in-flight command-and-control and video links, and all other DFR components and connectivity, remain the proposer's responsibility.

Internal

Except as provided herein all other terms and conditions remain unchanged.



Finance Department
General Services Division

REQUEST FOR PROPOSALS (RFP)
Specification No. 26-11794-C
FOR
Public Safety Technology
PROPOSALS WILL NOT BE OPENED AND READ PUBLICLY

Dear Proposer:

The City of Berkeley is soliciting written proposals from qualified firms or individuals for *(1) Automated License Plate Recognition (ALPR); (2) Fixed Video Surveillance Cameras (Pan-Tilt-Zoom); (3) Drone as First Responder (DFR); (4) Field-Deployed Drones (Unmanned Aerial Systems); (5) Community Video Stream Integration; and (6) Investigative Software.* As a Request for Proposal (RFP) this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

The project scope, content of proposal, and vendor selection process are summarized in the RFP (attached).

Proposals must be received no later than 2:00 pm, on Thursday, August 20, 2026. Proposals are to be sent via email with “**Specification No. 26-11794-C**” and “**Public Safety Technology**” clearly indicated in the subject line of the email. Please submit one (1) PDF of the technical Proposal with the filename saved as, “**Proposal: Vendor Name – #26-11794-C Public Safety Technology.**” Corresponding pricing proposal shall be submitted as a separate document with the filename saved as, “**Pricing: Vendor Name - #26-11794-C Public Safety Technology.**”

Email Proposals to:

City of Berkeley
Finance Department/General Services Division
Solicitations@berkeleyca.gov

Proposals will not be accepted after the date and time stated above. Incomplete proposal or proposals that do not conform to the requirements specified herein will not be considered. Issuance of the RFP does not obligate the City to award a contract, nor is the City liable for any costs incurred by the proposer in the preparation and submittal of proposals for the subject work. The City retains the right to award all or parts of this contract to several bidders, to not select any bidders, and/or to re-solicit proposals. The act of submitting a proposal is a declaration that the proposer has read the RFP and understands all the requirements and conditions.

For questions concerning the anticipated work, or scope of the project, please **contact (Project Managers) Deputy Chief Jen Tate and Arlo Malmberg, Strategic Planning and Accountability Manager,** via email at jtate@berkeleyca.gov no later than July 20th, 2026. Answers to questions will **not** be provided by telephone or email. Answers to all questions or any addenda will be **posted** on the City of Berkeley’s site at [Bid & Proposal Opportunities | City of Berkeley \(berkeleyca.gov\)](https://www.berkeleyca.gov/bid-proposal-opportunities). It is the vendor’s responsibility to check this site. For general questions concerning the submittal process, contact purchasing at 510-981-7320.

We look forward to receiving and reviewing your proposal.

Sincerely,

Henry Oyekanmi
Finance Director

I. BACKGROUND/SUMMARY/or INTRODUCTION

The Berkeley Police Department (BPD) is advancing a public safety technology program designed to improve situational awareness, operational efficiency, crime prevention, and investigative capacity while maintaining civilian oversight, auditability, and data protection.

Through this RFP the City seeks proposals across up to six Technology Areas: (1) Automated License Plate Recognition (ALPR); (2) Fixed Video Surveillance Cameras (Pan-Tilt-Zoom); (3) Drone as First Responder (DFR); (4) Field-Deployed Drones (Unmanned Aerial Systems); (5) Community Video Stream Integration; and (6) Investigative Software. The Technology Areas are described in Section II.

This is a modular solicitation. Proposers may submit on a single Technology Area, any combination of Areas, or all Areas. The City may make award by individual Area, by combination, or in whole, and may select more than one vendor. The City will consider the operational, oversight, privacy, auditability, cost advantages and disadvantages of a consolidated, interoperable solution when comparing single-Area awards against combined awards. Regardless of the Area(s) proposed, all solutions must satisfy the Cross-Cutting Requirements in Section II.G.

The technologies sought are governed by the City's Surveillance Technology Ordinance (BMC 2.99), the Police Equipment Ordinance (BMC 2.100), the Sanctuary City Contracting Ordinance (BMC 13.105), the Sanctuary City Ordinance (BMC 13.114) and applicable state law including AB 481, SB 34 and SB 54. Data ownership, privacy protection, alignment with the City's sanctuary policies, restrictive-by-default configuration, breach accountability, and robust auditing are central to this procurement and are reflected as scored requirements throughout.

II. SCOPE OF SERVICES

The selected vendor(s) will furnish the equipment, software, installation, integration, training, maintenance, and support described below for a base term of three (3) years, with extension options to be exercised at the City's sole discretion. Where hardware is involved, the City prefers an all-inclusive, vendor-managed (subscription) model. Each Technology Area is independently scoped, independently scored, and may be independently awarded. A proposer responding to more than one Area must describe how the proposed components interoperate.

Cross-Cutting Requirements (Apply to All Technology Areas)

The following requirements apply to every proposal regardless of the Technology Area(s) proposed.

Contractual Protections

The following contractual requirements apply to all agreements executed under this RFP. Proposers must explicitly accept these requirements or clearly identify any proposed exceptions or alternative formulations in their submission. The City may deem material exceptions to required privacy, data ownership, data-sharing, security, auditability, sanctuary policy, or breach accountability provisions as grounds for disqualification or reduced scoring.

- The agreement shall provide for a financial penalty of \$290,000 per violation for any unauthorized sharing, disclosure, or release of City data. This penalty is in addition to, and does not limit, any other remedies available to the City under contract or applicable law.
- The City shall have the right to terminate the agreement for convenience upon thirty (30) days' written notice. Fees paid prior to termination shall be non-refundable except as offset by applicable penalties; the City shall bear no liability for fees or payments that would otherwise come due after the effective termination date.

- Any license granted to the vendor to use anonymized or de-identified data derived from City data or City-generated data shall be expressly limited in duration to the term of the agreement. No such license shall survive the termination or expiration of the contract, regardless of how the license grant is framed.
- The vendor shall not implement any hardware or software modification that alters the scope of data access, data sharing, or data availability without prior written consent from the City. Routine maintenance, security patches, and bug fixes that do not affect the scope of data access or sharing are exempt. Proposers shall describe their standard process for notifying customers of platform changes and how they will accommodate this requirement.
- Any post-execution modification to provisions governing data ownership, data access, data sharing, privacy protections, or security requirements shall require affirmative action by the Berkeley City Council.
- The vendor shall notify the City and obtain the City's written consent before disclosing any City data in response to any legal request or demand, including subpoenas, court orders, or equivalent legal process. This notification and consent requirement shall not apply if and only if the vendor is both (a) legally required to produce the data in response to the specific request and (b) legally prohibited from informing the City that the request exists.
- The vendor may not assign its rights or obligations under this agreement, in whole or in part, without the City's prior written consent. Any purported assignment without such consent shall be null and void and shall constitute a material breach of the agreement.

Data Ownership and Privacy

- The City owns all of its data, including anonymized derivatives. The vendor is prohibited from selling, sharing, or distributing City data without the City's explicit written authorization.
- The vendor may disclose City data to a government agency only upon a valid legal request and with the City's written consent. Consistent with the City's sanctuary policies, data and footage may not be provided to federal immigration authorities in response to an administrative subpoena or similar request absent a court order.
- Consistent with California law, City data may not be used, shared, or disclosed to support any investigation, prosecution, or civil action arising under a law of another state that restricts or criminalizes the provision or receipt of reproductive health care or gender-affirming care that is lawful in California. The vendor may not provide City data to any out-of-state authority for such a purpose absent a court order issued by a California court.
- Settings must be restrictive (privacy-protective) by default; no data-sharing defaults may be enabled without affirmative City action.
- Facial recognition is prohibited and must be unavailable, disabled, or incapable of use unless expressly authorized by the Berkeley City Council through a future approval process.
- The City's ownership and control of its data survives termination, and the vendor must return or export City data on termination.

Security and Compliance

- The system must be Criminal Justice Information Services (CJIS) compliant.
- Data must be encrypted in transit and at rest, with role-based access controls.
- The vendor must promptly notify the City of any security incident or data breach, describing its scope and the corrective steps taken.
- The vendor must agree to contractual financial penalties for data breaches or unauthorized disclosures.
- The vendor must support the City's reporting obligations under BMC 2.99, BMC 2.100, and AB 481.

Auditing and Reporting

- Granular auditing sufficient to identify and track usage by any user at any time.

- Permission/security levels defining user rights and access.
- Administrator visibility into deployments, queries and hotlists/alerts for all users including date and time, and reason for query or deployment.
- Predesignated reports plus ad-hoc reporting from the collected data, and export of audit data.
- Configurable retention parameters for access logs, including retention period, what data is captured per log entry, whether the City can configure retention duration, and whether logs are exportable.

Installation, Training, Maintenance, and Support

- For Areas involving hardware, an all-inclusive solution: hardware, installation, software, connectivity, cloud storage, maintenance, support, and a warranty covering the contract term, with City permitting and inspection fees included. The vendor shall not use third-party installers or maintenance providers unless disclosed and approved.
- Training for administrators, supervisors, and end-users, including training on system features, usage, maintenance, and auditing.
- Ongoing maintenance, software updates, and technical support.

Interoperability

- Every component must expose or support documented integrations so the City can correlate data across systems even where Areas are awarded to different vendors. Proposers bidding multiple Areas must describe native interoperability among the proposed components; proposers bidding a single Area must describe the published integrations and APIs available to connect to other systems and to the RTIC.
- Every component must support integration with Axon Evidence.com via the Axon Partner API or, at minimum, export of evidentiary files in a format suitable for direct upload to Evidence.com; proposers must describe their current pathway and disclose any dependency on a third-party partnership agreement with Axon that is not fully executed at time of proposal. Exported files shall preserve original metadata and a documented chain of custody suitable for evidentiary use.

Artificial Intelligence and Human-in-the-Loop Operation

- All AI-generated output including automated alerts, matches, classifications, and recommendations shall be treated as an investigative lead only and must be independently corroborated before any enforcement, charging, or detention decision. No investigative action may be initiated or executed solely on the basis of AI output without affirmative human review and authorization.
- Proposers must identify every action or automated function their system is capable of executing without real-time human authorization including but not limited to automated alerts, cross-system queries, data sharing, and any output routed to officers or dispatchers, and describe the controls available to the City to restrict, audit, or disable those functions.
- Proposers must describe how their system is designed to support human-in-the-loop operation, including what interface features, access controls, and workflow configurations are available to ensure that automated outputs are reviewed before action is taken.
- Default system configurations must not enable automated enforcement-adjacent actions (e.g., automatic hotlist sharing, automatic case flagging, or automatic inter-agency notification) without affirmative City configuration.

Technology Area 1- Automated License Plate Recognition (ALPR)

License plate recognition for fixed and/or mobile deployment supporting real-time alerting and investigative search, integrated into the City's real-time information center. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

- Be deployable at locations where no existing City electrical power or network infrastructure is available. Proposers shall describe how their solution achieves and sustains power and

connectivity independent of wired infrastructure, and shall address expected uptime, maintenance intervals, and performance under the operational conditions typical of an urban environment.

- Include vendor installation, mounting, City permitting and inspection, maintenance, and support for the contract term, with City permitting and inspection fees included in the cost.
- Provide remote health monitoring and self-diagnostics for each device.
- Provide a map-based locator of camera positions and support publication of camera locations on the City website.
- Provide secure access via PC and iOS/Android apps.
- Support remote configuration, search, and alert management through the vendor interface.
- Capture at least two lanes of traffic simultaneously from a single camera.
- Provide real-time alerts to a user or group via mobile app, email, and text message when a plate on a hotlist enters the database.
- Support hotlist management- view, add to, and remove from alert lists; manual entry of any number of plates of interest.
- Allow expiration dates on alerts, with notice to the user before an alert is set to expire, and notify users of duplicate entries or alerts.
- Provide search by: full or partial plate with wildcard support; start/end date and time; contributing device or camera name (multi-select); and location with proximity range (geocoded address, latitude/longitude, or map-drawn area).
- Allow manual search and alerting based on a vehicle's physical description, with or without plate information.
- Include a mapping utility presenting a geographic overlay of hit data on a user-defined map.
- Disclose all cross-jurisdictional access networks (statewide lookup, national lookup, and equivalent) and confirm participation in any such network is opt-in only.
- Support a configurable data retention period that conforms to the City's ALPR Use Policy and applicable law (currently 30 days), with automatic purge of records upon expiration.

BPD currently operates a network of approximately 52 ALPR cameras. Proposers shall provide pricing for a network of 52 cameras and shall provide unit pricing for additional cameras beyond that baseline. Proposers shall describe how their platform licensing and management infrastructure scales as camera count increases, including whether additional licensing tiers or fees apply.

Technology Area 2- Fixed Video Surveillance Cameras (Pan-Tilt-Zoom)

Solar-powered pan-tilt-zoom (PTZ) fixed video cameras installed and maintained by the vendor, with live and recorded video accessible within the RTIC. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

- Be able to operate on battery and solar power without tapping into wired power or network infrastructure, using cellular connectivity.
- Include vendor installation, mounting, City permitting and inspection, maintenance, and support for the contract term, with City permitting and inspection fees included in the cost.
- Provide remote health monitoring and self-diagnostics for each device.
- Provide a map-based locator of camera positions and support publication of camera locations on the City website.
- Provide secure access via PC and iOS/Android apps.
- Support remote configuration, search, and alert management through the vendor interface.
- Provide pan, tilt, and zoom control, high-resolution day/night imaging, and configurable fields of view.

- Support live streaming and retrieval of recorded video, with remote operation of camera controls.
- Audio recording is prohibited; cameras must either lack audio capability entirely or provide an administrator-controlled setting to disable audio recording permanently, off by default.

The City anticipates initial deployment at 16 locations approved by the City Council. Proposers shall provide all-inclusive per-location pricing for 16 camera installations and shall provide unit pricing for additional locations. Proposers shall describe any cost or configuration differences based on site conditions, mounting requirements, or connectivity constraints.

Technology Area 3- Drone as First Responder (DFR)

A drone-as-first-responder capability integrated into the City's real-time platform, with launch from fixed docking stations, detect-and-avoid for safe operation, and real-time aerial video delivered to dispatchers and responding officers and in appropriate cases arriving on scene before ground units. This Area covers the fixed-site, dock-based DFR program; officer-deployed portable drones are addressed separately in Area 4. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

- Provide drone(s) with docking/charging station(s) supporting launch and return from fixed sites.
- Provide detect-and-avoid capability sufficient for safe beyond-visual-line-of-sight (BVLOS) operation under appropriate authorizations.
- Stream real-time video and telemetry to dispatch and field personnel, with integration to computer-aided dispatch (CAD) where available.
- Support configurable privacy protections during transit to a call, including the ability to elevate camera angle, restrict the field of view, or otherwise limit incidental capture of persons and property not associated with the incident to which the drone is responding; such transit-mode configurations shall be available as a default operating mode.
- Offer a National Defense Authorization Act (NDAA)-compliant hardware pathway. Proposers must state whether currently offered hardware is NDAA-compliant and, if not, the specific migration path and timeline.
- Support recording, retention, and redaction consistent with City policy, with complete flight logging and an audit trail.
- Provide role-based operator controls, operator/pilot training, and maintenance and support for the term.
- Support the City's reporting obligations under BMC 2.100 and AB 481 for controlled equipment.
- Proposers must identify all applicable regulatory prerequisites, including FAA Part 107 certification, Certificate of Waiver (COW), or other applicable FAA authorization for BVLOS or nighttime operations, and must describe the vendor's role and track record in supporting agencies through the current FAA approval process.
- Be all-inclusive (airframes, docks, software, connectivity, maintenance, and warranty).
- Audio recording is prohibited; drone must either lack audio capability entirely or provide an administrator-controlled setting to disable audio recording permanently, off by default.

The City anticipates an initial deployment of 2 docking stations with associated aircraft. Proposers shall price for a 2-unit deployment and shall provide optional pricing for a third docking station and aircraft. Proposers shall clearly identify any cost differences between the first and subsequent units, including any shared infrastructure, software licensing, or connectivity costs that do not scale linearly. The City may expand the fleet subject to City Council approval under BMC 2.100.

Technology Area 4- Field-Deployed Drones (Unmanned Aerial Systems)

Portable, officer-deployed unmanned aerial systems (UAS) transported in patrol or supervisor vehicles and launched manually by a trained pilot at an incident scene. Unlike the dock-based DFR capability in Area 3, these aircraft require no fixed infrastructure and support on-demand aerial assessment for tactical operations, critical incidents, building searches, crowd and traffic-collision documentation, and natural-disaster response, including in indoor and GPS-denied environments. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

- Provide drone(s) suitable for rapid field deployment from a vehicle, including transport cases, spare batteries, and field-charging equipment; the proposed suite shall include both outdoor airframes and at least one indoor-capable airframe designed for GPS-denied interior operations.
- Support manual, pilot-operated visual-line-of-sight (VLOS) flight, with optional payloads such as high-resolution zoom and thermal/infrared imaging as proposed; indoor drones shall support obstacle avoidance and stable flight in confined, GPS-denied spaces.
- Stream real-time video and telemetry to dispatch and field personnel, with integration to computer-aided dispatch (CAD) where available.
- Offer a National Defense Authorization Act (NDAA)-compliant hardware pathway. Proposers must state whether currently offered hardware is NDAA-compliant and, if not, the specific migration path and timeline.
- Support recording, retention, and redaction consistent with City policy, with complete flight logging and an audit trail.
- Provide role-based operator controls, operator/pilot training, and maintenance and support for the term.
- Support the City's reporting obligations under BMC 2.100 and AB 481 for controlled equipment.
- Identify all regulatory prerequisites (e.g., FAA Part 107, applicable waivers) and the vendor's role in helping the City obtain them.
- Be all-inclusive (airframes, payloads, batteries, transport cases, software, connectivity, maintenance, and warranty).

The City anticipates an initial deployment of 4 outdoor field-deployable airframes and 4 indoor airframes designed for GPS-denied interior operations. Proposers shall price these as two distinct line items and shall provide unit pricing for each airframe type separately.

Technology Area 5- Community Video Stream Integration

Software enabling BPD to view live or recorded video from privately owned cameras whose owners voluntarily register and opt in to share access. The City does not purchase or install any cameras under this Area. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

- Provide camera registration and mapping, with owner opt-in required before any access and the ability for owners to revoke access at any time; owners retain full ownership of their cameras and footage.
- Route a registered feed to the department only with the camera owner's explicit permission.
- Facial recognition is prohibited and must be unavailable, disabled, or incapable of use unless expressly authorized in writing by the Berkeley City Council through a future approval process..
- Apply restrictive (privacy-protective) settings by default.
- The platform shall not ingest, transmit, or store audio from registered community cameras; audio capture by participating camera owners is outside the scope of this program and BPD access to any audio feed is prohibited.

The number of registered community cameras will vary based on voluntary owner participation. Proposers shall provide tiered pricing at defined increments (for example: up to 50 cameras, 51–150, 151–300, and 300+) and shall describe any platform costs that are fixed regardless of camera count. Proposers shall also provide unit pricing for registered feeds beyond the highest proposed tier.

Technology Area 6- Investigative Software

A data-analysis and real-time integration platform that both (a) centralizes records from the department's computer-aided dispatch (CAD), records management system (RMS), and digital evidence to support case-linking and investigative resolution, and (b) functions as the City's public safety technology platform offering a single pane of glass that correlates ALPR reads, fixed-camera video, drone video, community streams, and analytics into one dashboard with a single sign-on, one set of access logs, and one audit trail. Because the City may award individual Technology Areas to different vendors, the platform proposed under this Area must be capable of integrating with third-party systems across all other Areas, not only with the proposer's own products. Proposers may offer this Area as a combined platform, as a standalone investigative-analytics tool, or as a standalone aggregation/integration platform that ingests third-party sensors via published integrations and APIs, and/or as the native platform underlying other Areas they propose. Proposers must respond to each specification listed below. If a proposer cannot meet a specification, the proposal must clearly state that limitation and describe any alternative approach.

Investigative analytics:

- Ingest and integrate structured and unstructured data from CAD, RMS, and digital evidence; proposers must identify supported systems and the integration approach.
- Provide auto-refresh of CAD calls for service to ensure up-to-date operational awareness.
- Enable case-linking and entity resolution across all connected data sources and support the ability to cross-reference vehicle and person information across sources.
- Provide access to open-source intelligence and shared inter-agency data, with configurable access controls, audit logging, and security measures for all shared information.
- Provide comprehensive search, data visualization, dashboards, and both predesignated and ad-hoc reporting.
- Capable of alerts when other users search on same criteria (i.e.: deconfliction)
- Provide a “breadcrumbs” or equivalent workflow feature that allows operators to document the steps taken to reach a conclusion or investigative action.
- Provide description of granular inter-agency access controls and confirmation that inter-agency sharing and deconfliction features are off by default.

Technology integration platform:

- Present a single dashboard that correlates multiple live and recorded data sources (ALPR, fixed-camera video, drone video, and community streams) in real time, with single sign-on and consolidated alerts across source types.
- Ability to customize and “drag and drop” data/views from maps, camera views, search results, tables, documents, etc.
- Ability to pop-up/highlight a specific camera when a CAD call falls within a viewshed of that camera.
- Real-time alert capabilities based on keywords or criteria.
- Provide open, documented integrations and APIs to third-party ALPR, fixed-camera, drone, analytics, and CAD/RMS systems. Proposers must list known/allowed integrations with real-time crime center and CAD platforms.
- Provide geospatial mapping, location/radius search, map-drawn search areas, and alert routing via app, email, and text.
- Provide a dashboard of system productivity (alert volumes, detection and hit volumes, and accuracy ratios) presented as charts or raw data with filters by source, user, or system.

- Ability to draw a geo-fence using a shape tool for easily configurable alerts.
- Ability to easily turn live layers on and off for different visualization schemas.

Proposers shall provide tiered pricing by user count at defined increments (for example: up to 25 users, 26–75, 76–150, and 150+) and shall separately identify any costs that are fixed regardless of user count, including platform, integration, or data ingestion fees. Where pricing varies by data volume or connected source type, proposers shall describe that structure and provide pricing at comparable tiers.

III. SUBMISSION REQUIREMENTS

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and to the point.

1. **Contractor Identification:**

Provide the name of the firm, the firm's principal place of business (see section VII, F. – Local Vendor Preference), the name and telephone number of the contact person and company tax identification number.

2. **Client References:**

Provide a minimum *of five (5)* client references. References should be California cities or other large public sector entities. Provide the designated person's name, title, organization, address, telephone number, and the project(s) that were completed under that client's direction.

3. **Price Proposal:**

The proposal shall include pricing for all services for the base contract term of three (3) years, with separately itemized optional pricing for an additional one-year extension period. Pricing shall be all inclusive unless indicated otherwise. Pricing proposals shall be a separate document. The Proposal shall itemize all services, including hourly rates for all professional, technical and support personnel, and all other charges related to completion of the work shall be itemized. Evaluation of price proposals are subject to the local vendor business preference (see section VII.F.).

4. Contract Terminations and Security Incidents:

If your organization has had a contract terminated in the last five (5) years or experienced a data security incident or data-sharing violation, describe such incident. Termination for default is defined as notice to stop performance due to the vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the vendor, or (b) litigated and such litigation determined that the vendor was in default.

Submit full details of the terms for default including the other party's name, address, and phone number. Present the vendor's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience.

If the firm has not experienced any such termination for default or early termination in the past five (5) years, so indicate.

5. *(Other submission requirements needed to evaluate proposals and determine if contractor is qualified to do project.)*

IV. SELECTION CRITERIA

** Effective 1/1/2022. Local Vendor Preference. For the purposes of comparing pricing as part of this competitive RFP for goods up to \$100,000 or non-professional services up to \$250,000, 5% shall be deducted from the bid price proposal from any local Berkeley vendor.*

A selection panel of City staff will evaluate and score proposals. Each Technology Area is scored independently on a 100-point scale using the criteria below. The City may award by individual Area, by combination, or in whole.

Based on the contents of the proposal, a live or virtual demonstration may or may not be requested by the selection panel and considered within the criteria below.

Data Security, Privacy, and Compliance - 30 points

- Security and privacy features in alignment with the relevant requirements in Section II.
- CJIS compliance; City data ownership; restrictive-by-default configuration.
- Alignment with the City's sanctuary policies and limits on federal/immigration access; breach notification and contractual financial penalties for unauthorized disclosure.
- Strength of auditing, access controls, and City-controlled retention, and exportable audit data.
- Acceptance of required City contractual terms related to data ownership, privacy, security, auditability, breach notification, sanctuary policy compliance, and restrictions on unauthorized disclosure.
- Responsiveness to relevant specifications detailed in the Scope of Services.

Technical Solution and Functional Capabilities - 30 points

- Comprehensiveness and quality of the proposed solution and its alignment with the technical requirements in Section II.
- Reliability, responsiveness, and ease of use for both real-time and historic use.
- User interface and overall usability.
- Responsiveness to relevant specifications detailed in the Scope of Services.

Integration and Interoperability - 10 points

- Native interoperability across the Area(s) proposed and/or published integrations and APIs with third-party systems and the City's CAD/RMS.
- Contribution to a single "pane of glass" platform, consolidated alerts, and a single audit trail.
- Ability to integrate with third party systems where the City awards different Technology Areas to different vendors, including any limitations, dependencies, or additional requirements necessary to achieve the proposed integration.
- Responsiveness to relevant specifications detailed in the Scope of Services.

Implementation, Training, and Support - 10 points

- Quality of the implementation plan and timeline; training model; ongoing maintenance, updates, and technical support.
- Quality of the vendor's approach to platform changes, user onboarding, administrator training, system maintenance, and documentation.
- Responsiveness to relevant specifications detailed in the Scope of Services.

Company Experience and References - 10 points

- Relevant experience delivering comparable solutions to law enforcement agencies; quality of client references; qualifications of key personnel.
- Public sector implementation and experience, including experience with agencies subject to surveillance technology, privacy, sanctuary, or comparable oversight requirements.
- Vendor track record for implementing stated privacy controls, data-sharing restrictions, and access limitations in practice, including any documented instances where a vendor's actual platform behavior, data-sharing practices, or response to law enforcement requests was inconsistent with represented capabilities or contractual commitments.

Cost and Price - 10 points

- Cost proposals will be evaluated for completeness, reasonableness, and overall value relative to the proposed solution, including total cost of ownership over the base contract term and any extension options. Proposers must provide fully loaded pricing including all hardware, software, installation,

connectivity, maintenance, support, and warranty costs as specified in the Scope of Services. Incomplete cost proposals or proposals that do not conform to the required pricing structure may receive a reduced score or may be deemed non-responsive. The City reserves the right to make award to the proposer offering the best overall value, which may not be the lowest-cost proposal.

V. PAYMENT

Invoices: Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. **Email invoices to Accounts Payable and cc: Jen Tate jtate@berkeleyca.gov and Arlo Malmberg amalmberg@berkeleyca.gov;** (List on invoice, Attn: Jen Tate and Arlo Malmberg, Police Department) and reference the contract number.

City of Berkeley
Accounts Payable
P.O. Box 700
Berkeley, CA 94710-700
Email: AccountsPayable@berkeleyca.gov
Phone: 510-981-7310

Payments: The City will make payment to the vendor within 30 days of receipt of a correct, approved and complete invoice.

VI. CITY REQUIREMENTS

A. Non-Discrimination Requirements:

Ordinance No. 5876-N.S. codified in B.M.C. Chapter 13.26 states that, for contracts worth more than \$3,000 bids for supplies or bids or proposals for services shall include a completed Workforce Composition Form. Businesses with fewer than five employees are exempt from submitting this form. (See B.M.C. 13.26.030)

Under B.M.C. section 13.26.060, the City may require any bidder or vendor it believes may have discriminated to submit a Non-Discrimination Program. The Contract Compliance Officer will make this determination. This applies to all contracts and all consultants (contractors). Berkeley Municipal Code section 13.26.070 requires that all contracts with the City contain a non-discrimination clause, in which the contractor agrees not to discriminate and allows the City access to records necessary to monitor compliance. This section also applies to all contracts and all consultants.

Bidders must submit the attached Non-Discrimination Disclosure Form with their proposal.

B. Nuclear Free Berkeley Disclosure Form:

Berkeley Municipal Code section 12.90.070 prohibits the City from granting contracts to companies that knowingly engage in work for nuclear weapons. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that engages in nuclear weapons work. If your company engages in work for nuclear weapons, explain

on the Disclosure Form the nature of such work.

Bidders must submit the attached Nuclear Free Disclosure Form with their proposal.

C. Oppressive States:

The City of Berkeley prohibits granting of contracts to firms that knowingly provide personal services to specified Countries. This contracting prohibition may be waived if the City Council determines that no reasonable alternative exists to doing business with a company that is covered by City Council Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S. If your company or any subsidiary is covered, explain on the Disclosure Form the nature of such work.

Bidders must submit the attached Oppressive States Disclosure Form with their proposal.

D. Sanctuary City Contracting Ordinance:

Chapter 13.105 of the Berkeley Municipal Code prohibits the City from granting and or retaining contracts with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE").

Bidders must submit the attached Sanctuary City Compliance Statement with their proposal.

E. Conflict of Interest:

In the sole judgment of the City, any and all proposals are subject to disqualification on the basis of a conflict of interest. The City may not contract with a vendor if the vendor or an employee, officer or director of the proposer's firm, or any immediate family member of the preceding, has served as an elected official, employee, board or commission member of the City who influences the making of the contract or has a direct or indirect interest in the contract.

Furthermore, the City may not contract with any vendor whose income, investment, or real property interest may be affected by the contract. The City, at its sole option, may disqualify any proposal on the basis of such a conflict of interest.

Please identify any person associated with the firm that has a potential conflict of interest.

F. Berkeley Living Wage Ordinance:

Chapter 13.27 of the Berkeley Municipal Code requires that contractors offer all eligible employees with City mandated minimum compensation during the term of any contract that may be awarded by the City. If the Contractor is not currently subject to the Living Wage Ordinance, cumulative contracts with the City within a one-year period may subject Contractor to the requirements under B.M.C. Chapter 13.27. A certification of compliance with this ordinance will be required upon execution of a contract. The current Living Wage rate can be found here: [Information for Vendors | City of Berkeley \(berkeleyca.gov\)](https://www.berkeleyca.gov/Information-for-Vendors). The Living Wage rate is adjusted automatically effective June 30th of each year commensurate with the corresponding increase in the Consumer Price Index published in April of each year. If the Living Wage rate is adjusted during the term of your agreement, you must pay the new adjusted rate to all eligible employees, regardless of what the rate was when the contract was executed.

G. Berkeley Equal Benefits Ordinance:

Chapter 13.29 of the Berkeley Municipal Code requires that contractors offer domestic partners the same access to benefits that are available to spouses. A certification of compliance with this ordinance will be required upon execution of a contract.

H. Statement of Economic Interest:

The City's Conflict of Interest Code designates "consultants" as a category of persons who must complete Form 700, Statement of Economic Interest, at the beginning of the contract period and again at the termination of the contract. The selected contractor will be required to complete the Form 700 before work may begin.

VII. OTHER REQUIREMENTS

A. Insurance

The selected contractor will be required to maintain general liability insurance in the minimum amount of \$2,000,000, automobile liability insurance in the minimum amount of \$1,000,000 and a professional liability insurance policy in the amount of \$2,000,000 to cover any claims arising out of the performance of the contract. The general liability and automobile insurance must name the City, its officers, agents, volunteers and employees as additional insured.

Insurance not Necessary: If the services are such that the risk of exposure to liability is very low, insurance may not be required. An example of such a service is an individual using his/her computer at home to lay out a newsletter for the City.

***** This determination must be made by the Risk Manager in writing before the RFP is issued. *****

Insurance Waiver: A situation in which insurance is not necessary is different from a case in which insurance may be waived. An insurance waiver is appropriate where insurance would usually be necessary but when, as a policy matter, the City is willing to take the risk of allowing an uninsured or under-insured individual or business to perform the work (usually when the risk of liability is low). An insurance waiver may be granted only by the Risk Manager in writing with the approval of the City Manager. If a potential bidder expresses an inability to meet the insurance requirement, he or she should be encouraged to contact the Project Manager & Risk Manager for assistance in obtaining insurance.)

B. Worker's Compensation Insurance:

A selected contractor who employs any person shall maintain workers' compensation insurance in accordance with state requirements. Sole proprietors with no employees are not required to carry Worker's Compensation Insurance.

C. Business License

Virtually every contractor that does business with the City must obtain a City business license as mandated by B.M.C. Ch. 9.04. The business license requirement applies whether or not the contractor has an office within the City limits. However, a "casual" or "isolated" business transaction (B.M.C. section 9.04.010) does not subject the contractor to the license tax. Warehousing businesses and

charitable organizations are the only entities specifically exempted in the code from the license requirement (see B.M.C. sections, 9.04.295 and 9.04.300). Non-profit organizations are granted partial exemptions (see B.M.C. section 9.04.305). Persons who, by reason of physical infirmity, unavoidable misfortune, or unavoidable poverty, may be granted an exemption of one annual free license at the discretion of the Director of Finance. (See B.M.C. sections 9.04.290).

Vendor must apply for a City business license and show proof of application to Purchasing Manager within seven days of being selected as intended contractor.

The Customer Service Division of the Finance Department located at 1947 Center Street, Berkeley, CA 94704, issues business licenses. Contractors should contact this division for questions and/or information on obtaining a City business license, in person, or by calling 510-981-7200.

D. Recycled Paper

Any printed reports for the City required during the performance of the work shall be on 100% recycled paper, and shall be *printed on both sides of the page* whenever practical.

E. State Prevailing Wage:

Certain labor categories under this project may be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et seq. These labor categories, when employed for any “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” constitute a “Public Work” within the definition of Section 1720(a)(1) of the California Labor Code requiring payment of prevailing wages.

Wage information is available through the California Division of Industrial Relations web site at: http://www.dir.ca.gov/OPRL/statistics_and_databases.html

F. Local Vendor Preference

City of Berkeley applies a local vendor preference for comparing pricing submittals in RFP responses (City Council Resolution No. 69,890-N.S.)

A **local business** is defined as “a business firm with fixed offices or distribution points located within the City of Berkeley boundaries and listed in the Permits and License Tax paid file, with a Berkeley business street address.”

Competing for supplies, equipment, materials, and other goods

For the purposes of comparing pricing as part of this competitive RFP for supplies, equipment, materials, and other goods up to \$100,000, 5% shall be deducted from the bid price proposal from any local Berkeley vendor in order to assign evaluation points to the pricing section.

Competing for non-professional services

For the purposes of comparing pricing as part of this competitive RFP for non-professional services up to \$250,000, 5% shall be deducted from the bid price proposal from any local Berkeley vendor in order to assign evaluation points to the pricing section.

VIII. SCHEDULE (Dates are subject to change)

☐ Issue RFP to Potential Bidders:	07/07/26
☐ Questions Due	07/20/26
☐ Proposals Due from Potential Bidders	08/20/26
☐ Online Demos	09/07/26 – 09/25/26
☐ In-Person Demos	09/07/26 – 09/25/26
☐ Complete Selection Process	9/30/26
☐ Council Approval of Contract (over \$50k)	11/17/26
☐ Award of Contract	11/18/26
☐ Sign and Process Contract	12/1/26
☐ Notice to Proceed	12/2/26

Thank you for your interest in working with the City of Berkeley for this service. We look forward to receiving your proposal.

Attachments:

• Check List of Required items for Submittal	Attachment A
• Non-Discrimination/Workforce Composition Form	Attachment B
• Nuclear Free Disclosure Form	Attachment C
• Oppressive States Form	Attachment D
• Sanctuary City Compliance Statement	Attachment E
• Living Wage Form	Attachment F
• Equal Benefits Certification of Compliance	Attachment G
• Right to Audit Form	Attachment H
• Insurance Endorsement	Attachment I

ATTACHMENT A

CHECKLIST

- ☐ Proposal describing service (one (1) PDF of proposal)
- ☐ Contractor Identification and Company Information
- ☐ Client References
- ☐ Costs proposal by task, type of service & personnel (as a separate document from the proposal)
- ☐ *Other items the contractor is being requested to supply*
- ☐ The following forms, completed and **signed in blue ink** (attached):
 - Non-Discrimination/Workforce Composition Form Attachment B
 - Nuclear Free Disclosure Form Attachment C
 - Oppressive States Form Attachment D
 - Sanctuary City Compliance Statement Attachment E
 - Living Wage Form (*may be optional*) Attachment F
 - Equal Benefits Certification (EBO-1) (*may be optional*) Attachment G

ADDITIONAL SUBMITTALS REQUIRED FROM SELECTED VENDOR AFTER COUNCIL APPROVAL TO AWARD CONTRACT.

- ☐ Provide **original-signed in blue ink** Evidence of Insurance
 - Auto
 - Liability
 - Worker's Compensation
- ☐ Right to Audit Form Attachment H
- ☐ Commercial General & Automobile Liability Endorsement Form Attachment I
- ☐ Berkeley Business License (Current Year Certificate)

For informational purposes only, see the [Sample of Personal Services Contract](#).

NON-DISCRIMINATION/WORKFORCE COMPOSITION FORM FOR NON-CONSTRUCTION CONTRACTS

To assist the City of Berkeley in implementing its Non-Discrimination policy, it is requested that you furnish information regarding your personnel as requested below and return it to the City Department handling your contract:

Organization: _____

Address: _____

Business Lic. #: _____

Occupational Category: (See reverse side for explanation of terms)	Total Employees		White Employees		Black Employees		Asian Employees		Hispanic Employees		Other Employees	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Official/Administrators												
Professionals												
Technicians												
Protective Service Workers												
Para-Professionals												
Office/Clerical												
Skilled Craft Workers												
Service/Maintenance												
Other (specify)												
Totals:												

Is your business MBE/WBE/DBE certified? Yes: _____ No: _____ If yes, by what agency? _____

If yes, please specify: Male: _____ Female: _____ Indicate ethnic identifications: _____

Do you have a Non-Discrimination policy? Yes: _____ No: _____

Signed: _____ Date: _____

Verified by: _____ Date: _____

City of Berkeley Contract Compliance Officer

Occupational Categories

Officials and Administrators - Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy superintendents, unit supervisors and kindred workers.

Professionals - Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Includes: personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dietitians, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, and kindred workers.

Technicians - Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences) and kindred workers.

Protective Service Workers - Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police officers, fire fighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

Para-Professionals - Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of a staff development and promotion under a "New Transporters" concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

Office and Clerical - Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearings reporters, statistical clerks, dispatchers, license distributors, payroll clerks, and kindred workers.

Skilled Craft Workers - Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairpersons, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, compositors and typesetters, and kindred workers.

Service/Maintenance - Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry-cleaning operatives, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, and construction laborers.

CITY OF BERKELEY
Nuclear Free Zone Disclosure Form

I (we) certify that:

1. I am (we are) fully cognizant of any and all contracts held, products made or otherwise handled by this business entity, and of any such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
2. I (we) understand that Section 12.90.070 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90; Ordinance No. 5784-N.S.) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
3. I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90.130:

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

4. Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Contract Description/Specification No: **Public Safety Technology/26-11794-C**

Attachment C

CITY OF BERKELEY
Oppressive States Compliance Statement

The undersigned, an authorized agent of _____ (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S., (hereafter "Resolutions"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means: **Tibet Autonomous Region and the Provinces of Abo, Kham and U-Tsang; and Burma (Myanmar)**

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Contract Description/Specification No: **Public Safety Technology/26-11794-C**

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: _____ Date: _____

Attachment D

CITY OF BERKELEY
Sanctuary City Compliance Statement

The undersigned, an authorized agent of _____ (hereafter "Contractor"), has had an opportunity to review the requirements of Berkeley Code Chapter 13.105 (hereafter "Sanctuary City Contracting Ordinance" or "SCCO"). Contractor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). Contractor understands the meaning of the following terms used in the SCCO:

- a. "Data Broker" means either of the following:
 - i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;
 - ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
- b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services." Extreme Vetting does not include:
 - i. The City's computer-network health and performance tools;
 - ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

Contractor understands that it is not eligible to receive or retain a City contract if at the time the Contract is executed, or at any time during the term of the Contract, it provides Data Broker or Extreme Vetting services to ICE.

Contractor further understands and agrees that Contractor's failure to comply with the SCCO shall constitute a material default of the Contract and the City Manager may terminate the Contract and bar Contractor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

By executing this Statement, Contractor certifies that it complies with the requirements of the SCCO and that if any time during the term of the Contract it ceases to comply, Contractor will promptly notify the City Manager in writing. Any person or entity who knowingly or willingly supplies false information in violation of the SCCO shall be guilty of a misdemeanor and up to a \$1,000 fine.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this _____ day of _____, 20__, at _____, California.

Printed Name: _____ Title: _____

Signed: _____ Date: _____

Business Entity: _____

SCCO CompStmnt (10/2019)

Contract Description/Specification No: **Public Safety Technology/26-11794-C**

Attachment E

CITY OF BERKELEY
Living Wage Certification for Providers of Services

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR PERSONAL SERVICES WITH THE CITY OF BERKELEY.

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City in any twelve (12) month period of time shall comply with all provisions of this Ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, subsequent contracts may be subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor's employees' changes (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

Section I.

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS

a. During the previous twelve (12) months, have you entered into contracts, **including the present contract**, bid, or proposal, with the City of Berkeley for a **cumulative amount of \$25,000.00 or more**?

YES ____ **NO** ____

If **no**, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If **yes**, please continue to question 1(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES ____ **NO** ____

If you have answered, **"YES"** to questions 1(a) and 1(b) this contract **IS** subject to the LWO. If you responded "NO" to 1(b) this contract **IS NOT** subject to the LWO. **Please continue to Section II.**

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.

a. During the previous twelve (12) months, have you entered into contracts, including the present contract, bid or proposal, with the City of Berkeley for a cumulative amount of \$100,000.00 or more?

YES ____ **NO** ____

If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?

YES ____ **NO** ____

If you have answered, **"YES"** to questions 2(a) and 2(b) this contract **IS** subject to the LWO. If you responded "NO" to 2(b) this contract **IS NOT** subject to the LWO. **Please continue to Section II.**

Section II

Please read, complete, and sign the following:

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE. ☐

THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE. ☐

Contract Description/Specification No: **Public Safety Technology/26-11794-C**

Attachment F (page 1)

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and bar Contractor from future contracts with the City for five (5) years from the effective date of the Contract termination. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 50% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Business Entity: _____

Section III

-
- **** FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY ****

I have reviewed this Living Wage Certification form, in addition to verifying Contractor's total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

Department Name

Department Representative

To be completed by
Contractor/Vendor



Form EBO-1
CITY OF BERKELEY

CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a **contractor**, return this form to the originating department/project manager. If you are a **vendor** (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

Name:		Vendor No.:	
Address:	City:	State:	ZIP:
Contact Person:		Telephone:	
E-mail Address:		Fax No.:	

SECTION 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.
☐ Yes ☐ No (If "Yes," proceed to Section 5; if "No", continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?
☐ Yes ☐ No
If "Yes," continue to Question C.
If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee? ☐ Yes ☐ No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee? ☐ Yes ☐ No

If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.) If you answered "Yes" to both Questions C and D, please continue to Question E.
If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.

- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee? ☐ Yes ☐ No

If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)
If you answered "No," continue to Section 3.

SECTION 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
- ☐ By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
- ☐ At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
- ☐ Upon expiration of the contractor's current collective bargaining agreement(s).

Contract Description/Specification No: **Public Safety Technology/26-11794-C**

Attachment G (page 1)

- B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent? * ☐ Yes ☐ No

* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

SECTION 5. CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this _____ day of _____, in the year _____, at _____, _____
(City) (State)

Name (please print)

Signature

Title

Federal ID or Social Security Number

FOR CITY OF BERKELEY USE ONLY

- ☐ Non-Compliant (The City may not do business with this contractor/vendor)
- ☐ One-Person Contractor/Vendor ☐ Full Compliance ☐ Reasonable Measures
- ☐ Provisional Compliance Category, Full Compliance by Date: _____
- Staff Name (*Sign and Print*): _____ Date: _____

**CITY OF BERKELEY
Right to Audit Form**

The contractor agrees that pursuant to Section 61 of the Berkeley City Charter, the City Auditor's office may conduct an audit of Contractor's financial, performance and compliance records maintained in connection with the operations and services performed under this contract.

In the event of such audit, Contractor agrees to provide the Auditor with reasonable access to Contractor's employees and make all such financial, performance and compliance records available to the Auditor's office. City agrees to provide Contractor an opportunity to discuss and respond to/any findings before a final audit report is filed.

Signed: _____ Date: _____

Print Name & Title: _____

Company: _____

Please direct questions regarding this form to the Auditor's Office, at (510) 981-6750.

CITY OF BERKELEY
Commercial General and Automobile Liability Endorsement

The attached Certificates of Insurance are hereby certified to be a part of the following policies having the following expiration dates:

Policy No.	Company Providing Policy	Expir. Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The scope of the insurance afforded by the policies designated in the attached certificates is not less than that which is afforded by the Insurance Service Organization's or other "Standard Provisions" forms in use by the insurance company in the territory in which coverage is afforded.

Such Policies provide for or are hereby amended to provide for the following:

1. The named insured is _____.
2. CITY OF BERKELEY ("City") is hereby included as an additional insured with respect to liability arising out of the hazards or operations under or in connection with the following agreement:
_____.

The insurance provided applies as though separate policies are in effect for both the named insured and City, but does not increase the limits of liability set forth in said policies.

3. The limits of liability under the policies are not less than those shown on the certificate to which this endorsement is attached.
4. Cancellation or material reduction of this coverage will not be effective until thirty (30) days following written notice to _____, Department of _____, Berkeley, CA.
5. This insurance is primary and insurer is not entitled to any contribution from insurance in effect for City.

The term "City" includes successors and assigns of City and the officers, employees, agents and volunteers.

Insurance Company

Date: _____

By: _____
Signature of Underwriter's
Authorized Representative

Item 9.c.

**ODPA Memorandum to the PAB Titled “Review of Proposed BPD
Policy 1308 and Mutual Aid Air Support Acquisition Report”**



MEMORANDUM

Date: September 4, 2026
To: Honorable Members of the Police Accountability Board (PAB)
From: Katherine Lee, Interim Director of Police Accountability
Jose Murillo, ODPA Policy Analyst
Subject: Review of Proposed BPD Policy 1308 and Mutual Aid Air Support Acquisition Report

The purpose of this memorandum is to provide the PAB with background information regarding the Berkeley Police Department's proposed Policy 1308, "Surveillance Use Policy—Mutual Aid Air Support," and the corresponding Surveillance Acquisition Report.¹ This memorandum also summarizes the PAB's review and voting responsibilities under Berkeley Municipal Code (BMC) Chapter 2.99² and provides a preliminary analysis of whether the proposed policy and Acquisition Report satisfy the requirements of the ordinance.

Background

BMC Chapter 2.99, the Surveillance Technology Use and Community Safety Ordinance, establishes the process the City must follow before acquiring or using surveillance technology. Although the BMC continues to refer to the former Police Review Commission, the PAB succeeded the Commission and assumed its duties and responsibilities. Under BMC section 2.99.030,³ the City Manager must present the PAB with a proposed Surveillance Use Policy and the corresponding Surveillance Acquisition Report before the policy is adopted by the City Council.

On August 28, 2026, BPD transmitted proposed BPD Policy 1308 and the corresponding Surveillance Acquisition Report for Mutual Aid Air Support to the PAB. The documents were prepared to implement the mutual-aid air-support framework adopted

¹ See Attachments 1 and 2.

² See Attachment 3.

³ BMC 2.99.030: <https://berkeley.municipal.codes/BMC/2.99.030>

by the City Council on July 14, 2026 as Resolution No. 72,399-N.S.⁴ This framework rescinded Resolution No. 51,408-N.S. and authorized BPD to request air support from external law enforcement agencies for specified purposes, subject to approval, documentation, notification, and reporting requirements.

It is important to note that BPD does not own or operate aircraft. Under the proposal, helicopters and, where applicable, fixed-wing aircraft would be provided and operated by outside law-enforcement agencies. These aircraft may be equipped with electro-optical cameras, thermal-infrared sensors, location-based mapping systems, and encrypted live-video downlink capabilities. Although the aircraft, sensors, and original recording would remain under the ownership and control of the assisting agency, Policy 1308 would govern BPD personnel's request for air support and BPD's receipt, viewing, retention, access, and sharing information obtained through those deployments.

The proposed policy would permit BPD to request mutual-aid air support only with predeployment approval from the on-duty Watch Commander or designee, in connection with an active incident documented in the Computer-Aided Dispatch system, and for one of the purposes authorized by the City Council. The policy would also require BPD to document each deployment, notify the City Manager in writing within 72 hours, conduct audits at least twice each year, and provide annual public reporting to the City Council and the PAB.

Action Required of the Police Accountability Board

Under BMC section 2.99.030, the PAB is responsible for reviewing proposed Policy 1308 and the corresponding Acquisition Report before the City Council considers adopting the Surveillance Use Policy. Within 30 days of receiving the proposed policy, the PAB must vote to take one of the following actions:

1. Recommend approval of the policy;
2. Object to the proposal;
3. Recommend modifications to the policy; or
4. Take no action.

The 30-day review period began when the PAB received the proposed Surveillance Use Policy on August 28, 2026, and concludes on September 27, 2026. An objection or failure by the PAB to act does not legally prevent the City Manager from moving the proposal forward.

⁴ Resolution included as Attachment 4; July 14, 2026 City Council Regular Meeting Agenda Item 23a:
<https://berkeleyca.gov/sites/default/files/city-council-meetings/2026-07-14%20Annotated%20Agenda%20-%20Council.pdf>

In conducting its review, the Board should determine whether the Acquisition Report contains the information required by BMC section 2.99.020(3) and whether the proposed Surveillance Use Policy contains the enforceable safeguards required by BMC section 2.99.020(4).⁵ The Board should also consider whether the record is sufficient for the City Council to make the findings required by BMC section 2.99.060:⁶

1. The benefits of the technology to the community outweigh its costs;
2. The proposal safeguards civil rights and civil liberties to the maximum extent possible while serving its intended purposes; and
3. No feasible alternative with similar utility and a lesser impact on civil rights or civil liberties could be implemented.

The Board may recommend approval subject to specifically identified modifications. If the Board concludes that information necessary to evaluate the proposal is missing, it may also object to the proposal as presently submitted and identify the information or revisions necessary for further consideration.

Preliminary Analysis of Compliance with BMC Chapter 2.99

ODPA's preliminary review indicates that the Surveillance Acquisition Report and proposed Policy 1308 substantially address the subjects required by BMC section 2.99.020(3) and 2.99.020(4). The policy is also generally consistent in scope with the BPD's other Surveillance Use Policies. The following table identifies areas where limited clarification or modification may improve the policy.

Review Area	Preliminary Assessment	Potential Clarification or Modification
Authorized Uses <u>Relevant sections:</u> • Acquisition Report, Background and Sections 1–3; • Policy 1308.1–1308.2; • BMC section 2.99.020(4)(a)–(b).	The authorized uses are consistent with the purposes established by the City Council.	No substantive change recommended.

⁵ BMC 2.99.020(3) and 2.99.020(4): <https://berkeley.municipal.codes/BMC/2.99.020>

⁶ BMC 2.99.060: <https://berkeley.municipal.codes/BMC/2.99.060>

Review Area	Preliminary Assessment	Potential Clarification or Modification
Assisting Agency Data <u>Relevant sections:</u> - Acquisition Report, Sections 1, 6, and 9; - Policy 1308.1, 1308.3, 1308.7, and 1308.9; - BMC section 2.99.020(4)(c), (g), and (i).	Policy 1308 governs BPD's conduct and handling of information obtained through mutual aid. It does not, standing alone, govern records maintained independently by an assisting agency under that agency's policies and applicable law.	Identify anticipated assisting agencies and, where available, reference their applicable surveillance and retention policies for informational purposes.
BPD Data Retention <u>Relevant sections:</u> - Acquisition Report, Sections 5 and 7; - Policy 1308.7; - BMC section 2.99.020(4)(g).	Imagery obtained by BPD would be retained under state law and existing evidence-retention protocols. The policy does not identify those protocol, describe retention periods or deletion procedures, or provide a cross-reference indicating where that information can be found.	Identify or cross-reference the specific departmental policies or retention schedules governing BPD-held imagery, including where the applicable retention periods, deletion procedures, and conditions for extended retention may be found.
Access and Live Feeds <u>Relevant sections:</u> - Acquisition Report, Sections 1, 5, and 7; - Policy 1308.2 and 1308.4–1308.5; - BMC section 2.99.020(4)(d)–(e).	Access is limited to personnel with a need to know, and live viewing is restricted to personnel connected to the incident.	No substantive change is recommended. Personnel access to data is logged and auditable.

Review Area	Preliminary Assessment	Potential Clarification or Modification
Auditing and Reporting <u>Relevant sections:</u> - Acquisition Report, Sections 5 and 8; - Policy 1308.6 and 1308.11; - BMC sections 2.99.020(2)(a)–(g), 2.99.020(4)(k), and 2.99.070.	The policy requires semiannual audits and annual public reporting but does not specify all information to be reviewed or reported.	Specify that audits and annual reports will address each deployment’s purpose, general location and duration, assisting agency, use of a live feed, general description of imagery obtained by BPD, operational outcome, and costs, as well as any complaints, policy violations, or data breaches.

Preliminary Conclusion

The Acquisition Report and proposed Policy 1308 substantially satisfy the basic requirements of BMC Chapter 2.99. ODPA recommends that the PAB consider recommending approval, subject to the limited clarifications and modifications identified in the preceding section.

Attachments:

1. Proposed Policy 1308 “Surveillance Use Policy – Mutual Aid Air Support”
2. Berkeley Police Department BMC 2.99 Acquisition Report “Mutual Aid Air Support”
3. Berkeley Municipal Code Chapter 2.99 “Acquisition and Use of Surveillance Technology”
4. Resolution No. 72,399-N.S.

ATTACHMENT 1

**PROPOSED POLICY 1308 “SURVEILLANCE USE
POLICY – MUTUAL AID AIR SUPPORT”**

Berkeley Police Department

Law Enforcement Services Manual

Policy 1308

Surveillance Use Policy- Mutual Aid Air Support

1308.1 PURPOSE

This policy provides guidance for the request, receipt, and use of Mutual Aid Air Support by the Berkeley Police Department (BPD). The Department does not own or operate aircraft. Air support- helicopters and, where applicable, fixed-wing aircraft- is obtained through mutual aid from external law enforcement agencies pursuant to the framework adopted by the City Council on July 14, 2026, which rescinded Resolution No. 51,408-N.S. Aircraft operated by assisting agencies are typically equipped with camera systems, including gyro-stabilized electro-optical and thermal-infrared ("EO/IR") sensors and, in some cases, encrypted video downlink. Those systems are surveillance technology within the meaning of BMC Chapter 2.99, and this policy governs the Department's conduct with respect to them: the purposes for which air support may be requested, and the receipt, viewing, retention, and sharing of air support data by BPD.

The aircraft, sensors, and recordings of an assisting agency remain owned by that agency and governed by that agency's own policies and oversight bodies; nothing in this policy modifies an assisting agency's policies. This policy binds BPD personnel. This policy expressly prohibits the use or sharing of air support data for the purpose of supporting federal civil immigration enforcement or for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care.

1308.2 AUTHORIZED USE

Air support may be requested only with the pre-deployment approval of the on-duty Watch Commander or their designee, only in connection with an active incident documented in the Computer-Aided Dispatch (CAD) system, and only for the following purposes enumerated by the City Council:

- a. To assist in disaster response;
- b. To assist in rescue efforts;
- c. To locate missing persons;
- d. When the safety of law enforcement personnel is in jeopardy and aerial presence may reduce that hazard;
- e. To aid in the apprehension of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
- f. To locate a person who is missing and whose continued absence constitutes a serious health or safety hazard; and

- g. To provide aerial coordination during a vehicle pursuit, where such coordination can reduce collision risk to bystanders and improve incident resolution.

Every deployment shall be documented in the originating incident report. Within 72 hours of any deployment, the Chief of Police or a designee shall notify the City Manager in writing of the date, time, and location of the deployment; the requesting BPD supervisor and the assisting agency; the operational purpose; and a brief summary of the outcome.

Where an assisting agency offers a live video downlink, viewing is limited to personnel assigned to the incident, the Watch Commander, and Communications Center staff, for the duration of the incident. Recorded imagery may be obtained from the assisting agency only when relevant to a specific BPD case, through a documented evidence request.

Prohibited Uses

The following uses of Mutual Aid Air Support are prohibited:

- Use to harass, intimidate, or retaliate against any individual or group, or any use premised on a person's or group's actual or perceived race, ethnicity, national origin, religion, disability, gender, gender identity, sexual orientation, immigration status, or other protected characteristic.
- Use or sharing of air support data for the purpose of supporting federal civil immigration enforcement.
- Use or sharing of air support data with law-enforcement agencies from other states for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care.
- Any request that an assisting agency deploy force from the air, or any use of a weaponized aerial platform.
- Any use for personal, political, commercial, or non-law-enforcement purposes.

1308.3 DATA COLLECTION

BPD does not operate the sensors on assisting agencies' aircraft and does not control what those systems record. The categories of air support data that BPD may receive from supporting agencies are limited to:

- Live video downlink (visual and/or thermal), where offered by the assisting agency, viewed in connection with the active incident.
- Recorded video, thermal imagery, and still images obtained from the assisting agency in connection with a specific BPD case through a documented evidence request.
- Observations relayed by the flight crew by radio, which are documented in CAD and incident reports in the ordinary course.
- Associated metadata (date, time, location) accompanying imagery received.

The Department shall not request, receive, or retain air support imagery unrelated to the incident or case for which the deployment occurred.

1308.4 DATA ACCESS

Access to air support data received by the Department shall be limited to BPD personnel with a need to know in connection with the incident or case. Recorded imagery obtained by the Department shall be stored in the Department's digital evidence management system, with role-based access controls, and access shall be logged and auditable.

1308.5 DATA PROTECTION

This program shall utilize a multi-layered security architecture to preserve the integrity and confidentiality of the data:

- Air support data obtained by the Department shall be transferred agency-to-agency through secure evidence-transfer methods.
- Access shall be restricted to authorized personnel.
- Evidentiary data shall be stored in the Department's digital evidence system.

1308.6 CIVIL LIBERTIES AND RIGHTS PROTECTION

To protect against use of Mutual Aid Air Support in ways that would violate or infringe upon civil rights or civil liberties, including but not limited to potential disparate or adverse impacts on any community or group, the following safeguards apply:

- Requests are confined to the purposes enumerated by the City Council and require documented pre-deployment approval by the on-duty Watch Commander or designee.
- The Department receives and retains only imagery relevant to the incident or a specific case.
- Every deployment is documented, reported in writing to the City Manager within 72 hours and included in an annual public report to the City Council and the Police Accountability Board.
- All other access, retention, sharing, training, and audit provisions of this policy serve to protect against unauthorized use of air support data.

1308.7 DATA RETENTION

Air support imagery that the Department does not obtain remains with the assisting agency and is governed by that agency's retention schedule. Imagery obtained by the Department in connection with a specific case shall be stored in the Department's digital evidence management system and retained in accordance with state law and existing Departmental evidence-retention protocols. Imagery received in error, or determined to have no evidentiary value, shall not be retained.

1308.8 PUBLIC ACCESS

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law. Requests for records derived from Mutual Aid Air Support that are held by the Department shall be processed in the same manner as requests for department public records pursuant to Policy 804. Records that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process. Records held only by an assisting agency are subject to that agency's public-records processes.

1308.9 THIRD-PARTY DATA-SHARING

The Department's receipt of air support data creates no independent authority to share that data with any third party. Air support data held by the Department may be shared only in accordance with Departmental evidence and records policies- for example, with a prosecuting agency in discovery or pursuant to a court order. Sharing for the purpose of supporting federal civil immigration enforcement is prohibited consistent with BPD Policy 423, the California Values Act, and the City's sanctuary policies; any federal immigration access request shall be reported to the Chief of Police and to Council within 10 days; and any instance in which a federal agency obtains air support data held by the Department shall be reported consistent with the 72-hour federal-disclosure requirement of Policy 351.6. Sharing with out-of-state agencies for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care is prohibited.

The Department shall provide a copy of this policy to each mutual aid air support partner.

1308.10 TRAINING

All Watch Commanders and other BPD members authorized to request air support or to access air support data shall receive appropriate training before such authorization.

1308.11 AUDITING AND OVERSIGHT

The Office of Strategic Planning and Accountability (OSPA) shall audit all air support deployments at least twice per year. As part of the audit, OSPA will confirm that BPD has not entered any direct data-sharing arrangements inconsistent with this policy.

BPD will enforce against prohibited uses of Mutual Aid Air Support pursuant to Policy 1010, Personnel Complaints, or other applicable law or policy. The City Manager shall enforce against any prohibited use of air support data by other City of Berkeley personnel.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., and published on the City of Berkeley website. The annual public report on air support deployments required by the July 14, 2026 resolution shall be transmitted to the City Council and the Police Accountability Board.

1308.12 MAINTENANCE

BPD owns and maintains no air support equipment. Aircraft and sensor systems are maintained by the assisting agencies. Department systems used to store air support data are maintained under the Department's existing systems contracts.

ATTACHMENT 2

**BERKELEY POLICE DEPARTMENT BMC 2.99
ACQUISITION REPORT "MUTUAL AID AIR
SUPPORT"**

Berkeley Police Department BMC 2.99 Acquisition Report- Mutual Aid Air Support

Background

The Berkeley Police Department (BPD) seeks to implement the mutual aid air support framework adopted by the City Council on July 14, 2026, which rescinded Resolution No. 51,408-N.S. and authorized the Department to request and deploy helicopter assistance from external law enforcement agencies for enumerated purposes, subject to pre-deployment Watch Commander approval, post-deployment written notification to the City Manager, incident documentation, and annual public reporting to the City Council and the Police Accountability Board.

BPD does not own or operate aircraft. Air support is obtained through mutual aid from regional partners operating air support units- including the Oakland Police Department's Air Support Unit ("Argus"), the East Bay Regional Park District Police Department, and the California Highway Patrol- and, where necessary, through the statewide law enforcement mutual aid system. Partner aircraft are typically equipped with camera systems, including thermal-infrared sensors, that constitute surveillance technology under BMC Chapter 2.99. This report accordingly addresses the Department's request for, and receipt and use of, air support and associated data.

Nothing in this report or in the accompanying Surveillance Use Policy modifies the policies of any assisting agency, whose aircraft, sensors, and recordings remain governed by that agency's own policies and oversight bodies. This report and the accompanying Surveillance Use Policy govern the conduct of BPD personnel and do not authorize any collection, retention, sharing, or use of data beyond that described herein.

To the extent that it might be required, this document satisfies the requirements of BMC 2.99 for "publicly-released written report produced prior to acquisition... that includes..." sections covering description, purpose, location, impact, mitigation, data types and sources, data security, fiscal cost, third party dependence and access, alternatives, and experience of other entities.

1. Description

Information describing the Surveillance Technology and how it works, including product descriptions from manufacturers

Description:

Mutual Aid Air Support consists of helicopters and, where applicable, fixed-wing aircraft operated by external law enforcement agencies and deployed to Berkeley at BPD's request under mutual aid agreements. The surveillance technology at issue is the sensor equipment carried by those aircraft: gyro-stabilized electro-optical/infrared ("EO/IR") camera systems that provide magnified daylight video and thermal (heat-signature) imaging; searchlights; moving-map systems that associate imagery with location; and, on some aircraft, encrypted video

downlink that permits ground personnel to view the camera feed in real time. The aircraft and sensors are owned, operated, and controlled by the assisting agency; BPD neither operates the equipment nor controls what it records.

How it Works:

When an incident falls within one of the purposes enumerated by the City Council and the on-duty Watch Commander or designee approves, BPD requests air support from a partner agency through established dispatch channels. The assisting agency's flight crew operates the aircraft and its sensors, relays observations to BPD ground units by radio, and- where downlink is available- may transmit live video to authorized BPD personnel for the duration of the incident. If recorded imagery is relevant to a BPD case, the Department obtains it from the assisting agency through a documented evidence request, and it is stored in the Department's digital evidence management system.

Manufacturers' Descriptions:

The following describes representative sensor systems in use on regional air support aircraft. Capabilities vary by agency and aircraft; the identification of representative systems is descriptive only and does not express a preference for, or a decision to use, any particular equipment or assisting agency.

- Teledyne FLIR markets its Star SAFIRE 380 series to airborne law enforcement units, stating that the multi-spectral cameras "provide clear and detailed imagery of thermal activity on the ground." The manufacturer states that the systems can be configured with a range of color and infrared sensors for patrol, search-and-rescue, and surveillance missions, and that their long-range performance allows crews to remain at a distance while still imaging accurately.
- L3Harris describes its WESCAM MX-10 airborne electro-optical/infrared system as "ideal for low-altitude tactical surveillance and reconnaissance missions from manned and unmanned airborne platforms." The manufacturer states that four-axis stabilization and multi-spectral sensors give the MX-Series imaging across multiple wavebands, supporting both day and night operation in varied weather.

2. Purpose

Information on the proposed purpose(s) for the Surveillance Technology

The purposes for which air support may be requested are limited to the seven purposes enumerated by the City Council on July 14, 2026:

- To assist in disaster response;
- To assist in rescue efforts;
- To locate missing persons;
- When the safety of law enforcement personnel is in jeopardy and aerial presence may reduce that hazard;

- To aid in the apprehension of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
- To locate a person who is missing and whose continued absence constitutes a serious health or safety hazard; and
- To provide aerial coordination during a vehicle pursuit, where such coordination can reduce collision risk to bystanders and improve incident resolution.

Each request must, in addition, receive pre-deployment approval from the on-duty Watch Commander or designee.

3. Location

The general location(s) it may be deployed and reasons for deployment

Deployments are incident-driven and may occur anywhere within the City of Berkeley- and, in pursuit or search contexts, contiguous areas- for the purposes stated above. No hardware is installed in Berkeley: aircraft are based at, and operate from, assisting agencies' facilities. Where live downlink is used, it is viewed by authorized BPD personnel at the incident or in the Communications Center. Based on historical request volumes, the Department anticipates approximately four to five deployments per year.

4. Impact

An assessment identifying potential impacts on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups

Although BPD neither owns nor operates the aircraft or sensors, aerial observation over an urban area raises civil-rights and civil-liberties considerations that warrant transparent acknowledgment and specific safeguards. The Department identifies the following potential impacts and addresses each through the mitigations described in Section 5 and through the accompanying Surveillance Use Policy.

- High-definition aerial video could, in principle, be processed with Face Recognition Technology. BMC 2.99.030(5) prohibits the City from obtaining, retaining, requesting, accessing, or using Face Recognition Technology.
- Deployment patterns could concentrate in particular neighborhoods and fall unevenly across communities. Mitigations include the enumerated-purpose limitation, Watch Commander pre-approval, per-deployment documentation, OSPA audit of all deployments, and annual public reporting of aggregate counts by category to the City Council and the Police Accountability Board.
- Helicopter noise and low-altitude overflight impose real community burdens- a concern that contributed to the original 1982 restrictions. The low anticipated frequency of approximately four to five deployments per year, the life-safety-driven purposes, and annual public reporting are the principal mitigations.

- Air support data could, if unrestricted, be sought for federal civil immigration enforcement or for out-of-state prosecutions targeting reproductive or gender-affirming care. The accompanying Surveillance Use Policy prohibits such use and sharing, consistent with the California Values Act.
- The assisting agency retains its own recordings under its own policies, which the City does not control. The accompanying Surveillance Use Policy addresses the Department's side of this relationship- what BPD may request, receive, retain, and share- and requires that a copy of the policy be provided to each air support partner.

5. Mitigations

Information regarding technical and procedural measures that can be implemented to appropriately safeguard the public from any impacts identified in subsection (d)

The Department will implement the following technical and procedural mitigations, each of which is also embodied in the accompanying Surveillance Use Policy:

- Air support may be requested only for the purposes enumerated by the City Council, and only with documented pre-deployment approval of the on-duty Watch Commander or designee.
- The Department shall receive and retain only imagery relevant to the incident or a specific case, obtained through a documented evidence request and stored in the Department's CJIS-compliant digital evidence management system.
- Every deployment shall be documented in the originating incident report and reported in writing to the City Manager within 72 hours.
- The Office of Strategic Planning and Accountability (OSPA) shall audit all deployments at least twice per year, and an annual public report of aggregate deployment data shall be transmitted to the City Council and the Police Accountability Board.

6. Data Types and Sources

A list of the sources of data proposed to be collected, analyzed, or processed by the Surveillance Technology, including "open source" data

The data types associated with Mutual Aid Air Support that BPD may receive are:

- Live video downlink (visual and/or thermal), where offered by the assisting agency, viewed during the active incident.
- Recorded video, thermal imagery, and still images obtained from the assisting agency in connection with a specific BPD case.
- Flight-crew observations relayed by radio and documented in CAD and incident reports.
- Associated metadata (date, time, location) accompanying imagery received.

7. Data Security

Information about the steps that can be taken to ensure adequate security measures to safeguard the data collected or generated from unauthorized access or disclosure

Air support data obtained by the Department shall be protected through a multi-layered security architecture:

- Data is transferred agency-to-agency through secure evidence-transfer methods.
- Recorded imagery is stored in the Department's digital evidence management system, which complies with CJIS standards and requires secure login credentials with Multi-Factor Authentication (MFA).
- Access is restricted to authorized personnel and audited for compliance.
- Evidentiary data is retained according to state law.

8. Fiscal Cost

The fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, including to the extent practicable costs associated with compliance with this and other reporting and oversight requirements, as well as any current or potential sources of funding.

The costs below represent estimates.

Initial Purchase:

- None. The Department acquires no equipment. Air support is provided by assisting agencies.

Personnel and Other Ongoing Costs:

- Mutual aid air support is generally provided on a reciprocal basis without charge. Personnel time associated with requesting and coordinating air support is absorbed within existing salaries, as is training on the Surveillance Use Policy, which is delivered within regular in-service training hours. No maintenance, storage, transportation, or upgrade costs accrue to the City; aircraft and sensor systems are maintained by the assisting agencies, and imagery received is stored within the Department's existing digital evidence management system.

Costs Associated with Compliance and Oversight:

- Compliance obligations consist of the 72-hour written notification to the City Manager following each deployment, documentation in the originating incident report, the semiannual audit conducted by the Office of Strategic Planning and Accountability, and the annual report to the City Council and Police Accountability Board. At the anticipated deployment volume, these are estimated to require on the order of 20 to 40 staff hours annually across Department and OSPA personnel, absorbed within existing salaries. No new position or appropriation is required.

Current or Potential Sources of Funding:

- Any reimbursable costs and all compliance and oversight costs are funded through the Berkeley Police Department's existing operating budget within the General Fund. No dedicated funding source, grant, or outside contribution is associated with this technology, and none is currently anticipated.

9. Third Party Dependence and Access

Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis, and whether a third party may have access to such data or may have the right to sell or otherwise share the data in aggregated, disaggregated, raw or any other formats

Mutual Aid Air Support is inherently dependent on third parties: the assisting agencies own and operate the aircraft and sensors, and retain their own recordings under their own policies and oversight structures. For example, Oakland Police Department helicopter camera systems are governed by an Oakland City Council-adopted use policy, with annual reporting to Oakland's Privacy Advisory Commission.

Air support data held by the Department is not handled or stored by a commercial third-party vendor beyond the Department's existing digital evidence management system, and no third party has any right to sell or otherwise share Department-held air support data. The Department's receipt of air support data creates no independent sharing authority; sharing is governed by the accompanying Surveillance Use Policy, including the prohibitions on sharing in support of federal civil immigration enforcement and of out-of-state reproductive-rights or gender-affirming-care enforcement, the 10-day reporting requirement for federal immigration access requests, and the 72-hour federal-disclosure reporting consistent with Policy 351.6.

10. Alternatives

A summary and general assessment of potentially viable alternative methods (whether involving the use of a new technology or not), if any, considered before deciding to propose acquiring the Surveillance Technology

Declining air support entirely involves the least aerial observation, but leaves searches, pursuits, and officer-safety incidents to ground resources alone, which the Council found inadequate in the incidents for which air support is actually requested.

Acquiring and operating a Department helicopter would cost several million dollars to acquire and on the order of a million dollars or more annually to operate- grossly disproportionate to approximately four to five deployments per year- and would present the same surveillance considerations without the benefit of shared regional infrastructure.

A Department UAS program is the subject of a separate STO process. UAS may over time absorb some air support functions, but small UAS have limited flight endurance, range, and weather tolerance and cannot perform rescue support or sustained wide-area pursuit

coordination. The Police Accountability Board's March 17, 2026 letter noted the overlap between the two capabilities; the accompanying documents confine air support to the Council-enumerated purposes so that the two capabilities remain separately governed.

The Department could request air support while declining all imagery. This would preserve some operational benefit but forfeit evidentiary value, and would not change what the assisting agency's systems record under that agency's own policies.

11. Experience of Other Entities

To the extent such information is available, a summary of the experience of comparable government entities with the proposed technology, including any unanticipated financial or community costs and benefits, experienced by such other entities

Receiving air support through mutual aid is the norm for cities of Berkeley's size: most East Bay cities own no aircraft and rely on regional partners. The Oakland Police Department has operated camera-equipped patrol helicopters for over a decade. Oakland adopted a City Council-approved use policy for its helicopter thermal-imaging cameras in 2015- a process that preceded and helped shape Oakland's Surveillance Technology Ordinance and files annual reports on the technology with its Privacy Advisory Commission. Oakland's recent reporting reflects both active regional support, with its air unit documented assisting neighboring agencies' investigations, and years of limited use, with its 2024 annual report stating that the reported camera system was used only for training that year and that no data was retained.

Publicly available reporting has also documented community costs where aerial surveillance exceeded incident-based use: a fixed-wing wide-area persistent surveillance program in Baltimore was held unlawful by the federal Fourth Circuit Court of Appeals in 2021, and aerial monitoring of demonstrations in other jurisdictions has drawn sustained criticism. The mitigations in this report and the accompanying Surveillance Use Policy- incident-based deployment for enumerated purposes only, the prohibition on wide-area persistent surveillance and public reporting- are designed specifically to address these documented concerns.

ATTACHMENT 3

**BERKELEY MUNICIPAL CODE CHAPTER 2.99
“ACQUISITION AND USE OF SURVEILLANCE
TECHNOLOGY”**

Chapter 2.99

ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY

Sections:

- 2.99.010 Purposes.**
- 2.99.020 Definitions.**
- 2.99.030 City Council Approval Requirement.**
- 2.99.040 Temporary Acquisition and Use of Surveillance Equipment.**
- 2.99.050 Compliance for Existing Surveillance Technology.**
- 2.99.060 Determination by City Council that Benefits Outweigh Costs and Concerns.**
- 2.99.070 Oversight Following City Council Approval.**
- 2.99.080 Public Access to Surveillance Technology Contracts.**
- 2.99.090 Enforcement.**
- 2.99.100 Whistleblower Protections.**
- 2.99.110 Severability.**

2.99.010 Purposes.

- A. Through the enactment of this Chapter, the City seeks to establish a thoughtful process regarding the procurement and use of Surveillance Technology that carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members.
- B. Transparency is essential when the City is considering procurement and use of Surveillance Technology.
- C. Although such technology may be beneficial to public order and safety, it has the potential to put both privacy and civil liberties at risk.
- D. Decisions relating to Surveillance Technology should occur with strong consideration of the impact such technologies may have on civil rights and civil liberties, as with all rights guaranteed by the California and United States Constitutions.
- E. Surveillance Technology may involve immediate, as well as ongoing, financial costs. Before the City acquires any Surveillance Technology, it must evaluate all costs associated with the procurement, installation, use and maintenance of the technology.
- F. Decisions regarding whether and how Surveillance Technologies should be funded, acquired, or used should be governed by the City Council as the elected representatives of the City.

G. In addition to applicable local, state, and federal law, legally enforceable safeguards, including robust transparency, oversight, and accountability measures, are important in the protection of civil rights and civil liberties.

H. Data reporting measures will enable the City Council and public to confirm that mandated civil rights and civil liberties safeguards have been strictly observed. (Ord. 7592-NS § 2 (part), 2018)

2.99.020 Definitions.

The following definitions apply to this Chapter:

1. "Surveillance Technology" means an electronic device, system utilizing an electronic device, or similar technological tool used, designed, or primarily intended to collect audio, electronic, visual, location, thermal, olfactory, biometric, or similar information specifically associated with, or capable of being associated with, any individual or group. Examples of covered Surveillance Technology include, but are not limited to: cell site simulators (Stingrays); automatic license plate readers; body worn cameras; gunshot detectors (ShotSpotter); facial recognition software; thermal imaging systems, except as allowed under Section 1(d); social media analytics software; gait analysis software; and video cameras that record audio or video and can remotely transmit or can be remotely accessed.

"Surveillance Technology" does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a Surveillance Technology as defined in Section 1 (above):

- a. Routine office hardware, such as televisions, computers and printers, that is in widespread public use and will not be used for any surveillance functions;
- b. Handheld Parking Citation Devices, that do not automatically read license plates;
- c. Manually-operated, portable digital cameras, audio recorders, and video recorders that are not to be used remotely and whose functionality is limited to manually capturing, viewing, editing and downloading video and/or audio recordings, but not including body worn cameras;
- d. Devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles or thermal imaging cameras used for fire operations, search and rescue operations and missing person searches, and equipment used in active searches for wanted suspects;
- e. Manually-operated technological devices that are not designed and will not be used to surreptitiously collect surveillance data, such as two-way radios, email systems and city-issued cell phones;
- f. Municipal agency databases;
- g. Medical equipment used to diagnose, treat, or prevent disease or injury, including electrocardiogram machines;

- h. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer based activity;
 - i. Stationary security cameras affixed to City property or facilities.
 - j. Personal communication device, which means a cellular telephone, a personal digital assistant, a wireless capable tablet or similar wireless two-way communications and/or portable Internet accessing device, that has not been modified beyond stock manufacturer capabilities, whether procured or subsidized by a City entity or personally owned, that is used in the regular course of conducting City business.
2. "Surveillance Technology Report" means an annual written report by the City Manager covering all of the City of Berkeley's Surveillance Technologies that includes all of the following information with regard to each type of Surveillance Technology:
- a. Description: A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing;
 - b. Geographic Deployment: Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically;
 - c. Complaints: A summary of each complaint, if any, received by the City about the Surveillance Technology;
 - d. Audits and Violations: The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response;
 - e. Data Breaches: Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response;
 - f. Effectiveness: Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes;
 - g. Costs: Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.
3. "Surveillance Acquisition Report" means a publicly-released written report produced prior to acquisition or to proposed permanent use after use in Exigent Circumstances pursuant to Section [2.99.040](#) (2), of a type of Surveillance Technology that includes the following:
- a. Description: Information describing the Surveillance Technology and how it works, including product descriptions from manufacturers;

- b. Purpose: Information on the proposed purpose(s) for the Surveillance Technology;
 - c. Location: The general location(s) it may be deployed and reasons for deployment;
 - d. Impact: An assessment identifying potential impacts on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups;
 - e. Mitigation: Information regarding technical and procedural measures that can be implemented to appropriately safeguard the public from any impacts identified in subsection (d);
 - f. Data Types and Sources: A list of the sources of data proposed to be collected, analyzed, or processed by the Surveillance Technology, including "open source" data;
 - g. Data Security: Information about the steps that can be taken to ensure adequate security measures to safeguard the data collected or generated from unauthorized access or disclosure;
 - h. Fiscal Cost: The fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, including to the extent practicable costs associated with compliance with this and other reporting and oversight requirements, as well as any current or potential sources of funding;
 - i. Third Party Dependence and Access: Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis, and whether a third party may have access to such data or may have the right to sell or otherwise share the data in aggregated, disaggregated, raw or any other formats;
 - j. Alternatives: A summary and general assessment of potentially viable alternative methods (whether involving the use of a new technology or not), if any, considered before deciding to propose acquiring the Surveillance Technology; and
 - k. Experience of Other Entities: To the extent such information is available, a summary of the experience of comparable government entities with the proposed technology, including any unanticipated financial or community costs and benefits, experienced by such other entities.
4. "Surveillance Use Policy" means a publicly-released and legally-enforceable policy for use of each type of the Surveillance Technology that shall reflect the Surveillance Acquisition Report produced for that Surveillance Technology and that at a minimum specifies the following:
- a. Purpose: The specific purpose(s) that the Surveillance Technology is intended to advance;
 - b. Authorized Use: The uses that are authorized, the rules and processes required prior to such use, and the uses that are prohibited;
 - c. Data Collection: Information collection that is allowed and prohibited. Where applicable, list any data sources the technology will rely upon, including "open source" data;
 - d. Data Access: A general description of the title and position of the employees and entities authorized to access or use the collected information, and the rules and processes required prior to access or use of the

information, and a description of any and all of the vendor's rights to access and use, sell or otherwise share information for any purpose;

e. Data Protection: A general description of the safeguards that protect information from unauthorized access, including encryption and access control mechanisms, and safeguards that exist to protect data at the vendor level;

f. Civil Liberties and Rights Protection: A general description of the safeguards that protect against the use of the Surveillance Technology and any data resulting from its use in a way that violates or infringes on civil rights and liberties, including but not limited to potential disparate or adverse impacts on any communities or groups;

g. Data Retention: The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond such period;

h. Public Access: How collected information may be accessed or used by members of the public;

i. Third Party Data Sharing: If and how other City or non-City Entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information;

j. Training: Training required for any employee authorized to use the Surveillance Technology or to access information collected;

k. Auditing and Oversight: Mechanisms to ensure that the Surveillance Use Policy is followed, technical measures to monitor for misuse, and the legally enforceable sanctions for intentional violations of the policy; and

l. Maintenance: The mechanisms and procedures to ensure maintenance of the security and integrity of the Surveillance Technology and collected information.

5. "Exigent Circumstances" means the City Manager's good faith belief that an emergency involving imminent danger of death or serious physical injury to any person, or imminent danger of significant property damage, requires use of the Surveillance Technology or the information it provides.

6. "Face Recognition Technology" means an automated or semi-automated process that assists in identifying or verifying an individual based on an individual's face. (Ord. 7676-NS § 1, 2019; Ord. 7592-NS § 2 (part), 2018)

2.99.030 City Council Approval Requirement.

1. The City Manager must obtain City Council approval, except in Exigent Circumstances, by placing an item on the Action Calendar at a duly noticed meeting of the City Council prior to any of the following:

- a. Seeking, soliciting, or accepting grant funds for the purchase of, or in-kind or other donations of, Surveillance Technology;
 - b. Acquiring new Surveillance Technology, including but not limited to procuring such technology without the exchange of monies or consideration;
 - c. Using new Surveillance Technology, or using Surveillance Technology previously approved by the City Council for a purpose, or in a manner not previously approved by the City Council; or
 - d. Entering into an agreement with a non-City entity to acquire, share or otherwise use Surveillance Technology or the information it provides, or expanding a vendor's permission to share or otherwise use Surveillance Technology or the information it provides.
2. The City Manager must present a Surveillance Use Policy for each Surveillance Technology to the Police Review Commission, prior to adoption by the City Council. The Police Review Commission shall also be provided with the corresponding Surveillance Acquisition Report that had been presented to council for that Surveillance Technology. No later than 30 days after receiving a Surveillance Use Policy for review, the Police Review Commission must vote to recommend approval of the policy, object to the proposal, recommend modifications, or take no action. Neither opposition to approval of such a policy, nor failure by the Police Review Commission to act, shall prohibit the City Manager from proceeding with its own review and potential adoption.
3. The City Manager must submit for review a Surveillance Acquisition Report and obtain City Council approval of a Surveillance Use Policy prior to engaging in any of the activities described in subsections (1) (a)-(d).
4. Evidence received relating to the investigation of a specific crime that may have been generated from Face Recognition Technology but was not intentionally solicited shall not be a violation of this ordinance.
5. Notwithstanding any other provision of this Chapter, it shall be a violation of this ordinance for the City Manager or any person acting on the City Manager's behalf to obtain, retain, request, access, or use: i) any Face Recognition Technology; or ii) any information obtained from Face Recognition Technology, except for personal communication devices as defined by Section [2.99.020](#) or section [2.99.030\(4\)](#). The inadvertent or unintentional receipt, access to, or use of any information obtained from Face Recognition Technology shall not be a violation of this subsection provided that the City Manager or any person acting on the City Manager's behalf does not request or solicit the receipt, access to, or use of such information, and all copies of the information are promptly destroyed upon discovery of the information, and the information is not used for any purpose.

The City Manager shall log the receipt, access to, or use of any such information in its Annual Surveillance Technology Report. The Surveillance Technology Report shall identify measures taken by the City to prevent the further transmission or use of any information inadvertently or unintentionally obtained through the use of Face Recognition Technology; provided, however, that nothing in this Chapter shall limit the ability to use such information in connection with a criminal investigation. (Ord. 7676-NS § 2, 2019; Ord. 7592-NS § 2 (part), 2018)

2.99.040 Temporary Acquisition and Use of Surveillance Equipment.

Notwithstanding the provisions of this Chapter, the City Manager may borrow, acquire and/or temporarily use Surveillance Technology in Exigent Circumstances without following the requirements in Sections [2.99.030](#) and [2.99.040](#). However, if the City Manager borrows, acquires or temporarily uses Surveillance Technology in Exigent Circumstances they must take all of the following actions:

1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged;
2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed Surveillance Acquisition Report and Surveillance Use Policy, as applicable, to the City Council within 90 days following the borrowing, acquisition or temporary use, and receive approval, as applicable, from the City Council pursuant to Sections [2.99.030](#) and [2.99.040](#); and
3. Include the Surveillance Technology in the City Manager's next annual Surveillance Technology Report. (Ord. 7592-NS § 2 (part), 2018)

2.99.050 Compliance for Existing Surveillance Technology.

The City Manager shall submit to the Action Calendar for the first City Council meeting in November of 2018 a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each Surveillance Technology possessed or used prior to the effective date of the ordinance codified in this Chapter. (Ord. 7592-NS § 2 (part), 2018)

2.99.060 Determination by City Council that Benefits Outweigh Costs and Concerns.

The City Council shall only approve any action described in Section [2.99.030](#), [2.99.040](#), or Section [2.99.050](#) of this Chapter after making a determination that the benefits to the community of the Surveillance Technology, used according to its Surveillance Use Policy, outweigh the costs; that the proposal will appropriately safeguard civil liberties and civil rights to the maximum extent possible while serving its intended purposes; and that, in the City Council's judgment, no feasible alternative with similar utility and a lesser impact on civil rights or civil liberties could be implemented. (Ord. 7592-NS § 2 (part), 2018)

2.99.070 Oversight Following City Council Approval.

The City Manager must submit to the Council Action Calendar a written Surveillance Technology Report, covering all of the City's Surveillance Technologies, annually at the first regular Council meeting in November. After review

of the Surveillance Technology Report, Council may make modifications to Surveillance Use Policies. (Ord. 7592-NS § 2 (part), 2018)

2.99.080 Public Access to Surveillance Technology Contracts.

To the extent permitted by law, the City shall continue to make available to the public all of its surveillance-related contracts, including related non-disclosure agreements, if any. (Ord. 7592-NS § 2 (part), 2018)

2.99.090 Enforcement.

This Chapter does not confer any rights upon any person or entity other than the City Council to cancel or suspend a contract for a Surveillance Technology. The Chapter does not provide a private right of action upon any person or entity to seek injunctive relief against the City or any employee unless that person or entity has first provided written notice to the City Manager by serving the City Clerk, regarding the specific alleged violations of this Chapter. If a specific alleged violation is not remedied within 90 days of that written notice, a person or entity may seek injunctive relief in a court of competent jurisdiction. If the alleged violation is substantiated and subsequently cured, a notice shall be posted in a conspicuous manner on the City's website that describes, to the extent permissible by law, the corrective measures taken to address the violation. If it is shown that the violation is the result of arbitrary or capricious action by the City or an employee or agent thereof in their official capacity, the prevailing complainant in an action for relief may collect from the City reasonable attorney's fees in an amount not to exceed \$15,000 if they are personally obligated to pay such fees. (Ord. 7592-NS § 2 (part), 2018)

2.99.100 Whistleblower Protections.

All provisions of Berkeley's Protection of Whistleblowers Workplace Policy, as promulgated by the City Manager on November 2, 2016 and including any updates or replacements thereto, shall apply. (Ord. 7592-NS § 2 (part), 2018)

2.99.110 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance, is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional. (Ord. 7592-NS § 2 (part), 2018)

The Berkeley Municipal Code is current through Ordinance 8031-NS, passed July 28, 2026.

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.berkeleyca.gov](http://www.berkeleyca.gov)

[Hosted by ICC Code Solutions.](#)

ATTACHMENT 4

RESOLUTION NO. 72,399-N.S.

RESOLUTION NO. 72,399-N.S.

RESOLUTION MODERNIZING BERKELEY POLICE DEPARTMENT POLICIES
GOVERNING THE USE OF MUTUAL AID HELICOPTER AND CANINE SUPPORT
RESOURCES

WHEREAS, Resolution No. 51,408-N.S., adopted on July 15, 1982, imposes outdated procedural restrictions that delay the Berkeley Police Department's ability to request mutual aid air support and canine resources from outside law enforcement agencies during critical law enforcement operations; and

WHEREAS, these restrictions hinder the Berkeley Police Department's ability to secure essential resources in high-risk incidents, thereby reducing operational flexibility and potentially compromising public and officer safety; and

WHEREAS, mutual aid agreements with external agencies providing access to helicopter support as well as police canine units are now standard practice nationwide, enhancing situational awareness, effective suspect apprehension, and search-and-rescue capabilities; and

WHEREAS, requests for mutual aid air support and canine resources are infrequent, averaging approximately 4 to 5 helicopter requests and 8 to 10 canine requests per year, each such request arises from an active life-safety incident in which procedural delay measurably increases risk to victims, bystanders, officers on scene, and the surrounding community; and

WHEREAS, replacing the existing requirement for pre-deployment City Manager approval with a structure of pre-deployment Watch Commander approval and post-deployment notification to the City Manager will facilitate rapid response during emergencies while ensuring accountability through sworn supervisory review, comprehensive documentation, and annual public reporting to the City Council and the Police Accountability Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BERKELEY CITY COUNCIL THAT:

1. Resolution No. 51,408-N.S. is rescinded in full. All prior limits on the use of outside helicopter support and police canine units are nullified.
2. The Berkeley Police Department may request and deploy canine teams from external law enforcement agencies only as follows:
 - a. Authorized deployments involving suspect apprehension. Canine teams may be deployed to locate or apprehend a suspect when any of the following is true:
 - i. The suspect is wanted for a violent felony; or

- ii. There is a reasonable belief that the suspect possesses a deadly weapon likely to cause serious bodily injury; or
 - iii. The suspect is wanted in connection with a residential burglary in progress; or
 - iv. The deployment supports service of a warrant on a subject who is wanted for a violent felony, has a documented history of violent offenses, has a documented history involving firearms, or has a documented history of felony evasion or physical assault against law enforcement.
- b. Authorized deployments not involving suspect apprehension. Canine teams may be deployed to locate crime scenes or physical evidence, to locate missing persons, or to detect explosives.
- c. Categorical prohibitions. Canine teams shall not be deployed in connection with: infractions; misdemeanor offenses not involving a deadly weapon likely to cause serious bodily injury; flight from an officer absent an independent justification under this section; thefts that escalate to robbery solely from a suspect's resistance to the victim's effort to stop the theft, absent use of a deadly weapon or actions causing great bodily injury; stolen vehicle incidents involving a named suspect or that are civil in nature; homeless encampment abatements; or crowd control.
3. The Berkeley Police Department may request and deploy helicopter assistance from external law enforcement agencies with whom mutual aid agreements exist, for any of the following purposes:
- a. To assist in disaster response;
 - b. To assist in rescue efforts;
 - c. To locate missing persons;
 - d. When the safety of law enforcement personnel is in jeopardy and aerial presence may reduce that hazard;
 - e. To aid in the apprehension of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
 - f. To locate a person who is missing and whose continued absence constitutes a serious health or safety hazard; and
 - g. To provide aerial coordination during a vehicle pursuit, where such coordination can reduce collision risk to bystanders and improve incident resolution.
4. The Berkeley Police Department may enter into and use mutual aid partnerships with outside agencies for all helicopter support and canine deployments described in this resolution.

5. The former requirement for pre-deployment City Manager approval is replaced with the following framework:
 - a. Pre-deployment supervisory approval. Each deployment of mutual aid helicopter support or canine resources under this resolution shall require the pre-deployment approval of the on-duty Watch Commander or their designee.
 - b. Post-deployment notification. Within 72 hours of any deployment, the Chief of Police or a designee shall notify the City Manager in writing. The notification shall include the date, time, and location of the deployment; the requesting BPD supervisor and the assisting agency; the operational purpose; and a brief summary of the outcome.
 - c. Incident documentation. All deployments shall be documented in the originating incident report consistent with existing Berkeley Police Department records practices.
 - d. Annual public reporting. Annually, the Chief of Police shall transmit to the City Council and the Police Accountability Board a public report summarizing all deployments of mutual aid helicopter support and canine resources during the preceding calendar year, including aggregate counts by category of use, assisting agencies utilized, and any incidents resulting in injury or formal complaint.

The foregoing Resolution was adopted by the Berkeley City Council on July 14, 2026 by the following votes:

On the severed portion of the motion in part 3 of the Resolved clause regarding helicopters and the associated references to helicopters throughout the resolution.

Ayes: Bartlett, Blackaby, Humbert, Kesarwani, O'Keefe, Taplin, and Ishii.

Noes: Lunaparra.

Abstain: Tregub.

Absent: None.

On the severed portion of the motion in part 2 of the Resolved clause regarding canine deployment and the associated references to canine deployment throughout the resolution.

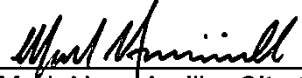
Ayes: Blackaby, Humbert, Kesarwani, O'Keefe, and Taplin.

Noes: Bartlett, Lunaparra, Tregub, Ishii.

Absent: None.



Adena Ishii, Mayor

Attest: 

Mark Numainville, City Clerk

Item 9.d.

**ODPA Memorandum to the PAB Titled “Reevaluation and
Prioritization of Pending Policy Reviews and Recommended
Actions”**



MEMORANDUM

Date: September 4, 2026
To: Honorable Members of the Police Accountability Board (PAB)
From: Katherine Lee, Interim Director of Police Accountability
Jose Murillo, ODPa Policy Analyst
Subject: Reevaluation and Prioritization of Pending Policy Reviews and Recommended Actions

The purpose of this memorandum is to reevaluate and prioritize policy reviews received by the PAB and recommend appropriate next steps.

Background:

Under the former Standing Rules, Section G, “Policy Complaints and Reviews,” a member of the public could request that the PAB review a Berkeley Police Department policy, practice, or procedure by filing a policy complaint with the Office of the Director of Police Accountability (ODPA). ODPA staff would then present the complaint to the PAB for discussion and action, and the PAB could accept the complaint by a majority vote. The PAB could then conduct the review as a whole, assign it to an individual Board member or staff, or establish a subcommittee.¹ To assist the PAB in determining how to proceed, ODPA generally prepared a memorandum summarizing the complaint, identifying the policy, practice, or procedure at issue, and outlining potential next steps.

Although the former Standing Rules provided several pathways for initiating and assigning a policy review, they did not establish a consistent framework for defining a review’s scope, objectives, timeline, or intended outcomes. They also lacked criteria for prioritizing reviews based on urgency, community impact, resource availability, or alignment with the PAB’s broader priorities. The PAB subsequently adopted a Policy Manual establishing clearer procedures for evaluating, prioritizing, assigning, and conducting policy reviews.²

¹ Police Accountability Board, Standing Rules, § G.1–3, pp. 2–3 (approved Jan. 26, 2022; ratified by the Berkeley City Council Mar. 8, 2022; amended Jan. 22, 2025).

² Police Accountability Board, Policy Manual, Appendix C, “Policy Reviews,” pp. 23–24 (last updated Apr. 21, 2026).

Under the Policy Manual, the PAB may initiate a review of a BPD policy, practice, or procedure by majority vote. A review may be proposed by any Board member or initiated in response to a filed complaint. The Policy Committee then recommends whether and how the review should be assigned, considering the proposed review's scope, workload requirements, desired timeline, potential impact, and necessity. Available recommendations include assigning the review to a Board member, the Policy Committee, an ad hoc subcommittee, or ODPa, as well as recommending that the review not proceed. The review is also assigned a priority of three, six, or twelve months based on its impact, urgency, public interest, and Board member interest.³

Following formal action by the Board, ODPa manages the review process and associated documentation. Depending on the nature and scope of the review, the process may include identifying the policies at issue, evaluating current BPD interpretation and enforcement, reviewing relevant complaints, researching comparable policies and best practices, obtaining community input, and soliciting BPD participation and feedback. The process concludes with the Board's consideration and approval of a final report setting forth the review's scope, findings, and recommendations.⁴

Consistent with this revised framework, this memorandum reevaluates the pending policy reviews previously received by the PAB, recommends their relative priority, and identifies appropriate next steps for each review.

Requested PAB Action:

The PAB is being asked to prioritize its policy reviews and reconsider whether certain reviews should continue. In the following section, the ODPa provides an overview of each complaint and policy topic, along with its recommendation and rationale for continuing or concluding the review.

Open Policy Reviews:

Policy Review Number	2023-PR-0007 ⁵
Policy Topic	Restraining Orders & Interactions with the Elderly
Relevant Policy	BPD Policy 313 "Senior and Disability Victimization" BPD Policy 430 "Civil Disputes"
Status	Review In Progress; Records Obtained
Date Accepted by the PAB	7/24/2024

³ *Id.* at 23.

⁴ *Id.* at 24.

⁵ 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.

Assigned To	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 encounters and existing orders, the complainant reports continued issues with enforcement.	
Recommendation	
ODPA staff recommends suspending the second portion of this review at this time. ODPA has completed the initial portion addressing the review's central issue, and a related review concerning interactions with older adults remains ongoing. This recommendation is based on the limited data currently available and the narrow set of interactions to which the proposed policy would apply. Based on the information reviewed to date, it is unclear whether further analysis would support a policy recommendation with broader applicability or impact. ODPA staff therefore believes it would be appropriate to suspend the review while continuing to monitor relevant data and cases. The review may be reconsidered if information beyond the specific circumstances that prompted it indicates a broader pattern or identifies concerns that could be meaningfully addressed through policy changes.	

Policy Review Number	2023-PR-0008
Policy Topic	Off-Duty Conduct
Relevant Policy	BPD Policy 321 "Standard of Conduct" BPD Policy 401 "Fair and Impartial Policing" BPD Policy 344 "Off-Duty Law Enforcement Actions"
Status	Review in Progress
Date Accepted by the PAB	10/11/2023
Assigned To	PAB – Policy Review Subcommittee
Summary	
This policy review was partially inspired by an incident involving an alleged off-duty assault by a now-retired Berkeley Police Department sergeant. According to a federal lawsuit, the sergeant allegedly approached an individual who was visiting a friend in Antioch, directed racial slurs toward him, invoked his status as a police officer, physically assaulted him, and pointed a semiautomatic handgun at his face. The lawsuit alleges that the sergeant lowered the firearm only after the individual's friend repeatedly pleaded with him not to shoot. <i>Lindhurst v. City of Berkeley et al.</i> was filed in the U.S.	

District Court for the Northern District of California on August 31, 2023. The court dismissed the claims against the City of Berkeley in February 2024 as untimely. The remaining claims against David Marble were resolved through a confidential settlement, and the court dismissed the entire action on June 13, 2024.

Recommendation

ODPA staff recommends that the PAB consider whether this policy review remains a priority in light of its current policy agenda. The PAB previously deprioritized the review to focus on other matters, including vehicle pursuits. If the PAB continues to identify this issue as a priority, the review may remain open for further analysis. However, approximately three years have passed since the incident that partially prompted the review, and staff recommends weighing the review's continued relevance and potential impact against other policy matters requiring the PAB's attention. Although the underlying concerns remain important, this review may no longer represent the most immediate or consequential use of the PAB's policy-review capacity.

Policy Review Number	2024-PR-0008
Policy Topic	Records Retention
Relevant Policy	BPD Policy 804 "Record Maintenance and Release"
Status	Open
Date Accepted by the PAB	1/8/2025
Assigned To	ODPA
Summary	
A member of the public complained about BPD's inability to provide past officer rosters in response to a PRA request, as the records are no longer maintained. The complainant recommended that BPD adopt a policy to retain and provide such rosters upon request.	
Recommendation	
The complaint identifies a proposed transparency enhancement rather than evidence of noncompliance with the California Public Records Act (PRA) or a material deficiency in BPD policy or practice. BPD produced the current roster in its possession but did not maintain separate historical, point-in-time rosters for the requested years. The PRA generally requires agencies to disclose responsive public records in their possession but does not require an agency to create a new record by compiling or recoding information. ⁶ Moreover, neither the City's former nor current records-retention schedule establishes a specific requirement for BPD to create or retain historical officer rosters. ⁷	

⁶ Cal. Gov. Code § 7922.535(a); *Sander v. State Bar of California*, 26 Cal. App. 5th 651, 665–71 (2018).

⁷ City of Berkeley, Records Retention Schedule (2018 ed.), Berkeley Police Department Schedule; City of Berkeley, 2026 Records Retention Schedule, pp. 57, 68–73 (adopted by Resolution No. 72,270-N.S., May 19, 2026).

Historical public employment information may also be available through alternative sources, although ODPa has not independently verified the accuracy or completeness of those sources.⁸

Given the matter’s limited demonstrated community impact, the availability of alternative sources of historical employment information, and the PAB’s limited resources and competing policy priorities, staff recommends that the Board discontinue this policy review. Continuing the review would not represent an appropriate allocation of PAB or staff resources relative to other matters presenting more significant oversight, legal, operational, or community concerns. This recommendation is consistent with the Policy Manual’s direction to consider a proposed review’s scope, workload, impact, necessity, urgency, and public interest when determining whether and how it should proceed.⁹

Policy Review Number	2025-PR-0001
Policy Topic	Contact Between Complaint Subject Officer and Complainant During Calls for Service
Relevant Policy	BPD Policy 1004 “Anti-Retaliation” BPD Policy 1010 “Personnel Complaints”
Status	Open
Date Accepted by the PAB	02/19/2025
Assigned To	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 have to interact with officers they had previously filed complaints against.	
Recommendation	
It is understandable that a person in this situation may feel concerned about potential retaliation or question whether they will be treated impartially. At the same time, the research identified significant operational, administrative, confidentiality, staffing, and emergency-response challenges associated with implementing such a restriction. Staff also did not identify a comparable publicly available policy that categorically prohibits this type of contact.	

⁸ Office of the Director of Police Accountability, “Notice of Policy Complaint No. 2024-PR-0008,” memorandum to the Police Accountability Board, January 3, 2025, p. 1 (identifying Transparent California as an alternative source of historical public-employment information and noting that ODPa had not verified the information).

⁹ Police Accountability Board, Policy Manual, Appendix C, “Policy Reviews,” p. 23 (last updated April 21, 2026).

If the PAB elects to continue the policy review, the report would likely examine these principal challenges, assess the safeguards provided by existing BPD policies, and evaluate whether a narrower, discretionary approach could address the underlying concern without adversely affecting public safety or service delivery. Staff requests direction from the Board on whether it wishes to proceed with this review.

Policy Review Number	2025-PR-0004
Policy Topic	Public Recording of Police Activity
Relevant Policy	BPD Policy 426 “Public Recording of Police Activity”
Status	Open
Date Presented to the PAB	6/25/2025
Assigned To	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 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.	
Recommendation	
Policy Review 2025-PR-0004 arises from the same incident being examined through Policy Review 2025-PR-0005, which is already in an advanced stage. Because the broader issue concerns the public’s right to observe and record law enforcement activity, staff recommends incorporating this review into Policy Review 2025-PR-0005. The resulting report could serve as a valuable informational resource on a matter of significant public interest. Alternatively, if the Board wishes to continue Policy Review 2025-PR-0004 as a separate matter, staff requests additional guidance regarding its intended scope, the specific policy questions to be addressed, and how the review should be coordinated with Policy Review 2025-PR-0005 to avoid duplicative work.	

Policy Review Number	2025-PR-0005
Policy Topic	Encampment Clearing Operations
Relevant Policy	Practice and procedure review
Status	Open
Date Presented to the PAB	6/25/2025
Assigned To	PAB Subcommittee

Summary
The Complainant raised concerns regarding a June 4, 2025, multi-department operation at an encampment near Eighth and Harrison Streets, alleging excessive force, improper use of less-lethal weapons, suppression of public observation, and inadequate notice to residents in violation of due process. The Complainant further argued that accountability should extend beyond individual officers to the command staff responsible for designing and authorizing operational plans and recommended that the PAB adopt policies establishing a new category of misconduct for such leadership decisions.
Substantial progress has been made in reviewing the matter, and BPD has been consulted. BPD has advised that it does not have a formal policy governing encampment resolutions and is not the lead department for these operations; rather, it supports Neighborhood Services and other City departments under the direction of the City Manager's Office. Accordingly, additional consultation with the City Manager's Office, the City Attorney's Office, and other relevant stakeholders is being requested to determine the appropriate process for developing any formal policy, particularly given evolving litigation and case law.
Recommendation
Staff recommends continuing the policy review because the report is in an advanced stage of development and nearing completion. Finalizing the report would make appropriate use of the work already completed and allow the PAB to consider and formally conclude the review.

Attachments:

1. Policy Complaint Presentation Memorandum for 2023-PR-0007
2. Policy Complaint Presentation Memorandum for 2023-PR-0008
3. Policy Complaint Presentation Memorandum for 2024-PR-0008
4. Policy Complaint Presentation Memorandum for 2025-PR-0001
5. Policy Complaint Presentation Memorandum for 2025-PR-0004
6. Policy Complaint Presentation Memorandum for 2025-PR-0005

Attachment 1

Policy Complaint Presentation Memorandum for
2023-PR-0007



MEMORANDUM

Date: Friday, July 19, 2024

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel Aguilar, Director of Police Accountability (DPA) *HA*
Jose Murillo, ODPa Policy Analyst *JM*

Subject: Policy Complaint No. 2023-PR-0007

The purpose of this memorandum is to provide the PAB with a preliminary analysis of Policy Complaint No. 2023-PR-0007 to assist in their decision on whether to accept or reject the policy complaint.

Background:

On September 22, 2023, a policy complaint form was filed with the Office of the Director of Police Accountability (ODPA). The policy complaint was mailed to the ODPA along with several personnel complaint forms related to the same incidents. A redacted version of the policy complaint is attached to this memorandum as Attachment 1. The policy complaint was first presented to the PAB on October 11, 2023. Due to the active investigation of the personnel complaints submitted along with the policy complaint, the PAB voted to defer their decision until the investigation was concluded¹.

Factual Summary:

¹ PAB Regular Meeting Minutes: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-10-11%20Regular%20Meeting%20Min%20Approved.pdf>

The complainant has been involved in a six-year dispute with the apparent caretaker of one of her neighbors. She states that this caretaker has been causing disturbances and engaging in hostile behavior towards her, including blocking her car, disabling security gates, and verbally assaulting her. Additionally, the complainant reports instances of property damage, harassment, and physical assault by the caretaker. She has filed for a restraining order against the neighbor's caretaker, and her Homeowner's Association (HOA) has issued a notice to perform covenant against the individual. See Attachment 1.

Despite these orders, the complainant contends that enforcement has been inadequate, with the Berkeley Police Department failing to take effective action. She recounts multiple encounters with her neighbor's caretaker and numerous attempts to seek assistance from the BPD, culminating in the issuance of a new restraining order on June 6, 2023, for elder abuse without exemptions. However, in filing the present policy complaint, the complainant continued to report sightings of her neighbor's apparent caretaker on the property and violations of the restraining order. She alleges that responding officers appeared to misunderstand or disregard the terms of the restraining order, suggesting that the neighbor's caretaker had an exemption as an employee. These interactions resulted in no immediate action to remove the caretaker from the property.

The complainant's communications with the police underscore her growing frustration with how the BPD has handled her case. Her detailed accounts aim to highlight what she perceives as negligence and discrimination in the BPD's response, specifically questioning the officers' comprehension and enforcement of restraining orders. Her narrative concludes with the following statement:

"I submit that the Berkeley police takes elder abuse so lightly, or has such a discriminatory attitude toward elderly women, or toward me, or all three, that even the strongest restraining order available under the law – according to the judge – is rendered useless. I am in danger in my home, getting my mail, entering or exiting my apartment, getting safely to my car, that I am currently having to leave – again – for another period of time staying out of state until someone somewhere in the City of Berkeley clarifies that [REDACTED] should have been arrested for the most recent assault on me (on January 3, 2023, an assault which I reported, included photos of my

injuries, documentation of my concussion, names of witnesses, etc.) and checks with the courts, not with restrained party [REDACTED], regarding any honest questions they may have about the restraining order.”

See Attachment 1.

Preliminary Analysis:

The complainant raises several initial policy and procedural concerns in this complaint for the PAB to consider reviewing. Those concerns are the following:

1. **Enforcement of Restraining Orders:** The complainant asserts that the Berkeley Police Department (BPD) has inadequately enforced restraining orders despite multiple incidents and legal actions, including a new restraining order for elder abuse. Concerns have been raised about the interpretation and application of restraining orders by police officers. The complainant alleges misunderstandings or disregard of these orders, indicating a potential need for improved communication and training in legal order enforcement.
2. **Communications Elders and Dependent Adults and Response to Potential Abuse:** Based on the complainant's written statement, there are indications of potential shortcomings in the BPD's response to alleged abuse against elders and dependent adults. The complainant suggests there may be issues with the sensitivity and understanding required to protect the elderly and dependent adults.

Each issue underscores potential deficiencies in policy and practice that warrant careful consideration and may necessitate reforms to ensure law enforcement responses are effective and equitable.

Since the establishment of the PAB and ODPa, 10 out of 54 personnel complaints have involved allegations of mistreatment due to age, either mentioned by the complainant or noted by ODPa staff as officers appearing insensitive to the community member's age, potentially leading to dismissal or escalation of the situation. The ODPa staff also carried out an initial review of BPD's call for service data to gain insights into the age demographics of callers and their corresponding outcomes; however, data on the caller's age was not readily accessible. In the context of this complaint, the perceived lack of enforcement of the restraining order is only one aspect of a potentially broader issue.

If the PAB decides to formally accept this policy review, it may consider focusing on Policy 313, “Senior and Disability Victimization,”² as well as any established training or practices regarding BPD’s interactions with elders or dependent adults. Part of the review will include analyzing whether BPD’s policy aligns with the best practices of the California POST’s 2024 Guidelines on Elder and Dependent Adult Abuse³ and an analysis of the BPD’s response to the relevant call for service type.

Recommendation:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁴, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPa staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPa staff to investigate the matter.
6. Rejecting the policy complaint.

If the Board decides to undertake this review, the ODPa recommends assigning it to the ODPa staff.

Attachments:

1. Policy Complaint 2023-PR-0007

² BPD Policy 313 “Senior and Disability Victimization”:

https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf

³ 2024 POST Guidelines “Elder and Dependent Adult Abuse”:

https://post.ca.gov/Portals/0/post_docs/publications/Elder_Dependent_Adult_Abuse.pdf

⁴ Section G. “Policy Complaints and Reviews” of the PAB’s Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

	POLICY COMPLAINT FORM	Received by DPA Date Received: <u>SEP 22 2023</u> DPA Case # <u>2023-PR-0007</u>
	Office of the Director of Police Accountability (DPA) 1947 Center Street, 5 th Floor, Berkeley, CA 94704 Web: www.cityofberkeley.info/dpa E-mail: dpa@cityofberkeley.info Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955	

1	Name of Complainant: <u>Denney Carol Ruth</u> Last First Middle
	Mailing Address: <u>[REDACTED]</u> City State Zip
	Primary Phone: <u>[REDACTED]</u> Alt Phone: () <u> </u>
	E-mail address: <u>[REDACTED]</u>
	Occupation: <u>retired</u> Gender: <u>F</u> Age: <u>69</u>
	Ethnicity: ☐ Asian ☐ Black/African-American ☒ Caucasian ☐ Latino/Hispanic ☐ Multiethnic: <u> </u> ☐ Other: <u> </u>

2	Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.
	<u>police practice regarding restraining orders</u>

3	Location of Incident (if applicable) <u>[REDACTED], Berkeley</u>
	Date & Time of Incident (if applicable) <u>June 6, 2023 through the present</u>

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

See attached

6-24-21

4 What changes to BPD policy, practice, or procedure do you propose?

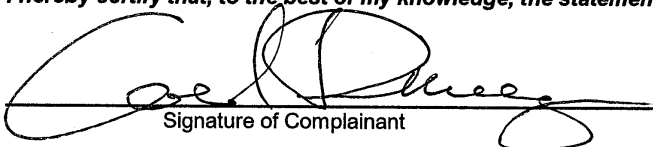
See attached

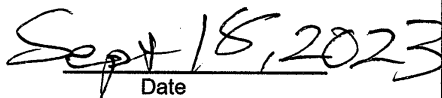
5 Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

See attached

6 CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.


Signature of Complainant


Date

7 How did you hear about the Director of Police Accountability or Police Accountability Board?

☐ Internet

☐ Berkeley Police Dept.

☐ Newspaper: _____

☐ Referred by: _____

☐ Other: _____

6-24-21

NOTICE TO PERFORM COVENANT

February 5, 2023

Please take notice that you are in violation of the [REDACTED] Housing Association Building Rules (Section 6: Guests *and* Gate Entry Instructions, pg. 9) which states the following:

GUESTS

1. Tenants will be responsible for informing their guests of any building rules that apply to the situation.
2. Tenants are responsible for the actions of their guests, including property damage or injury caused by the guest.
3. Visitors are required to use the San Pablo Avenue entry gate system rather than standing outside the gate, shouting to be let in. It is the tenant's responsibility to explain to desired guests how to use the system (see below).

Due to recent and ongoing events involving your guest and employee, [REDACTED], and other tenants in the property, the Board of Directors has deemed that the aforementioned guest poses serious legal and safety concerns for [REDACTED]. For this reason, the board requires that [REDACTED] be restricted access to the premises, including keys to your unit, and the parking garage remote.

You are hereby required within FIVE (5) days to perform the aforesaid covenant(s) and to respond to the requirements described above. Failure to respond to this notice within the allotted time will or to deliver up possession of the above-described premises which you currently hold and occupy.

If you fail to do so, legal proceedings will be instituted against you to recover said premises and such damages as the law allows.

Thank you,
Board of Directors

Policy Complaint Form - Submission from Carol Denney

#3. The Berkeley police, who repeatedly treated a previous restraining order against [REDACTED] as if it were inapplicable whenever he was on the property, are doing the same thing with my present restraining order, deciding unilaterally and in violation of the court's orders that the friend's apartment he sneaks into at the end of the corridor where I live is his "workplace."

Each responding officer, Officers [REDACTED], [REDACTED], [REDACTED], etc., have a variety of excuses for allowing a violent man who has repeatedly assaulted me and vandalized not just my property but that belonging to our entire building to remain on the property.

They in no particular order and despite the evidence in the court case itself, suggest that he is a tenant (he is not), that he is an employee (he is not), that I am obligated to find out his birthday (which I easily obtained from the District Attorney's office and gave to them), that I am somehow obligated to correct some misinformation in their police records regarding his birthday and/or name (which I have no legal authority to do), that the presence of his vanity-plated car under my bedroom window is not a restraining order violation, that he was never served in the first place, or that they're honestly confused (Officer [REDACTED] said this) by the existence of another man named [REDACTED] who was born in 1924. My attorney and I have repeatedly supplied the Berkeley Police Department with copies of the restraining order, with copies of the service documents, with copies of the Notice to Perform Covenant issued February 5, 2023 by our Board of Directors (we own our building) prohibiting [REDACTED] from the property entirely, which should have ended immediately any implication that he can be employed here by anyone for any reason.

Their interpretation of the current restraining order apparently has no effect, no protections for me in my home, or for my vehicle which is parked in the garage, the used vehicle I had to acquire after [REDACTED] completely destroyed my first vehicle by filling it with feces and urine, scraping off the registration tags, spraypainting "Bitch" and "CUNT" all over it, painting out the windows so that it was undriveable, smashing the windshield repeatedly. My insurance company told me that it was a total loss. [REDACTED], despite giving my apartment front door, front windows, and potted plants the same treatment, has never been arrested for any of these assaults or any of his extreme vandalism despite my pleas for help, video evidence, etc. ***The Berkeley police's decision to unilaterally and privately conclude that he is an employee means the court order of protection issued by the judge has no protection whatsoever.***

I submit that the Berkeley police takes elder abuse so lightly, or has such a discriminatory attitude toward elderly women, or toward me, or all three, that even the strongest restraining order available under the law - according to the judge - is rendered useless. I am in danger in my home, getting my mail, entering or exiting my apartment, getting safely get to my car, that I am currently having to leave - again - for another period of time staying out of state until someone somewhere in the City of Berkeley clarifies that [REDACTED] should have been arrested for the most recent assault on me (on January 3, 2023, an assault which I reported, included photos of my injuries, documentation of my concussion,

names of witnesses, etc.) and checks with the courts, not with restrained party [REDACTED], regarding any honest questions they may have about the restraining order.

I have included a portion of a chronology of contemporaneous notes with goes back six years.

----- Incidents ongoing, 2023 continuing Chronology of vandalism and incidents- ---

September 17, 2023- reported violation to BPD, who did not get [REDACTED] off property. Responding Officer [REDACTED] suggests *that I said he was an employee.* I specifically corrected him, noting the Notice to Perform Covenant, he says that [REDACTED] has some kind of proof that he is an employee, and the RO exempts him as an employee. He checks with Sgt. [REDACTED], who affirms, they leave him on the property. I convey this to [REDACTED], to [REDACTED], to [REDACTED], to [REDACTED]. It makes no sense that [REDACTED] filed to contest the restraining order, which he did, if he really believes he has an employee exemption. [REDACTED] will call this afternoon.

September 16, 2023 - reported violation to BPD, who did not get [REDACTED] off property.

September 8, 2023, Friday " Received this voicemail from Officer [REDACTED] "Hi Miss [REDACTED] it's officer [REDACTED] from Berkeley PD again calling you back I've been working with my dispatcher here and looking in the computer and I don't see that the restraining order tht the newest one you tried to get against [REDACTED] has been served yet him he does need to be served with him before I can file charges on [REDACTED] will do an incident report for you though and document everything going on but I know the paperwork you show me it said that you were president Court but I didn't see anything on there saying that he was served and then one of the dispatcher's look up all of his information they don't see a restraining order on file and I don't see it either so I hink that's because he still needs to be served for your most recent restraining order but anyways I'm still gonna do an incident report for you it's just not gonna go to the DAs office so when you see him again please call the police so we can serve them with yourrestraining order OK thank you bye..."

I called [REDACTED], who says he will take care of it. Also talked to Kaiser to document.

Thursday, September 07, 2023 4:44 pm - returned home. no police calls, or etc. yet.

Officer [REDACTED] responds by phone 9:45 pm. Officer [REDACTED] comes by with Officer [REDACTED]. They look at the restraining order. They went to Apt. 1 to knock on the door.

Thursday, September 07, 2023 12:00 noon- I saw [REDACTED] exit from our back garage door through the Wells Fargo Banks' small gate into the parking lot, where he had parked his car with the [REDACTED] plates. I photographed the car while he was in it, he spoke to me and I videotaped that, while he backed out and drove off. He was wearing a grey hoodie pulled low over his head, and had gone down through the garage gate to the first floor, which, if entered through the garage door (he still has his garage door opener), can easily be left ajar.

He is in violation of the "Notice to Perform Covenant" from the board dated February 5, 2023, as well as the elder abuse Restraining Order [REDACTED] by being on the property.

Thursday, August 31, 2023: Spoke with Sergeant [REDACTED], Officer [REDACTED]'s supervisor. Sent him the Notice to Perform Covenant, the Restraining Order, and the service documents in an effort to clarify that [REDACTED] does not live here, does not work here, and was forbidden to have keys or be here five days after February 5, 2023.

Spoke to [REDACTED] at the District Attorney's office, who routed me to [REDACTED] at the charging office where I left a message. She is also giving my number to [REDACTED], another person there, in case that can be helpful. She says another advocate, [REDACTED], will call. She called, and just said, no, they can just go ahead and arrest him. I sent an email to Sgt. [REDACTED] conveying that information, cc'd [REDACTED]

August 30, 2023: [REDACTED] at the DA's charging office, says there's no discrepancy regarding [REDACTED] birthday, which is [REDACTED]. And there are no records of any reports of any assault by [REDACTED] on me on January 3rd, 2023. No photographs, no concussion medical record, nothing. I called Officer [REDACTED] and let him know that, also Officer [REDACTED] and let him know, asking him to send the records again. Sgt. [REDACTED] called me at 5:00 pm saying that the DA's office had just mixed things up, but that he had gotten confirmation that the records are there. I will call tomorrow. I am so exhausted.

August 28-30, Monday through Wednesday, vandalism and surveillance camera on window sill of Spt. 1 moved to face in different directions. Called [REDACTED] Berkeley police, and tried to leave messages on [REDACTED]'s phone but his mailbox is too full day after day. Officer [REDACTED] says there's a wrong birthday in the system, that someone named [REDACTED] from 1924 is confused with [REDACTED]. He implies that I have to figure this out and fix it.

August 22, 2023, Tuesday: Saw [REDACTED] entering Apt. #1 at 9:30 am. Reported it to [REDACTED], Building Manager [REDACTED] and the Berkeley police. Incident report # [REDACTED]

(June 6, 2023 -- New restraining order issues- elder abuse Restraining Order [REDACTED] - issued for five years with no exemptions)

May 17, 2023 - 1:30 am more smashing, same sounds as from #16 about a week ago, called 9-11

Monday, May 8, 2023 - Avenue Tow ([REDACTED]) agreed to come and tow the vehicle on Sunday, May 7, which is here now. I called to ask the police to come and assist with this, and Sgt. [REDACTED] sounds dubious about doing this, serving him if he comes out, etc. He says call him when the tow company comes.

May 7, 2023 8:13 am - [REDACTED]'s car is not in the garage. About six police officers, including Officer [REDACTED] the officer who came Friday night, came last night to try to serve him again and asked me to let them into the garage to leave a note on his car. So now he has the note

May 5, 2023 - Friday 7:15 pm - [REDACTED]'s car is here, door of #1 open, he screams at me, goes in. I called the police to serve him and evict him, his car, get our keys and garage door opener back. The police can't get him to open the door, but at least now they have the February 5, 2023 letter saying he's prohibited from the property.

April 29, 2023, Friday - I went to the market nearby in the afternoon and [REDACTED] was in the market. When he saw me he screamed "You ruin everything!" across the whole market, startling everyone. I had to maneuver behind the counter away from him, and videoed him so at least he would quiet down. When I left the market I spoke to a neighbor by the bus stop and he was waiting for me there and ran up to us yelling at me. I moved away and down the block, videoing him. He hadn't been waiting for the bus, as his groceries made clear; he was waiting for me. This is not illegal, but it is more proof of my need for a very strong, very protective restraining order. He finally crossed the street and went into our building. I went in after about 10 minutes up the side door stairs to avoid him and managed to get to my apartment. It was terrifying.

#4. Do something, anything, to allow people who understand the purpose of a restraining order to respond to restraining order violations instead of these officers. These officers think it is some kind of fun game, apparently do not coordinate or investigate at all, and apparently have no idea that the purpose of such documents are to protect me.

#5. Let me know if you need anything beyond the documents BPD already has; the restraining order¹, the Notice to Perform Covenant dated February 5, 2023, and the proof of service documents my attorney [REDACTED] of the Family Violence Appellate Project and I have both supplied repeatedly to the Berkeley Police.

Sincerely,



Carol Denney



¹ (June 6, 2023 -- New restraining order - elder abuse Restraining Order [REDACTED] - issued for five years with no exemptions)

Attachment 2

**Policy Complaint Presentation Memorandum for
2023-PR-0008**



MEMORANDUM

Date: October 6, 2023
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability (H/A)
Jose Murillo, Policy Analyst (JM)
Subject: Notice of Policy Complaint No. 2023-PR-0008

Background:

On September 27, 2023, a policy-related complaint was formally lodged with the Office of the Director of Police Accountability (ODPA). (See Attachment 1).

The complainant asserts the existence of an ongoing issue pertaining to the retention of police officers who, both during their duty and off-duty hours, exhibit behavior that poses a potential threat to the community. The complainant strongly recommends that the city undertake significant measures to bolster the enforcement mechanisms of the Police Accountability Board. These measures should encompass the development of comprehensive anti-racist hiring practices, enhanced oversight of disciplinary actions related to policy violations within the police department, and heightened transparency regarding the efforts of the Berkeley Police Department to address potential instances of racial profiling and other forms of discriminatory misconduct.

In the instances detailed by the complainant, specific policies are mentioned, including those concerning standards of conduct (Policy 321), Fair and Impartial Policing

(Policy 401), and Off-Duty Law Enforcement Actions (Policy 344). Notably, the PAB currently maintains a subcommittee dedicated to Fair & Impartial Policing and has initiated discussions regarding the potential establishment of a new subcommittee that would concentrate on matters related to off-duty law enforcement actions.

Potential Area(s) of Review:

The complainant has specified the subsequent policies contained within the Berkeley Police Department's Law Enforcement Services Manual: 321.5.3, 321.5.9 (f), 401.1, 401.2, 321.4, 321.5.8 (m), 321.5.9 (h), and 344.3. (See Attachment 2).

Recommendation:

Upon receiving a policy complaint, the Board can choose from several potential courses of action¹, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPa staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPa staff to investigate the matter.
6. Rejecting the policy complaint.

The ODPa recommends that the PAB consider referring this policy complaint to a subcommittee should it determine that such a referral is appropriate and chooses to

¹ [Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules](#)

accept the complaint. The policies in question, including the standards of conduct (Policy 321), Fair and Impartial Policing (Policy 401), and Off-Duty Law Enforcement Actions (Policy 344), may fall within the scope of either the Fair and Impartial Subcommittee or that of a newly established subcommittee focused on standards of conduct both on and off-duty.

ATTACHMENT 1



POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

1947 Center Street, 5th Floor, Berkeley, CA 94704

Web: www.cityofberkeley.info/dpa

E-mail: dpa@cityofberkeley.info

Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received: _____

DPA Case # _____

1 Name of Complainant: Arbaugh Avery Graham
Last First Middle

Mailing Address: _____
Street City State Zip

Primary Phone: _____ Alt Phone: () _____

E-mail address: _____

Occupation: Student Gender: Male Age: 20

Ethnicity: ☐ Asian ☐ Black/African-American ☒ Caucasian
☐ Latino/Hispanic ☐ Multiethnic: _____ ☐ Other: _____

2 Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.

Due to space limitations, this section's response is available on attached Document 1.

3 Location of Incident (if applicable) See attached document 1.

Date & Time of Incident (if applicable) See attached document 1.

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

See attached document 1.

4

What changes to BPD policy, practice, or procedure do you propose?

See attached document 1.

5

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

Incident 1: Attached as "Document 2" is a press release by the non-profit organization "Copwatch"

giving context to the video of the incident of racial profiling. While the video of the incident could not be attached, it is hosted at https://www.youtube.com/watch?v=t6FYKSBN_7g.

Incident 2: Attached as "Document 3" is the complaint filed by Brian Lindhurst Jr. filing a lawsuit against Sgt. Marble following Incident 2.

6

CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.



Signature of Complainant

9/27/2023

Date

7

How did you hear about the Director of Police Accountability or Police Accountability Board?

☐ Internet

☐ Berkeley Police Dept.

☐ Newspaper: _____

☐ Referred by: _____

☒ Other: Word of mouth.

DOCUMENT 1

PAB Policy Complaint Form:

2. Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.

There has been a pattern of continued employment of police officers whose behavior on and off duty has indicated that they are a danger to the community. A specific relevant example is that of Sergeant Marble, an officer who was filmed violating Berkeley Police Department Policies on racial profiling (violations of 321.5.3, 321.5.9 (f), 401.1, 401.2, Berkeley Police Department Law Enforcement Services Manual) and was alleged to have, while off-duty, used racial slurs while assaulting a Black community member and threatening him with his police-issued weapon (violations of 321.4, 321.5.8 (m), 321.5.9 (h), 344.3, Berkeley Police Department Law Enforcement Services Manual). During this alleged assault, he invoked his status as a police officer by saying "I am the Law."

The lack of transparent steps taken by the Berkeley Police Department to respond to these incidents and others like it, and the continued employment of Sgt. Marble in particular indicates a lack of willingness by the Berkeley Police Department to protect our community from officers who have demonstrated racist and violent behavior or to address racism within the Berkeley Police Department in general.

3. Location of Incident (if applicable):

Incident 1 (racial profiling): People's Park, 2556 Haste St, Berkeley, CA 94704

Incident 2 (off-duty racist attack on Brian Lindhurst by Sgt. Marble): Near 3200 Terrace View Avenue, Antioch, CA 94531

Date & Time of Incident (if applicable):

Incident 1 (racial profiling): July 2, 2017 at 11:00 am

Incident 2 (off-duty racist attack on Brian Lindhurst by Sgt. Marble): July 16, 2022 at 2:15 am

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

Incident 1 (racial profiling): On July 2, 2017, Sgt. Marble racially profiled a Black man in establishing reasonable suspicion. Sgt. Marble stopped a Black man near People's Park after the Black man argued with an acquaintance about cigarettes. Sgt. Marble explicitly stated that the man was stopped because he was Black and thus matched the description of an earlier

unrelated police report. When the man questioned Marble's reasoning for stopping him, Marble interrupted him by saying, "Don't give me that Black crap." Marble escalated the situation by falsely detaining the man and putting him in handcuffs. Another police officer pinned the man to the ground. The encounter ended with the falsely detained man being let go.

Incident 2 (off-duty racist attack on Brian Lindhurst Jr. by Sgt. Marble): On July 16, 2022, Sgt. Marble physically assaulted and yelled racial slurs at Brian Lindhurst Jr. Lindhurst filed the lawsuit *Lindhurst v. City of Berkeley* (Case No. 3:2023cv04513) on August 31, 2023, in the US District Court for the Northern District of California. In this lawsuit, Lindhurst alleges that on July 16, 2022, Lindhurst was visiting a friend in Antioch, who was a neighbor of Marble's. The lawsuit alleges that Marble approached the men without legal justification, repeatedly yelled "Nigger" and "You do not belong here" at Lindhurst. Sgt. Marble invoked his status as a police officer by saying "I am the Law" to assert authority, punched Lindhurst in the face, and cocked and pointed a semiautomatic handgun at Lindhurst's face. After Mr. Lindhurst's friend pleaded for several minutes with Sgt. Marble to not shoot Mr. Lindhurst, Sgt. Marble finally lowered his gun and walked back inside his home.

4. What changes to BPD policy, practice, or procedure do you propose?

We urge a full independent investigation into both incidents involving Sgt. Marble, including whether Sgt. Marble faced any repercussions pertaining to the policy violations we allege, and whether the response by the department to these incidents was appropriate.

Given the rampant non-enforcement of internal policies by the Berkeley Police Department, we also strongly urge the city to adopt more robust enforcement mechanisms for the Police Accountability Board, including a role in crafting more comprehensive anti-racist hiring practices, oversight over punishment for violations of department policy, and transparency in steps taken by the Berkeley Police Department to enforce internal policies against racial profiling and other racist violence.

The Berkeley Police Department also needs to make clear to its officers and the public the repercussions for officers who routinely violate department policy and create standards of enforcement to ensure consistent responses to such violations.

We urge the Berkeley Police Department to be more transparent with the public going forward and to take accountability for the actions of their officers.

DOCUMENT 2

Press Release

For Immediate Release

[Berkeley Copwatch](#)

September 11, 2023

Copwatch Re-releases Footage showing Berkeley Police Officer Marble Racially Profile Man at People's Park in 2017

Local Copwatch activists were not surprised by allegations of racist violence and a federal [lawsuit](#) filed against Berkeley and Berkeley Police Sergeant David Marble. The recent lawsuit describes an incident on July 16, 2022, when Brian Lindhurst Jr was visiting a friend in Antioch, who happens to be a neighbor of Marble's. The lawsuit alleges that Marble approached the men, used racial slurs, punched Lindhurst in the face and threatened him with a gun.

Berkeley Copwatch has identified footage of Marble from 2017 that clearly demonstrates his racial animus as he interrupts a young, Black man to say, "Don't give me that 'Black' crap." He proceeds to escalate the situation and falsely arrests the man, who is eventually released after being threatened with force and arrest.

[This video](#) corroborates Lindhurst's account of racist violence. The video shows a situation of false arrest becoming escalated and increasingly dangerous for the detained man. The man was outraged because he knew his rights, knew that it was a false arrest and knew that it was racially motivated. To our knowledge, no complaint or lawsuit was ever filed in this situation. According to Paul Kealoha Blake, the Copwatcher who recorded the original incident in 2017, "This is just one of the many times that I have encountered Marble on the street over the years. He is almost always messing with a person of color. It's hard to believe that BPD had no idea that this guy has such a racism problem."

In a recent Berkeleyside [article](#), Matthai Chakko claims that there are "systems of review, investigation and discipline built into our police operations." In fact, BPD and the civilian oversight board, the Police Accountability Board (PAB), are *not* protecting the community from racist police violence. The Berkeley police often refuse to report and share information with outside agencies. The BPD continues to prevent the PAB from its investigations by withholding necessary information and access. This prevents PAB from fulfilling its charter to provide oversight and accountability of the BPD.

Berkeley Copwatch demands:

- Officer Marble must be removed from the BPD so he can no longer intimidate, degrade and abuse our community.
- The Berkeley City Council must address racism within BPD and release those who engage in it.
- The Contra Costa District Attorney must review the incident and re-consider charging him with hate crimes as described by the plaintiff.

Attend City Council Meeting September 12, 2023

5:30 pm Rally and Speakout

[Agenda Packet](#)

CONTACT:

[Andrea Prichett](#)

Volunteer with [Berkeley Copwatch](#)

Phone: (510) 229-0527

andraprichett@berkeley.net

DOCUMENT 3

JOHN L. BURRIS Esq., Bar No. 69888
BENJAMIN NISENBAUM, Esq., Bar No. 222173
CHRISTOPHER A. DEAN, Esq., Bar No. 550322
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRIAN LINDHURST, JR.,

Plaintiff,

vs.

CITY OF BERKELEY a municipal corporation;
SERGEANT DAVID MARBLE, individually
and in his official capacity as a police officer for
the City of Berkeley, and DOES 1-25, inclusive,
individually, jointly, and severally,

Defendants.

CASE NO.:

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

INTRODUCTION

1. This case arises out of City of Berkeley police sergeant David Marble's racially motivated unconstitutional use of force and false imprisonment of Brian Lindhurst, Jr. ("Plaintiff"). On July 16, 2022, Sergeant Marble, without cause or legal justification, physically blocked and assaulted Mr. Lindhurst and yelled racial obscenities at him while he was attempting to leave his friend's home.

DOCUMENT 3

1 2. This civil rights and state tort action seeks compensatory and punitive damages
2 from Defendants for violating various rights under the United States Constitution and state law
3 in connection with Plaintiff's false imprisonment and the excessive force used against Plaintiff
4 during his encounter with Sergeant Marble.

JURISDICTION

5 3. This action arises under Title 42 of the United States Code, § 1983. Title 28 of
6 the United States Code §§ 1331 and 1343 confer jurisdiction upon this Court. The unlawful acts
7 and practices alleged herein occurred in the County of Contra Costa, which is within the judicial
8 district of this Court. This Court also has supplemental jurisdiction over Plaintiff's state law
9 causes of action under 28 U.S.C. § 1367. Supplemental jurisdiction of this court is invoked
10 pursuant to 28 U.S.C. § 1367 over the State law claims which are so related to federal claims in
11 the action that they form part of the same case or controversy under Article III of the United
12 States Constitution.

13 4. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants are
14 believed to reside in this district and all incidents, events, and occurrences giving rise to this
15 action occurred in this district.

PARTIES

16 5. Plaintiff BRIAN LINDHURST, JR. ("PLAINTIFF" or "LINDHURST") has
17 been and is a resident of California and a United States Citizen.

18 6. Defendant CITY OF BERKELEY ("CITY") is an incorporated public entity duly
19 authorized and existing as such in and under the laws of the State of California; and at all times
20 herein mentioned, Defendant CITY has possessed the power and authority to adopt policies and
21 prescribe rules, regulations, and practices affecting the operation of the CITY OF BERKELEY
22 Police Department and its tactics, methods, practices, customs, and usage. At all relevant times,
23 Defendant CITY was the employer of Defendant Sergeant DAVID MARBLE, individually and
24 as a peace officer. Defendant CITY is vicariously liable under principles of respondeat superior
25 for the California state law violations alleged against the individual defendant officer.

DOCUMENT 3

1 7. Defendant DAVID MARBLE (hereinafter “MARBLE”) was a police sergeant
2 for the CITY OF BERKELEY. MARBLE is being sued in his individual capacity under 42
3 U.S.C. § 1983, and in his individual and official capacity as a police sergeant under Plaintiff’s
4 state law claims.

ADMINISTRATIVE PREREQUISITES

5
6 8. Plaintiff is required to comply with an administrative tort claim requirement
7 under California Government Code Section 910. Plaintiff submitted a claim under the CA Tort
8 Claims Act on January 12, 2023. Plaintiff received notice/personal delivery that the claim was
9 rejected on March 1, 2023. Plaintiff has exhausted all administrative remedies pursuant to
10 California law.

FACTUAL ALLEGATIONS

11 9. On July 16, 2022, at approximately 2:15 a.m. at or near 3200 Terrace View
12 Avenue, Antioch, CA 94531, City of Berkeley police Sergeant David Marble falsely imprisoned
13 Plaintiff Brian Lindhurst and physically assaulted him while Mr. Lindhurst was leaving his
14 friend’s home.

15 10. Mr. Lindhurst was standing outside the front driver side door of his vehicle with
16 his friend, preparing to leave after visiting his friend’s home. Mr. Lindhurst had frequently
17 visited his friend in the area and had no negative encounters with anyone in the neighborhood,
18 including Defendant Sergeant David Marble. That evening, Sergeant Marble began to yell
19 “What are you doing over here?” at Mr. Lindhurst from his front door. At first, Mr. Lindhurst
20 was astonished by Sergeant Marble’s remarks, given that he was neither breaking the law nor
21 involved in any trouble. However, Mr. Lindhurst calmly explained that he was visiting his
22 friend who lived in the neighborhood. Sergeant Marble then approached the two young men
23 with his Labrador Retriever, blocking Mr. Lindhurst from leaving in his own vehicle. Sergeant
24 Marble was extremely aggressive and clearly intoxicated as he began to yell profanities at Mr.
25 Lindhurst. During this time, Mr. Lindhurst was unaware that Sergeant Marble was a police
officer.

DOCUMENT 3

1 11. Mr. Lindhurst and his friend again tried to explain to Sergeant Marble that the
2 friend lived in the home adjacent to Sergeant Marble's home and that Mr. Lindhurst was
3 leaving. Sergeant Marble then yelled, "You all do not belong here, niggers do not belong here,"
4 while continuing to obstruct Mr. Lindhurst's attempt to remove himself from the situation. Mr.
5 Lindhurst was terrified of what could occur but he kept his composure and remained calm.

6 12. Despite Mr. Lindhurst's calm and compliant demeanor, Sergeant Marble
7 continued to yell "Nigger" and "You do not belong here." Mr. Lindhurst and his friend
8 repeatedly explained to Sergeant Marble that the friend lived in a neighboring home and pointed
9 to the home so that Sergeant Marble could see and understand. To their shock, Sergeant Marble
10 responded by charging towards Mr. Lindhurst. To deescalate the situation and prevent Sergeant
11 Marble from attacking Mr. Lindhurst, Mr. Lindhurst's friend jumped in front of Sergeant
12 Marble. However, Sergeant Marble pushed past the friend and punched Mr. Lindhurst in the
13 right side of his face. Mr. Lindhurst, who feared that he would be attacked again, prepared to
14 call 911.

15 13. Sergeant Marble walked away with his Labrador Retriever and returned seconds
16 later with his government-issued gun. Mr. Lindhurst recalls that the gun was a black semi-
17 automatic handgun, similar to firearms that are carried by law enforcement officers. Sergeant
18 Marble cocked the handgun back and pointed it at Mr. Lindhurst. Mr. Lindhurst, who was
19 unarmed, stated to Sergeant Marble that he was going to call the authorities if he tried to attack
20 him again. Sergeant Marble responded, "I am the Law," invoking his status as a law
21 enforcement officer and implying that he was the authority figure in the situation and that Mr.
22 Lindhurst needed to obey him. Terrified for Mr. Lindhurst's safety, Mr. Lindhurst's friend
23 pushed him into his car and grabbed Sergeant Marble's arms, begging him not to shoot Mr.
24 Lindhurst. After several minutes of pleading, Sergeant Marble yelled more profanities at the
25 two men but finally lowered his gun and walked back inside his home. Shaken, Mr. Lindhurst
left the area.

DOCUMENT 3

1 14. As a result of Sergeant Marble's racially motivated assault, Mr. Lindhurst
2 suffered physical injuries, including bruising to his face. In addition, Mr. Lindhurst also
3 suffered and continues to suffer from emotional distress because of this encounter.

4 15. In addition, Mr. Lindhurst did not pose a threat of serious injury or harm to
5 Sergeant Marble or anyone in the neighborhood while he was standing in front of his car. The
6 violent assault inflicted on him by Sergeant Marble was entirely unreasonable, unlawful, and
7 unnecessary.

DAMAGES

8 16. As a consequence of Defendants' violations of Plaintiff's state constitutional
9 rights and federal civil rights under 42 U.S.C. §§ 1983 and the Fourth and Fourteenth
10 Amendments, Plaintiff was physically, mentally, and emotionally injured and damaged as a
11 proximate result of Defendants' wrongful conduct.

12 17. Plaintiff found it necessary to engage the services of private counsel to vindicate
13 his rights under the law. Plaintiff is therefore entitled to an award of attorneys' fees and costs
14 pursuant to statute(s) in the event that he is the prevailing parties in this action under 42 U.S.C.
15 §§ 1983 and 1988. Plaintiff is also entitled to punitive damages under 42 U.S.C. §§ 1983 and
16 1988 as the conduct of Defendants was malicious, wanton, and oppressive.

FIRST CAUSE OF ACTION

17 **(Violation of the Fourth and Fourteenth Amendments of the United States**
18 **Constitution – Excessive Force and Due Process)**
19 **(42 U.S.C. § 1983)**
20 **(Plaintiff against Defendant MARBLE, and DOES 1-25)**

21 18. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 of this
22 Complaint.

23 19. 42 U.S.C. § 1983 provides in part, "Every person who, under color of any
24 statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of
25 Columbia, subjects, or causes to be subjected, any citizen of the United States or other person
within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured

DOCUMENT 3

1 by the Constitution and laws, shall be liable to the party injured in an action at law, suit at
2 equity, or other proper proceeding for redress.”

3 20. Plaintiff had firmly established rights under the Fourth and Fourteenth
4 Amendments to be free from official infliction of physical abuse, assault, battery, and
5 intentional infliction of emotional distress, unreasonable search and seizure, and excessive,
6 unreasonable and/or arbitrary force being used against him without due process.

7 21. Defendant MARBLE interfered with Plaintiff’s above-mentioned rights under
8 the Fourth and Fourteenth Amendments when he held Plaintiff against his will, used excessive
9 and unreasonable force to punch Plaintiff in the face, and brandished a state-issued firearm at
10 Plaintiff. Defendant MARBLE’s actions was a conscious disregard to Plaintiff, who was
11 peaceful, non-threatening, complying with the law, and attempting to leave the area. Defendant
12 MARBLE was acting under the color of law and in his official capacity as a police official, as
13 indicated by his statement to Plaintiff, “I am the Law.”

14 22. As a result, Defendant MARBLE is liable for excessive force and due process
15 violations.

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

17 **(Violation of Bane Act – California Civil Code § 52.1)**

18 **(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)**

19 23. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 22 of this
20 Complaint.

21 24. Civil Code Section 52.1 authorizes suit against anyone who by threats,
22 intimidation, or coercion interferes with the exercise or enjoyment of rights secured by the state
23 or federal Constitutions or laws without regard to whether the victim is a member of a protected
24 class. Civil Code Section 52(a) provides for damages up to three times actual damages, with a
25 minimum of \$4,000 for each violation.

DOCUMENT 3

1 25. Defendants' above-described conduct threatened Plaintiff's federal constitutional
2 right to be free and secure from unreasonable searches and seizures and Plaintiff's state
3 constitutional right to protection from bodily restraint, harm, or personal insult. By physically
4 surrounding Plaintiff, blocking Plaintiff's ability to leave the area, physically intimidating
5 Plaintiff, punching Plaintiff in the face without cause, and brandishing a state-issued firearm at
6 Plaintiff while Plaintiff was calm, non-threatening, and complying with the law. Defendant
7 MARBLE interfered with and demonstrated a reckless disregard for Plaintiff's right to be free
8 from unreasonable searches and seizures and Plaintiff's right to be protected from bodily
9 restraint, harm, or personal insult.

10 26. Under Government Code Section 815.2(a), Defendant CITY OF BERKELEY is
11 vicariously liable to Plaintiff for his injuries and damages suffered as alleged herein, incurred as
12 a proximate result of the aforementioned wrongful conduct of Defendant MARBLE.

13 27. As a result, Defendants are liable for a violation of California Civil Code Section
14 52.1.

15 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

THIRD CAUSE OF ACTION

16 **(Violation of Ralph Civil Rights Act – California Civil Code § 51.7)**
17 **(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)**

18 28. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 27
19 of this Complaint.

20 29. Civil Code Section 51.7 authorizes suit against anyone who commits any
21 violence, or intimidation by threat of violence, against a person on account of statutorily
22 protected characteristics, including race. For each violation of Civil Code Section 51.7, Civil
23 Code Section 52(b) (2) provides for actual damages, punitive damages, reasonable attorney's
24 fees, and an additional \$25,000.

25 30. Plaintiff is informed and believes and thereon alleges that the conduct of
Defendant MARBLE was motivated by racial prejudice and the use of racial profiling against

DOCUMENT 3

1 Plaintiff. Plaintiff is clearly identifiable as a Black man. Defendant MARBLE became
2 suspicious that Plaintiff did not belong in the neighborhood because of his race and targeted
3 him, repeatedly calling him “nigger,” shouting “You do not belong here,” and ultimately
4 punching him in the face. In engaging in such conduct, Defendant MARBLE violated Plaintiff’s
5 rights under California Civil Code Section 51.7 to be free from violence, or intimidation by
6 threat of violence, committed against him because of his race.

7 31. Under Government Code Section 815.2(a), Defendant CITY OF BERKELEY is
8 vicariously liable to Plaintiff for his injuries and damages suffered as alleged herein, incurred as
9 a proximate result of the aforementioned wrongful conduct of Defendant MARBLE.

10 32. As a result, Defendants are liable for a violation of California Civil Code Section
11 51.7.

12 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

FOURTH CAUSE OF ACTION

(Negligence)

(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)

13 33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 32
14 of this Complaint.

15 34. An individual is liable for injuries caused by failure to exercise reasonable care
16 in the circumstances. A cause of action for negligence arises when there is a legal duty to use
17 due care, there is a breach of the legal duty, and the breach is the proximate or legal cause of the
18 resulting injury.

19 35. Defendant MARBLE, without due care when interacting with Plaintiff, injured
20 Plaintiff. Defendant MARBLE had a duty as a police official to use reasonable force and to not
21 abuse his power. Defendant MARBLE breached that duty by aggressively charging towards
22 Plaintiff, preventing Plaintiff from leaving the area, yelling racial obscenities at Plaintiff,
23 punching Plaintiff in the face, and threatening him with a government-issued firearm without
24

25

DOCUMENT 3

1 cause or legal justification. Plaintiff was injured in his face, and he continues to suffer from
2 severe emotional distress as a proximate and direct cause of the Defendants' negligent conduct.

3 36. Pursuant to Government Code Section 815.2(a), Defendant CITY OF
4 BERKELEY is vicariously liable to Plaintiff for his injuries and damages suffered as alleged
5 herein, incurred as a proximate result of the aforementioned wrongful conduct of Defendant
6 MARBLE.

7 37. As a result, Defendants are liable for negligence.

8 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

FIFTH CAUSE OF ACTION

(Assault/Battery)

9 **(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)**

10 38. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 37
11 of this Complaint.

12 39. Defendant MARBLE acted with intent to cause harmful or offensive contact or
13 threatened to touch Plaintiff in a harmful or offensive manner. Defendant MARBLE then
14 touched Plaintiff in a harmful and offensive manner. Moreover, it reasonably appeared to
15 Plaintiff that Defendant MARBLE was about to carry out the threat. Plaintiff did not consent to
16 the harmful contact. Battery occurred when Defendant MARBLE actually made contact with
17 and harmed Plaintiff. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

18 40. Defendant MARBLE intended to touch Plaintiff in a harmful or offensive
19 manner. Plaintiff reasonably believed that he was about to be touched in a harmful or offensive
20 manner. It reasonably appeared to Plaintiff that Defendant MARBLE was about to carry out the
21 threat. Plaintiff did not consent to Defendant MARBLE's harmful contact, which ultimately led
22 to his injuries. Defendant MARBLE's actions were excessive and unreasonable.

23 41. Under Government Code Section 815.2(a), Defendant CITY OF BERKELEY is
24 vicariously liable to Plaintiff for his injuries and damages suffered as alleged herein, incurred as
25 a proximate result of the aforementioned wrongful conduct of Defendant MARBLE.

DOCUMENT 3

1 42. As a result, Defendants are liable for assault and battery.

2 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

3
4 **(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)**

5 43. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 42
6 of this Complaint.

7 44. A defendant's conduct is "outrageous" when it is so extreme as to exceed all
8 bounds of that usually tolerated in a civilized community.

9 45. Defendant MARBLE's above-described conduct constituted reckless disregard
10 of the probability of causing emotional distress. Plaintiff subsequently suffered severe or
11 extreme emotional distress. Defendant MARBLE's unprovoked conduct in screaming racial
12 obscenities at Plaintiff, physically blocking Plaintiff from leaving the area, punching Plaintiff in
13 the face, and brandishing a state-issued firearm at Plaintiff was the actual and proximate cause
14 of the emotional distress suffered by Plaintiff.

15 46. Under Government Code Section 815.2(a), Defendant CITY OF BERKELEY is
16 vicariously liable to Plaintiff for his injuries and damages suffered as alleged herein, incurred as
17 a proximate result of the aforementioned wrongful conduct of Defendant MARBLE.

18 47. As a result, Defendants are liable for intentional infliction of emotional distress.

19 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SEVENTH CAUSE OF ACTION

(False Imprisonment)

20 **(Plaintiff against Defendants MARBLE and CITY OF BERKELEY and DOES 1-25)**

21 48. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 47
22 of this Complaint.

23 49. California Penal Code section 236 defines false imprisonment as the unlawful
24 violation of the personal liberty of another person.
25

DOCUMENT 3

1 50. Defendant MARBLE unlawfully violated the personal liberty of Plaintiff by
2 intentionally confining Plaintiff against his will and without lawful privilege. Defendant
3 MARBLE yelled racial profanities at Plaintiff and prevented him from leaving the area.
4 Defendant MARBLE stated that he was the law creating a presumption that he was law
5 enforcement. Consequently, Plaintiff was unable to leave the area and forced to remain in a
6 position where Defendant MARBLE could physically assault and verbally abuse him.

7 51. Under Government Code Section 815.2(a), Defendant CITY OF BERKELEY is
8 vicariously liable to Plaintiff for his injuries and damages suffered as alleged herein, incurred as
9 a proximate result of the aforementioned wrongful conduct of Defendant MARBLE.

10 52. As a result, Defendants are liable for false imprisonment.

11 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

JURY DEMAND

12 Plaintiffs hereby demand a jury trial in this action.

PRAYER

13 WHEREFORE, Plaintiffs pray for relief, as follows:

- 14 1. For general damages according to proof;
- 15 2. For special damages, including but not limited to, past, present and/or future
16 wage loss, income and support, medical expenses and other special damages in a sum to be
17 determined according to proof;
- 18 3. For punitive damages and exemplary damages in amounts to be determined
19 according to proof as to Defendants MARBLE and CITY OF BERKELEY;
- 20 4. Any and all permissible statutory damages;
- 21 5. For reasonable attorney's fees pursuant to 42 U.S.C. § 1988 and California Code
22 of Civil Procedure § 1021.5;
- 23 6. For cost of suit herein incurred; and
- 24 7. For such other and further relief as the Court deems just and proper.
25

DOCUMENT 3

Dated: August 31, 2023

Burris, Nisenbaum, Curry & Lacy, LLP

/s/ John L. Burris

John L. Burris
Benjamin Nisenbaum
Christopher A. Dean
Attorneys for Plaintiff

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Brian Lindhurst

(c) Attorneys (Firm Name, Address, and Telephone Number)

Burris, Nisenbaum, Curry & Lacy - John L. Burris
7677 Oakport Street, Suite 1120, Oakland, CA 94621

City of Berkeley, et al

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

- ☐ 1 U.S. Government
Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government
Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
☐ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	☐ 625 Drug Related Seizure	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act				
☐ 120 Marine	☐ 310 Airplane	☐ 365 Personal Injury -	of Property 21 USC 881	☐ 423 Withdrawal	☐ 376 Qui Tam (31 USC				
☐ 130 Miller Act	☐ 315 Airplane Product	Product Liability	☐ 690 Other	☐ 28 USC 157	3729(a))				
☐ 140 Negotiable Instrument	Liability	☐ 367 Health Care/		INTELLECTUAL	☐ 400 State Reapportionment				
☐ 150 Recovery of Overpayment	☐ 320 Assault, Libel &	Pharmaceutical		PROPERTY RIGHTS	☐ 410 Antitrust				
& Enforcement of Judgment	Slander	Personal Injury		☐ 820 Copyrights	☐ 430 Banks and Banking				
☐ 151 Medicare Act	☐ 330 Federal Employers'	Product Liability		☐ 830 Patent	☐ 450 Commerce				
☐ 152 Recovery of Defaulted	Liability	☐ 368 Asbestos Personal		☐ 835 Patent - Abbreviated	☐ 460 Deportation				
Student Loans	☐ 340 Marine	Injury Product		☐ 840 Trademark	☐ 470 Racketeer Influenced and				
(Excludes Veterans)	☐ 345 Marine Product	Liability		☐ 880 Defend Trade Secrets	Corrupt Organizations				
☐ 153 Recovery of Overpayment	Liability	PERSONAL PROPERTY	LABOR	☐ 880 Defend Trade Secrets	☐ 480 Consumer Credit				
of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 370 Other Fraud	☐ 710 Fair Labor Standards	Act of 2016	(15 USC 1681 or 1692)				
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle	☐ 371 Truth in Lending	Act		☐ 485 Telephone Consumer				
☐ 190 Other Contract	Product Liability	☐ 380 Other Personal	☐ 720 Labor/Management	SOCIAL SECURITY	Protection Act				
☐ 195 Contract Product Liability	☐ 360 Other Personal	Property Damage	Relations	☐ 861 HIA (1395ff)	☐ 490 Cable/Sat TV				
☐ 196 Franchise	☐ 362 Personal Injury -	☐ 385 Property Damage	☐ 740 Railway Labor Act	☐ 862 Black Lung (923)	☐ 850 Securities/Commodities/				
	Medical Malpractice	Product Liability	☐ 751 Family and Medical	☐ 863 DIWC/DIWW (405(g))	Exchange				
			Leave Act	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions				
			☐ 790 Other Labor Litigation	☐ 865 RSI (405(g))	☐ 891 Agricultural Acts				
			☐ 791 Employee Retirement		☐ 893 Environmental Matters				
			Income Security Act	FEDERAL TAX SUITS	☐ 895 Freedom of Information				
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		☐ 870 Taxes (U.S. Plaintiff	Act				
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	Habeas Corpus:		or Defendant)	☐ 896 Arbitration				
☐ 220 Foreclosure	☐ 441 Voting	☐ 463 Alien Detainee		☐ 871 IRS—Third Party	☐ 899 Administrative Procedure				
☐ 230 Rent Lease & Ejectment	☐ 442 Employment	☐ 510 Motions to Vacate		26 USC 7609	Act/Review or Appeal of				
☐ 240 Torts to Land	☐ 443 Housing/	Sentence	IMMIGRATION		Agency Decision				
☐ 245 Tort Product Liability	Accommodations	☐ 530 General	☐ 462 Naturalization Application		☐ 950 Constitutionality of				
☐ 290 All Other Real Property	☐ 445 Amer. w/Disabilities -	☐ 535 Death Penalty	☐ 465 Other Immigration		State Statutes				
	Employment	Other:							
	☐ 446 Amer. w/Disabilities -	☐ 540 Mandamus & Other							
	Other	☐ 550 Civil Rights							
	☐ 448 Education	☐ 555 Prison Condition							
		☐ 560 Civil Detainee -							
		Conditions of							
		Confinement							

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
42 U.S.C. Statute 1983

Brief description of cause:

Excessive Force by Berkeley Police Department Officer

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

August 31, 2023

/s/ John L. Burris

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Attachment 3

Policy Complaint Presentation Memorandum for
2024-PR-0008



MEMORANDUM

Date: January 3, 2025
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability *HA*
Jose D. Murillo, Policy Analyst *JM*
Subject: Notice of Policy Complaint No. 2024-PR-0008

The purpose of this memorandum is to introduce Policy Complaint Number 2024-PR-0008 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On Monday, December 11, 2024, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2024-PR-0008 from a member of the public (hereinafter referred to as the "Complainant"), who submitted the form via the ODPA's complaints and compliments system (Sivil). Refer to Attachment 1, Policy Complaint 2024-PR-0008.

The Complainant reported submitting a Public Records Act (PRA) request for Berkeley Police Department (BPD) officer rosters from 2012 to 2018², but BPD was unable to fulfill the request, stating that it no longer maintains past rosters. However, BPD did provide its current roster. Refer to Attachment 2, Timeline of CPRA Request 23-1846.

On December 12, 2024, Director Aguilar contacted the Complainant to confirm receipt of the policy complaint form. As part of the review process, Director Aguilar examined the PRA request at the center of this complaint and verified the response provided by BPD. In acknowledging the complaint, Director Aguilar referred the Complainant to TransparentCalifornia.com³, a public resource that provides access to salary, pension, and employment information for public employees across California. As a courtesy, Director Aguilar extracted and shared the available data for 2012 through

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

² CPRA Request 24-1846: <https://cityofberkeleyca.nextrequest.com/requests/24-1846>

³ Transparent California (Berkeley, CA): <https://transparentcalifornia.com/salaries/berkeley/>

2018 from this resource, while noting that the ODPa has not verified the accuracy of the publicly available information.

The Complainant presented a recommendation for a practice change, suggesting that BPD begin retaining and providing police rosters upon request through PRA submissions.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (PAB) has the authority to "review policies, practices, and procedures of the Police Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer."⁴ This authority is relevant to the current policy complaint, which concerns the BPD inability to disclose past sworn personnel rosters. BPD has stated that it does not maintain records of past rosters and retains only its current roster. As a result, it could not release past rosters as part of the Public Records Act (PRA) request because the records no longer exist.

In California, the California Public Records Act (CPRA) governs public access to records held by state and local agencies, including police departments. While the CPRA mandates that public records be accessible upon request, it does not specify retention periods for particular records. Record retention schedules are typically determined by individual agencies, often guided by local policies or city ordinances.

The BPD follows a retention schedule adopted by city resolution⁵, which is currently under review and update. However, there is no retention requirement for past sworn personnel rosters at this time. Additionally, BPD Policy 804, "Records Maintenance and Release," does not address the retention of historical rosters and specifies under Policy 804.4.1(a) that the department is not obligated to create records that do not already exist. See Attachment 3, BPD Policy 804 "Records Maintenance and Release."

If the PAB decides to proceed with this review, it may want to consider making recommendations regarding the BPD's retention practices and the following policy:

- **BPD Policy 804 "Record Maintenance and Release"**
 - Purpose of Policy: This policy outlines the procedures for maintaining and releasing department records.
 - Reason: This policy was identified in response to the specific focus of the policy complaint, which pertains to the BPD's management and release of historical rosters. The retention of personnel rosters is not specifically addressed within this policy.

⁴ Berkeley City Charter Section 125(17)(a): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

⁵ City of Berkeley Records Retention Schedule as set by Resolution 68,661-N.S.:
<https://berkeleyca.gov/sites/default/files/2022-03/Records-Retention-Schedule.pdf>

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁶, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPA staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPA staff to investigate the matter.
6. Rejecting the policy complaint.

Recommendation:

Considering the observed policy gap, the ODPA recommends accepting this policy complaint. In accepting this complaint, the PAB should evaluate whether this policy review aligns with the broader policy objectives and work plan goals.

Attachments:

1. Policy Complaint 2024-PR-0008
2. Timeline of CPRA Request 23-1846
3. BPD Policy 804 "Records Maintenance and Release"

⁶ Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:
https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

Attachment 1



Tracking Number ODPa-241212-755729
Created by Molly Miller - December 11, 2024
Original version

POLICY

Personal Information	
Basic Information	
Email	First Name
Last Name	Home/Cell Telephone
Anonymously	Work Telephone
No	Not Specified
Mailing Address	
Street Name	Apt/Unit #
	Not Specified
State	City
Zip Code	
Occupation	
Research Analyst	
Demographics	
Date Of Birth	Race
	White
Ethnicity	
Not Hispanic or Latinx	
Gender	
woman	

Incident Details
Statement

I submitted a PRA to BPD requesting police rosters for the years 2012 through 2018. BPD said that they could not provide the rosters because they do not maintain past rosters.

Location of Incident (if applicable)

Not Specified

Date of Incident (if applicable)

11-22-2024

Time of Incident (if applicable)

Not Specified

What changes to BPD policy, practice, or procedure do you propose?

I propose BPD maintaining and providing police rosters, and making them available to members of the public who submit PRAs requesting them.

Additional Information

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

I am providing a link below to the request.

Upload Document

Not Specified

Incident External Links

<https://cityofberkeleyca.nextrequest.com/requests/24-1846>

How did you hear about us?

Website

Attachment 4

Policy Complaint Presentation Memorandum for
2025-PR-0001



MEMORANDUM

Date: February 14, 2025
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability *HA*
Jose D. Murillo, Policy Analyst *JM*
Subject: Notice of Policy Complaint No. 2025-PR-0001

The purpose of this memorandum is to introduce Policy Complaint Number 2025-PR-0001 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On January 28, 2025, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2025-PR-0001 from a member of the public (hereinafter referred to as the "Complainant"), who requested a policy review in addition to submitting two personnel complaints. Refer to Attachment 1, Policy Complaint 2025-PR-0001.

The Complainant reported having two interactions with the Berkeley Police Department in January 2025. During those interactions, some of the responding officers were either the subject of complaints the Complainant had filed with the PAB or involved in other litigation that had been filed. In one of the complaints, the Complainant stated that they believed they should not be interacting with officers who were the subject of a complaint they had submitted, expressing concerns about potential retaliation and/or biased treatment in instances where the responding officer is a subject of a complaint filed by a party involved in the call.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (PAB) has the authority to "review policies, practices, and procedures of the Police

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:
https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer.”²

If the PAB proceeds with this review, it may consider narrowing its focus and providing recommendations on the following policies, if warranted:

- **BPD Policy 1004 “Anti-Retaliation”³**
 - Purpose of Policy: “This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.”
 - Reason: Policy 1004.3 prohibits retaliation against anyone for lawful conduct, opposing unlawful or unethical practices, filing a complaint, or participating in an investigation related to a complaint. The policy provides guidelines as to what constitutes retaliation.
- **BPD Policy 1010 “Personnel Complaints”⁴**
 - Purpose of Policy: “The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements. It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.”
 - Reason: Policy 1010.5 prohibits employees involved in an Internal Affairs or Police Accountability Board investigation from contacting complainants or witnesses regarding the complaint. However, employees may interact with complainants or witnesses as needed in the course of normal police duties, including conducting investigations or responding to calls for service.

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁵, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPA staff to carry out an investigation.

² Berkeley City Charter Section 125(17)(a): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

³ BPD Policy 1004 “Anti-Retaliation”:

https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=786

⁴ BPD Policy 1010 “Personnel Complaints”:

https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=812

⁵ Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPa staff to investigate the matter.
6. Rejecting the policy complaint.

Recommendation:

The ODPa suggests that the PAB consider delaying or deferring any decision regarding the acceptance or rejection of the policy complaint due to an ongoing personnel complaint. This recommendation is in accordance with Section II.G.1.b. of the Interim Regulations for Handling Complaints Against Sworn Officers of the Police Department, which stipulates that "no member of a hearing panel should publicly express an opinion regarding policies directly linked to the subject matter of a pending complaint."⁶ Currently, there is an active personnel complaint, and the investigation's outcome remains uncertain. Given that any member may potentially serve on the hearing panel, the ODPa advises exercising caution to prevent any potential interference with the ongoing investigation. This precautionary measure is particularly important since policy complaints necessitate public commentary on the raised policy questions.

Attachments:

1. Policy Complaint 2025-PR-0001

⁶ PAB Interim Regulations for Handling Complaints: https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA.Interim.Reggs_.Approved.2021-10-05.pdf



Policy/Practice/Procedure Form

Tracking Number ODPa-250212-041503

Created by [REDACTED]

Original version

POLICY

Personal Information

Basic Information

Email

[REDACTED]

First Name

[REDACTED]

Last Name

[REDACTED]

Home/Cell Telephone

[REDACTED]

Anonymously

No

Work Telephone

Not Specified

Mailing Address

Street Name

[REDACTED]

Apt/Unit #

Not Specified

State

California

City

Berkeley

Zip Code

94704

Occupation

Not Specified

Demographics

Ethnicity

Prefer not to answer

Race

Prefer not to answer

Gender

Not Specified

Incident Details

Statement

The Complainant reported having two interactions with the Berkeley Police Department in January 2025. During those interactions, some of the responding officers were either the subject of complaints the Complainant had filed with the PAB or involved in other litigation. In one of the complaints, the Complainant stated that they believed they should not be interacting with officers who were the subject of a complaint they had submitted, expressing concerns about potential retaliation and/or biased treatment in instances where the responding officer is a subject of a complaint filed by a party involved in the call.

Location of Incident (if applicable)

Two different locations

Date of Incident (if applicable) Time of Incident (if applicable)

Not Specified

Not Specified

What changes to BPD policy, practice, or procedure do you propose?

The BPD could consider implementing a policy to prevent officers with active complaints or litigation from responding to calls involving the complainant, with additional oversight to avoid bias. Additionally, the BPD should establish clear policies prohibiting retaliation and biased treatment.

Additional Information

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

Not Specified

Upload Document Incident External Links How did you hear about us?

Not Specified

Not Specified

Not Specified

Attachment 5

Policy Complaint Presentation Memorandum for
2025-PR-0004



MEMORANDUM

Date: June 19, 2025
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel A. Aguilar, Director of Police Accountability (DPA) 
Jose D. Murillo, Policy Analyst
Subject: Notice of Policy Complaint No. 2025-PR-0004

The purpose of this memorandum is to introduce Policy Complaint Number 2025-PR-0004 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On June 10, 2025, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2025-PR-0004 from a member of the public (hereinafter referred to as the "Complainant"). See Attachment 1, Policy Complaint Form 2025-PR-0004, which includes a link to a video recording of the incident.

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 incident on June 6, 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.

The complainant makes reference to two landmark cases to highlight that "copwatching" — the act of observing and recording police officers — is a protected activity under the First Amendment. In *Glik v. Cunniffe*,² the court affirmed an individual's

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

² *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011).

right to record public officials performing their duties in public spaces, ruling that such recordings are protected speech. Similarly, in *ACLU v. Alvarez*,³ the court found that laws criminalizing the recording of police officers without their consent likely violate the First Amendment, reinforcing the public's right to document police activity.

The complainant requests that BPD's policy on public recording of police activity be revised to direct officers to impose the least possible restrictions on the public's ability to observe and record. Specifically, they want officers to be trained to minimize the use of yellow tape or police lines unless absolutely necessary.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (PAB) has the authority to "review policies, practices, and procedures of the Police Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer."⁴

If the PAB proceeds with this review, it may consider narrowing its focus and providing recommendations on the following policies, if warranted:

- **BPD Policy 426 "Public Recording of Police Activity"**⁵
 - Purpose of Policy: BPD Policy 426 outlines guidelines for situations in which members of the public photograph or audio/video record law enforcement activity or other public events involving department personnel. The policy also provides direction for handling instances where such recordings may serve as evidence.
 - Reason: BPD Policy 426.3 speaks to the circumstances under which members of the public may observe and record law enforcement activity. The section affirms the public's right to record from lawful locations but outlines limitations when such actions interfere with police duties or create safety concerns.

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁶, which include:

³ *ACLU of Ill. v. Alvarez*, 679 F.3d 583 (7th Cir. 2012).

⁴ Berkeley City Charter Section 125(17)(a): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

⁵ BPD Policy 426 "Public Recording of Police Activity":

https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=445

⁶ Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPA staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPA staff to investigate the matter.
6. Rejecting the policy complaint.

Recommendation:

The PAB should accept the policy review request but defer making any final policy recommendations at this time, as the issues raised are directly related to an ongoing personnel matter.

Attachments:

1. Policy Complaint 2025-PR-0004

ATTACHMENT 1

Policy/Practice/Procedure Form



Tracking Number **ODPA-250610-380084**

Created by [REDACTED] | June 10, 2025 | Original version

Personal Information

Basic Information

Email	[REDACTED]
First Name	[REDACTED]
Last Name	[REDACTED]
Phone	[REDACTED]
File Anonymously	Not Specified
Work Telephone	Not Specified

Mailing Address

Street name	[REDACTED]
Apt/Unit	[REDACTED]
State	California
City	Berkeley
Zip Code	[REDACTED]

Occupation	teacher
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Demographics

Please provide as many details about the incident as possible. Your recollection about the incident is invaluable.

Date of Birth	[REDACTED]
Race/Ethnicity	Not Specified
Ethnicity	["Not Hispanic or Latinx"]
Gender	Not Specified
Race	["White"]
Sexual Orientation	Not Specified

Gender	F
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Incident Details

Statement

On June 4th, 2025 I was prevented from observing and documenting police activity at 8th and Harrison Street in Berkeley. [REDACTED]

[REDACTED] I have a deep concern about the current policy/General Order Policy 426 entitled "Public Recording of Police Activity". Two Federal courts have held that copwatching is protected activity under the 1st Amendment based on our need to "petition the government for a redress of grievances". Glik vs Cuniffe: (<https://www.aclum.org/en/cases/glik-v-cuniffe>) and ACLU v Alvarez (<https://law.justia.com/cases/federal/appellate-courts/ca7/11-1286/11-1286-2012-05-08.html>).

Therefore- the protections of the 1st amendment supercede any policy created by BPD. However, the current policy fails to specifically identify the rights of onlookers and to direct officers to minimize the imposition of "police lines" to only those instances and areas that directly impact investigations of could reasonably impact officer safety.

Location of Incident (if applicable)	8th and Harrison
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Date of Incident (if applicable)	Not Specified
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Time of Incident (if applicable)	07:30 AM
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What changes to BPD policy, practice, or procedure do you propose?	I want the current policy "Public recording of Police Activity" to include directives requiring officers to place the least possible restriction on citizen observation of police activity. I want officers to be trained to minimize the use of "yellow tape"/police lines so as to place the least restriction on citizens' ability to observe and record police activity.
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Additional Information

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

The video I provide today is merely one incident. There are many. At this same location, others were also manhandled and threatened with arrest merely for APPROACHING the police line. It has become a disturbing trend that BPD officers seem to disregard the rights of the public to observe and it is becoming more routine for officers to feel entitled to bully the public when they try to exercise their right. If you want me to produce other incidents that help to make the point, I can.

Upload Document	1 file(s) uploaded
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Incide

Link 1

<https://drive.google.com/file/d/1mHgaKbuy5Dz1ddH8BW103EEV0FFEAHh/view?usp=sharing>

How Did You Hear About Us

Not Specified

Attachment 6

Policy Complaint Presentation Memorandum for
2025-PR-0005



MEMORANDUM

Date: June 19, 2025
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel A. Aguilar, Director of Police Accountability (DPA) 
Jose D. Murillo, Policy Analyst
Subject: Notice of Policy Complaint No. 2025-PR-0005

The purpose of this memorandum is to introduce Policy Complaint Number 2025-PR-0005 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On June 10, 2025, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2025-PR-0005 from a member of the public (hereinafter referred to as the "Complainant"). See Attachment 1, Policy Complaint Form 2025-PR-0005.

The Complainant expressed concerns with the Berkeley Police Department's involvement in the development and execution of operational plans that, according to their allegations, may direct or require officers to engage in actions that violate department policy or the law. These concerns were raised in relation to a multi-agency operation conducted on June 6, 2025, at an encampment located at 8th and Harrison Streets in Berkeley.

The Complainant alleged that the operation included the use of excessive force, unnecessary deployment of less-lethal weapons, and efforts to suppress the public's right to observe. They also cited a lack of notice provided to encampment residents, which they claim constituted a violation of those individuals' due process rights.

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:
https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

According to the Complainant, if officers were acting under orders, accountability should rest not only with individual officers but also with the upper-level personnel responsible for creating and authorizing the operational plan. They urged the PAB to adopt a policy that holds command staff accountable for the directives contained in such plans and proposed the creation of a new category of misconduct for command-level staff who knowingly place officers in situations that may lead to violations of policy or law.

As examples, the Complainant pointed to instances where officers allegedly instructed residents to vacate the area within 20 minutes, established overly broad perimeters to deter civilian observation, and were encouraged to use less-lethal munitions rather than de-escalation tactics. To support further review, the Complainant requested that the PAB obtain and assess documents related to the operation, including the operational plan, after-action report, and any relevant communications from the City Manager.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (PAB) has the authority to "review policies, practices, and procedures of the Police Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer."²

If the PAB proceeds with this review, it may consider providing recommendations on the following policies, practices, or procedures, if warranted:

- BPD Policy 1100 "PC 647(e) Enforcement and 9th Circuit Decision: Special Order 2018-0001"
 - Purpose of Policy: The purpose of this policy is to ensure the Berkeley Police Department complies with the *Martin v. City of Boise* decision by restricting enforcement of PC § 647(e) unless authorized by the Chief of Police. It provides interim guidance to clarify enforcement limitations while allowing continued discretion in applying other applicable laws.
 - Reason: BPD Policy 1100 was originally issued as Special Order 2018-0001 and has not been revised since its initial release or its transition to the Lexipol format. The BPD Policy Manual does not include any further guidance on this issue.
- Policies, practices, and procedures related to how operational perimeters are determined, the deployment of less-lethal munitions during encampment operations, and the consideration of alternative de-escalation methods.

² Berkeley City Charter Section 125(17)(a): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action³, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPa staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPa staff to investigate the matter.
6. Rejecting the policy complaint.

Recommendation:

The PAB should accept the policy complaint and authorize ODPa staff to conduct a preliminary investigation into the incident. Upon completion of the investigation, ODPa will submit a report to the PAB for review, discussion, and consideration of potential policy recommendations to the City Council, City Manager, and Berkeley Police Department.

Attachments:

1. Policy Complaint 2025-PR-0005
2. Preliminary Policy Review Plan – ODPa Review No. 2025-PR-0005 (Proposed)

³ Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:
https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

ATTACHMENT 1

Policy/Practice/Procedure Form



Tracking Number **ODPA-250610-306154**

Created by [REDACTED] | June 10, 2025 | Original version

Personal Information

Basic Information

Email	[REDACTED]
First Name	[REDACTED]
Last Name	[REDACTED]
Phone	[REDACTED]
File Anonymously	Not Specified
Work Telephone	Not Specified

Mailing Address

Street name	[REDACTED]
Apt/Unit	[REDACTED]
State	California
City	Berkeley
Zip Code	[REDACTED]

Occupation	teacher
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Demographics

Please provide as many details about the incident as possible. Your recollection about the incident is invaluable.

Date of Birth	[REDACTED]
Race/Ethnicity	Not Specified
Ethnicity	["Not Hispanic or Latinx"]
Gender	Not Specified
Race	["White"]
Sexual Orientation	Not Specified

Gender	F
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Incident Details

Statement

Policy Complaint From [REDACTED]
Regarding Events on June 4, 2023 at 7am at 8th and Harrison

Policy Issues:

Who is accountable for creating an operational plan that directly or indirectly requires or directs officers to commit violations of policy or the law?

Background:

On June 4th, 2025, the City of Berkeley directed various agencies to participate in a sweep of an encampment of unhoused people residing at 8th and Harrison Streets in Berkeley. According to a declaration by BPD [REDACTED] filed on 6/9/25, "The operation involved multiple City departments, including: Neighborhood Services; Animal Control; BPD; Public Works; Health, Housing & Community, Services Mobile Crisis Team; and Berkeley Fire Department."

Allegations of excessive force, unnecessary use of less lethal weapons, smoke or smoke devices, intentional abridgement of right to observe have been made by witnesses to the events of that day. In addition, the lack of notice to the residents of that area was recently found to constitute a violation of the due process rights of those people.

Members of Berkeley Copwatch, Where Do We Go Berkeley, Berkeley Homeless Union and others want to ensure that these kinds of violations do not occur again. However, it does not make sense to file misconduct complaints against individual officers if they were simply following their orders. Similarly, there are limits to how to file a policy complaint in this situation. Therefore, our request is that the PAB create a policy that holds upper management involved in the creation of Operational Plans accountable for the instructions that are given to officers and the overall architecture of the plan itself.

Further, we would like to create a category of misconduct that pertains to command staff who knowingly or intentionally put officers into situations in which they are required to violate policies or laws. Examples:

Directing officers to give unhoused residents 20 minutes to leave. Some people were told by BPD that they had 20 minutes to get their belongings and leave the area. The reason for this was to get people moving. Past experience has shown that if BPD or other City staff ask people to leave without giving a clear time limit, then it takes a lot of time for people to sift through items and actually move." ([REDACTED] Declaration 6/9/25)

Creating a prohibitively wide perimeter to discourage citizen monitoring.

Encouraging officers to use "less lethal" munitions instead of deescalation to resolve resident concerns about the speed at which they were being asked to move to vacate the area.

In order to better understand the planning process for this operation I am re-

questing that the PAB consider the following documents and to request these from the BPD or other relevant agencies and departments.

Operational PPlan for the June 4th raid on the encampment at 8th and Harrison
After Action report for the June 4, 2025 action that is required to be written according to BPD policies.

Documents from the City Manager's office, the Homeless Response Team, [REDACTED] and any other agencies or departments that participated in the action on June 4th. "Documents" should include interagency emails, memos or documents describing the action to be taken.

Location of Incident (if applicable) 8th and Harrison

Date of Incident (if applicable) June 04, 2025

Time of Incident (if applicable) 07:00 AM

What changes to BPD policy, practice, or procedure do you propose? See above

Additional Information

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

(See my previous response) Please let me know if you need video documentation of the events that have not already been provided.

Upload Document Not Specified

Incident External Links

Not Specified

How Did You Hear About Us

Not Specified

Off-Agenda 1

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: September 4, 2026
To: Honorable Members of the Police Accountability Board
From: Katherine Lee, Interim Director of Police Accountability
Jose Murillo, ODPa Policy 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 Updates¹

The following bills are being proposed in the state of California regarding peace officers:

NAME OF LEGISLATION	STATUS	SUMMARY/PURPOSE
AB 1537 (Bryan) – Peace Officers: Secondary Employment	08/24/26 - Read second time. Ordered to third reading.	Prohibits peace officers from engaging in part-time or any other form of secondary employment for the United States (U.S.) Department of Homeland Security (DHS) or any other entity that engages in immigration enforcement
AB 1544 (Krell) – Court proceedings: media access	08/20/26 - In Assembly. Ordered to Engrossing and Enrolling	Clarifies and strengthens public access rights to court proceedings by prohibiting officials from restricting entry to open court settings—except as necessary to maintain order—makes violations enforceable under the Bane Act, and affirms that existing access rights are not limited or reduced.

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

<u>AB 1627 (Avila Farias) - Public employment: disqualifications</u>	06/25/26 - Read second time. Ordered to third reading.	Disqualifies a person previously employed by the United States Immigration and Customs Enforcement (ICE) or specified out-of-state corrections departments, during specified time periods, from being employed as a peace officer
<u>AB 1896 (Gonzalez) – Public employment: disqualifications</u>	08/24/26 - Read second time. Ordered to third reading.	Amends various existing laws relating to disqualification from public employment, minimum standards relating to peace officers, and adds certain criteria for an individual employed by an entity that engaged in immigration enforcement on or after January 20, 2025, to January 20, 2029, except as provided, among other provisions.
<u>AB 2347 (Ahrens) – Commission on Peace Officer Standards and Training: hate crime training and guidelines</u>	05/14/2026 - In committee: Held under submission.	Requires the Peace Officer Standards and Training Commission (POST) to conduct a comprehensive review of hate crimes training programs and adopt evidence-based training requirements to fill any gaps in the handling of hate crimes, as specified.
<u>SB 691 (Wahab) – Body-worn cameras: policies</u>	08/13/26 - Read second time. Ordered to third reading.	This bill requires, on or before July 1, 2027, each law enforcement agency that has a body-worn camera policy to update that policy to include a procedure for emergency service personnel to request, prior to any public release, the redaction of evidentiary and nonevidentiary recordings of a patient undergoing medical or psychological evaluation, procedure, or treatment by emergency service personnel.
<u>SB 1105 (Perez) – Law Enforcement</u>	08/25/26 - In Senate. Concurrence in Assembly amendments pending.	Current law grants limited arrest authority—and in some cases peace officer status—to federal law enforcement under specific conditions. This bill removes those authorities and prohibits California agencies from participating in joint task forces involving profiling, while requiring

Public

		Attorney General approval and compliance standards for interagency agreements.
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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
BPD Policy 1507 “2026 Legislative & Case Law Update”	https://berkeleyca.gov/sites/default/files/2026-02/RELEASE_20260127_T171031_Berkeley%20PD%20Policy%20Manual.pdf#Page=1061
The California Peace Officers Association also provides a yearly California Legislative and Legal Digest.	https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf

Lexipol Policy Updates

There have been no Lexipol policy updates since the PAB’s Regular Meeting on July 22, 2026.

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:

September 15, 2026 Regular City Council Meeting

Item #	Item Description	Recommendation
21.a.	Resolution Reinstating the Berkeley Police Department's Ability to Use Tear Gas for Critical Lif-Threatening Incidents Only and Lifting the COVID-19 Moratorium on Smoke and Oleoresin Capsicum (OC) Spray	Adopt a Resolution amending the Berkeley City Council's June 9, 2020 direction regarding smoke, OC spray, and tear gas to allow the Berkeley Police Department (BPD) Special Response Team (SRT) to use tear gas under circumstances in which there is a significant risk of injury or death; maintain the prohibition on the use of tear gas solely for crowd control; and lift the temporary moratorium on the use of smoke and OC spray.
21.b.	Social Justice Implications of Proposed Use of Controlled Weapons and Other Policing Tools	<i>Note: The following has been summarized.</i> Adopt a policy retaining existing bans on chemical weapons, police dogs, and helicopters; maintaining public reporting requirements for pepper spray use; and requesting an academic study of the health impacts of chemical weapons and canine support, particularly on vulnerable populations, as well as potential safer alternatives.

Off-Agenda 2

List of Remaining 2026 PAB Meetings

Remaining 2026 Police Accountability Board Meetings

City of Berkeley – Police Accountability Board

The following are the remaining scheduled Police Accountability Board meetings for calendar year 2026, based on the 2026 PAB Meeting Calendar.

Meeting Date
September 9, 2026
September 23, 2026
October 7, 2026
October 21, 2026
November 4, 2026
December 9, 2026

Off-Agenda 3

**September 4, 2026 PAB Correspondence to the City Council re:
Resolution Reinstating the Berkeley Police Department's Ability
to Use Tear Gas for Critical Life-Threatening Incidents Only and
Lifting the COVID-19 Moratorium on Smoke and Oleoresin
Capsicum (OC) Spray**



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

September 4, 2026

VIA ELECTRONIC MAIL [Email]

Berkeley City Council
Council@berkeleyca.gov
2180 Milvia Street,
Berkeley, CA 94704

Re: Resolution Reinstating the Berkeley Police Department's Ability to Use Tear Gas for Critical Life-Threatening Incidents Only and Lifting the COVID-19 Moratorium on Smoke and Oleoresin Capsicum (OC) Spray

Dear Honorable Mayor Ishii and Members of the City Council,

The Police Accountability Board (PAB) writes to follow up on Councilmember Kesarwani's proposal to reinstate the authority of the Berkeley Police Department (BPD) to use tear gas.

The PAB previously informed the Council in our January 26, 2026 correspondence that the PAB questions the necessity of reauthorizing tear gas given the undisputed fact that BPD has only used tear gas three times over the last several decades, and two of those times occurred in a crowd control context that would be prohibited by the Councilmember's resolution.¹ We continue to question whether the proposal reintroduces a tool associated with significant community concern for marginal operational benefit.

Nevertheless, in light of the City Council's discussion at the July 14, 2026 meeting, the PAB and BPD have approved policy language that can be inserted into the Use of Force Policy 300. See Attachment 1. The PAB believes that the approved policy language, in conjunction with the current Use of Force Policy, incorporates the requirements of California Penal Code section 13652,

¹ January 26, 2026 PAB Memorandum to the Public Safety Policy Committee Titled "Proposed Resolution to Reinstate Berkeley Police Department's Use of Tear Gas and Related Chemical Agents": https://berkeleyca.gov/sites/default/files/2026-01/2026-01-26%20PAB%20Memo%20to%20PSPC_UseofTearGas_Related%20Chemical%20Agents%20%28Final%29.pdf

which establishes criteria for chemical agent use policies. If the Council decides to approve the use of tear gas, we recommend that the Council's motion and recommendation incorporate the policy language approved and agreed upon by both the PAB and BPD.

If the Council does not agree with the jointly recommended policy language, then the PAB respectfully requests that the Council defer action on the item until after the revised Use of Force Policy has been reviewed and approved by the Council.

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

Attachment(s):

1. PAB and BPD Approved Policy Language Regarding the Use of Tear Gas in Limited Circumstances

Attachment 1.

PAB and BPD Approved Policy Language Regarding the Use of Tear Gas in Limited Circumstances

“Tear gas shall only be used upon approval by the Incident Commander by trained members of the Special Response Team during the following tactical operations, provided that the suspect refuses to comply, and the supervisor reasonably believes that the risks of deploying tear gas are outweighed by the risks of not deploying tear gas:

1. Barricaded subject operations
2. Service of a high-risk warrant during which a suspect is actively presenting a threat of death or serious injury to officers or others; or
3. Hostage situations.

If feasible, prior to the use of tear gas, the SRT should (1) issue verbal warnings and (2) take reasonable steps to ensure that the suspect is in a controlled, contained area and that non-suspects are provided the opportunity to leave the area. Following the use of tear gas, the SRT shall ensure that any impacted person is offered medical care as soon as feasible.

Tear gas shall not be used for crowd control or crowd management, or during homeless encampment abatements.”