



Friday, March 10, 2023

***Via Electronic Transmittal***

Interim Chief Jennifer Louis  
Berkeley Police Department  
2100 Martin Luther King Jr. Way  
Berkeley, CA 94704

**Re: Fixed Video Surveillance Cameras**

Dear Interim Chief Jennifer Louis:

The Police Accountability Board (PAB) would like to provide its recommendations on the proposed policies<sup>1</sup> regarding fixed video surveillance cameras being considered by the Berkeley Police Department. As mandated by Berkeley Municipal Code Section 2.99 "Acquisition and Use of Surveillance Technology," specifically section 2.99.030.2, the PAB conducted a review of the proposed policies and voted to provide the attached report at their March 8th, 2023 special meeting.

The PAB brings to your attention several points. First, these policies state that the surveillance cameras are to be used for "a variety of purposes", which appears to be inconsistent with the Council's intent to use the cameras "solely for the purpose of solving criminal investigations", as passed in their budget referral and adoption in 2021. Second, because the two use policies provided to the PAB appear to be duplicative, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is. Thirdly, several sections of these policies are ambiguous and require further clarification. Lastly, the data retention policies should be further elaborated

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<sup>1</sup> BPD Draft Policy 351 "External Fixed Video Surveillance Cameras" & Policy 1304 "Surveillance Use Policy – External Fixed Video Surveillance Cameras"

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to provide additional clarity on the proposed uses of the data. For more information, please refer to the attached report.

The PAB understands the importance of maintaining public safety and does not wish to limit the effectiveness of the BPD in ensuring the safety of the community. We strive to balance the needs of public safety with the protection of civil liberties and privacy. We hope that by addressing the aforementioned points, we can work together to maintain a safe and secure environment for all members of the Berkeley community while respecting their rights and privacy.

Sincerely,

Police Accountability Board

cc: Honorable Mayor & Members of the Berkeley City Council  
City Manager

Attachments: PAB POLICY REVIEW REPORT

BPD Draft Policies 351 & 1304:

External Fixed Video Surveillance Cameras & Surveillance Use Policy -

External Fixed Video Surveillance Cameras



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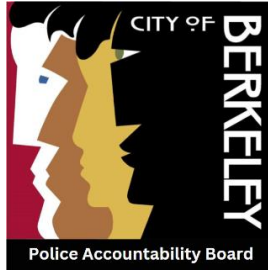


**Police Accountability Board  
&  
Office of the Director of  
Police Accountability**

# POLICY REVIEW REPORT

**BPD Draft Policies 351 & 1304:**

**External Fixed Video Surveillance Cameras & Surveillance Use Policy -  
External Fixed Video Surveillance Cameras**



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Police Accountability Board  
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Police Accountability

## **POLICY REVIEW REPORT**

BPD Draft Policies 351 & Policy 1304:

“External Fixed Video Surveillance Cameras” & “Surveillance Use Policy – External  
Fixed Video Surveillance Cameras”

**Date of Report:** March 10, 2023

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### **Summary Review:**

The Police Accountability Board (PAB) has reviewed these policies and notes several primary points. First, these policies state that the surveillance cameras are to be used for “a variety of purposes”, which appears to be inconsistent with the Council’s intent to use the cameras “solely for the purpose of solving criminal investigations”, as passed in their budget referral and adoption in 2021. Second, because the two use policies provided to the PAB appear to be duplicative, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is.

### **Background:**

On February 8th, 2023, in compliance with the BMC Section 2.99.030.2, Interim Chief Louis presented to the Police Accountability Board (PAB) a triad of documents for their review. A Surveillance Technology Acquisition Report, which was crafted by the Public

Works Department, was accompanied by two proposed policies, Policy 351 entitled "External Fixed Video Surveillance Cameras," and Policy 1304 entitled "Surveillance Use Policy - External Fixed Video Surveillance Cameras," both of which were drafted by the Berkeley Police Department (BPD). Please refer to Attachment 1, which includes a copy of the Surveillance Technology Acquisition Report, as well as the proposed policies.

The acquisition report and proposed policies state that the cameras will serve several business purposes that will include, *but not be limited to*: the prevention, deterrence, and identification of criminal activity; the addressing of areas of criminal activity; and the response to critical incidents. Additionally, the cameras will assist in identifying, apprehending, and prosecuting offenders, documenting officer and offender conduct during interactions to safeguard the rights of the public and officers, cost-effectively augmenting resources, monitoring pedestrian and vehicle traffic activity to aid traffic-related investigations, and documenting employee, employer, and/or customer conduct during interactions to protect them from any potential misconduct. See Attachment 1. However, these proposed uses of surveillance cameras—which are not inclusive of all possible uses—may be inconsistent with the implied purpose seen throughout the procedural history of these policies.

On October 12, 2021, Councilmember Taplin and Councilmember Kesarwani presented a budget referral to the City Council for "Security Cameras in the Public Right of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment of High Crime Areas." The presented recommendation aimed to deter gun violence and obtain evidence to solve criminal investigations, with an understanding that the cameras would not be used for any type of surveillance purposes. The recommendation was approved with revisions that included referring to the City Manager to develop a use policy for the security cameras, based on active investigations only and including a data retention schedule. Staff was also required to provide the council with an off-agenda memo commemorating the use policy, and the locations of the cameras would be based on calls-for-service data, with a list of locations brought to the council and referred to the AA01 budget process. See attachment 2 for a copy of the consent item 20

with Council actions from the October 12, 2021, City Council regular meeting and the relevant supplemental material.

On December 14, 2021, the City Council voted to adopt the budget recommendations that included the proposal for security cameras in certain locations. However, funding for the cameras was made conditional on the development and implementation of a Use Policy before their deployment and siting in District 1, District 2, and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). The policy was set to be adopted administratively and presented to the City Council as an off-agenda memo. See attachment 3 for a copy of the action item with Council actions from the December 14, 2021, City Council regular meeting. City Manager Dee Williams-Ridley presented an off-agenda memorandum to Council on January 25, 2022, providing an early version of Policy 351. See attachment 4 for a copy of that memorandum.

The PAB has thoroughly examined all pertinent materials, and procedural history relating to the development of these policies and conducted independent research to present recommendations to the City Council and City Manager about the proposed policies of the Berkeley Police Department (BPD).

**Recommendation:**

The PAB recommends that the BPD revise the proposed policies to align with the initial scope of the budget referral, as well as the conditions placed by the City Council when the budget referral was approved. This will involve implementing changes such as clarifying language and limiting use to the intended purpose. In addition to these changes, the PAB recommends that to avoid confusion the Department make it clear what the intended purpose of each policy is and clearly define which policy is intended for internal training purposes and which is intended to ensure compliance with BMC 2.99.

**Reasoning:**

In developing its recommendation, the PAB considered the following:

*The misalignment between the proposed policies and the City Council's intended Direction*

Upon careful analysis of the proposed policies, the PAB determined that the language included within these policies is not reflective of the Council's original intent when approving the budget for these cameras. Policy 351 and Policy 1304 state that "recorded images may be used for a variety of purposes, including criminal or civil investigations." Among the potential uses, the policies note that the video images may be used "to document officer and offender conduct during interactions to safeguard the rights of the public and officers," "to augment resources in a cost-effective manner," "to monitor pedestrian and vehicle traffic related to investigations," and "to document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct." See attachment 1, proposed policy 351 section 351.3.1, and proposed policy 1304 section 1304.2. The proposal made by Councilmembers Taplin and Kesarwani made it clear that these cameras would be "used solely to solve criminal investigations." The proposed application of these cameras by the BPD is not in alignment with the Council's original objective of restricting their use as a crime deterrent and solely for solving ongoing criminal investigations. See attachment 2, the revised agenda material for supplemental packet 1 of the Council's October 12, 2021, regular meeting. Therefore, we recommend that the authorized use section should be revised to reflect Council's intent. The PAB's suggested changes to Policy 351 are included hereto as Attachment 5.

If, after a careful review of all relevant information, the City Council determines that it would be appropriate to expand the permissible uses of these systems beyond their original intent, the policy must specify what those allowable uses are. The current lack of clarity surrounding the proposed uses leaves too much room for interpretation, which could result in unintended uses that are not aligned with the Council's intent or the needs of the general public. Therefore, a well-defined policy that explicitly outlines the acceptable uses of these systems is necessary to ensure that they are used only for their intended purposes and to maintain public trust in their implementation.

*The adoption of two similar policies could cause implementation confusion.*

The BPD's Draft Policy 351, "External Fixed Video Surveillance Cameras," and Policy 1304, "Surveillance Use Policy - External Fixed Video Surveillance Cameras," are almost identical. While one policy is a "use" policy intended to provide internal training guidelines and the other is a "surveillance use" policy, it is difficult to distinguish between the two. The Police Accountability Board recommends these policies be consolidated into a comprehensive single policy or that the policies are revised to better reflect their intended purpose. If the Council and the BPD deem it appropriate to merge the policies, please refer to Attachment 5.

**Other Notes:**

*Doubts on the effectiveness of the proposed surveillance camera installation.*

In their Budget Referral memo to City Council on October 12, 2021, Council Members Taplin and Kesarwani cite a 2011 Urban Institute study entitled "Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention." That study of three large cities—Baltimore, Chicago, and Washington DC—concluded that fixed surveillance cameras could reduce crime, but only "when actively monitored" in real-time, a condition that raises personnel and other costs substantially (La Vigne et al., Page xii). Proposed policies 351 and 1304 appear to limit the cameras to the sole use of recording only video without sound and explicitly prohibit the integration of additional technologies.

The PAB's stance is not to advocate for the removal of restrictions on the integration of surveillance technology. Rather, the PAB suggests that all parties consider the possible advantages of implementing these cameras in comparison to the costs of maintenance, implementation, and training associated with the systems. According to the Urban Institute's study, "analysis results indicate that cameras, when actively monitored, have a cost-beneficial impact on crime with no statistically significant evidence of displacement to neighboring areas. However, in some contexts and locations, these crime reduction benefits are not realized" (La Vigne et al., Page xii). The study also specifies two reasons why certain locations do not observe a reduction in crime. As previously mentioned, the first explanation is that the cameras are not consistently monitored in real-time, and the



second is those areas with fewer cameras and restricted coverage limit the potential for crime prevention (La Vigne et al., Page xii).

All stakeholders must evaluate the limitations identified in the Urban Institute's study and assess whether the infrastructure necessary to make these cameras effective is already established. As the PAB acknowledges, as do other interested parties, these cameras can serve as a vital tool for deterring crime. Nonetheless, to ensure that crime is not merely being displaced to other regions, we encourage additional research to be conducted. Such research should consider the long-term effects of surveillance technology in specific areas and assess whether crime rates have decreased, remained constant, or relocated to neighboring regions. By conducting additional research, we can better comprehend the impacts of surveillance technology and make informed decisions that prioritize public safety.

*Doubts on the interpretation of Government Code 34090 as implemented in proposed policies 351.5 and 1304.7*

The PAB questions the relevance of California Government Code 34090 concerning the proposed data retention schedule in the proposed policies—specifically sections 351.5 and 1304.7. The PAB has interpreted the proposed policies to say that all video recordings, including recordings of citizen engaging in non-criminal activity, is subject to section 34090.6.a which states “the head of a department of a city or city and county, after one year, may destroy recordings of routine video monitoring, and after 100 days destroy recordings of telephone and radio communications maintained by the department.” Within this section, the following definitions are provided:

- “recordings of telephone and radio communications” means the routine daily recording of telephone communications to and from a city, city and county, or department, and all radio communications relating to the operations of the departments.
- “routine video monitoring” means video recording by a video or electronic imaging system designed to record the regular and ongoing operations of the departments described in subdivision (a), including mobile in-car video systems, jail observation, and monitoring systems, and building security recording systems.

- “department” includes a public safety communications center operated by the city or city and county.”

The PAB believes this government code, based on the definition provided, may not apply to all the data gathered by the proposed technology and that the activity of private citizens may be deleted before one year.

Based on the definitions provided by the government code, the PAB believes that the one-year retention period only applies to the monitoring of routine or departmental activities (i.e building security videos, routine video monitoring of maintenance and repair activities, police officer dash camera footage). Under this definition and the context of the proposed surveillance camera use, members of the public are not part of the “regular and ongoing operations” of city agents and their video recording would not be considered routine video monitoring and could be deleted much earlier than a year. However, if the video recording of members of the public is part of the regular and ongoing operations of any of these departments (such as a routine traffic stop), then it would fall under the definition of routine video monitoring. Otherwise, the PAB believes the retention period should be shorter than what is currently included in the proposed policies.

## Works Cited

La Vigne, Nancy G, et al. "Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention." *Www.urban.org*, Urban Institute, 19 Sept. 2011, <https://www.urban.org/research/publication/evaluating-use-public-surveillance-cameras-crime-control-and-prevention>.

## Additional Research on the topic

Piza, E. L., Welsh, B. C., Farrington, D. P., & Thomas, A. L. (2019). CCTV surveillance for crime prevention: A 40-year systematic review with meta-analysis. *Criminology & public policy*, 18(1), 135-159.

Piza, E. L. (2018). The crime prevention effect of CCTV in public places: A propensity score analysis. *Journal of Crime and Justice*, 41(1), 14-30.

National Academies of Sciences, Engineering, and Medicine. (2018). *Proactive policing: Effects on crime and communities*. National Academies Press.

Alexandrie, G. (2017). Surveillance cameras and crime: a review of randomized and natural experiments. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 18(2), 210-222.

Lum, C., Koper, C. S., & Willis, J. (2017). Understanding the limits of technology's impact on police effectiveness. *Police Quarterly*, 20(2), 135-163.

### Attachment List

Attachment	Description
1	Surveillance Technology Acquisition Report and Proposed Policies 351 and 1304
2	Copy of Consent Item Number 20, City Council Actions from the October 12, 2021, Regular Meeting, and Related Supplementary Materials.
3	Copy of Action Item Number 44 with City Council Actions from the December 14, 2021, Regular Meeting.
4	Copy of City Manager Dee Williams-Ridley's Off-Agenda Memorandum to Council on January 25, 2022, Presenting an Early Version of Policy 351.
5	PAB's Proposed Revisions to Policy 351 and 1304 Which Consolidates Both Policies.

ATTACHMENT 1

## SURVEILLANCE CAMERAS

### A. DESCRIPTION

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. The cameras are affixed to City of Berkeley-owned infrastructure including utility poles on City streets and parks. The cameras provide protection to indoor and outdoor spaces with high-resolution images of up to 5 MP, a wide field of view, and efficient bandwidth management in a compact design without compromising building aesthetics. Although license plate and facial recognition hardware is available, neither was purchased or installed. Without the hardware, these features cannot be activated. Audio is a standard feature of the camera, but will remain deactivated by the authorized administrators of the system.



The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application. <sup>1</sup>

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200320040AB839](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839)





The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female of male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

**B. PURPOSE**

Surveillance cameras will be utilized for the following business purposes:

- i. To prevent, deter and identify criminal activity.
- ii. To address identified areas of criminal activity.
- iii. To respond to critical incidents.
- iv. To assist in identifying, apprehending and prosecuting offenders.
- v. To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- vi. To augment resources in a cost-effective manner.
- vii. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- viii. To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

**C. LOCATION**

Surveillance cameras encompassed by this report, are located at, or will be installed at, the following locations.

**Future Projects:**

- 6<sup>th</sup> Street at University Avenue

## PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT

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- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

### **Completed Projects:**

- San Pablo Park
- City of Berkeley Marina
- Transfer Station

### **D. IMPACT**

The primary intent of these cameras is to deter and address crime in the City of Berkeley. The Public Works Department will work to ensure that the video recordings are secured and only accessible to authorized personnel. The right to maintain someone's anonymity versus the need to collect information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

The Public Works Department will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.



**E. MITIGATION**

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, the Department will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

Employees are prohibited from retaining, duplicating, or distributing video recordings except for departmental business purposes in accordance with the use policy.

**F. DATA TYPES AND SOURCES**

The surveillance camera system's use is limited to capturing non-audio, video recordings on affixed City buildings, including utility poles on streets and within park boundaries. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

**G. DATA SECURITY**

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from system management. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.
2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.

## **PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

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5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

### **H. FISCAL COST**

Costs for future projects listed in Section C of this report are unknown at this time. Future costs will depend on additional maintenance, equipment, and parts. Ongoing costs include associated staff time relative to the system administrator's role of administering and maintaining the surveillance camera program. All cameras are purchased and wholly owned and operated by City of Berkeley.

#### Initial Purchase Costs:

San Pablo Park: \$64,829.46 – 1 server and 21 camera views

Zero Waste Transfer Station – Weigh Station: \$15,962.35 – 1 server and 10 camera views

Marina: \$106,620.14 – 2 servers and 45 camera views

#### Ongoing Costs:

Personnel, maintenance, and other ongoing costs, including compliance and other reporting and oversight requirements - \$13,443.20 per year.

### **I. THIRD PARTY DEPENDENCE AND ACCESS**

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.

### **J. ALTERNATIVES**

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol City buildings and parks.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities.

**K. EXPERIENCE OF OTHER ENTITIES**

Neighboring cities including San Francisco, Oakland, and San Jose have adopted the use of Surveillance Cameras as a tool for reducing crime on city streets and parks. Many cities have developed their own usage policies which may include standards for use, data retention standards, and system controls.



## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue

- 
- San Pablo Avenue at University Avenue
  - 7th Street at Dwight Way
  - San Pablo Avenue at Dwight Way
  - 7<sup>th</sup> Street at Ashby Avenue
  - San Pablo Avenue at Ashby Avenue
  - Sacramento Street at Ashby Avenue
  - College Avenue at Ashby Avenue
  - Claremont Avenue at Ashby Avenue
  - 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- (h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

#### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.



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#### **351.4 VIDEO SUPERVISION**

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

##### **351.4.1 VIDEO LOG**

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

##### **351.4.2 PROHIBITED ACTIVITY**

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **351.5 STORAGE AND RETENTION OF MEDIA**

The cameras should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.



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Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

#### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **351.6 RELEASE OF VIDEO IMAGES**

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, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **351.7 VIDEO SURVEILLANCE AUDIT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. 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., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

#### **351.8 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

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All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

**351.9 MAINTENANCE**

It shall be the responsibilities of the Public Works Department to facilitate and coordinate any updates and required maintenance.



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## Surveillance Use Policy-External Fixed Video Surveillance Cameras

### 1304.1 PURPOSE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department (BPD). This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

### 1304.2 AUTHORIZED USE

Only BPD members who receive training on this policy, who are then granted access by an administrator may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate law enforcement purpose. Members must follow the necessary logging mechanisms, such as case number and case type when querying the database.

Recorded images may be used for a variety of purposes, including criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- (h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

The following are prohibited uses of the video surveillance system:

- (a) Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.
- (b) Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.
- (c) Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.
- (d) Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
- (e) Video surveillance systems and recordings are subject to the Berkeley Police



Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### **1304.3 DATA COLLECTION**

The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

### **1304.4 DATA ACCESS**

Access to video surveillance cameras data shall be limited to Berkeley Police Department personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 1304.9 below. Members seeking access to the video surveillance system shall seek the approval from the Investigations Division Captain, or their designee.

### **1304.5 DATA PROTECTION**

All data transferred from the cameras and the servers shall be encrypted. Access to the data must be obtained through the Public Works Department. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **1304.6 CIVIL LIBERTIES AND RIGHTS PROTECTION**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1304.4 Data Access, 1304.5 Data Protection, 1304.7 Data Retention, 1304.8 Public Access and 1304.9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1304.7 DATA RETENTION**

The video surveillance camera system should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.



# Berkeley Police Department

Law Enforcement Services Manual

## Surveillance Use Policy-External Fixed Video Surveillance Cameras

### **1304.8 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 recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

### **1304.9 THIRD-PARTY DATA-SHARING**

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with specific and legitimate law enforcement purposes.

Data collected from the video surveillance system may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process

### **1304.10 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **1304.11 AUDITING AND OVERSIGHT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. 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., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

### **1304.12 MAINTENANCE**

It shall be the responsibilities of the Public Works Department to facilitate and coordinate any updates and required maintenance.

ATTACHMENT 2



## Council Consent Items

**20. Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas**

**From: Councilmember Taplin (Author), Councilmember Kesarwani (Author)**

**Recommendation:** In order to deter gun violence and obtain evidence to solve criminal investigations, adopt the following recommendations: 1. Authorize the City Manager to install security cameras, prominent signage, and increased lighting in the public right-of-way at intersections experiencing a rise in violent crime, including appropriate arterial streets serving as entry into and exit out of the City of Berkeley; 2. Refer to the City Manager an environmental safety assessment of the high crime areas specifically in South and West Berkeley; 3. Refer costs for security cameras and lighting to the Annual Appropriations Ordinance (AAO) #1 budget process.

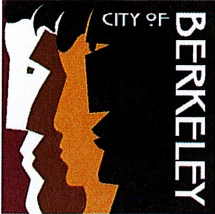
We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever. Key intersections entering and leaving Berkeley for security camera installation could include those listed below. Arterial intersections along University, Ashby and Alcatraz in close proximity to gun violence in South and West Berkeley should be prioritized: 6th/University, 7th/Ashby, San Pablo Ave./Ashby, Sacramento/Alcatraz, Alcatraz/Adeline, Ashby/Telegraph, Gilman/6th, College/Alcatraz, Ashby/Domingo, Ashby/Claremont. Other locations within Berkeley may include the following: University/San Pablo, University/Sacramento, Sacramento/Ashby, George Florence Park, 10th/Bancroft, 8th/Channing, 8th/Addison.

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin, and further revised to include the amendments below.

- Refer to the City Manager to develop a use policy for the security cameras that includes provisions that the data may be used for active investigations only and that the policy will include the data retention schedule. Staff to provide Council with an off-agenda memo commemorating the use policy.
- The locations of the cameras will be based on calls-for-service data; that staff will bring a list of locations to Council; and to refer the item to the AAO1 budget process.



Terry Taplin  
Councilmember District 2  
Rashi Kesarwani  
Councilmember District 1

## **REVISED AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** October 12, 2021

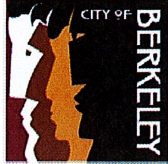
**Item Number:** 20

**Item Description:** Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

**Submitted by:** Councilmember Taplin, Councilmember Kesarwani

- Removed several locations from recommended intersections for camera placement
- Specified compatibility with existing cameras
- Revised fiscal estimate
- Revised background section to include updated gunfire statistics
- Added statistics on private security cameras registered with BPD





CONSENT CALENDAR  
Oct. 12, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Kesarwani (Author)

Subject: Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

RECOMMENDATION

In order to deter gun violence and obtain evidence to solve criminal investigations, adopt the following recommendations:

1. Authorize the City Manager to install security cameras, prominent signage, and increased lighting in the public right-of-way at intersections experiencing a rise in violent crime, including appropriate arterial streets serving as entry into and exit out of the City of Berkeley;
2. Refer to the City Manager an environmental safety assessment of the high crime areas specifically in South and West Berkeley;
3. Refer costs for security cameras and lighting to the Annual Appropriations Ordinance (AAO) #1 budget process.

We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever. Cameras should be compatible with those already in use at San Pablo Park under Contract Nos. 31900080 and 31900205.

Key intersections entering and leaving Berkeley for security camera installation as recommended by the Berkeley Police Department could include those listed below. Arterial intersections along University and Ashby and Alcatraz in close proximity to gun violence in South and West Berkeley should be prioritized.

- Sixth6th/University
- Seventh7th/Ashby
- San Pablo Ave/Ashby
- Sacramento/Alcatraz
- Alcatraz/Adeline
- University/San Pablo
- Sacramento/Ashby
- 
- MLK/Ashby



- Dwight/7th
- San Pablo and Dwight
- ~~Gilman/6<sup>th</sup>~~
- ~~College/Alcatraz~~
- ~~Ashby/Domingo~~
- ~~Ashby/Claremont~~

Other locations within Berkeley as requested by residents may include the following:

- ~~University/Sacramento~~
- Sacramento/Oregon
- George Florence Park
- ~~10<sup>th</sup>/Baneroff~~
- ~~Eighth<sup>8</sup>/Channing~~
- ~~108<sup>th</sup>/Addison~~

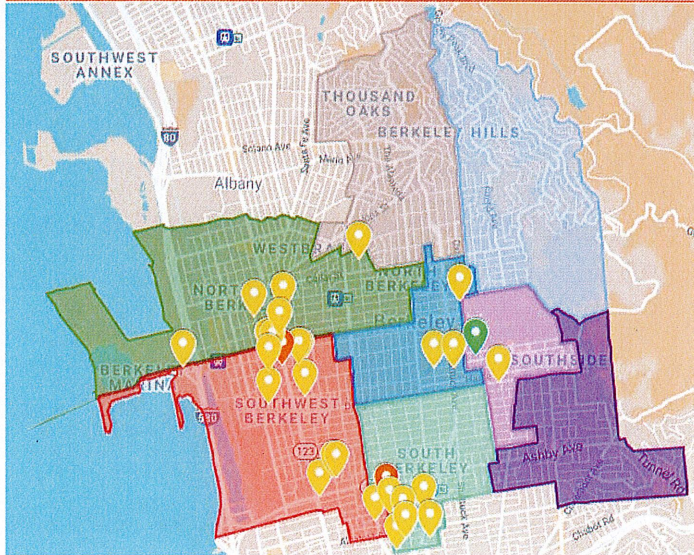
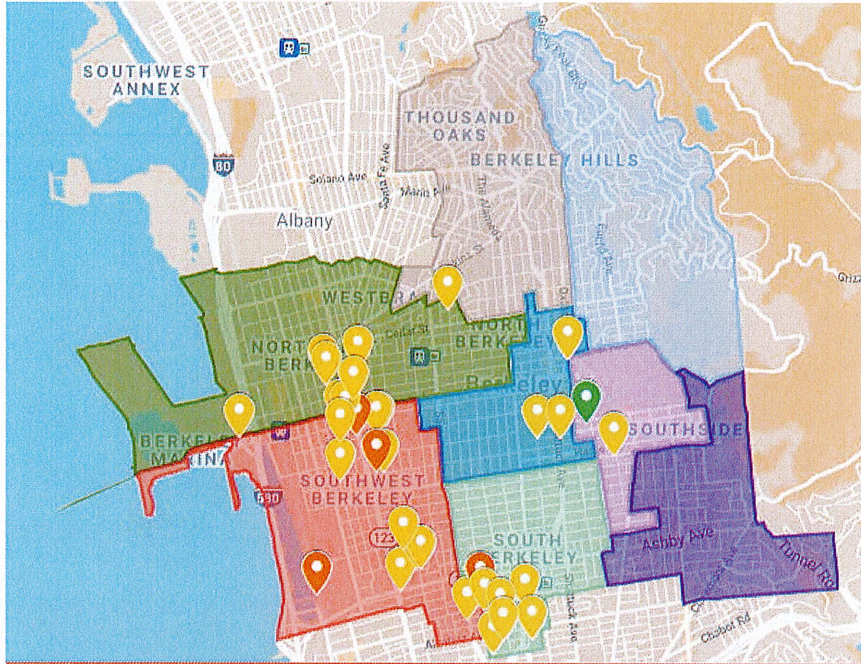
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**FINANCIAL IMPLICATIONS**

~~Estimated one-time costs to install cameras, signage and lighting are likely to range from \$75,000 to \$150,000 per intersection, plus \$40,000 annually for data, software and maintenance. Total costs would vary based on the number of intersections selected. Specifically, total one-time costs for prioritizing seven intersections recommended by the Berkeley Police Department would be \$525,000 to \$1,050,000 plus ongoing data, software and maintenance costs of \$280,000. Approximately \$975,000 to \$1,950,000 to \$100,000 to \$1 million for purchasing security cameras including camera storage and maintenance, as well as signage installation and increased lighting. Estimated one-time costs to install cameras, signage and lighting are likely to range from \$75,000 to \$150,000 per intersection, plus \$40,000 annually for data, software and maintenance.~~

**CURRENT SITUATION AND ITS EFFECTS**

According to the Berkeley Police Department, there were ~~29-35~~ shootings in 2021 as of September ~~624~~, compared to ~~22-24~~ shootings by the same date in 2020. Only 10 of the investigations on those shootings have been closed with an identified suspect, and the Department has recovered 70 firearms this year so far; 22 of those firearms, including 4 rifles, were recovered during detective follow-up investigations.





*2021 Berkeley Gunfire Map*<sup>1</sup>

[West Berkeley neighborhoods have experienced repeated terrorizing incidents of gunfire in recent weeks.](#) On the morning of Saturday, September 4, 2021, West Berkeley residents reported 8 to 10 gunshots from two cars driving on [Tenth 10<sup>th</sup> St.](#) past George Florence Park.<sup>2</sup> Panicked parents grabbed their children and ran for cover, but the park is fenced in on [three](#) sides, and is only open on the side of the street where the gunfire was identified. Police responded to the scene and found evidence of a second shooting just two blocks away at [Ninth 9<sup>th</sup>](#) and Allston. This follows recent shootings at [Eighth 8<sup>th</sup>](#) and Channing on August 20, and one that injured a man at San Pablo and Allston on August 14.<sup>3</sup> [On the evening of September 23, a shooting at the intersection of Channing Way and Byron Street sent a teenage girl to the hospital with injuries.](#)<sup>4</sup> Residents of this neighborhood are alarmed by the surge in gun violence and have urged the City to install security cameras in public spaces with [a](#) high incidence of violent crime, along with other evidence-based [public safety](#) ~~other~~-responses, to ensure safer streets.

[High-quality images of suspect vehicles would provide valuable investigative leads to assist efforts to bring accountability for violent gun crimes.](#) Shootings often involve suspects who flee the area of the crime in their vehicles. Police investigating the crime [often](#) rely on private security cameras owned by residents and/or businesses in order to obtain video evidence. Installing high-quality cameras at major arterials would ensure access to videos and allow investigators to check the [footage videos](#) for suspects fleeing the crime area in their vehicle. ~~High-quality images of suspect vehicles would provide valuable investigative leads.~~

The City already urges private property owners with security cameras to register their cameras with the Berkeley Police Department ([BPD](#)) to assist in criminal investigations, and property owners readily avail themselves of this resource. [According to the Department, a total of 283 security cameras owned by private citizens and businesses are currently registered with BPD.](#) Valuable public safety resources should not be delegated entirely to the voluntary cooperation of private entities, particularly when violent gunfire has occurred in many public spaces including parks and major intersections.

<sup>1</sup> Raguso, E. (2021). The 2021 Berkeley Gunfire Map. *Berkeleyside*. Retrieved Sept. ~~13~~24, 2021 from <https://www.berkeleyside.org/2021/05/22/2021-berkeley-gunfire-map>

<sup>2</sup> Raguso, E. (Sept. 4, 2021). Police investigate daytime shoot-out in Berkeley on Saturday. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/09/05/police-investigate-daytime-shoot-out-west-berkeley-saturday>

<sup>3</sup> Raguso, E. (Aug. 14, 2021). Update: Man shot in Berkeley is expected to survive; roadway is open. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/08/14/man-shot-berkeley-traffic-san-pablo-avenue>

<sup>4</sup> [Raguso, E. \(Sept. 23, 2021\). Berkeley shooting sends teenage girl to hospital. \*Berkeleyside\*. Retrieved from <https://www.berkeleyside.org/2021/09/23/southwest-berkeley-shooting-hospital-girl-16>](#)

Strategically placed cameras should be of sufficient quality to capture high resolution video. Cameras would *not* be equipped with Automated License Plate Readers (ALPR), and would not be monitored. The recordings would be an investigative resource which officers could access while investigating specific crimes and could assist in a reduction of crime. This would be an additional element of our Police Department's crime prevention strategies.

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"Stationary security cameras affixed to City property or facilities" are not regulated under the Surveillance Technology Ordinance (e.f. BMC Section 2.99.020.1.i). As a result, stationary camera installation at major thoroughfares would be exempt from the requirements of BMC Chapter 2.99.

Providing security cameras in the public right-of-way is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

**BACKGROUND**

A 2011 report<sup>5</sup> from The Urban Institute's Justice Policy Center noted that cameras can be an effective tool for preventing crimes and supporting investigations. These tools appear fiscally prudent both as tools for investigations, and with the installation and maintenance of security cameras being less costly than the costs associated with crimes that may take place without them. Moreover, an experiment conducted at the University of Twente in the Netherlands finds evidence that the presence of security cameras can encourage "prosocial" and "helping behavior" among bystanders.<sup>6</sup>

Berkeley's Police Department has been conducting Crime Prevention Through Environmental Design (CPTED) assessments for neighborhoods throughout the City over the past several years. These assessments include recommendations such as: increased lighting, maintenance of properties, landscaping and signage that can be used to deter criminal behavior.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

None.

**CONTACT PERSON**

Councilmember Terry Taplin      Council District 2      510-981-7120  
Councilmember Rashi Kesarwani Council District 1      510-981-7110

<sup>5</sup> La Vigne, N. G., et al. (2011). Evaluating the use of public surveillance cameras for crime control and prevention. *Washington, DC: US Department of Justice, Office of Community Oriented Policing Services. Urban Institute, Justice Policy Center, 1-152.*

<sup>6</sup>Van Rompay, T. J., et al. (2009). The eye of the camera: Effects of security cameras on prosocial behavior. *Environment and Behavior*, 41(1), 60-74. Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.844.4026&rep=rep1&type=pdf>

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ATTACHMENT 3



## Action Calendar – New Business

### 44. FY 2021 Year-End and FY 2022 First Quarter Budget Update

**From:** City Manager

**Recommendation:** Discuss and determine the funding allocations for FY 2022 based on the FY 2021 Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council Budget Referrals approved during FY 2022 to be considered in November 2021.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 45.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:15 p.m. to complete Items 44 and 45; and to continue Items 46 and 47 to January 18, 2022.

**Vote:** All Ayes.

**Action:** 23 speakers. M/S/C (Arreguin/Kesarwani) to adopt the budget recommendations for excess equity as contained in the supplemental materials submitted at the meeting with the amendment that funding of the security cameras is conditioned on development and implementation of a Use Policy prior to deployment and Siting of Cameras in District 1, District 2 and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). Policy will be adopted administratively and presented to the City Council as an off-agenda memo; repayment of the Workers Comp fund will be a top priority in the June budget process.

**Vote:** All Ayes.

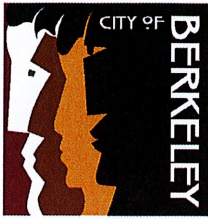
FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
34	011	General Fund	Information Technology	\$40,000			Cyber Leadership and Strategy Solutions			X	Carryover of fund for Cyber Leadership and Strategy Solutions Contracts. Approved by Council on 04/27/2021 per Resolution No. 69.813.
35	011	General Fund	Information Technology	\$263,679			1947 Rent			X	Carryover of fund for IT rent in 1947 Center
36	011	General Fund	Mayor & Council	\$68,751			FY21 Council Carryover		X		FY21 Council Carryover Amount. Approved by Council through Resolution No. 65.540-N.S.
37	011	General Fund	Mayor & Council		\$709,695		Legislative Assistants Salary & Fringe Benefit Increase and One-Time Accretion Payment		X		Appropriate fund for the One-Time Accretion recognition payment for Legislative Assistants related to inclusion of the Legislative Assistant position to SEIU 1021 - CSU/PTRLA Unit. Approved by Council on 06/15/2021 through Resolution 69.928-N.S. Appropriate fund to augment Council Office Salaries budget to fund for one Legislative Assistant position at the top step of the salary range with benefits. Approved by Council on 10/12/2021 through Resolution xx,xxx-N.S.
38	011	General Fund	Mayor & Council		\$30,121		Mayor and Council Annual Salary per Measure JJ		X		Appropriate FY 2022 funds for Measure JJ for the Mayor and Councilmember Salaries and Benefit increases approved by voters on November 3, 2020.
39	011	General Fund	Mayor & Council		\$1,330,000		Security Cameras in the Public Right of way		X		Appropriate funding for a Council Budget Referral by Council member Taplin and Kesarwani. Security Cameras in the Public Right of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas
40	011	General Fund	Mayor & Council		\$300,000		Resolution Recognizing Housing as Human Right		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin, Councilmember Taplin, Harrison, and Hahn. Resolution Recognizing Housing as Human Right. Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley
41	011	General Fund	Mayor & Council		\$100,000		Homeless Outreach Coordinator		X		Appropriate funding for a Council Budget Referral by Councilmember Bartlett for a Homeless Outreach Coordinator for South Shattuck Avenue and Adeline St. Berkeley
42	011	General Fund	Mayor & Council		\$60,000		Durant Parklet and Telegraph Plaza Improvements		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin and Councilmember Robinson for Durant Parklet and Telegraph Plaza Improvements
43	011	General Fund	Mayor & Council		\$200,000		Berkeley Ceasefire		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin and Councilmember Wengraf, Bartlett, and Taplin for the Berkeley Ceasefire program

ATTACHMENT 4





Office of the City Manager

January 25, 2022

To: Honorable Mayor and Members of the City Council

From:  Dee Williams-Ridley, City Manager

Subject: Public Safety Cameras Affixed to City Property

On December 14, 2021, City Council adopted an agenda item for Public Safety Cameras in the public right of way affixed to City property at various intersections throughout the City of Berkeley, similar to existing cameras currently in place at San Pablo Park. This agenda item was approved by Council, with direction to the City Manager to develop and implement a Use Policy for the Berkeley Police Department.

The attached policy addresses the use of the existing San Pablo Park cameras as well as additional fixed Public Safety Cameras located on City owned or managed properties or facilities. This policy was crafted to address the use, integrated technologies, storage and retention, access, and sharing of video/images.

The following locations were approved by City Council:

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7<sup>th</sup> Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62d Street at King Street

Attachment: Public Safety Fixed Video Surveillance Cameras Policy

cc: Paul Buddenhagen, Deputy City Manager  
LaTanya Bellow, Interim Deputy City Manager  
Jennifer Louis, Interim Chief of Police  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager

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## Public Safety Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of City of Berkeley public safety video cameras, as well as the management, maintenance, storage and release of the captured images.

This policy only applies to fixed, overt, marked public safety video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

### 351.2 POLICY

The Berkeley Police Department utilizes a public safety video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue



- 
- 7th Street at Dwight Way
  - San Pablo Avenue at Dwight Way
  - 7<sup>th</sup> Street at Ashby Avenue
  - San Pablo Avenue at Ashby Avenue
  - Sacramento Street at Ashby Avenue
  - College Avenue at Ashby Avenue
  - Claremont Avenue at Ashby Avenue
  - 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations. The public video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

#### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

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### **351.4 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### **351.4.1 VIDEO LOG**

No one without authorization will be allowed to login and view the recordings. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy.

#### **351.4.2 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Public safety video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### **351.5 STORAGE AND RETENTION OF MEDIA**

The Department shall retain all recordings for a minimum of 60 days. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

#### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity,



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authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

### **351.6 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Berkeley Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Watch Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

### **351.7 VIDEO SURVEILLANCE AUDIT**

The Audits and Inspections Sergeant or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Audits and Inspections Sergeant or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

### **351.8 TRAINING**

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

ATTACHMENT 5

## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

~~This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.~~

~~This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image capturing devices used by the Department. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable.~~

**Commented [MJ1]:** The language used in policy section 1304.1 should be incorporated within this policy.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT ~~AND MONITORING~~

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, ~~but is not limited to:~~ existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.



Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue 1
- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may only be used for ~~criminal investigation purposes, a variety of purposes, including criminal or civil investigations.~~ The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) ~~To respond to critical incidents.~~
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) ~~To document officer and offender conduct during interactions to safeguard the rights of the public and officers.~~
- (f) ~~To augment resources in a cost-effective manner.~~
- (g)(e) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related criminal investigations.
- (h) ~~To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct~~

**Commented [MJ2]:** This language should be included under 351.4.2 and combined with the language of 1304.2 "Authorized Use" and the suggestions for Section 351.3.1 of this policy.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from ~~integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems, integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition, and other surveillance technology systems as defined by BMC 2.99.020.1.~~

### 351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 ~~or 1304.9~~ below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### 351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

Commented [MJ3]: Incorporate sections 1304.3, 1304.4, and 1304.5 into these sections.

#### 351.4.2 ~~PROHIBITED ACTIVITY~~ Authorized Use and Prohibited Activity

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

Commented [MJ4]: Incorporate proposed policy 1304.2 "Authorized Use" and

### 351.5 STORAGE AND RETENTION OF MEDIA

The cameras should record minimally for one year as guided by Government Code 34090.



Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

Commented [MJ5]: Combine with Policy 1304.7

#### 351.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### 351.6 RELEASE OF VIDEO IMAGES

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, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### 351.7 VIDEO SURVEILLANCE AUDIT

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. 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., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

### 351.8 TRAINING

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### 351.9 MAINTENANCE

It shall be the ~~responsibilities~~ responsibility of the Public Works Department to facilitate and coordinate any updates and required maintenance.

**Commented [MJ6]:** Incorporate the language used in policy 1304.8 through 1304.12.