



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, May 8, 2024
6:30 P.M.**

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
([Click here for Directions](#))

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Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

I. Vaccination Status

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. Health Status Precautions

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

III. Face Coverings/Mask

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. Physical Distancing

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. Protocols for Teleconference Participation by Commissioners

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

VI. Hand Washing/Sanitizing

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. Air Flow/Circulation/Sanitizing

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.

Item 2

May 8, 2024 Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, May 8, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
([Click here for Directions](#))

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/82653396072>. 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 **826 5339 6072**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGMENT

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

AGENDA

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

4. **APPROVAL OF MINUTES** (5 MINUTES)
 - a. Minutes for the Regular Meeting of April 17, 2024
 - b. Minutes for the Special Meeting of April 24, 2024
5. **ODPA STAFF REPORT** (30 MINUTES)
 - a. Section 125(18)(a)(2) Training with Sabrie & Associates¹: Voluntary mediation of complaints – (20 MINUTES)
 - b. Other Announcements, updates, and other items – (10 MINUTES)
6. **CHAIR AND BOARD MEMBERS' REPORTS** (10 MINUTES)

Announcements, updates, and other items.

¹ Mediation | Sabrie and Associates | United States: <https://www.sabrieandassociates.com/>

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. NEW BUSINESS (40 MINUTES)

- a. Discussion and Action on the Budget & Metrics Subcommittee's proposed BPD budget recommendations memo for City Council (BLACKABY & WILSON) – (15 MINUTES)
- b. Discussion and Action on BPD Equipment Reporting (ODPA) – (15 MINUTES)
 - i. Correction regarding the 2023 Police Equipment and Community Safety Ordinance Annual Report
 - ii. AB 481 Military Equipment Annual Report
- c. Discussion and Action regarding the potential changing of the regular meeting location² (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.

² Commissions may change the meeting schedule and location by formal action. Source: [Berkeley Commissioner's Manual Chapter IV.B.1.](#)

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. Case Updates and Recommendations Regarding Complaints Received by the ODPA:

- | | | | |
|------|--------------|-------|--------------|
| i. | 2023-CI-0009 | viii. | 2024-CI-0003 |
| ii. | 2023-CI-0012 | ix. | 2024-CI-0004 |
| iii. | 2023-CI-0014 | x. | 2024-CI-0005 |
| iv. | 2023-CI-0016 | xi. | 2024-CI-0006 |
| v. | 2023-CI-0017 | xii. | 2024-CI-0008 |
| vi. | 2023-CI-0019 | xiii. | 2024-CI-0009 |
| vii. | 2024-CI-0001 | | |

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

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

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

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

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

Website: <https://berkeleyca.gov/safety-health/police-accountability>

Email: dpa@berkeleyca.gov

Item 4.a.

Minutes for the Regular Meeting of April 17, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, April 17, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709

Video Recording: <https://youtu.be/xlPdHy4WTY4?si=pFnEGX-EZqjbaNXN>

Minutes

1. CALL TO ORDER AND ROLL CALL AT 6:33 PM

Present: Board Member John Moore (Chair).
Board Member Leah Wilson (Vice-Chair)
Board Member Juliet Leftwich
Board Member Brent Blackaby
Board Member Joshua Cayetano
Board Member Alexander Mozes

Absent: Board Member Calavita.

ODPA Staff: Hansel Aguilar, Director of Police Accountability
Jayson Wechter, Investigator
Jose Murillo, Program Analyst
Keegan Horton, Investigator

BPD Staff: Deputy Chief Tate
Lt. Montgomery

CAO Staff: Stephen Hylas, Deputy City Attorney

CMO Staff: Rex Brown, DEI Officer

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Leftwich/Wilson)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

3. PUBLIC COMMENT

2 Physical Present Speakers

0 Virtually Present Speakers

4. APPROVAL OF MINUTES

- a. Minutes for the Regular Meeting of March 27, 2024

Motion to approve the Regular Meeting Minutes of March 27, 2024.

Moved/Second (Blackaby/Leftwich)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

5. ODPa STAFF REPORT

Director Aguilar acknowledges the 51st Anniversary of Civilian Oversight in Berkeley. He provides an update on upcoming trainings and ODPa's budget timelines. Investigator Horton provides a brief legislative update. Rex Brown provides operational updates and an update on the RFP submission process for EIS.

6. CHAIR AND BOARD MEMBERS' REPORTS

Board Member Cayetano provides an update on his conversations with the BPD regarding the request for proposals related to the BPD's Early Intervention System (EIS).

7. CHIEF OF POLICE'S REPORT

Deputy Chief Tate provides updates on staffing, training, and cases of interest.

8. SUBCOMMITTEE REPORTS

Subcommittees report on their activities.

9. NEW BUSINESS

- a. Discussion and Action regarding the PAB-ODPA Triennial Report

Motion to approve the PAB-ODPA Triennial Report with the notes and edits presented by the Board.

Moved/Second (Blackaby/Leftwich)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

b. Discussion and Action on the BPD’s 2023 Police Equipment and Community Safety Ordinance Annual Report (10 MINUTES)

i. Approval or denial of the 2023 Report.

Motion to approve the BPD’s 2023 Police Equipment and Community Safety Ordinance Annual Report with edits to the letter notifying the BPD.

Moved/Second (Cayetano/Leftwich)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

ii. Discussion of AB 481 Community Meeting Requirement for Military Equipment Reporting.

Motion to amend the PAB’s letter regarding the BPD’s 2023 Police Equipment and Community Safety Ordinance Annual Report to clarify the understanding of the PAB that the presented report is intended to also satisfy the requirements of AB 481 and that the BPD is required to have a community meeting within 30 days of presenting it to the Berkeley City Council.

Moved/Second (Wilson/Leftwich)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

c. Discussion and Action on the ODPA’s Budget Request Recommendations for the FY25-26 PAB-ODPA Operational Budget

Motion to support the Director of Police Accountability in requesting additional resources.

Moved/Second (Wilson/Leftwich)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

10. PUBLIC COMMENT

0 Physical Present Speakers

1 Virtually Present Speakers

11. CLOSED SESSION

CLOSED SESSION ITEMS

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

- a. The ODPa provided case updates and the PAB made the following motions.

Motion to accept the ODPa's findings and recommendations for ODPa Complaint Number 2023-CI-0012.

Moved/Second (JC/AM)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

Motion to accept the ODPa's findings and recommendations for ODPa Complaint Number 2023-CI-0014.

Moved/Second (AM/LW)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

Motion to accept the ODPa's recommendation to administratively close ODPa Complaint Number 2023-CI-0017.

Moved/Second (LW/AM)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

Motion to accept the ODPa's recommendation to administratively close ODPa Complaint Number 2024-CI-0007.

Moved/Second (LW/JL)

Ayes: Blackaby, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announces the closed session actions.

13. ADJOURNMENT

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

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

DRAFT

Item 4.b.

Minutes for the Special Meeting of April 24, 2024



POLICE ACCOUNTABILITY BOARD

SPECIAL MEETING AGENDA

Wednesday, April 24th, 2024
6:30 PM to 8:30 PM

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

Meeting Recording: <https://www.youtube.com/watch?v=zwZ-E9kFCc>

MINUTES

1. CALL TO ORDER AND ROLL CALL (2 MINUTES)

Present: Board Member John Moore (Chair)
Board Member Leah Wilson (Vice-Chair)
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Brent Blackaby
Board Member Joshua Cayetano¹
Board Member Alexander Mozes

ODPA Staff: Hansel Aguilar, Director of Police Accountability
Jose Murillo, Policy Analyst
Jayson Wechter, ODPA Investigator
Keegan Horton, ODPA Investigator

¹ Board Member Cayetano participated remotely on a just cause provision.

2. APPROVAL OF AGENDA (2 MINUTES)

Motion to approve the agenda with the addition of a staff update as an informational update as Item #4

Moved/Second (Blackaby/Calavita)

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson

Noe: None. Abstain: None. Absent: None.

3. PUBLIC COMMENT

0 Physically Present Speakers

1 Virtually Present Speakers

4. ODPa STAFF UPDATE

Director Aguilar informs the PAB of a correspondence received from the Chief of Police with corrections to the 2023 Police Equipment and Community Safety Ordinance Annual Report. No action was taken.

5. NEW BUSINESS

- a. Discussion and action regarding the Fair and Impartial Policing Subcommittee's Proposed Report Titled "Police Accountability Board Report: Fair and Impartial Policing Implementation" (Calavita) – (30 MINUTES)

Motion to add a top sheet, retool disparities, and police bios and add comparative numbers to the Fair and Impartial Policing Subcommittee's proposed report.

Moved by Mozes. **Motion Withdrawn.**

Motion to expand on paragraph three of page four of the Report to explain the difference between racial disparity and bias, and add limitations of the methodology.

Moved/Second (AM/LW) **Motion carried.**

Ayes: Wilson, Leftwich, Blackaby, Mozes, and Calavita.

Noes: Moore, Cayetano. Abstain: None. Absent: None.

Motion to add EIS footnote.

Moved/Second (AM/JL) **Motion carried.**

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

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

Motion to look at 2019 report and add broader national context in the Report.

Moved/Second (AM/) **Motion fails, no second.**

Motion to accept the report to be amended and accept and authorize the submission of the Report to the City Council

Moved/Second (LW/JL) **Motion carried.**

Ayes: Moore, Wilson, Calavita, Leftwich, Blackaby, and Cayetano.

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

- b. Discussion and action regarding the appointment of Board Members to represent the PAB in the labor negotiation process related to the PAB's Permanent Regulations for Investigating Complaints (Leftwich)

Motion to appoint Board Members Calavita and Leftwich to represent the PAB in the labor negotiation process related to the PAB's Permanent Regulations for Investigating Complaints.

Moved/Second (JM/LW).

Ayes: Moore, Wilson, Calavita, Leftwich, Blackaby, Cayetano, and Mozes.

Noes: None. Abstain: None. Absent: None

- c. Discussion and Action on the Budget Review Subcommittee's preliminary review and recommendations for the Berkeley Police Department's FY2024-2025 Budget. (Blackaby)

No actions were taken.

6. PUBLIC COMMENT

1 Physically Present Speakers

0 Virtually Present Speakers

7. ADJOURNMENT

Motion to adjourn. Moved/Second (JL/BB) The meeting was adjourned at 8:19 by unanimous consent.

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

Item 8

List of Current PAB Subcommittees



SUBCOMMITTEES LIST
As of 04/12/2024

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21 Renewed 6-7-2023	Calavita Leftwich <u>Public members:</u> Kitt Saginor	N/A	Lt. Dan Montgomery
Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 6-7-2023	Calavita Wilson <u>Public members:</u> George Lippman	Calavita	Sgt. Peter Lee
Surveillance Technology Policy Formed 6-7-2023	Calavita Moore	N/A	N/A
Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22	Calavita Moore	Calavita	N/A
Body-Worn Camera Policy Formed 03-15-23	Leftwich Cayetano	Leftwich	N/A
Conflict of Interest Formed 03-29-23	Leftwich Wilson	Leftwich	N/A
Policy Reviews Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Lexipol Review"	Leftwich Cayetano Mozes <u>Public members:</u> Kitt Saginor	Leftwich	N/A

Budget & Metrics Formed 11-08-2023 Scope Expanded 03-02-2024	Wilson Blackaby	N/A	N/A
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Moore Blackaby	N/A	N/A
Off-Duty Conduct	Cayetano Leftwich	N/A	Lt. Rittenhouse
Operations & Processes Formed 03-02-2024	Wilson Mozes	TBD	TBD

Item 9.b.i

Email from Chief Louis titled "Correction Regarding the 2023 Police Equipment and Community Safety Ordinance Annual Report" and the Updated 2023 Police Equipment and Community Safety Ordinance Annual Report

From: Louis, Jennifer A. <JLouis@berkeleyca.gov>

Sent: Wednesday, April 24, 2024 5:12:21 PM

To: Aguilar, Hansel <HAguilar@berkeleyca.gov>

Subject: Correction re 2023 Police Equipment and Community Safety Ordinance Annual Report

Good afternoon,

I just learned that there was an error in the 2023 Police Equipment and Community Safety Ordinance Annual Report that I submitted to you and the PAB. This typographical error was discovered as we were preparing to submit the report to Council and also as the team begins work on the Military Equipment Ordinance report that is due to Council this summer. Attached you will find the corrected version, which the department will be submitting to Council either at the May 21st meeting or the first regular meeting in June.

The typo was in the quantity of .50 caliber ammunition the department currently possesses. It was initially listed as 50, but the correct count should have been typed as 500. As further detail, in the 2022 Police Equipment and Community Safety Ordinance Annual Report (submitted in 2023), the ammunition count was at 20 rounds. After this report was submitted, the Department purchased a new supply of the ammunition in and reported that increase in the Military Equipment Ordinance report, increasing the ammunition count to 520 rounds. After that report was submitted, twenty rounds were expended between training and regular maintenance of the weapon system. The updated figure of 500 rounds of .50 caliber ammunition is accurately reflected in the attached document which will be submitted to city council. Please bear in mind that ammunition is purchased in fixed quantities (by the box or case as applicable) and is a consumable resource, subject to fluctuations due to usage during training exercises. Additionally, to be clear, this equipment was not deployed pursuant to the ordinance during this reporting period.

Please let me know if you or the PAB have any questions about this correction.

Jen



Chief Jennifer Louis
BERKELEY POLICE DEPARTMENT
(510) 981-5700

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Police Equipment and Community Safety Ordinance 2023 Annual Report



INTRODUCTION

On May 11, 2021 the Berkeley City Council passed Ordinance NO. 7,760-N.S., the Police Equipment and Community Safety Ordinance. Section 2.100.050 of the ordinance mandates an annual report for the deployment of specific equipment the Berkeley Police Department possesses. Below is a list and inventory of the reportable equipment under the city ordinance:

- Patrol Rifle (96)
Associated .223 duty and training rounds (93,128)
- Less Lethal single 40MM launcher (20)
- Less Lethal Milkor LTL 40 MM multi-launcher (2)
Associated 40mm rounds (637)
- Less Lethal FN 303 Launcher (8)
Associated FN rounds (5,813)
Associated FN Pava rounds (181)
- Oleoresin capsicum (handheld OC spray) (182)
- Chlorobenzylidene Malononitrile and Oleoresin capsicum/ tear gas (300)
- Remington 700 Precision Rifle (6)
Associated .308 rounds (2400)
- Light/sound distraction device (110)
- Long Range Acoustic Device (LRAD) (2)
- 36" batons (195)
- Barret Model 99 Precision Rifle (1)
Associated .50 rounds (500)

The annual report on the controlled equipment shall contain the following information per Ordinance NO. 7,760N.S.:

- (a) Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.
- (b) A summary of how Controlled Equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is

Deployed, not to transfers of location or placement of equipment inside Department vehicles.

- (c) If applicable, a breakdown of where Controlled Equipment was used geographically by individual police areas. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.
- (d) A summary of any complaints or concerns received concerning Controlled Equipment.
- (e) The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

There have been no additional internal audits beyond those conducted to gather and confirm data for this report. There were no identified violations of equipment use, or any complaints submitted to the department concerning the above-listed equipment.

Section 2.100.020 (D) defines deployment as “to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response. “Deployed” shall not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person.” Deployment means the display of the equipment to affect some response from members of the public. The equipment does not have to be used (I.E. less lethal projectile actually launched and struck a suspect); simply having it and in view of a person to specifically affect a response would be considered a deployment. Deployments are to be reported per the ordinance and the table on page 5 of this report reflects both deployments and utilization of equipment.

The Blue Team system and Equipment Ordinance system are the two systems that capture all utilizations and deployments of equipment enabling the Police Department to fulfill the obligations set forth by the ordinance. The Blue Team

system documents all uses of force which includes patrol rifle deployments and utilization of less-lethal systems (I.E. less lethal projectile launched and struck a suspect). This system is maintained by the Internal Affairs Bureau. The Equipment Ordinance system captures deployments of all equipment outlined in the ordinance.

The Police Department responded to 63,691 calls from the community in 2023. Of the 63,691 calls received, 64 of them resulted in the deployment of military equipment. For details on these systems and other military equipment refer to page 19 or the Impact Statements located on the Berkeley Police Department website.

The table on page 5 details each of the 64 equipment deployment incidents extracted from the Blue Team and Equipment Ordinance systems. Each row within the table represents an incident where a specified equipment was deployed or utilized. The number of specified equipment deployed per incident is not represented. The table includes the service of 2 arrest warrants and 10 search warrants; 5 of which were served by the Special Response Team in cases involving a violent suspect. Equipment that is not outlined in the table was not deployed or used in 2023.

It should be noted that all military equipment deployments in 2023 were made during incidents where the Berkeley Police Department responded to a call for service made by community members or in the service of search warrants. There was one instance of a military equipment deployment made during a sex registrant compliance check on a violent offender with a history of firearm violations.

Additionally, 5,306 stops were conducted by the Berkeley Police Department in 2023. These 5,306 total stops break down to 3,665 vehicle stops, 1,554 pedestrian stops, and 87 bicycle stops. Five of the 5,306 stops resulted in the use (less lethal projectile launched towards a suspect) of the Penn Arms 40MM, also known as “less lethal.” These statistics illustrate the extremely rare percentage (0.00094%) of the time less lethal munitions are used in relation to overall contacts.

The table summarizing each incident on the next page (page 5) contains violence and details of crimes that can be unsettling to read. Reader discretion is advised.

There were 12 incidents where military equipment was used (less lethal projectile launched at a suspect, OC spray sprayed, patrol rifle used, or light and sound distraction device used). These incidents are highlighted in yellow.

It is important to note that information provided to police dispatchers by victims, witnesses, and community members guides police responses. Officers and supervisors make decisions on the deployment of equipment based, in part, on community members' observations and reports.

Each incident is listed in chronological order, and instances where the equipment was used are highlighted in yellow.

#	Equipment Deployed	Summary of Deployment	Beat
1.	Patrol rifle, 40MM launcher	Officers responded to a disturbance call from a neighbor. Officers knew the subject they were to contact had felony warrants for his arrest for firearm violations. Additionally, officers had previously recovered a bulletproof vest during a visit to this apartment, and on another day the subject had barricaded himself in his apartment when officers attempted to contact him. On this night, Officers contacted the subject who shined a flashlight at an officer's eyes, blinding the officer on purpose. The suspect had a power drill and refused multiple requests and orders for him to put the power drill down. Patrol rifle and 40MM launcher were deployed. A trained negotiator took over communication with the subject and utilized de-escalation techniques. The subject placed the power drill down but lifted his jacket to reveal a 7" fixed-blade dagger on his belt. The subject was agitated, verbally aggressive, and cursed at officers. He was also incoherent and rambled about telepathy. The subject needed to be detained before the situation became any more dangerous. Officers launched 40MM rounds at the subject. Other officers grabbed the subject before he could go for the dagger. The subject was immediately provided medical attention. He was arrested for the warrants and for violating an elder abuse restraining order by being at that apartment.	14
2.	Patrol rifle	Officers responded to a burglary in progress at a business after the alarm company called the police and reported seeing the burglars live on surveillance cameras. The suspects fled in a vehicle but crashed. Officers conducted a high-risk vehicle stop. Patrol rifle deployed as officers ordered the occupants out of the vehicle. Four suspects were arrested for burglary and a large number of stolen items were located in the car. The stolen property was returned to the business.	5
3.	40MM launcher	Officers were flagged down at midnight by a business owner regarding a possible burglary in progress. The business owner had surveillance cameras on	6

		the property and advised that the suspect was hiding in the back. This suspect had previously burglarized this business two other times. 40MM launcher deployed as officers entered the business. The suspect was located and taken into custody. He was arrested for burglary and possession of methamphetamine.	
4.	40MM launcher, Patrol rifle	BART Police requested assistance with reports of a man on a BART train with a gun. Berkeley Police responded and deployed patrol rifle and 40MM launcher. Berkeley and BART officers located the suspect on the train. This man was armed with a gun and was wearing body armor underneath his rain jacket. The subject was uncooperative and cursed at the officers. He was ultimately detained and BART police took custody of the man.	5
5.	40MM launcher	A father called the police on his daughter after she attempted to stab him with a knife. He barricaded himself in a bedroom. She tried to break down the door with a metal pole and stabbed at the door with her knife while also threatening to stab him. She fled the residence before police arrived. The father requested that his daughter be arrested and advised that his daughter was still in possession of the knife. Officers located the daughter who ignored officers' commands to stop. 40MM launcher was deployed. She walked dangerously into the street and traffic. Officers had to follow her and were able to pull her off the street onto a grassy area where she continued to resist. Officers were able to handcuff her, but she spat at officers and attempted to kick them. She was arrested for assault with a deadly weapon and other charges. The knife was later located hidden in her undergarment.	5
6.	FN303 launcher, Light/sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	The Special Response Team conducted two search warrants at two residences in connection to a violent robbery of a Berkeley business where an elderly victim was pistol-whipped multiple times. A firearm and evidence were recovered during the service of these high-risk search warrants and several individuals were arrested. The LRAD and light sound distraction devices were used during the service of both warrants.	Outside of Berkeley
7.	FN303 launcher, Light sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	The Special Response Team conducted two search warrants at two residences in connection to a violent robbery of a Berkeley business where an elderly victim was pistol-whipped multiple times. A firearm and evidence were recovered during the service of these high-risk search warrants and several individuals were arrested. The LRAD and light sound distraction devices were used during the service of both warrants.	Outside of Berkeley
8.	40MM launcher	A partially naked suspect under the influence of narcotics entered a restaurant that had a stay-away court order against him. The subject violated the stay-away court order when he walked in and then climbed into the ceiling. The employees called the police as the suspect climbed back down and started throwing things. 40mm launcher deployed as officers arrived on the scene. Officers tried to talk to him, but he was yelling nonsensically as he retreated into the kitchen area and armed himself with a fire extinguisher. Officers ordered the subject to drop the fire extinguisher, but he did not comply and started spraying the fire extinguisher at the officers. He raised the fire extinguisher while moving towards an officer as if to assault the officer with it.	5

		Another officer saw this and launched a 40MM launcher round at the suspect. The subject continued to threaten officers with the fire extinguisher. The officer launched another 40MM launcher round at the suspect who then ran upstairs and barricaded himself in the bathroom. Many attempts to de-escalate the subject through the locked bathroom door were made but to no avail. The subject continued to spray the fire extinguisher at officers from under the closed door. Ultimately, officers had to force entry into the bathroom and detain the subject who was in the process of hanging himself. He was admitted to the hospital and placed on a psychiatric evaluation hold. A criminal case was sent to the District Attorney's Office for review. An employee of the business was injured in this incident and the subject caused close to \$20,000 in damages to the business.	
9.	40MM launcher	BART Police requested code 3 cover (emergency assistance) after community members reported a subject brandishing a knife and attacking BART riders on the platform. Officers arrived and deployed 40MM launcher. BART Police contacted the subject and took him into custody.	5
10	40MM launcher	A community member called the police after finding a burglar in her residence. Officers arrived and deployed 40MM launcher as they contacted the suspect. He was detained and arrested for burglary and for an outstanding warrant from another county.	6
11	Patrol rifle	A victim called the police and reported being a victim of an armed (firearm) home invasion robbery with four suspects involved. Officers located the suspect vehicle occupied by all four suspects and conducted a high-risk vehicle stop. Patrol rifle deployed as the suspects were ordered out of the vehicle and taken into custody. A firearm and evidence from the home invasion robbery were located inside the vehicle. All four suspects were arrested for the home invasion robbery and one was additionally charged with firearm violations.	12
12	40MM launcher, Patrol rifle, LRAD, Light sound distraction device, FN303 launcher	A victim called the police and reported being a victim of an armed robbery. The victim memorized the suspect's license plate and provided it to the police. This vehicle was involved in numerous other Berkeley crimes. Officers located the armed robbery suspect's vehicle and initiated a vehicle stop, but the vehicle failed to yield. A pursuit was initiated. Officers lost sight of the vehicle on the freeway but located the vehicle at a residence outside of Berkeley. A high-risk search warrant was served by the Special Response Team at this residence. Light/sound distraction device and the LRAD were used during the service of this warrant. Evidence was recovered from the search warrant and the suspect was apprehended at a later time.	Outside of Berkeley
13	FN303 launcher	A construction worker called the police after someone approached him and tried to stab him with a knife. The victim did not know the suspect and the suspect said nothing to the victim prior to trying to stab him. Shortly later, a worker from a nearby restaurant called the police and reported a person pacing around the restaurant armed with a knife. FN303 launcher deployed as officers arrived at the restaurant. The suspect was located and the knife was recovered in the restaurant. He was arrested for assault with a deadly weapon.	5
14	Patrol rifle	A community member called the police and reported a home invasion robbery in progress in his house. He reported that he armed himself with a gun and was trapped in his residence. Patrol rifle deployed as officers arrived on the scene.	5

		They contacted someone at the front door of this residence. This person had a firearm in plain sight within his reach. He reached for the firearm but was detained before he grabbed the gun. This person turned out to be the community member who called the police. He was intoxicated and according to a friend, the caller had been exhibiting paranoid delusional ideations. The caller was placed on a psychiatric evaluation hold. The judge approved a firearm emergency protective order to allow the seizure of the caller's firearm.	
15	40MM launcher	A victim called the police and reported that her neighbor threatened her with a large knife. 40MM launcher deployed as officers arrived on the scene. As Officers were talking to the victim the suspect emerged from his residence. Officers detained the suspect and located the large knife. The suspect was arrested for threatening the victim with a knife.	10
16	Patrol rifle	A caller reported that her grandson had shot at and "hurt" her husband, the suspect's grandfather. The caller reported the suspect dragged his elderly grandfather down a flight of steps and then fired a gun at him. Patrol rifle deployed as officers arrived at the scene. Officers located the suspect and detained him. He was still in possession of the gun. The grandfather was not shot and was medically assessed by the fire department. The bullet entered and exited the grandfather's pants, but did not hit him. The suspect was arrested for possession of a loaded firearm in public, felon in possession of a firearm, possession of narcotics (crack cocaine), and a domestic violence warrant.	3
17	40MM launcher	A neighbor called the police and reported hearing an argument between a husband and wife. The caller reported that he heard the husband yelling "Put the knife down" and children crying in the background. 40MM launcher deployed as officers responded to this domestic violence call. Upon arrival, they located and detained the suspect (girlfriend) outside of the residence. The victim (boyfriend) was inside the residence with their child. The boyfriend was stabbed in the neck with keys by the girlfriend and was injured. The suspect was arrested for domestic violence and medical attention was provided to the victim.	4
18	FN303 launcher, 40MM launcher	Employees at a restaurant called the police and reported someone bleeding from the neck. Officers responded and located the subject in front of the restaurant bleeding profusely from his neck and wrist. The subject held a broken glass bottle against his neck and refused to put the glass bottle down. 40MM launcher and FN303 were deployed. The fire department was staged nearby as Berkeley Police negotiators tried to de-escalate the situation. The subject rambled incoherently about tattoos and eyes watching him. Eventually, the subject lost consciousness due to blood loss. Berkeley Fire Medics immediately rendered aid. He was transported to the hospital and placed on a psychiatric evaluation hold.	3
19	FN303 launcher	A Berkeley City employee reported hearing a man screaming and hitting things with what sounded like a metal object. The man repeatedly screamed expletives. This man walked towards her with a metal pipe in hand and brandished her with it. He was foaming at the mouth and walked away. Officers familiar with this subject located him at a park swinging the metal pipe and hitting objects on the street. FN303 launcher deployed as officers detained this subject armed with the metal pipe. He was placed on a psychiatric evaluation	5

		hold. The Berkeley City employee requested no prosecution for the misdemeanor so the case was not forwarded to the District Attorney's Office.	
20	Patrol Rifle	A victim witnessed her vehicle being burglarized and confronted the suspects. One suspect pointed a gun at the victim and turned this auto burglary into an armed robbery. Investigators served a search and arrest warrant at the suspect's residence at a later time. Patrol rifle deployed as investigators served the warrants. Evidence was recovered in the residence that included cocaine, a large amount of ammunition, and a firearm. The suspect was also located and arrested for narcotic violations, robbery, firearm violations, and being a felon in possession of a firearm.	Outside of Berkeley
21	40MM launcher	A community member called the police and reported hearing a subject yell, "I'll kill you b****!" 40MM launcher deployed when officers arrived on the scene and saw the subject holding a metal bat. The subject was cooperative and was detained. After further investigation and after speaking with the caller, it was determined that no crime had occurred. The subject volunteering surrendered the bat to the officers and was released at the scene.	4
22	Patrol rifle, FN303 launcher	Investigators conducted a sex registrant compliance check on a known violent offender and pimp. Patrol rifle and FN303 launcher were deployed during this compliance check. In a previous compliance check, this sex registrant ran and dropped a gun. The sex registrant was not in compliance and a case has been forwarded to the District Attorney's Office for review.	9
23	40MM launcher	A Berkeley resident called regarding a trespasser who was loitering on her front porch. She reported that the subject was agitated and had attempted to enter her residence. She was scared. The porch where the trespasser was located is atop a flight of 17 steps (second floor). Officers contacted the subject who refused to come down. The subject was uncooperative and threw paper at the officers who were standing at the ground level. The subject was unintelligible. He was agitated at times and screamed. It was unknown if the subject had weapons. 40MM launcher deployed. Officers engaged in de-escalation tactics and negotiated with him from the ground floor for approximately an hour. The subject requested a cup of coffee. He left once officers gave him a cup of coffee. The Berkeley resident did not wish to press charges and the subject did not fit the criteria for a psychiatric evaluation hold.	9
24	40MM launcher	A victim called the police and reported being injured after a suspect had thrown rocks at him and then hit him with a golf club. The suspect was located by officers and was still holding a golf club. He was hitting random objects with the golf club and was agitated and on the verge of tears. 40MM launcher deployed as officers contacted the suspect. He was detained and positively identified by the victim. He was arrested for assault with a deadly weapon. At the Berkeley Jail, officers noticed the suspect's eyes were dilated and he started dozing off. The fire department was summoned for a medical evaluation. They transported the suspect to the hospital. This case was forwarded to the District Attorney's Office for review.	13
25	Patrol rifle	A victim called the police after her neighbor, whom she'd been disputing with, brandished a gun at the victim and her young daughter. The suspect fled in his vehicle and the victim provided the suspect's license plate to the police. Officers located this vehicle and initiated a high-risk vehicle stop. Patrol rifle deployed as	11

		the driver was ordered out of the vehicle and to walk backwards towards the officers. The driver/suspect was detained and admitted that there was a gun in the car. Officers located the firearm. The victim identified the driver as the suspect and he was arrested for firearm violations and brandishing a weapon.	
26	Patrol rifle	An elderly victim called the police after two suspects robbed her of her purse. Officers located the suspect vehicle, but it fled the area. The car was located a second time and officers attempted a vehicle stop, but the suspects fled on foot. Patrol rifle deployed as officers searched for the robbery suspects. Four suspects were located and arrested for robbery. The victim's stolen purse was located in the suspect's vehicle and returned to her. Further investigation showed the suspect's vehicle as a stolen car.	4
27	40MM launcher	A community member was shopping at a business when she saw a man swinging an axe around and talking to himself in the store. She called the police and reported what she saw. Officers arrived on the scene and saw the man in the store with the axe still in hand. 40MM deployed as officers entered the business and contacted the suspect. He was ordered to lay on the ground which he complied with. He was detained and lied about his name. Further investigations revealed his true identity and a parole violation warrant for his arrest. He was arrested for the warrant. The man never brandished the axe.	9
28	40MM, FN303 launcher	The Berkley Fire Department reported a person who attempted to run into the fire station as the garage door was closing. This subject then fled from the fire station and onto the roof of a large warehouse. Officers arrived on the scene and saw the suspect on the roof. The suspect was running back and forth from one side of the roof to the other. The subject ripped cable wires from the roof and used them to climb into the warehouse where he started a fire. Officers entered the warehouse to put the fire out as the suspect climbed back onto the roof. The subject threw items from the roof at officers. Attempts to de-escalate and negotiate with the subject were not effective. Officers suspected the subject to be under the influence of narcotics. One officer launched two 40MM launcher rounds at the subject that caused him to run away from the officer to the parking lot where he was detained. The suspect was transported to the hospital by the fire department and later to jail for burglary, vandalism, arson, and probation violation.	5
29	OC spray	A victim called the police and reported a man kicking down her fence. An officer arrived on scene and contacted the subject who refused to speak to the officer. The officer followed the suspect on foot as he gave commands for him to stop. The suspect yelled and cursed at the officer and refused to stop. A second officer arrived and immediately recognized the suspect from prior police contacts as someone violent with the police. This officer ordered the suspect to stop but was ignored. He attempted to grab the suspect's arms, but the suspect pulled his arms away and ran. The suspect physically resisted the officer as he continued his attempts to detain him. This officer sprayed the suspect with OC spray as the suspect continued to resist. When the second officer arrived, they were able to detain him. Medical aid was provided and he was placed on a psychiatric evaluation hold. The suspect is on probation for robbery. The criminal case was forwarded to the District Attorney's Office for review.	8

30	40MM launcher	A community member called the police after she looked outside of her house and saw a man waving a large knife at her residence. The community member did not know this man. 40MM launcher deployed when officers arrived on the scene. They located the subject and detained him. The subject had a large knife and a bag. Further investigation revealed that the knife and bag were stolen from a residence nearby. The stolen property was returned and the subject was arrested for concealing a dirk or dagger.	10
31	40MM launcher	A downtown business security guard called and reported a theft in progress. When officers arrived on the scene, they saw the suspect inside the store with a knife in his hand. 40MM launcher deployed as officers entered the business to detain the suspect. The suspect had drug paraphernalia and credit cards that did not belong to him. He was arrested for grand theft, identity theft, and possession of drug paraphernalia.	4
32	40MM launcher	The Berkeley Fire Department requested the Police for assistance for a subject who was becoming aggressive. The subject is known to the police as an individual with a violent history. Officers arrived to assist the fire department. The subject was uncooperative with the Berkeley Fire Department medics and was yelling. At one point the subject stood up and lunged at the officers and medics. He sat back down and continued to yell incoherently. 40MM deployed as another officer de-escalated and calmed the subject. The subject was placed on a psychiatric evaluation hold.	4
33	40MM launcher	A known subject called the police and reported people following her. She told dispatch she "doesn't want to have to kill someone." Officers know this subject as someone who has experienced several mental health crises in the past, has a history of violence involving weapons, and has previously assaulted officers. Officers located this subject and she was holding a metal pole and knife. 40MM launcher deployed as officers engaged in de-escalation tactics. The subject complied with officers and was safely detained. The subject was placed on a psychiatric evaluation hold.	4
34	40MM launcher	Employees at an office called the police and reported a suspect barged his way into the office and told the employees that he was waiting for troops. He started taking off his clothes and was aggressive. The subject tried to punch one of the employees. 40MM launcher deployed as officers arrived on the scene. The subject was located and detained. He was placed on a psychiatric evaluation hold.	4
35	40MM launcher	An employee called the police and reported a robbery. An officer responded and located the suspect holding a metal rod who refused to comply with the officer's orders to drop the metal rod. The suspect walked approximately two blocks as the officer followed and attempted to de-escalate the situation. 40MM was deployed as more officers arrived on the scene. The suspect was safely detained and arrested for robbery and parole violation.	4
36	40MM launcher	A community member called the police and reported that an acquaintance was standing in front of his house holding an axe. He reported that the subject has mental health issues. A second community member called and reported the subject asked him if he needed wood to be chopped. 40MM launcher deployed as officers arrived on the scene. The subject was located and complied with the officer's commands. After talking to both callers, the subject did not threaten	5

		anyone and did not fit the criteria for a psychiatric evaluation hold. The staff at this housing were contacted and advised of the incident.	
37	Patrol rifle	A community member called the police and reported a fight between 6-8 individuals. The community member also reported seeing a gun. Officers arrived on the scene and attempted to detain several subjects. They fled from officers and one of them discarded a "ghost gun" that officers recovered. The subject who discarded the firearm was arrested for firearm violations. He also had two warrants for his arrest for robbery and reckless evasion of peace officers. Patrol rifle deployed as officers continued searching the area for the remaining suspects. In the same vicinity, officers tried to stop a car attempting to flee the area. He failed to stop and rammed a police vehicle while an officer was inside, crashed into a parked vehicle, and drove onto the sidewalk before crashing into a fence and becoming immobilized. Officers arrested this suspect for numerous crimes including reckless evasion, assault with a deadly weapon, and hit and run.	5
38	Patrol rifle, 40MM launcher	An elderly mother called and reported that her son was actively violating a restraining order. Officers arrived on the scene and located the suspect in front of the mother's house. The suspect immediately placed his hand in the front pocket of his baggy hooded sweater as if he had a weapon. He yelled, "I have something for you" and "Go ahead, shoot me. I want you to shoot me. I'm ready to die right now!" He walked away from officers and continued to tell officers to shoot him. He kept his hand in his pocket as if he had a weapon. There was a standoff for approximately an hour where the suspect stood on the sidewalk with his hand in his pocket and refused to comply with simple orders. Patrol rifle and 40MM were deployed as officers spent over an hour negotiating with the potentially armed suspect. When he finally took his hand out of his pocket and allowed officers to handcuff him, officers discovered he was holding onto a flare the entire time and had no weapon. He was arrested for violating the restraining order from his mom, elder abuse, and vandalism.	12
39	Patrol rifle	A community member called and reported being a victim of an attempted vehicle theft while she was sitting in the back of her car. The suspect fled the area in another vehicle and the victim chased after him in her car. The suspect reversed and rammed the victim, so the victim rammed the suspect back. Ultimately, the suspect got away from the victim. Officers conducted an area check and located the suspect vehicle parked and occupied. Officers conducted a high-risk vehicle stop. Patrol rifle deployed as the suspects were detained. The driver had a knife that fell onto the ground as he was detained and a window punch tool was located in his pocket. Records check showed he was on parole. He was arrested for vehicle theft, assault with a deadly weapon, possession of burglary tools, possession of stolen property, petty theft, and parole violation.	6
40	40MM launcher	A grandmother called the police and reported that her grandson was trying to kill her daughter, his mother. The grandmother reported that he was armed with a knife and pleaded for the police to respond immediately. She was scared for her life. Officers arrived at the apartment complex and noted that items had been thrown from the grandmother's 4th-floor apartment onto the ground floor. Officers knocked and asked the grandmother to open the door but she was too afraid to come out from her room. The suspect had barricaded items	4

		against the front door. 40MM launcher deployed as officers forced the door open to protect the grandmother and mother. They located the suspect hiding. He was arrested for numerous crimes including robbery and probation violation. The grandmother and mother were located safe in the residence. Adult Protective Services was advised of the incident.	
41	40MM launcher	A community member called the police and reported that his son was vandalizing their home. The son is known to officers as someone who uses narcotics and is extremely violent towards police officers. The father advised that his son had just left the residence and was vandalizing cars in front. 40MM launcher deployed as a group of officers approached the suspect and ordered him to the ground. Officers noted the suspect had vandalized a neighbor's vehicle next to where he was standing. The suspect did not comply with the officer's orders and charged at a police vehicle. He jumped onto the hood of the police vehicle, smashed the windshield, and stomped on the light bar on the vehicle's roof. While on top of the police vehicle, the suspect ripped out an antenna. While the suspect was stomping on the roof of the police vehicle, an officer launched a 40MM round at the suspect, but it missed. The suspect then sat on the roof of the police vehicle as officers attempted to talk to the suspect. Officers were able to safely pull the suspect off the roof of the vehicle and detain him. He was placed on a psychiatric evaluation hold and the criminal case was forwarded to the District Attorney's office for review.	10
42	40MM launcher	Multiple community members called the police and reported a subject throwing items out the window of a vacant multi-unit building. The property manager advised that no one should be in the building and requested the subject be arrested. Officers gave multiple commands outside and inside the building for the suspect to surrender, but he failed to exit. The suspect barricaded himself in one of the units. 40MM launcher deployed as officers forced entry into the unit. The suspect was located and had burglary tools and drug (methamphetamine) paraphernalia. He was arrested for burglary, possession of burglary tools, possession of narcotics paraphernalia, and other crimes.	5
43	40MM launcher	A caller reported a suspect was actively violating a domestic violence restraining order and that he was concerned for the protected person. Officers responded to the location and were allowed entry into the residence. 40MM launcher deployed as officers looked for the suspect. He was located and arrested for violating a restraining order and possession of methamphetamine.	3
44	Patrol rifle, 40MM launcher	An officer contacted two teenagers who were drinking alcohol on the corner of a residential neighborhood. During the detention, one of the teenagers told the officer he had a gun. The officer located the gun and arrested him. Records show the suspect had previously been arrested for armed robbery. A search warrant was authorized by a judge for the suspect's residence. Patrol rifle and 40MM launcher deployed as officers cleared the residence. Multiple rifle rounds and other bullets were located.	9

45	Patrol rifle	Numerous robberies occurred in Berkeley and other cities where the robbers targeted mostly elderly persons leaving specific businesses. Investigators served a search warrant at one of the suspect's residence. Patrol rifle deployed as they cleared the house. Evidence was recovered during this warrant service. Suspects in this robbery series were located and arrested at a later time and a firearm was recovered.	Outside of Berkeley
46	FN303 launcher	An employee at a business called and reported a man breaking windows and furniture with a metal pole. Staff and customers were frightened. FN303 deployed as officers entered the business to detain the man reportedly armed with a metal pole. The suspect was detained and arrested for vandalism. He caused \$90,000 worth of damages to this business.	5
47	FN303 launcher	A caller reported that a suspect had possibly broken into a residence and was trespassing. Officers confirmed this and ordered the suspect to exit, but he refused to come out and barricaded himself. Officers negotiated with the suspect as the homeowner arranged for a house key brought to the officers. FN303 deployed as officers made entry into the residence and detained the suspect. He was placed on a psychiatric evaluation hold.	5
48	Patrol rifle	Officers responded to an active shooter in another city. Witnesses reported multiple shots fired with an employee shot. Patrol rifle deployed as officers made entry into the business and contacted a suspect who was armed with a firearm. Officers shot the suspect and located the victim employee deceased.	Outside of Berkeley
49	Patrol rifle, 40MM launcher	A community member flagged down a police officer and reported being a victim of an armed robbery. Officers responded and attempted to detain two suspects nearby. The suspects ran into the rear yards of a residential neighborhood. Patrol rifle and 40MM launcher were deployed as officers conducted an extensive search for the armed suspects. Both suspects were located and positively identified by the victim as the ones who robbed him. They were arrested for robbery.	5
50	40MM launcher	Investigators served an arrest warrant on a white supremacist prison gang member who is a sex registrant. This suspect was trying to contact a 10-year-old child against a court order. 40MM launcher deployed as the arrest warrant was served. He was located and arrested.	Outside of Berkeley

51	FN303 launcher, Light/sound distraction device, LRAD, Patrol rifle, 40MM launcher, Remington 700 rifle	Several robberies occurred outside of Berkeley where the suspects evaded CHP in a stolen vehicle. Police officers from another agency located the suspect vehicle parked in Berkeley and surveilled it and requested Berkeley Police for assistance. Berkeley officers successfully detained the violent suspects after they attempted to flee. Several officers were hurt during the detention and a firearm with an extended magazine was located in the stolen vehicle the suspects were in. Property from armed robbery victims were located in the stolen vehicle. One of the suspects detained had a warrant stemming from a Berkeley robbery. Further investigations connected these suspects and their associates to 16 different Bay Area criminal cases that included shootings, robberies, burglaries, and other crimes. The suspects were arrested. At a later time, The Special Response Team served a high-risk search warrant on the suspects' residence in another city. The LRAD and light/sound diversion device were used during the service of the search warrant. Two suspects were arrested for robbery and firearm violations. Evidence that included two handguns and two assault rifles was recovered from this search warrant.	Outside of Berkeley
52	Patrol rifle	A robbery victim called the police to report her boyfriend was being robbed by a suspect armed with a gun. There was a struggle between the suspect and the boyfriend for the gun. The suspect fired a round in the air as officers arrived. Officers chased after the suspect as he fled on foot. Patrol rifle deployed as other officers arrived. Officers caught up to the suspect and gave orders which the suspect refused to follow. A brief struggle ensued where the suspect and officers were all on the ground. The suspect kept reaching for his waistband which was concealed since he was laying on his stomach. Officers struggled to pull the suspect's hands out from his waistband but were ultimately successful. They handcuffed the suspect and discovered he was reaching for a gun at his waistband. The suspect was arrested for armed robbery and firearm violations.	10
53	OC spray	A community member called and reported a subject doing martial arts moves near pedestrians. People moved out of his way, but he attacked a random person. Officers responded and contacted the shirtless suspect. He appeared compliant initially, but without warning, he attempted to grab an officer's leg. Officers struggled with the suspect in their attempts to handcuff him. The suspect grabbed onto the officer's vest where other equipment was located and attempted to pull him onto the ground. The officer managed to unholster his OC spray and sprayed the suspect. It should be noted that this suspect is 6'3" and approximately 250lbs and was significantly bigger than both officers. A third officer arrived at the scene and they were able to handcuff the suspect who continued to resist. Medical aid was provided to the suspect. He was placed on a psychiatric evaluation hold and the criminal case was forwarded to the District Attorney's Office.	4
54	40MM launcher	Employees at an apartment complex called the police and reported domestic violence where the victim was dragged down the hallway and her hair pulled by the suspect. The suspect and victim were not located, but surveillance cameras recorded the violent crime. 40MM launcher deployed as investigators served an arrest warrant for the suspect. He was located and arrested for domestic violence.	4

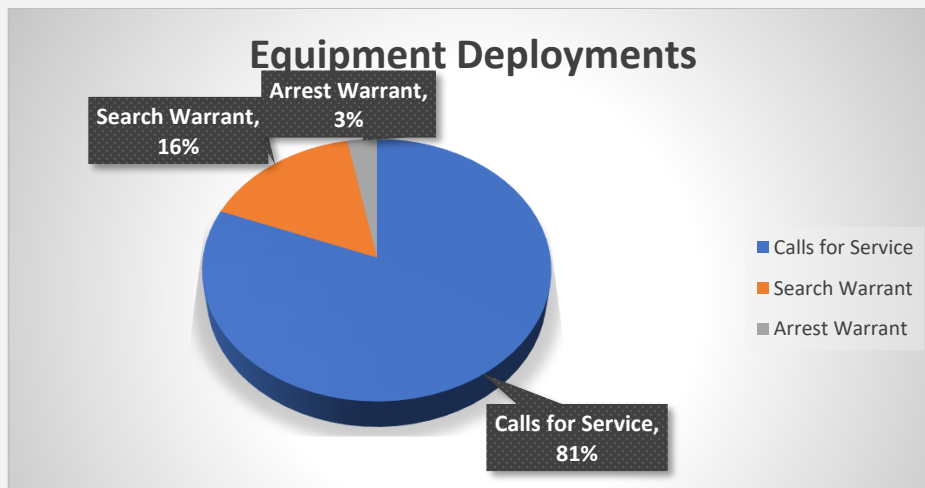
55	FN303 launcher	A front desk employee at an apartment complex called the police and reported someone screaming for help. The employee reported that the screaming subject was holding a gun. She later said it was a knife. FN 303 launcher deployed as officers knocked on the front door of the subject's apartment. The subject complied with officers and displayed signs of a mental crisis. He was placed on a psychiatric evaluation hold.	12
56	40MM launcher	A community member called the police and reported someone screaming in front of her apartment complex at 2:00am. The community member reported hearing the subject scream that he had a gun and was throwing objects at the building. Officers knew this subject from prior contacts as someone violent with the police. Officers deployed 40MM launcher as they communicated with the subject from a distance. The subject was screaming and yelling at officers, but eventually complied and was detained. He was placed on a psychiatric evaluation hold.	2
57	40MM launcher, Patrol rifle	Several robberies occurred outside of Berkeley where the suspects evaded CHP in a stolen vehicle. Police officers from another agency located the suspect vehicle parked in Berkeley and requested Berkeley Police for assistance. Berkeley officers successfully detained the violent suspects after they attempted to flee. Several officers were hurt during the detention and a firearm with an extended magazine was located in the stolen vehicle the suspects were in. Property from armed robbery victims were located in the stolen vehicle. One of the suspects detained had a warrant stemming from a Berkeley robbery. Further investigations connected these suspects and their associates to 16 different Bay Area cases that included shootings, robberies, burglaries, and other crimes. The suspects were arrested. At a later time, Detectives served a warrant at a Berkeley residence that is connected to one of the suspects. Patrol rifle and 40MM launcher were deployed as Detectives served the warrant. Evidence relating to shootings and robberies was located.	11
58	40MM launcher	A community member called the police and reported a friend ingested an entire bottle of pills in his attempt to commit suicide. Officers arrived on the scene and contacted the man through the window of an RV he was inside of. The subject was screaming for officers to leave and expressed his desire to die. He also threatened to burn the RV down if officers approached. The subject passed out so officers entered the RV to save him. 40MM deployed as officers contacted the man. The fire department took the man to the hospital where he was placed on a psychiatric evaluation hold.	13
59	FN303 launcher, 40MM launcher	A community member called the police and reported being the victim of domestic violence. She reported that her boyfriend strangled her and punched her in the head multiple times. She fled their apartment to call the police. Further investigations showed three warrants for the subject's arrest and a stay-away order protecting the victim. Officers attempted to contact the subject at the apartment, but the subject refused to come to the door. FN303 and 40MM launchers were deployed as officers continued to negotiate with the subject to surrender. He surrendered after 20 minutes and was arrested for domestic violence and violating a restraining order.	5

60	36" batons, FN303 launcher, 40MM launcher	The Special Response Team (SRT) assisted the San Francisco Police Department during the 2023 APEC Conference. SRT members were not utilized and were in San Francisco in a standby capacity. No contact was made with any community members.	Outside of Berkeley
61	Patrol rifle	A community member called the police and reported seeing a man with a gun. Officers arrived on the scene and contacted the community member. He pointed out the vehicle that the subject with the gun entered. Patrol rifle deployed as officers conducted a high-risk vehicle stop on the vehicle and contacted the driver. A firearm was located but turned out to be a BB gun. No brandishing of the BB gun was ever made by the subject. No arrest was made.	14
62	Patrol rifle	Detectives served a search warrant on a prolific burglary suspect who has an extensive arrest history including sexual assault, firearm violations, and assault with a deadly weapon. Patrol rifle deployed as Detectives entered the residence and served the warrant. Evidence was recovered and the investigation is ongoing.	5
63	Light sound distraction device, Patrol rifle, 40MM launcher	A community member called and reported her upstairs neighbor fired a gun and the bullet traveled down into her apartment. Officers were familiar with the apartment where the gunshot came from because of previous domestic violence and child abuse investigations from that unit. Officers confirmed that a bullet was shot through the ceiling from the upstairs unit into the downstairs unit. Officers negotiated with the suspect to surrender, but he refused. Patrol rifle and 40MM launcher were deployed. Officers continued to negotiate with the suspect to surrender. After a 5-hour police standoff, the suspect surrendered. A search warrant at the house was served and evidence was recovered that included an assault rifle and many rifle rounds. The suspect was arrested for firearm violations, probation violation, child endangerment, narcotics, and a stay-away order violation.	11
64	FN303 launcher, Patrol rifle 40MM launcher	A community member requested a Police officer conduct a welfare check on a subject who was banging his head against a van. When the officer arrived at the scene, a shirtless man ran up to the police vehicle with a large knife and stabbed at the police vehicle several times. The officer sped away to gain distance from the subject. After gaining distance from the subject, the officer exited his police vehicle and employed de-escalation techniques. The subject refused to drop the knife and pointed the knife at the officer on several occasions in a threatening manner. More officers arrived to assist. Patrol Rifle, 40MM launcher, and FN 303 launchers were deployed. Officers continued to speak to the subject and attempted to de-escalate, but the man rambled about the FBI ruining his life and was yelling at officers. This was an extremely dangerous situation as the man refused to drop the knife. Officers launched 40MM and FN303 rounds at the man causing him to drop the knife. Officers immediately detained the man and medical attention was provided. He was placed on a psychiatric evaluation hold. The criminal case was forwarded to the District Attorney's Office.	2

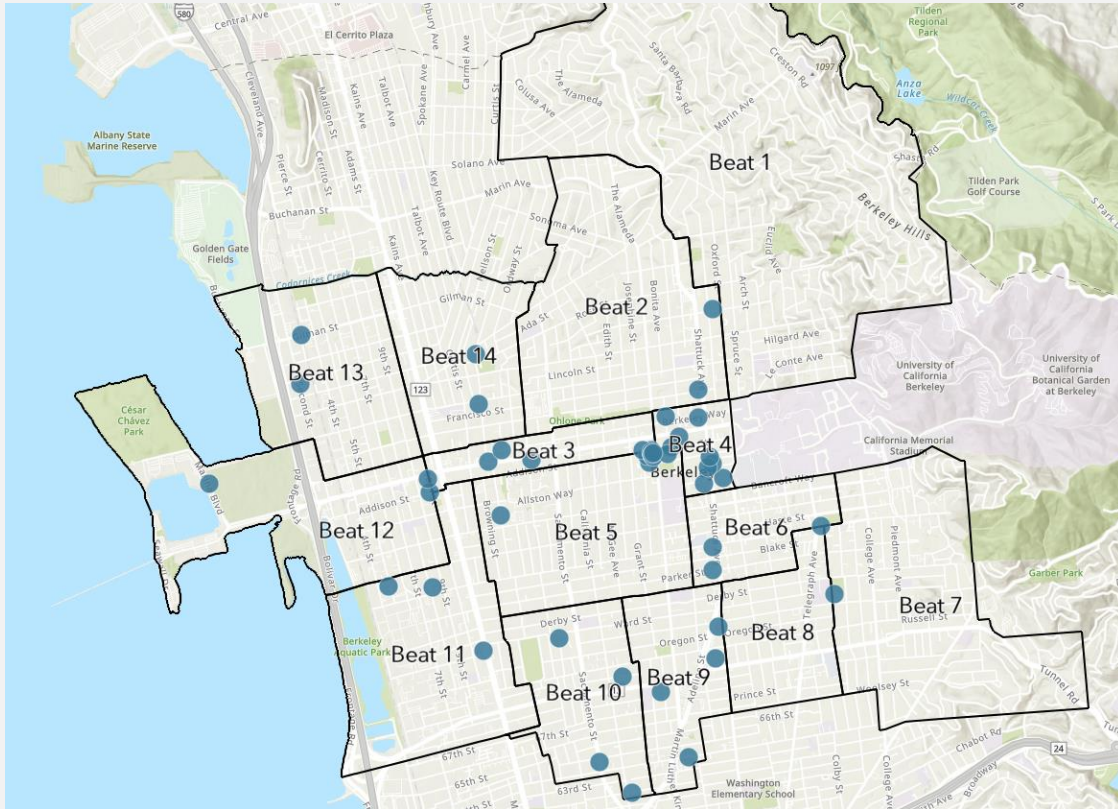
Below is a table that shows the total number of times a specified equipment was deployed in 2023. It should be noted that different types of equipment may be deployed in one incident and the same equipment may be deployed by multiple officers within a single incident.

EQUIPMENT	Number of Deployments
Patrol Rifle	27
40MM Single Launcher	41
40MM LTL Multi-Launcher	0
FN 303 Launcher	16
FN Pava Impact Projectile	0
Oleoresin Capsicum Spray	2
Chlorobenzylidene Malononitrile and Oleoresin capsicum	0
Remington 700 Rifle	3
Light/Sound Diversionary Device	5
Long Range Acoustic Device	4
36" Batons	1
Barret Model 99	0

Below is a pie chart that represents in percentage the equipment deployments that were in response to 2 arrest warrants, 10 search warrants, and 52 calls for services.



Below is a map showing where each of the above 55 equipment deployments occurred in Berkeley. 9 occurred in other Bay Area cities.



The following are product descriptions of the military equipment the Berkeley Police Department possesses:

Patrol Rifle:

The “M4” was developed and produced for the United States government by Colt Firearms and was based off of the original ArmaLite Rifle (AR) patent purchased by Colt in 1959. Although Colt owned the trademarked name of “M4”, a number of other manufacturers offer M4-like firearms under various model names. The M4 and its variants fire 5.56×45mm NATO (and .223 Remington) ammunition, and are a gas-operated, magazine-fed firearm with a barrel length ranging from 11.5” to 16”.

The current Berkeley Police Department (BPD) rifle ammunition used is the .223 Remington, a rimless, bottlenecked rifle cartridge. The round was developed in 1957 by Remington Arms and Fairchild Industries. The .223 Remington is considered one of the most popular cartridges and is currently used by a wide range of semi-automatic and manual-action rifles as well as handguns. While the military uses the similar 5.56x45 NATO cartridge, BPD uses the more common and often regarded civilian cartridge of .223 Remington for all training and duty uses.

Penn Arms 40MM Single Launcher & Milkor LTL Multi-Launcher

The 40mm impact projectile was developed as an alternative to the 12-gauge bean bag round and other more indiscriminate less lethal options. Early 12-gauge bean bag round designs had somewhat unpredictable flight patterns and could cause significant unwanted injury. The 40mm foam baton round was developed as a direct-fire projectile designed to minimize the risk of unintended injuries. Currently, the Berkeley Police Department utilizes the CTS 4557 foam baton projectile and the Penn Arms L-140 single-shot launcher.

FN 303

The FN 303 was developed in 2003 by Fabrique Nationale de Herstal as a less lethal option. The FN 303 is based on a concept developed by Monterey Bay Corporation. The development team consisted of designers and researchers from two paintball related companies. The FN 303 uses compressed air to propel a .68 caliber projectile similar to that of most manufactured paintball guns.

Oleoresin capsicum (OC spray)

First Defense manufactures different sizes of OC sprays. OC is the chemical agent that is most widely used amongst Law Enforcement (LE) and the general public. OC has a pungent and irritating pepper odor. It is classified as an inflammatory agent. Besides being effective on humans, OC-based chemical agents usually work on animals as well. In a liquid form, OC can appear as a clear, amber, or heavy dark red solution depending on the manufacturer. It is mixed with several types of solutions which act as carriers.

Chlorobenzylidene Malononitrile (CS) & (OC)

Chlorobenzylidene malononitrile (CS) is one of the most commonly used “tear gases” in the world. It can be liquid, gaseous, or solid substance intended to produce temporary discomfort through being vaporized or otherwise dispersed in the air. Law enforcement (LE) agencies have found this agent invaluable when faced with combative suspects, for crowd/riot control, and for alleviating barricaded subject situations. LE use it to help control individuals or groups without the need for a higher level of force. There are four different deployment methods of chemical agents (Aerosol - most commonly used by police departments, Fogging, Pyrotechnics, and blast expulsion). All methods of deployment can be affected by certain environmental and physical conditions (wind, rain, temperature, distance, and proximity to others). At standard daily temperatures and pressures, CS forms a white crystal with a low vapor pressure and poor solubility in water.

OC is a chemical agent that has a pungent and irritating pepper odor. It is classified as an inflammatory agent. OC is mixed with several types of solutions which act as carriers.

Remington 700 Precision Rifle

The Remington 700 is a series of bolt-action rifles designed in 1962 by the Remington Arms Company. The “700” designator is the generic name for multiple models of rifles with various parts, barrel lengths, stocks, etc. The Remington 700 rifle has long been used by law enforcement agencies and continues to be an industry standard for issued equipment. The Berkeley Police Department utilizes a custom Remington 700 action, chambered in the common .308-caliber round, with a 20” barrel and an Accuracy International chassis/stock. The rifle also includes a Nightforce 3-15x magnified optic and bipod.

Light/Sound Diversionary Device

Light/Sound Diversionary devices also known as distraction devices, flashbang, light/sound and noise/flash devices have been available for approximately 40 years and are a safe and effective tool for Law Enforcement (LE) to use during challenging tactical incidents. When a

diversionary device is deployed it creates a loud noise, heat and brilliant light and creates an effective diversion.

Long Range Acoustic Device (LRAD)

The Long-Range Acoustic Device (LRAD) is a high-intensity directional acoustical array for a long-range, crystal-clear notification system. The use of the LRAD is for communications. It is essentially a powerful loud speaker.

36" Baton

The Berkeley Police Department issues a knurled grip, polycarbonate, fixed-length straight baton for crowd control purposes. The baton is 36" long and 1.25" in diameter and weighs about 1.64 pounds. Polycarbonate is a thermoplastic, which means it is durable and resistant to splintering and heat.

Barrett Model 99 Precision Rifle

The Barrett Model 99 rifle is a single-shot bolt-action 50-caliber rifle first introduced in 1999. It is intended to be used in emergencies where there is a high potential for violence.

Appendix:

Applicable Lexipol Policies Respective to Each Equipment

Patrol Rifle

- Policy 300 (Use of Force)
- Policy 349 (Tactical Rifle Operator Program)

40MM single launcher

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

40MM LTL multi-launcher

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

FN 303 Launcher & FN Pava rounds

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Chlorobenzylidene Malononitrile and Oleoresin Capsicum (canister and spray)

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)

Remington 700 Rifle

- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)

Light/Sound Diversionary Device

- Policy 353 (Diversionary Device)

Long Range Acoustic Device

- Policy 707 (Long Range Acoustical Device)

36" batons

- Policy 300 (Use of Force)
- Policy 303 (Control Devices and Techniques)
- Policy 428 (First Amendment Assemblies)

Barret Model 99

- Policy 300 (Use of Force)
- Policy 354 (Precision Rifle)

Item 9.b.ii

California Assembly Bill No. 481 Titled “Law enforcement and state agencies: military equipment: funding, acquisition, and use.”

Assembly Bill No. 481

CHAPTER 406

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[Approved by Governor September 30, 2021. Filed with
Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing

additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

SEC. 2. Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY EQUIPMENT

7070. For purposes of this chapter, the following definitions shall apply:

(a) “Governing body” means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff’s department or a district attorney’s office, “governing body” means the board of supervisors of the county.

(b) “Law enforcement agency” means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff’s department.

(3) A district attorney’s office.

(4) A county probation department.

(c) “Military equipment” means the following:

(1) Unmanned, remotely piloted, powered aerial or ground vehicles.

(2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.

(3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

(4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

(5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

(6) Weaponized aircraft, vessels, or vehicles of any kind.

(7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters,

or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

(8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

(9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

(10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

(11) Any firearm or firearm accessory that is designed to launch explosive projectiles.

(12) “Flashbang” grenades and explosive breaching tools, “tear gas,” and “pepper balls,” excluding standard, service-issued handheld pepper spray.

(13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

(14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.

(15) Any other equipment as determined by a governing body or a state agency to require additional oversight.

(16) Notwithstanding paragraphs (1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

(d) “Military equipment use policy” means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:

(1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

(2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

(3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.

(4) The legal and procedural rules that govern each authorized use.

(5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight

authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) “Type” means each item that shares the same manufacturer model number.

7071. (a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of

the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications

to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

7072. (a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

7073. (a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

(1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.

(7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

(1) Publish the military equipment use policy on the agency's internet website.

(2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

7074. The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

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

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would

result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

O

Off Agenda Report

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

To: Honorable Members of the Police Accountability Board
From: Hansel Aguilar, Director of Police Accountability *HA*
Keegan Horton, ODPa Investigator *KH*
Jose Murillo, ODPa Policy Analyst *JM*
Date: May 3, 2024
Subject: Legislative Updates: Legislation Tied to Board Activity and Interest

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 ODPa has identified the following state legislation as relevant to the work of the PAB:

- **AB 667 “Firearms: Gun Violence Restraining Orders.”** Referred to Com. on PUB S.
- **AB 1839 “Peace Officers: Education and hiring grants.”** In Committee: Set, first hearing. Referred to suspense file.
- **AB 2020 “Survivors of Human Trafficking Support Act.”** In Committee: Set, first hearing. Referred to suspense file.
- **AB 2042 “Police Canines: standards and training.”** In committee: St, first hearing. Referred to suspense file.
- **AB 2541 “Peace Officer Training: wandering.”** Referred to Com. On PUB S.
- **AB 2621 “Law Enforcement Training (hate crimes).”** In Senate. Read first time. To Com. On RLS. for assignment.

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

- **AB 2923 “Peace Officers: Public complaints.”** In committee: Set, second hearing. Hearing canceled at the request of author.
- **AB 3021 “Criminal procedure: interrogations.”** Read second time. Ordered to third reading.
- **AB 3241 “Law Enforcement: police canines.”** In committee: Set, first hearing. Referred to suspense file.
- **SB 1122 “Peace Officers: educational requirements.”** Referred to Com. On PUB. S.

Lexipol Policy Update

The following updates have been made to the BPD's Lexipol KMS system:

- **BPD Policy 901 “Custodial Searches”:** Removal of redundant language in the Strip Searches section.

City of Berkeley Council Meeting Update

The following items being considered by the City Council are relevant to the PAB:

- May 7 Special Meeting confirming the result of the April 16 special municipal election.²
- May 7 Budget Referral: SafeCity Connect Downtown Berkeley Pilot Program.³
- May 7 Budget Referral: Vision Zero Rapid Response on Bicycle Boulevards.⁴
- May 14 Grant Application: Law Enforcement Mental Health and Wellness Act Program Grant to support contract with the Public Safety Family Counselling Group for Crisis Intervention and Critical Indicts Stress Management Services.⁵
- May 14 Reimaging Public Safety Status Report.⁶

² Source: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-05-07%20Special%20Agenda%20-%20Council%20-%20400pm.pdf>

³ Source: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-05-07%20Agenda%20Packet%20-Council%20%28WEB%29.pdf#page=413>

⁴ Source: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-05-07%20Agenda%20Packet%20-Council%20%28WEB%29.pdf#page=547>

⁵ Source: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-05-14%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf#page=17>

⁶ Source: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-05-14%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf#page=251>