



Office of the Director  
of Police Accountability

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** June 14, 2022

**Item Number:** 32

**Item Description:** Police Equipment & Community Safety Ordinance Impact Statements, Associated Equipment Policies and Annual Equipment Use Report

**Submitted by:** Michael Chang, Chairperson, Police Accountability Board  
Katherine J. Lee, Interim Director of Police Accountability

The attached report contains the recommendation of the Police Accountability Board regarding the Police Department's proposed Impact Statements and Use Policies submitted under the Police Equipment & Community Safety Ordinance. The proposed Policy 709, submitted in accordance with AB 481, and the Annual Use Report required under the Ordinance, are also addressed.



Office of the Director  
of Police Accountability

ACTION CALENDAR  
June 14, 2022

To: Honorable Mayor and Members of the City Council

From: Police Accountability Board and  
Office of the Director of Police Accountability

Submitted by: Michael Chang, Chairperson, Police Accountability Board  
Katherine J. Lee, Interim Director of Police Accountability

Subject: Police Equipment & Community Safety Ordinance Impact Statements,  
Associated Equipment Policies and Annual Equipment Use Report

RECOMMENDATIONS

1. In deciding whether to approve the Police Department's proposed Police Equipment & Community Safety Ordinance ("Ordinance") Impact Statements and Associated Equipment Policies, consider the shortcomings that the Police Accountability Board ("Board") has identified.
2. Postpone consideration of the Annual Equipment Use Report submitted under the Ordinance, as the statutory 60-day review period for the Board to review this report has not expired and the Board needs additional time to conduct its evaluation.
3. Regarding proposed Policy 709, Military Equipment, submitted to comply with Assembly Bill 481, postpone consideration of Policy 709 and refer this item to the Board for a review and recommendation to the Council.

FISCAL IMPACTS OF RECOMMENDATION

Unknown.

CURRENT SITUATION AND ITS EFFECTS

The Police Equipment & Community Safety Ordinance, codified in Berkeley Municipal Code Chapter 2.100, sets forth an approval process that the Police Department must follow before acquiring or using "controlled equipment," as defined in the Ordinance. The same approval process is required for previously acquired equipment. As part of this process, the Police Accountability Board is tasked with reviewing and making recommendations to the Council regarding Impact Statements and Equipment Policies (also referred to as Use Policies) prepared by the Police Department. The Ordinance also requires the Board to review and make a recommendation to the Council regarding the Police Department's Annual Equipment Use Report.

Separately, the Police Department must comply with AB 481, with similar, but not identical, reporting requirements, and a longer timeline for compliance than that under the Ordinance. The Police Accountability Board has no formal role in reviewing the Military Equipment Policy (Policy 709) prepared under AB 481, but has discretionary authority to do so.<sup>1</sup> Because the reporting requirements of AB 481 and the Ordinance are so similar, much of the Board's work in reviewing the reports produced under the Ordinance can be applied to reviewing Policy 709.

## BACKGROUND

### **Impact Statements and Use Policies**

Under the Ordinance, the Board must recommend that the City Council adopt, modify, or reject the proposed Controlled Equipment Use Policy, and present its recommendations to the City Council. (B.M.C. section 2.100.040.(E).<sup>2</sup>)

The Police Department submitted the Impact Statements and Use Policies to the Board on February 24, 2022. The Board convened a special meeting on March 30, 2022 for the sole purpose of evaluating these documents. It noted several deficiencies, and communicated these to the Chief of Police in a memorandum dated April 6, 2022.<sup>3</sup> Although these comments were characterized as the Board's recommendations in the Department's May 10, 2022 report to the Council, the Board did not view them as such; as the City Attorney noted, the Board's April 6, 2022 memo did not contain explicit recommendations, nor were they presented to Council.

After Council's postponement of this item to June 14, the Board on May 11 established a Controlled Equipment Use & Reporting Subcommittee, composed of Vice-Chair Mizell and Board member Moore. The Subcommittee met three times, with Police Department representatives present at two of the meetings. Before its last meeting, the Police Department submitted revised Impact Statements, incorporating changes responding to some of the Board's April 6, 2022 comments.<sup>4</sup> Shortly thereafter, the Police Department modified some of the Use Policies. The Subcommittee's recommendations to the Board were transmitted in a memo from the Interim Director to the Board dated June 5, 2022 (Attachment 1).

At its June 8, 2022 meeting, the Board reviewed the Subcommittee's recommendations and had an extensive and vigorous discussion about what it should recommend to the Council. Ultimately, the Board was unable to agree on a recommendation to adopt,

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<sup>1</sup> Charter of the City of Berkeley, Article XVIII, Section 125(3)(a)(1).

<sup>2</sup> This section refers only to Use Policies, and not Impact Statements, which, in the context of the entire Ordinance, appears to be a drafting error.

<sup>3</sup> See p. 81 of the original May 10, 2022 agenda item.

<sup>4</sup> The revised Impact Statements and linked Use Policies are attached to the Police Department's submittal in the Supplemental 1 packet.

modify, or reject the Impact Statements and Use Policies, but found near unanimity on expressing the problems it found:

**Motion: Communicate to the Council that the Board agreed on a list of problems that exist regarding the Impact Statements and Use Policies. Two votes were taken, one to reject, and one to approve, the Impact Statements and Use Policies, but each motion failed on a 4-4-1-1 vote. The Board unanimously agreed, however, that it had significant concerns with the serious flaws it identified in the Impact Statements and Use Policies, in that the following omissions and inconsistencies need to be corrected:**

**1. The “Impact” sections for each type of equipment in the Impact Statements need to describe potential adverse impacts in accord with the Ordinance.<sup>5</sup>**

**2. The “Uses” sections of the Impact Statements for chemical agents and kinetic impact projectiles need to reflect and be made consistent with Berkeley policy and state law.<sup>6</sup>**

**3. The policies attached in the Appendix, such as Policy 303 on Control Devices and Techniques, must be updated to be conform to state law.**

**The Board struggled with the challenges posed by the complexity of the task and time pressures. There was a great deal of ambivalence because many Board members did not want to reject the Equipment Statements and Use Policies in light of the impending deadlines, while other Board members did not want to approve the documents because of the serious deficiencies.**

M/S/C (Calavita/Owens): Ayes – Calavita, Chang, Harris, Leftwich, Levine, Moore, Owens, Batista (alternate); Noes – None; Abstain – Mizell; Absent – Ramsey.

Essentially, the Board was divided on the message it wished to send. One group felt that the Board should approve the Impact Statements and Use Policies because it was highly unlikely that the Council would reject them and thus deprive the Police Department of many of its tools, including less-lethal options. The other group believed that the Board should stand by its assessment of the documents by rejecting them as failing to meet the requirements of the Ordinance. The Board was able to agree on communicating the shortcomings of the Impact Statements and Use Policies, however.

A note about Assembly Bill 48: This state law bans the use of less-lethal weapons and chemical agents for crowd control purposes, except by officers with specific training,

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<sup>5</sup> B.M.C. section 2.100.040(C)(4).

<sup>6</sup> These sections are a subsection of the “Description” section. “Description: A description of each type of Controlled Equipment, the quantity sought, its capabilities, expected lifespan, **intended uses and effects**, and how it works, including product descriptions from the manufacturer of the Controlled Equipment.” (B.M.C. section 2.100.040(C)(1).) (Emphasis added.)

under certain conditions, and if specific requirements are met. The Board believes that the Impact Statements and Use Policies those documents should reflect the restrictions on use imposed by AB 48; this is the “state law” referred to in its motion.

### **Annual Equipment Use Report**

“Within 60 days of the Police Department submitting an annual report, the Police Accountability Board shall place the report as an agenda item for an open session of a regular meeting. The Police Accountability Board shall determine, based on the report, whether each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040.” B.M.C. Sec. 2.100.050(B)(1).

The Police Department submitted the Annual Report to the Board on April 26, 2022. Thus, the Board has until June 25, 2022 to complete its assessment under Ordinance. The Controlled Equipment Subcommittee recommended to the full Board that, if it did not act on the Annual Report at the Board’s June 8 meeting, it request that Council postpone acting on June 14, to allow the Board to consider the report at its June 22 meeting. (See Attachment 1, p. 4.) Due to the Board’s lengthy and spirited discussion about the Impact Statements and Use Policies, however, it overlooked acting on this recommendation. Thus, the Interim Director recommends that the Council postpone consideration of the Annual Report so that the Board may review it for purposes of making a recommendation to the Council. This is consistent with advice provided by the City Attorney.

### **Policy 709, Military Equipment**

The Police Accountability Board believes that its review Policy 709 on Military Equipment is appropriate, even though it is not required. The Board did not have time to undertake an evaluation of this policy, however. The Board’s Controlled Equipment Subcommittee recommended that the Board ask the Council postpone its consideration of this policy on June 14 (See Attachment 1, p. 4). However, this item, too, was overlooked by the Board in the wake of its intense discussion regarding the Impact Statements and Use Policies. Therefore, it is the recommendation of the Interim Director that the Council postpone consideration of Policy 709 and refer it to the Police Accountability Board for review and return with a recommendation. The Council must approve Policy 709 within 180 days from submittal which, according to the Police Department, was April 28, 2022.

### **ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

No environmental or climate impacts.

### **RATIONALE FOR RECOMMENDATIONS**

The rationale for each the recommendations from the Police Accountability Board and the Interim Director is explained above.

ALTERNATIVE ACTIONS CONSIDERED

The Board considered competing proposals regarding the Impact Statements and Use Policies, but could not agree on either.

CONTACT PERSON

Katherine J. Lee, Interim Director, Office of the Director of Police Accountability  
(510) 981-4950

Attachments:

- 1: June 5, 2022 Memorandum from Interim Director Lee to Police Accountability Board re: Controlled Equipment – Agenda item #10.b. on [PAB's] June 8, 2022 agenda.
- 2: Chart: Guide to Controlled Equipment Item
- 3: Excerpt of minutes (unapproved) from June 8, 2022 Police Accountability Board meeting.



OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

June 5, 2022

To: Police Accountability Board  
From: Katherine J. Lee, Interim Director of Police Accountability  
Re: Controlled Equipment – Agenda Item #10.b. on June 8, 2022 agenda

This memo provides background and guidance on the Controlled Equipment item, and elaborates on the Subcommittee’s recommendations. The table entitled “Guide to Controlled Equipment Item” on p. 13 of your agenda packet should help you sort out the voluminous amount of material comprising the Police Equipment and Community Safety Ordinance Impact Statements and related Use Policies, the Annual Use Report, and the Military Equipment Policy (Policy 709).

## Background

Police Equipment and Community Safety Ordinance Impact Statements and related Use Policies were first considered by you at the March 30, 2022 special meeting. At that time, the Police Department (BPD) stated that those materials were also intended to fulfill the requirements of AB 481. Your assessment of the Impact Statements and Use Policies was communicated to Chief Louis in an April 6, 2022 memo. On April 25, the BPD sent me the Annual Use Report and, on May 4, Capt. Rolleri sent a memo responding your April 6 memo. Among his responses, he noted that it was an “editing error” to state that the Impact Statements were to meet the mandates of AB 481.

The BPD submitted the Impact Statements and Use Policies, Annual Use Report, and Military Equipment Policy to the Council for its May 10, 2022 meeting<sup>1</sup> and the Council postponed consideration until its June 14 meeting. Since then, the Department has revised the Impact Statements, Policy 303 (Control Devices and Techniques), Policy 428 (First Amendment Assemblies) and the Military Equipment Policy. Some of the changes respond to issues the Board raised in its April 6 memo.

You formed the Controlled Equipment Reporting Subcommittee on May 11, 2022, and Chair Chang appointed Vice-Chair Mizell and Board member Moore to the Subcommittee. The Subcommittee met on May 17, 23, and 31, with BPD personnel present for most or all of every meeting. In addition to the specific recommendations noted below, Subcommittee members wish to convey to the Board that they do not believe they had enough time, capacity, or expertise to thoroughly review the materials to meet the level of scrutiny that the Ordinance suggests is required.

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<sup>1</sup> The complete Council item was included in your March 30, 2022 agenda packet.

## I. Impact Statements and Use Policies

*The critical task on June 8 is for you to make recommendations to the City Council on the Impact Statements and Use Policies.* There is some debate as to the actual deadline for Council to take action on these, but arguably they must do so by their June 28 meeting. Because, however, final decisions on the FY 23 & 24 budget must be made on that date, they asked that the item be returned on June 14.

### *PAB responsibility*

You are undertaking the “Review Process for Previously Acquired Equipment” in the Ordinance (Berkeley Municipal Code sec. 2.100.040 (G)). This entails the same consideration of Controlled Equipment Impact Reports and Use Policies as will be required when the BPD seeks to purchase or acquire by other means Controlled Equipment, or to use such equipment in a way not originally authorized. (BMC sec. 2.100.040(A).)

“**Controlled Equipment Impact Statement**” means a publicly released, written document that includes, at a minimum, all of the following:

- (1) Description: A description of each type of Controlled Equipment, the quantity sought, its capabilities, expected lifespan, intended uses and effects, and how it works, including product descriptions from the manufacturer of the Controlled Equipment.
  - (2) Purpose: The specific purpose or purposes that each type of Controlled Equipment is intended to achieve.
  - (3) Fiscal Cost: The fiscal cost of each type of Controlled Equipment, including the initial costs of obtaining the equipment, the costs of each proposed use, the costs of potential adverse impacts, and the annual, ongoing costs of the equipment, including operating, training, transportation, storage, maintenance, and upgrade costs.
  - (4) Impact: An assessment specifically identifying any potential impacts that the use of Controlled Equipment might have on the welfare, safety, civil rights, and civil liberties of the public.** [emphasis added]
  - (5) Mitigations: Specific, affirmative technical and procedural measures that will be implemented to safeguard the public from such impacts.
  - (6) Alternatives: Alternative method or methods by which the Police Department can accomplish the purposes for which the Controlled Equipment is proposed to be used, and rationale for selection over alternative methods.
  - (7) Third Party Dependence: Whether use or maintenance of the Controlled Equipment will require the engagement of third party service providers.
- (BMC sec. 2.100.020(C).)

And:

Controlled Equipment requires a publicly available **use policy** that identifies the purpose, any prohibited uses, training requirements, and any process required prior to use.

(BMC sec. 2.100.030)

You are to apply the “Criteria for Police Accountability Board Recommendations” in BMC sec. 2.100.040(C):

- (1) The Police Accountability Board shall recommend approval of a request to fund, acquire, or use Controlled Equipment pursuant to this chapter only if it determines all of the following:



- (a) The Controlled Equipment is needed and there is no practicably available alternative equipment which is not Controlled Equipment that is sufficient for the purposes.
- (b) The proposed Controlled Equipment Use Policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- (c) The Controlled Equipment will not be used based on race, national origin, religion, sexual orientation, gender, gender identity, political viewpoint, or disability, or disproportionately impact any community or group.

(2) If the submitted Controlled Equipment Impact Report identifies a risk of potential adverse effects on the public's welfare, safety, civil rights, or civil liberties, the Police Accountability Board's recommendation for approval for the funding, acquisition, or use of the Controlled Equipment shall not be deemed an acquiescence to those effects, but instead an acknowledgment of the risk of those effects and the need for the Police Department to take proactive steps to minimize those effects.

### *Subcommittee Recommendations*

1. The Controlled Equipment Subcommittee recommends that you reject the Impact Statements based on the descriptions in category (4), "Impact" [in bold above], because the language for many pieces of equipment fails to adequately describe the full impacts of the equipment's use. BMC Section 2.100.020 (C)(4) requires identification of potential impacts that the use of Controlled Equipment might have on the welfare, safety, civil rights, and civil liberties of the public. While the Subcommittee does not take issue with much of the existing language, it believes more information is needed regarding potential negative effects.

For example, for the Impact of the M4 rifle (p. 7 of Impact Statements, p. 23 of packet), the BPD discusses how the rifle can stop a lethal threat from a greater distance and with more accuracy compared to a pistol, and is intended to increase the safety and welfare of citizens and officers; also, BPD states that abuses of authority or power would result from a violation of policies or law. Missing, however, is any consideration of how mere deployment of the rifle can have a potentially traumatic effect on bystanders.

2. The Subcommittee also recommends that the Impact Statements pertaining to chemical agents and kinetic impact projectiles fully delineate the City's policies on such weapons as well as the restrictions imposed by AB 48. This implicates the Impact Statements for the Penn Arms, Milkor, and FN 303 launchers; and Oleoresin Capsicum Spray (pepper spray), Chlorobenzylidene Malononitrile (CS gas, or tear gas) and OC in canister form.

AB 48 prohibits the use of chemical agents and impact projectiles for crowd control except in under certain conditions and only by peace officers with the requisite training. (Penal Code sec. 13652.) City of Berkeley policy bans the use of tear gas in all circumstances, and bans pepper spray or smoke for crowd control.

An issue that has not been resolved is to what extent the Impact Statements must incorporate the Use Policies, and whether the Use Policies sufficiently include the local and state limitations and prohibitions. BPD points out that applicable Use Policies are incorporated into the Impact Statements by reference in the Appendix. The Subcommittee noted that one of the required elements of the Impact Statements is "A description of each type of Controlled Equipment, the quantity sought, its capabilities, expected life span, **intended uses and effects**, and how it works . . ." (BMC sec. 2.100.020(C)(1) [Emphasis added].) An added complication is that there are policies for specific equipment (such as Policy 303, covering chemical weapons and less-lethal), while other policies such as Policy 300, Use of Force, provide general guidance on use of the equipment and Policy 428, First Amendment Assemblies, contains further guidelines for use in crowd control situations.

## II. Annual Use Report

Under BMC section 2.100.050, BPD must submit to the Board an annual report covering the immediately preceding calendar year. The elements are found in BMC section 2.100.050(A)(1). The Board must determine whether each piece of equipment meets the standards for approval in BMC section 2.100.040; essentially, the same standards as for initial approval of equipment. (BMC sec. 2.100.050(B)(1).)

The Subcommittee has no recommendation regarding the Annual Use Report, as it did not have time to review the report. The Subcommittee thought that the full Board might be able to conduct the review, as it is shorter and less complex than the Impact Statements.

The Council is being asked to approve the Annual Use Report on June 14. However, as the requisite 60 days for PAB's review will not expire until June 25, if you do not have time to review and approve this report on June 8, you should request that the Council postpone its consideration until after you have completed your assessment at the June 22 meeting. The City Attorney recommended that the Board be given its opportunity to review before Council considers the Annual Use Report.<sup>2</sup>

## III. Military Equipment Policy (Policy 709)

BPD prepared the Military Equipment Policy to meet the mandates of AB 481. The reporting requirements are similar, but not identical to, the Controlled Equipment Ordinance requirements, and the equipment subject to AB 481 is likewise very similar, but not identical, to that covered by the Ordinance.

There is no requirement that the Board review Policy 709. It seems logical for the Board to do so, however, as Policy 709 contains many of the same elements of the Impact Statements and Use Policies. That said, the Subcommittee did not have time to perform this review, and recommends that the Board refer Policy 709 to a subcommittee (possibly the Lexipol Subcommittee) with a request that it focus first on the rifle policies. Mr. John Lindsay-Poland suggested additions to Policy 349 (Tactical Rifle Operator Program) and Policy 354 (Precision Rifle) that would describe prohibited uses.

If the Board proceeds with a review of Policy 709, it should ask the Council to postpone its consideration on June 14. The Council has 180 days from submission of the proposed policy to approve it. (Gov't Code sec. 7071(a)(2).)

### Additional Recommendation

As a final recommendation, the Subcommittee voted to recommend that members of the Police Accountability Board, Berkeley Police Department, and City Attorney's Office meet to discuss the discrepancies in interpreting the requirements of the Ordinance, with the goal of streamlining the process going forward for future reviews.

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<sup>2</sup> May 13, 2022 email from City Attorney Farimah Brown to Vice-Mayor Kate Harrison and others (found in May 31, 2022 agenda packet, p. 39).

Guide to Controlled Equipment Item

DOCUMENT FOR REVIEW	APPLICABLE LAW	PAB ROLE	TIMING	RECOMMENDED ACTION
<b>Impact Statements and Use Policies</b>	Police Equipment and Community Safety Ordinance (BMC Ch. 2.100) (“Ordinance”).	Recommend that Council adopt, modify, or reject the proposed Impact Statements and Use Policies. May approve only if certain criteria met.	Subject to debate. Ordinance says within 90 days of BPD’s submission to PAB (sent Feb. 24), but BPD sent to Council before PAB sent recommendation.	<ul style="list-style-type: none"> <li>- Act on June 8 for submittal to Council for its June 14 meeting.</li> <li>- Reject Impact Statements, as language for many pieces of equipment fails to describe full impacts of the equipment's use. (More details in memo TBD.)</li> <li>- See * below.</li> </ul>
<b>Annual Use Report</b>	Ordinance.	Determine if each piece of equipment complies with the standards for initial approval.	PAB must agendize by June 25 (60 days from April 26 submission to PAB).	<ul style="list-style-type: none"> <li>- Act at June 8 or June 22 meeting, and then submit to Council.</li> <li>- (If no action on June 8, ask Council to not act on June 14 and wait for PAB to submit its recommendation.)</li> <li>- Subcommittee proposed full PAB review.</li> </ul>
<b>Military Equipment Policy 709</b>	AB 481 - adds Gov’t Code sections 7070 to 7075, requiring approval of “military equipment” by adopting a military equipment use policy.	No formal role, but given the similarity of the Ordinance and AB 481, makes sense for PAB to review.	No deadline for PAB. BPD to commence governing body approval process by May 1, 2022, and Council must approve in 180 days.	- Refer Policy 709 to a subcommittee, possibly Lexipol, with request to review the rifle policies first.
(Not for review, but restrictions should be reflected in policies above)	AB 48 - adds Penal Code section 13652, banning use of less-lethal weapons and chemical agents for crowd control <b>except</b> by officers with certain training and in specific circumstances.	No formal role. PAB should, however, ensure that BPD policies conform to state law.	Tied to above.	- * Ensure that Impact Statements pertaining to less-lethals and chemical agents fully delineate the City’s policies and AB 48.

*Excerpt from draft minutes of Police Accountability Board meeting of June 8, 2022*

## **10. NEW BUSINESS (DISCUSSION AND ACTION)**

- b. Proposed Equipment Impact Statements, Use Policies, Military Equipment Policy, and Annual Use Report: Review and affirm or revise Subcommittee's proposals on how to proceed, and on substantive recommendations to City Council.

**Main motion: The Board recommends provisional approval of the Impact Statements and Use Policies, only on the condition that within 90 days the Police Department makes the following critical modifications:**

- 1. The "Impact" sections for each type of equipment in the Impact Statements need to describe potential adverse impacts in accord with the Ordinance.**
- 2. The "Uses" sections of the Impact Statements for chemical agents and kinetic impact projectiles need to reflect and be made consistent with Berkeley policy and state law;**
- 3. The policies attached in the Appendix, such as Policy 303 on Control Devices and Techniques, must be updated to conform to State law.**

**The Board preferred to reject the Impact Statements and Use Policies, given the clear omissions and inconsistencies with law and policy. However, in light of the impending deadline, the Board offers this conditional approval.**

Moved/Second (Calavita/Leftwich) Motion Failed

Ayes: Calavita, Chang, Leftwich, Owens

Noes: Harris, Mizell, Moore, Batista

Abstain: Levine Absent: Ramsey

**Substitute motion: Recommend that the Council:**

- 1) reject the Impact Statements based on the descriptions in category (4), "Impact", because the language for many pieces of equipment fails to adequately describe the full impacts of the equipment's use. BMC Section 2.100.020 (C)(4) requires identification of potential impacts that the use of Controlled Equipment might have on the welfare, safety, civil rights, and civil liberties of the public. While the Board does not take issue with much of the existing language, it believes more information is needed regarding potential negative effects;**
- 2) reject the Impact Statements pertaining to chemical agents and kinetic impact projectiles because they fail to fully delineate the City's policies on such weapons as well as the restrictions imposed by AB 48. This implicates the Impact Statements for the Penn Arms, Milkor, and FN 303 launchers; and Oleoresin Capsicum Spray (pepper spray), Chlorobenzylidene Malononitrile (CS gas, or tear gas) and OC in canister form; and**
- 3) recommend that members of the Police Accountability Board, Berkeley Police Department, and City Attorney's Office meet to discuss the discrepancies in interpreting the requirements of the Ordinance, with the goal of streamlining the process going forward for future reviews.**

Moved/Second (Mizell/Moore) Motion Failed

Ayes: Harris, Mizell, Moore, Batista

Noes: Calavita, Chang, Owens, Leftwich

Abstain: Levine Absent: Ramsey