

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**Wednesday, March 9, 2016
7:00 P.M.**

**South Berkeley Senior Center
2939 Ellis Street, Berkeley**

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**
(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers. They may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)
- 4. APPROVAL OF MINUTES**
Regular Meeting of February 24, 2016
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**
Status of complaints; announcements.
- 7. CHIEF OF POLICE'S REPORT**
Budget, staffing, training updates, and other items.
- 8. 2015 CRIME REPORT**
Presentation by Berkeley Police Department
- 9. OLD BUSINESS (discussion & action)**
 - a. Implementation of Council directive regarding PRC and BPD recommendations following BPD response to December 6, 2014 protests: consideration of recommendations not being addressed by General Orders Subcommittee.
 - b. Chief's consideration of sustained allegations in a PRC Board of Inquiry, and relationship to discipline imposed following Internal Affairs investigation of the same incident.

- c. Review of revised General Order W-1 (Right to Watch) proposed by BPD.
- d. Structure of special meeting regarding Liberty City.

10. NEW BUSINESS (discussion & action)

- a. Senate Bill 1286, Increasing Law Enforcement Transparency bill.
- b. Reports from BPD under General Order C-1, Intelligence Procedures for First Amendment Activities.
- c. Inventory of less-than-lethal munitions held by BPD.

11. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. Body-Worn and Dash Cameras Subcommittee
Update; schedule next meeting date
- b. General Orders C-64, etc. Subcommittee
Update; schedule next meeting date
- c. December 7 & 8 Investigation Subcommittee
Next meeting date March 10, 2016, at 5:30 p.m.
- d. Transgender G.O. Subcommittee
Update; schedule next meeting date

12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

13. PUBLIC COMMENT

(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on the agenda at this time.)

Closed Session

14. VOTE ON RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

Complaint #2390

15. VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT

Complaint #2392

End of Closed Session

16. ADJOURNMENT

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SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 3rd floor, during regular business hours.

Contact the Police Review Commission at (510) 981-4950 or prc@cityofberkeley.info.

COMMUNICATIONS FOR PRC REGULAR MEETING March 9, 2016

MINUTES

February 24, 2016 *Regular Meeting* Page 7

COMMUNICATIONS

Communications #1683 – Senate Bill (SB) No. 1286, February 19, 2016 introduced by Senator Leno re Increasing Law Enforcement Transparency bill. Page 11

Communication #1683 – An article dated February 19, 2016: State bill would give public access to police misconduct records. Page 23

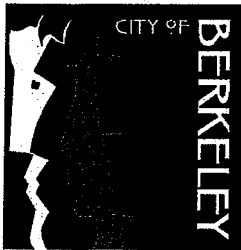
Communication #1683 – Three Memos from the Police Chief dated February 10, 2016: Report of Intelligence Procedures for First Amendment Activities for 2013, 2014, and 2015. Page 27

Communication #4377 – Email reply from PRC Staff to Andrea Prichett re BPD and the California Public Records Act (CPRA) dated February 18, 2016. Page 33

Communication #1760 – An article from the Street Spirit, dated January 14, 2016: One Night at Liberty City—Just Before the Raid. Page 35

Communication #1760 – An email from a citizen addressed to the PRC, dated February 27, 2016 re Liberty City. Page 39

Communication #1106 – Letter dated March 2, 2016 to BPD Chief re Commendations of BPD employees January – June 2015. Page 41



Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(unapproved)**

**Wednesday, February 24, 2016
7:00 P.M.**

**South Berkeley Senior Center
2939 Ellis Street, Berkeley**

1. CALL TO ORDER & ROLL CALL BY CHAIR PEREZVELEZ AT 7:05 P.M.

Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner Alison Bernstein (arrived 7:07 p.m.; left 7:15 p.m.)
Commissioner George Lippman (left 9:00 p.m.)
Commissioner Michael Sherman
Commissioner Kad Smith (arrived 7:11 p.m.)
Commissioner Ayelet Waldman

Absent: Commissioners Ari Yampolsky, Jerry Javier

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan (left 7:55 p.m.), Sgt. Benjamin Cardoza,
Sgt. Sean Ross

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There were 5 speakers.

4. APPROVAL OF MINUTES

Motion to approve minutes of Regular Meeting of February 10, 2016.

Moved/Seconded (Roberts/Lippman) **Motion Carried**

Ayes: Lippman, Perezvelez, Roberts, Sherman, and Waldman.

Noes: None **Abstain:** Smith **Absent:** Bernstein, Javier, Yampolsky

5. CHAIR'S REPORT

None

6. CHIEF OF POLICE'S REPORT

Chief Meehan reported:

- BPD has been participating in YAP twilight basketball program on Friday evenings. Not just basketball; also talk with the kids. BYA is having a crab feed fundraiser tomorrow night.
- Will present annual crime report to PRC on March 9.
- Entering 2nd year of two-year budget cycle; can make adjustments at this point.
- Currently at 170 sworn of 176 authorized positions. Larger shortage in dispatch, where only 28 of 32 positions are filled. 7 officers in field training; 4 recruits starting academy in next few months.
- Thank you for prioritizing your requests to BPD. McKinley Ave. staging returning March 23; Right to Watch G.O. on today's agenda. CPE: analyzing data for several agencies and will have report to BPD in July. Inventory of less-than-lethal munitions coming next week, and G.O. C-1 reports handed to PRC Officer today.

Questions:

- Any budget news? Will go to Council with adjustments in early May. Hired new budget manager, Chuck Gunter.
 - Stop data online: when will that be updated? Think being updated online every 60 days.
 - Dec. 6 [2014] protest follow-up: have you budgeted for equipment and other purchases that were recommended? Not yet.
 - Re implementing recommendations from Dec. 6 review (Agenda Item #8.b.), what about items not going to the G.O. Subcommittee? Okay with doing that in a work session.
 - Re Chief's consideration of PRC's sustained findings in a BOI (Agenda Item #8.c.), how often are PRC's findings considered in discipline? Case-by-case. IA generally completes its investigation in 60 – 120 days; depends on complexity of case. Influence of PRC's work on BPD? Varies, but a sustained finding clearly matters to officers; that's why they are quick to file a Caloca appeal.
- Willing to hold final decision until PRC is done? Done when have all the information; to artificially delay discipline is a conversation you should have with City Attorney and BPA. Do you consider PRC's work making disciplinary decisions? Yes, if done in time. Is PRC's work necessary and integral? Can be helpful.

7. PRC OFFICER'S REPORT

(Heard following Item #8.c.)

- Complaint deadlines report distributed. A Caloca hearing has been set for June 2.
- Reports from BPD under G.O. C-1 will be agendized for next meeting.

- Link to Implementation Guide from President's Task Force on 21st Century Policing was emailed to Commissioners.
- Senate Bill 1286 will be on next agenda.
- Been in discussion with Deputy City Manager about a special meeting re Liberty City and waiting to hear back.

8. OLD BUSINESS (discussion & action)

- a. Fair & Impartial Policing training for community on April 9, 2016: update and deciding which Commissioners will attend.

By general consent, Commissioners agreed that Commissioners Roberts, Smith, and Lippman will attend, and the PRC Officer will ask Commissioners Javier and Yampolsky if either is interested.

- b. Plan for implementation of Council directive regarding PRC and BPD recommendations following BPD response to December 6, 2014 protests.

By general consent, Commissioners asked that all recommendations that are not being handled in the General Orders Subcommittee be agendized.

- c. Chief's consideration of sustained allegations in a PRC Board of Inquiry, and relationship to discipline imposed following Internal Affairs investigation of the same incident.

(Heard following Item #6.)

By general consent, the Commission requested that the PRC officer ask the City Attorney or his representative attend a PRC meeting to answer their questions about requiring the Chief to wait for PRC's findings before deciding on discipline.

9. NEW BUSINESS (discussion & action)

- a. Review of revised General Order W-1 (Right to Watch), proposed by BPD. (Heard following Item #8.b.)

Following discussion, Commissioners asked to re-agendize this item for the next meeting.

10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. Body-Worn and Dash Cameras Subcommittee

The subcommittee met today; made great progress; and having good collaborative conversations with BPD. Next meeting March 9, 2016, at 5:30 p.m.

- b. General Orders C-64, etc. Subcommittee

Commissioner Bernstein was elected chair at this subcommittee's first meeting, and made great progress. Next meeting March 2, 2016, at 6:00 p.m.

- c. December 7 & 8 Investigation Subcommittee
Met today; next meeting March 9, 2016, at 5:30 p.m.
- d. Transgender G.O. Subcommittee
First meeting to be scheduled; March 9 good but conflict. PRC Officer to check on officer availability before scheduling.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

There were 3 speakers.

13. ADJOURNMENT

The meeting was adjourned at 9:16 p.m. by general consent.

SENATE BILL**No. 1286****Introduced by Senator Leno**

February 19, 2016

An act to amend Sections 1043 and 1045 of the Evidence Code, to amend Section 3304.5 of the Government Code, and to amend Sections 832.5 and 832.7 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1286, as introduced, Leno. Peace officers: records of misconduct.

(1) The Public Safety Officers Procedural Bill of Rights Act provides a set of rights and procedural protections to specified public safety officers. That act requires an administrative appeal instituted by a public agency under the act to be conducted in conformance with rules and procedures adopted by the local public agency. Existing law also establishes the Administrative Procedure Act, and requires enumerated state agencies to hold hearings under that act that are conducted by administrative law judges.

This bill would, notwithstanding any confidentiality afforded the personnel records of peace officers or custodial officers, authorize a municipality or local public agency that employs peace officers or custodial officers to hear and adjudicate administrative appeals, or to empower a body to hear and adjudicate those appeals, in proceedings that are open to the public and in which some or all documents filed are available for public inspection.

(2) Existing law requires a department or agency that employs peace officers to establish a procedure to investigate complaints by members of the public against those officers. Existing law authorizes a department or agency that employs custodial officers to establish a similar procedure for its officers. Existing law establishes retention requirements and access privileges, as specified, for those complaints and related reports

or findings. Existing law requires the department or agency to provide written notification to the complaining party of the disposition of a complaint made pursuant to those provisions within 30 days of the disposition.

This bill would require that notification to include, at a minimum, the charges framed in response to the complaint, the agency's disposition with respect to each of those charges, any factual findings on which the agency based its dispositions, and any discipline imposed or corrective action taken. By increasing the duties of local officials, the bill would impose a state-mandated local program.

(3) The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law provides that peace officer or custodial officer personnel records, as defined, and records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or information obtained from these records, are confidential and prohibits the disclosure of those records in any criminal or civil proceeding except by discovery. Existing law describes exceptions to this policy for investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would expand the scope of the exceptions to apply to, among other things, investigations or proceedings conducted by civilian review agencies, inspectors general, personnel boards, police commissions, civil service commissions, city councils, boards of supervisors, or any entities empowered to investigate peace officer misconduct on behalf of an agency, conduct audits of peace officer discipline on behalf of an agency, adjudicate complaints against peace officers or custodial officers, hear administrative appeals, or set policies or funding for the law enforcement agency. The bill would also require an entity described in those exceptions to comply with specified confidentiality provisions.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to complaints against peace officers and custodial officers to be available for public inspection pursuant to the California Public Records Act. The bill would provide that this information includes but is not limited to, the framing allegation or complaint, the agency's full investigation file, any evidence gathered, and any findings or recommended findings, discipline, or corrective action taken. The bill would require records

disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others.

(4) Existing law establishes discovery procedures for obtaining peace officer and custodial officer personnel files and files relating to complaints against peace officers and custodial officers.

This bill would specify that those provisions do not bar or limit access in any proceeding to peace officer or custodial officer personnel records or records relating to complaints against peace officers and custodial officers, and would provide that those provisions do not require a party to a proceeding pending in a court or administrative agency to seek records through alternate means before filing a motion pursuant to the discovery provisions described above.

(5) 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.

(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

3 (a) Peace officers help provide one of our state's most
4 fundamental government services — keeping our communities
5 safe. These working men and women risk their lives daily in order
6 to protect the people of California. The public greatly appreciates
7 peace officers' hard work and dedication to public safety. The
8 good names of these public servants should not be tarnished by
9 the actions of those amongst their ranks who may engage in
10 wrongdoing.

11 (b) To empower peace officers to fulfill their mission, the people
12 of California vest them with extraordinary authority — the powers
13 to detain, search, arrest, and use deadly force. Our society depends
14 on peace officers' faithful exercise of that authority. Its misuse
15 can lead to grave constitutional violations, harms to liberty, and
16 the inherent sanctity of human life, as well as significant public
17 unrest.

18 (c) Concealing crucial public safety matters such as officer
19 violations of civilians' rights, or inquiries into deadly use of force
20 incidents, undercuts the public's faith in the legitimacy of law
21 enforcement, makes it harder for tens of thousands of hardworking
22 peace officers to do their jobs, and endangers public safety.

23 (d) The public has a strong, compelling interest in law
24 enforcement transparency because it is essential to having a just
25 and democratic society.

26 SEC. 2. Section 1043 of the Evidence Code is amended to read:

27 1043. (a) ~~In any case in which~~ *If* discovery or disclosure is
28 sought of peace *officer* or custodial officer personnel records or
29 records maintained pursuant to Section 832.5 of the Penal Code
30 *and for which that section or Section 832.7 of the Penal Code bar*
31 *or limit disclosure*, or information from those records, the party
32 seeking the discovery or disclosure shall file a written motion with
33 the appropriate court or administrative body upon written notice
34 to the governmental agency ~~which~~ *that* has custody and control of
35 the records. The written notice shall be given at the times
36 prescribed by subdivision (b) of Section 1005 of the Code of Civil
37 Procedure. Upon receipt of the notice the governmental agency

1 served shall immediately notify the individual whose records are
2 sought.

3 (b) The motion shall include all of the following:

4 (1) Identification of the proceeding in which discovery or
5 disclosure is sought, the party seeking discovery or disclosure, the
6 peace officer or custodial officer whose records are sought, the
7 governmental agency ~~which~~ *that* has custody and control of the
8 records, and the time and place at which the motion for discovery
9 or disclosure shall be heard.

10 (2) A description of the type of records or information sought.

11 (3) Affidavits showing good cause for the discovery or
12 disclosure sought, setting forth the materiality thereof to the subject
13 matter involved in the pending litigation and stating upon
14 reasonable belief that the governmental agency identified has the
15 records or information from the records.

16 (c) ~~No~~ *A* hearing upon a motion for discovery or disclosure shall
17 *not* be held without full compliance with the notice provisions of
18 this section except upon a showing by the moving party of good
19 cause for noncompliance, or upon a waiver of the hearing by the
20 governmental agency identified as having the records.

21 (d) *A party to a proceeding pending in a court or administrative*
22 *agency is not required to seek records through alternate means*
23 *before filing a motion pursuant to this section.*

24 SEC. 3. Section 1045 of the Evidence Code is amended to read:

25 1045. (a) ~~Nothing in this article shall be construed to~~ *This*
26 *article does not* affect the right of access to records of complaints,
27 or investigations of complaints, or discipline imposed as a result
28 of those investigations, concerning an event or transaction in which
29 the peace officer or custodial officer, as defined in Section 831.5
30 of the Penal Code, participated, or which he or she perceived, and
31 pertaining to the manner in which he or she performed his or her
32 duties, provided that information is relevant to the subject matter
33 involved in the pending litigation.

34 (b) In determining relevance, the court shall examine the
35 information in chambers in conformity with Section 915, and shall
36 exclude *all of the following* from disclosure:

37 (1) Information consisting of complaints concerning conduct
38 occurring more than five years before the event or transaction that
39 is the subject of the litigation in aid of which discovery or
40 disclosure is sought.

1 (2) In any criminal proceeding the conclusions of any officer
2 investigating a complaint filed pursuant to Section 832.5 of the
3 Penal Code.

4 (3) Facts sought to be disclosed that are so remote as to make
5 disclosure of little or no practical benefit.

6 (c) In determining relevance where the issue in litigation
7 concerns the policies or pattern of conduct of the employing
8 agency, the court shall consider whether the information sought
9 may be obtained from other records maintained by the employing
10 agency in the regular course of agency business ~~which that~~ would
11 not necessitate the disclosure of individual personnel records.

12 (d) Upon motion seasonably made by the governmental agency
13 ~~which that~~ has custody or control of the records to be examined
14 or by the officer whose records are sought, and upon good cause
15 showing the necessity thereof, the court may make any order ~~which~~
16 *that* justice requires to protect the officer or agency from
17 unnecessary annoyance, ~~embarrassment~~ *embarrassment*, or
18 oppression.

19 (e) The court shall, in any case or proceeding permitting the
20 disclosure or discovery of any peace *officer* or custodial officer
21 records requested pursuant to Section 1043, order that the records
22 disclosed or discovered may not be used for any purpose other
23 than a court proceeding pursuant to applicable law.

24 (f) *This article does not bar or limit access in any proceeding*
25 *to peace officer or custodial officer personnel records or records*
26 *maintained pursuant to Section 832.5 of the Penal Code for which*
27 *Sections 832.5 or 832.7 of the Penal Code do not prohibit*
28 *disclosure.*

29 SEC. 4. Section 3304.5 of the Government Code is amended
30 to read:

31 3304.5. (a) An administrative appeal instituted by a public
32 safety officer under this chapter shall be conducted in conformance
33 with rules and procedures adopted by the local public agency.

34 (b) *Notwithstanding any confidentiality given to the personnel*
35 *records of peace officers or custodial officers under this chapter*
36 *or under the provisions governing regulation of peace officers*
37 *contained in Chapter 4.5 (commencing with Section 830) of Title*
38 *3 of Part 2 of the Penal Code, a municipality or local public agency*
39 *that employs peace officers may hear and adjudicate an*
40 *administrative appeal under this chapter, or the municipality or*

1 *local public agency may empower a body to hear and adjudicate*
2 *those appeals, in proceedings that are open to the public and in*
3 *which some or all documents filed are available for public*
4 *inspection.*

5 SEC. 5. Section 832.5 of the Penal Code is amended to read:

6 832.5. (a) (1) ~~Each~~ department or agency in this state that
7 employs peace officers shall establish a procedure to investigate
8 complaints by members of the public against the personnel of these
9 departments or agencies, and shall make a written description of
10 the procedure available to the public.

11 (2) ~~Each~~ department or agency that employs custodial officers,
12 as defined in Section 831.5, may establish a procedure to
13 investigate complaints by members of the public against those
14 custodial officers employed by these departments or agencies,
15 provided however, that any procedure so established shall comply
16 with the provisions of this section and with the provisions of
17 Section 832.7.

18 (b) Complaints and any reports or findings relating to these
19 complaints shall be retained for a period of at least five years. All
20 complaints retained pursuant to this subdivision may be maintained
21 either in the peace *officer's* or custodial officer's general personnel
22 file or in a separate file designated by the department or agency
23 as provided by department or agency policy, in accordance with
24 all applicable requirements of law. However, prior to any official
25 determination regarding promotion, transfer, or disciplinary action
26 by an officer's employing department or agency, the complaints
27 described by subdivision (c) shall be removed from the officer's
28 general personnel file and placed in separate file designated by the
29 department or agency, in accordance with all applicable
30 requirements of law.

31 (c) Complaints by members of the public that are determined
32 by the peace *officer's* or custodial officer's employing agency to
33 be frivolous, as defined in Section 128.5 of the Code of Civil
34 Procedure, or unfounded or exonerated, or any portion of a
35 complaint that is determined to be frivolous, unfounded, or
36 exonerated, shall not be maintained in that officer's general
37 personnel file. However, these complaints shall be retained in
38 other, separate files that shall be deemed personnel records for
39 purposes of the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7 of Title 1 of the
2 Government Code) and Section 1043 of the Evidence Code.

3 (1) Management of the peace *officer's* or custodial officer's
4 employing agency shall have access to the files described in this
5 subdivision.

6 (2) Management of the peace *officer's* or custodial officer's
7 employing agency shall not use the complaints contained in these
8 separate files for punitive or promotional purposes except as
9 permitted by subdivision (f) of Section 3304 of the Government
10 Code.

11 (3) Management of the peace *officer's* or custodial officer's
12 employing agency may identify any officer who is subject to the
13 complaints maintained in these files ~~which~~ *that* require counseling
14 or additional training. However, if a complaint is removed from
15 the officer's personnel file, any reference in the personnel file to
16 the complaint or to a separate file shall be deleted.

17 (d) As used in this ~~section;~~ *section and Section 832.7*, the
18 following definitions apply:

19 (1) ~~General~~ *"Exonerated"* means that the investigation clearly
20 established that the actions of the peace officer or custodial officer
21 that formed the basis for the complaint are not violations of law
22 or department policy.

23 (2) *"General personnel file"* means the file maintained by the
24 agency containing the primary records specific to each peace
25 officer's or custodial officer's employment, including evaluations,
26 assignments, status changes, and imposed discipline.

27 (3) *"Sustained"* means that the investigation disclosed sufficient
28 evidence to prove, by a preponderance of evidence, the truth of
29 the allegation in the complaint or that the actions of the peace
30 officer or custodial officer violated law or department policy.

31 (2)

32 (4) *"Unfounded"* means that the investigation clearly established
33 that the allegation is not true.

34 (3) ~~"Exonerated"~~ means that the investigation clearly established
35 that the actions of the peace or custodial officer that formed the
36 basis for the complaint are not violations of law or department
37 policy.

38 (e) (1) A municipality, county, or agency that employs peace
39 officers may do both of the following:

1 (A) Hold hearings to hear complaints by members of the public,
2 consider evidence, and adjudicate the complaints or recommend
3 adjudications.

4 (B) Establish a body to hold the hearings described in
5 subparagraph (A).

6 (2) Notwithstanding any confidentiality given to the general
7 personnel file or other personnel records of peace officers or
8 custodial officers, the hearings described in paragraph (1) may
9 be open to the public.

10 SEC. 6. Section 832.7 of the Penal Code is amended to read:

11 832.7. (a) ~~Peace-Except as set forth in subdivision (c), peace~~
12 officer or custodial officer personnel records and records
13 maintained by any state or local agency pursuant to Section 832.5,
14 or information obtained from these records, are confidential and
15 shall not be disclosed in any criminal or civil proceeding except
16 by discovery pursuant to Sections 1043 and 1046 of the Evidence
17 Code. ~~This~~

18 (b) (1) ~~This~~ section shall not apply to investigations or
19 proceedings concerning the conduct of peace officers or custodial
20 officers, or an agency or department that employs those officers,
21 conducted by a grand jury, a district attorney's office, ~~or the~~
22 Attorney General's ~~office.~~ ~~office,~~ civilian review agencies,
23 inspectors general, personnel boards, police commissions, civil
24 service commissions, city councils, boards of supervisors, or any
25 entities empowered to investigate peace officer misconduct on
26 behalf of an agency, conduct audits of peace officer discipline on
27 behalf of an agency, adjudicate complaints against peace officers
28 or custodial officers, hear administrative appeals pursuant to
29 Section 3304.5 of the Government Code, or set policies or funding
30 for the law enforcement agency.

31 (2) An entity allowed access to the personnel and complaint
32 records of peace officers or custodial officers under this
33 subdivision shall comply with the confidentiality provisions of this
34 section.

35 (c) (1) Notwithstanding any other law, all of the following peace
36 officer or custodial officer personnel records and records
37 maintained by any state or local agency pursuant to Section 832.5
38 shall be available for public inspection pursuant to the California
39 Public Records Act (Chapter 3.5 (commencing with Section 6250)
40 of Division 7 of Title 1 of the Government Code):

1 (A) A record related to the investigation or assessment of any
2 use of force by a peace officer that is likely to or does cause death
3 or serious bodily injury, including but not limited to, the discharge
4 of a firearm, use of an electronic control weapon or conducted
5 energy device, and any strike with an impact weapon to a person's
6 head.

7 (B) A record related to any finding by a law enforcement agency
8 or oversight agency that a peace officer or custodial officer
9 engaged in sexual assault, an excessive use of force, an unjustified
10 search, detention or arrest, racial or identity profiling, as defined
11 in subdivision (e) of Section 13519.4, discrimination or unequal
12 treatment on the basis of race, color, ethnicity, national origin,
13 age, religion, gender identity or expression, sexual orientation, or
14 mental or physical disability, or any other violation of the legal
15 rights of a member of the public.

16 (C) A record related to any finding by a law enforcement agency
17 of job-related dishonesty by a peace officer or custodial officer,
18 including, but not limited to, perjury, false statements, filing false
19 reports, or destruction or concealment of evidence.

20 (2) Records that shall be released pursuant to this subdivision
21 include, but are not limited to, the framing allegation or complaint,
22 the agency's full investigation file, any evidence gathered, and
23 any findings or recommended findings, discipline, or corrective
24 action taken.

25 (3) A record disclosed pursuant to this section shall be redacted
26 only to remove personal data or information, such as a home
27 address, telephone number, or identities of family members, other
28 than the names and work-related information of peace and
29 custodial officers, to preserve the anonymity of complainants and
30 witnesses, or to protect confidential medical, financial, or other
31 information in which disclosure would cause an unwarranted
32 invasion of personal privacy that clearly outweighs the strong
33 public interest in records about misconduct by peace officers and
34 custodial officers, or where there is a specific, particularized
35 reason to believe that disclosure of the record would pose a
36 significant danger to the physical safety of the peace officer,
37 custodial officer, or others.

38 (b)

1 ~~(d)~~ Notwithstanding ~~subdivision (a)~~, *subdivisions (a) and (c)*,
2 a department or agency shall release to the complaining party a
3 copy of his or her own statements at the time the complaint is filed.

4 ~~(e)~~

5 ~~(e)~~ Notwithstanding ~~subdivision (a)~~, *subdivisions (a) and (c)*,
6 a department or agency that employs peace *officers* or custodial
7 officers may disseminate data regarding the number, type, or
8 disposition of complaints (sustained, not sustained, exonerated, or
9 unfounded) made against its officers if that information is in a
10 form which does not identify the individuals involved.

11 ~~(d)~~

12 ~~(f)~~ Notwithstanding ~~subdivision (a)~~, *subdivisions (a) and (c)*, a
13 department or agency that employs peace *officers* or custodial
14 officers may release factual information concerning a disciplinary
15 investigation if the officer who is the subject of the disciplinary
16 investigation, or the officer's agent or representative, publicly
17 makes a statement he or she knows to be false concerning the
18 investigation or the imposition of disciplinary action. Information
19 may not be disclosed by the peace *officer's* or custodial officer's
20 employer unless the false statement was published by an
21 established medium of communication, such as television, radio,
22 or a newspaper. Disclosure of factual information by the employing
23 agency pursuant to this subdivision is limited to facts contained
24 in the officer's personnel file concerning the disciplinary
25 investigation or imposition of disciplinary action that specifically
26 refute the false statements made public by the peace *officer* or
27 custodial officer or his or her agent or representative.

28 ~~(e)~~

29 ~~(g)~~ (1) The department or agency shall provide written
30 notification to the complaining party of the disposition of the
31 complaint within 30 days of the disposition. *The notification shall*
32 *include, at a minimum, the charges framed in response to the*
33 *complaint, the agency's disposition with respect to each of those*
34 *charges, any factual findings on which the agency based its*
35 *dispositions, and any discipline imposed or corrective action taken.*

36 (2) The notification described in this subdivision shall not be
37 conclusive or binding or admissible as evidence in any separate
38 or subsequent action or proceeding brought before an arbitrator,
39 court, or judge of this state or the United States.

40 ~~(f)~~ ~~Nothing in this section shall~~

1 *(h) This section does not affect the discovery or disclosure of*
2 *information contained in a peace officer's or custodial officer's*
3 *personnel file pursuant to Section 1043 of the Evidence Code.*

4 SEC. 7. The Legislature finds and declares that Section 6 of
5 this act, which amends Section 832.7 of the Penal Code, furthers,
6 within the meaning of paragraph (7) of subdivision (b) of Section
7 3 of Article I of the California Constitution, the purposes of that
8 constitutional section as it relates to the right of public access to
9 the meetings of local public bodies or the writings of local public
10 officials and local agencies. Pursuant to paragraph (7) of
11 subdivision (b) of Section 3 of Article I of the California
12 Constitution, the Legislature makes the following findings:

13 The public has a strong, compelling interest in law enforcement
14 transparency because it is essential to having a just and democratic
15 society.

16 SEC. 8. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution for certain
18 costs that may be incurred by a local agency or school district
19 because, in that regard, this act creates a legislative mandate that
20 is within the scope of paragraph (7) of subdivision (b) of Section
21 3 of Article I of the California Constitution.

22 However, if the Commission on State Mandates determines that
23 this act contains other costs mandated by the state, reimbursement
24 to local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

<http://www.sfgate.com/crime/article/California-bill-would-restore-public-access-to-6842727.php>

State bill would give public access to police misconduct records

By Vivian Ho

Updated 7:16 pm, Friday, February 19, 2016

Records detailing police misconduct and serious use of force, long kept confidential, could become public in California if legislation announced Friday is passed into law.

State Sen. Mark Leno, seeking to tighten accountability amid a national conversation over police shootings and a push for law enforcement reform in San Francisco, introduced a bill that would roll back a 1978 law and subsequent Supreme Court rulings that prompted cities to close police disciplinary cases to the media and the public.

“We’ve reached a critical point in the public’s perception of how law enforcement is doing its critically important work,” Leno said at a news conference in San Francisco, where he was joined not only by police watchdogs and progressive city supervisors but District Attorney George Gascón, a former city police chief.

“Officer-involved shootings around the country revealed on video have raised serious concerns,” Leno said. “Now more than ever the public’s trust in its law enforcement agencies is needed.”

It’s the second time Leno has pushed to restore such access, but stopping the bill will be a top priority for police unions, who argue that accountability can be achieved without violating officers’ privacy.

Harry Stern, an attorney who represents officers around the Bay Area, slammed the proposal, linking it to the San Francisco Board of Supervisors’ recent approval of a day of remembrance for Mario Woods, the stabbing suspect whose video-recorded killing by police sparked protests and a federal review of the city force.

“No one is against accountability,” Stern said. “But when politicians press an agenda that includes declaring a day in honor of a violent felon, one must consider their motives with a jaundiced eye. ... In today’s criminal-friendly, antipolice climate, we need fewer baseless public floggings of cops, not more.”

Public allowed access

Under the Increasing Law Enforcement Transparency bill, the public would be allowed access to records of serious instances of use of force — those that cause death or serious bodily injury — and records of sustained charges of misconduct, including sexual assault, racial profiling, job dishonesty, violation of rights and illegal search or seizure. That means officials have completed an investigation and found the officer in violation.

Those who file complaints would be able to obtain more information on the investigation, the findings and any discipline imposed, rather than a current cursory response that informs the person if charges were “sustained” or “unsustained.”

In cities, including San Francisco, the bill would also allow local officials to decide whether to restore public hearings and public appeals on allegations of misconduct.

Leno, D-San Francisco, said California should not abide some of the country's least transparent laws governing law enforcement records. The bill comes at a time of heightened police scrutiny nationwide and is supported by the American Civil Liberties Union, the NAACP, the California Newspaper Publishers Association and the Conference of California Bar Associations.

Peter Bibring, who as the director of police practices for the ACLU of California helped draft the legislation, said it sought to strengthen the relationship between California communities and the police.

Police 'have to earn' trust

"Police departments have been concerned about the lack of trust between communities and police," Bibring said. "But police can't just ask for trust. They have to earn it, and in order to earn it, they have to be transparent about what they do."

San Francisco Police Officers Association officials will be among those fighting the legislation. Nathan Ballard, an adviser for the union, said that while officers support efforts to bring transparency — including having officers wear body cameras — the union will oppose legislation seeking "to undo the California Supreme Court's ruling that protects police officers' privacy interests."

"Due process is a fundamental right guaranteed by the Constitution," Ballard said. "It's undermined when the public is allowed a ringside seat to an employer's disciplinary process."

San Francisco Police Chief Greg Suhr and Sheriff Vicki Hennessy did not immediately respond to calls for comment, but Leno said he alerted them of his proposal and will be meeting with the police union.

Several San Francisco officials came out in support Friday — including Police Commission Vice President L. Julius Turman and Supervisors London Breed, Malia Cohen and Aaron Peskin — with many invoking the Dec. 2 police shooting of Woods, which remains under investigation.

Tense relationship with police

Gascón, whose relationship with the police force has grown increasingly tense, said his experience as police chief in San Francisco as well as in Mesa, Ariz., where state law granted public access to disciplinary records, proved to him that such laws "do not harm the well-being of police officers."

"As a career law enforcement officer who spent 30 years in policing, I can tell you that good police officers do not fear transparency," Gascón said. "Good police officers welcome transparency because it allows them to work effectively with the communities that they serve."

But Alison Berry Wilkinson, an attorney who represented the Berkeley Police Officers Association when the union fought to close police-misconduct proceedings, said a reversal could have damaging side effects, including on public safety.

“There are a number of documented efforts where highly proactive, very effective officers are targeted (with misconduct complaints) by the bad guys to discourage them from moving forward with enforcing the law,” she said.

Access restricted since '70s

California law regarding law enforcement records has been restrictive since the 1970s, when a state Supreme Court decision led to a police union-led push for confidentiality measures. However, for years, some city police forces, including in San Francisco and Los Angeles, allowed for some disciplinary records and hearings to be open to the public.

In 2003, the San Diego Union-Tribune filed a lawsuit when reporters were denied access to an appeals hearing for a county sheriff's deputy who had been fired. A subsequent state Supreme Court decision, *Copley vs. Superior Court*, held that the public had no right to obtain records of administrative appeals in police disciplinary cases — and ended all local government practices that opened disciplinary hearings.

Time might be right

An effort to undo the Copley decision by then-Assemblyman Leno and then-Senate Majority Leader Gloria Romero, D-Los Angeles, stalled in an Assembly hearing in 2007 after heavy lobbying from the law enforcement community.

Leno said he is optimistic about the outcome this time, not only because the bill provides safeguards if public access to certain records could jeopardize an officer's life, but because the timing is right.

“One thing I have learned is that ideas have their own time,” he said. “Despite my own force of will, some things just don't happen until that idea seems to have come of age. With all that has gone on around the country, here in San Francisco, the polling that we've looked at it, I think this is an idea whose time has come.”

*Vivian Ho is a San Francisco Chronicle staff writer. E-mail: vho@sfchronicle.com
Twitter: @VivianHo*



BERKELEY POLICE DEPARTMENT MEMORANDUM



To: Police Review Commission Date: February 10, 2016
From: Michael K. Meehan, Chief of Police
Subject: 2013-Report of Intelligence Procedures for First Amendment Activities

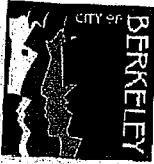
This report was prepared in compliance with General Order C-1, Intelligence Procedures for First amendment Activities.

The purpose of the General Order is to provide guidance regarding intelligence gathering procedures and maintenance of intelligence files. Additionally, this Order addresses the investigation of individuals and groups involved in First Amendment protected activities, and expressly limits such investigations to situations where criminal predicate exists. Intelligence gathered by the Police Department is only permitted to investigate criminal activity and should not include political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct. As defined by this policy, open source information is not considered an investigation.

This statistical report is required by General Order C-1 to comply with procedures related to police investigations for first amendment activity for the calendar year of 2013. Section 24 of the General Order reads: The Chief of Police shall prepare a statistical report annually for the Police Review Commission that will include the following information:

- (a) The number of investigations authorized during the prior year;
There were no investigations authorized in calendar year 2013.
- (b) The number of authorizations sought but denied;
There were no authorizations sought in calendar year 2013.
- (c) The number of times undercover officers were used;
There were no undercover officers used in calendar year 2013.
- (d) The number of unlawful activities investigated;
There were no investigations for unlawful activities conducted in calendar year 2013.

COMMUNICATION No. 1683

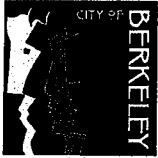


BERKELEY POLICE DEPARTMENT MEMORANDUM



- (e) Arrest and violation information for completed investigations;
There were no arrests or violations for completed investigations in calendar year 2013.

- (f) The number of request for information from outside agencies.
There were no requests for information from outside agencies for first amendment activities in calendar year 2013.



BERKELEY POLICE DEPARTMENT MEMORANDUM



To: Police Review Commission Date: February 10, 2016
From: Michael K. Meehan, Chief of Police
Subject: 2014-Report of Intelligence Procedures for First Amendment Activities

This report was prepared in compliance with General Order C-1, Intelligence Procedures for First amendment Activities.

The purpose of the General Order is to provide guidance regarding intelligence gathering procedures and maintenance of intelligence files. Additionally, this Order addresses the investigation of individuals and groups involved in First Amendment protected activities, and expressly limits such investigations to situations where criminal predicate exists. Intelligence gathered by the Police Department is only permitted to investigate criminal activity and should not include political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct. As defined by this policy, open source information is not considered an investigation.

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- (a) The number of investigations authorized during the prior year;
There were no investigations authorized in calendar year 2014.

- (b) The number of authorizations sought but denied;
There were no authorizations sought in calendar year 2014.

- (c) The number of times undercover officers were used;
Open source data gathered prior to the 12/06/14 protest indicated that there was a high likelihood that it would turn violent. On 12/06/14, 2 plainclothes officers were assigned to walk with the crowd and broadcast any observed criminal activity as it occurred so that those committing crimes could be arrested.



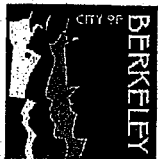
BERKELEY POLICE DEPARTMENT MEMORANDUM



- (d) The number of unlawful activities investigated;
There were no investigations for unlawful activities conducted in calendar year 2014.

- (e) Arrest and violation information for completed investigations;
There were no arrests or violations for completed investigations in calendar year 2014.

- (f) The number of request for information from outside agencies.
There were no requests for information from outside agencies for first amendment activities in the calendar year 2014.



BERKELEY POLICE DEPARTMENT MEMORANDUM



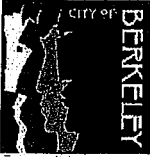
To: Police Review Commission Date: February 10, 2016
From: Michael K. Meehan, Chief of Police
Subject: **2015-Report of Intelligence Procedures for First Amendment Activities**

This report was prepared in compliance with General Order C-1, Intelligence Procedures for First amendment Activities.

The purpose of the General Order is to provide guidance regarding intelligence gathering procedures and maintenance of intelligence files. Additionally, this Order addresses the investigation of individuals and groups involved in First Amendment protected activities, and expressly limits such investigations to situations where criminal predicate exists. Intelligence gathered by the Police Department is only permitted to investigate criminal activity and should not include political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct. As defined by this policy, open source information is not considered an investigation.

This statistical report is required by General Order C-1 to comply with procedures related to police investigations for first amendment activity for the calendar year of **2015**. Section 24 of the General Order reads: The Chief of Police shall prepare a statistical report annually for the Police Review Commission that will include the following information:

- (a) The number of investigations authorized during the prior year;
There were no investigations authorized in calendar year 2015.
- (b) The number of authorizations sought but denied;
There were no authorizations sought in calendar year 2015.
- (c) The number of times undercover officers were used;
There were no undercover officers used in calendar year 2015.
- (d) The number of unlawful activities investigated;
There were no investigations for unlawful activities conducted in calendar year 2015.



BERKELEY POLICE DEPARTMENT MEMORANDUM



- (e) Arrest and violation information for completed investigations;
There were no arrests or violations for completed investigations in calendar year 2015.

- (f) The number of request for information from outside agencies.
There were no requests for information from outside agencies for first amendment activities in calendar year 2015.

Norris, Byron

From: Norris, Byron
Sent: Thursday, February 18, 2016 4:36 PM
To: 'Andrea Prichett'
Cc: Lee, Katherine
Subject: FW: BPD and the CPRA

COMMUNICATION No. 4377

Ms. Pritchett,

I am responding to your email on behalf of Ms. Lee, who is out of the office this week.

Ms. Lee wanted me to convey to you that she has been in touch with the Berkeley Police Department (BPD) regarding your concerns about the department's response to your public records request. This is to advise you that BPD made an error in its initial response to you, and that someone from the department will respond to your request as appropriate under the California Public Records Act.

Should you have any further issues regarding this matter, please let us know. And thank you for contacting the Police Review Commission.

Sincerely,

Byron Norris
Police Review Commission Investigator

From: Andrea Prichett [prichett@locrian.com]
Sent: Friday, February 12, 2016 12:55 PM
To: Lee, Katherine
Subject: BPD and the CPRA

Dear PRC Commissioners and PRC Officer,

Today I went emailed a PRA request and was immediately responded to with this message:

How to make a Public Records Act Request

A public records request for information from the City of Berkeley Police Department (BPD) in ****person, send a request by email, US mail or by Fax.** You will want to include the following information to ensure the scope of the request is understood and clear enough for personnel to determine if we have the records you are requesting.

- The date(s) of the record
- The subject of the record
- A clear and specific description of the record
- Any additional information that helps staff identify the record
- Your complete contact information, so that we may notify you when your request is available

If you are receiving this in response to an emailed request that you believe contains all the information discussed above, there is no need to do anything further.

Prompt access to public records is required by the CPRA (Government Code 6253). The 10 - day period mentioned in the act is not a legal deadline for producing records. The 10-days allows the agency to review records, if it is not clear that they are public records. As soon as a determination is made, it will be at that time the records shall be released.

The rights under the CPRA provide for the inspection of public records or to obtain copies of identifiable records, it does not compel the agency to create lists or reports in response to the request.

Under Government Code 6253(b), Agencies may charge for the "direct costs" for providing copies of an identifiable record.

Methods of Request with Specifics

****In Person - Fill out a written request form at the Ronald T. Tsukamoto Public Safety Building (PSB) Front Counter
PSB Front Counter Hours are Monday through Fridays 8:00 a.m. to 3:00 p.m.**

By email to: _____

By Fax - **(510) 981-5744**

By Calling - **(510) 981- 5750**

I consider that my emailed request qualifies as a legitimate request and must be responded to. This message claims that the BPD requires either a snail mailed request, a faxed request or in person. If I need to make a policy complaint in order to be able to send in emailed Public Records Act requests, then I will. The new criteria disadvantages those of us who do have jobs and dont have fax machines. I do not wish to phone in my requests because they do not allow me to document the request. Clearly, email is the most "customer friendly" method of communication of these requests. I hope that you can convince the BPD to accept emailed requests.

Please advise and if necessary, I will proceed with a policy complaint. Hopefully, this is simply an oversight on the part of the department and it will be remedied quickly.

Thanks for your consideration,

Andrea Prichett



STREET SPIRIT

A publication of the American Friends Service Committee

JUSTICE NEWS & HOMELESS BLUES IN THE BAY AREA

COMMUNICATION No. 1760

Advocacy News January 14, 2016

One Night at Liberty City—Just Before the Raid

I had been homeless for two years in Berkeley and the things bound up in the protest reminded me so strongly of my own sentiments while I was without housing in this city. So I borrowed a sleeping bag and I headed over to the occupation at Old City Hall.

by **Genevieve Wilson**

I had wanted to camp at least once at Liberty City once I learned how it had formed, partly because I wanted to see what was really up, and partly because I wanted to meet the participants I had heard so much about, and partly because I had been homeless for two years in Berkeley, myself, and the things bound up in protest reminded me so strongly of my own sentiments while I was without housing in this city.

So I borrowed a sleeping bag and mat from a friend, and I headed over to check things out at the occupation at Old City Hall after letting a few people know I was coming.

When I got there, I was warmly welcomed. A couple people toured me around the demonstration and explained its boundaries: there was a set of people directly affiliated with the protest, and then there were others who were not, for a variety of reasons. A speed dealer and his junkies had been moved on. Word had been put out about that. It was made clear that the protest itself was to remain clean and within legal bounds.

There was a table with food where the community's meals were served, and various members routinely made sweeps for trash. Decisions were being made by consensus through a general assembly Liberty City had itself set up.

Not long after I arrived, one of the protesters who had oriented me offered me a tarp for the ground, and then after some thought, my own tent for the night. He said he'd feel better about my safety in a tent. I told him I appreciated the offer, but then after some conversation and thought, I decided that since I used to sleep in a bivouac when camping, I felt content on the ground.

After that, someone put on a documentary film and it began to get colder, so I decided to go to bed. Others were turning in as well. I think it might have been 8 or 9 pm. I had left my cell phone at home.

I went to bed and someone else joined me on the lawn. It took me a while to get warm and fall asleep, but I did. Apart from the faint sound of the film in the background and my neighbors' conversations, it was quiet. No louder than you might hear at a campsite from neighboring campers. Certainly no louder than any nighttime gatherings at Cal.

It got very quiet until I woke up around 2 a.m. to two people arguing. Not terribly loudly, but clearly conflicting over the way one person was treating his dog. A woman was telling a man to stop mistreating his pet. The man was objecting, insisting he could treat the dog as he liked. After a few minutes, others had woken up as well and also became frustrated. They all told the pet's owner to knock it off. He did, and we all went back to sleep. I thought that was pretty run-of-the-mill community accountability.

After that, I didn't wake up again until dawn. I stayed in bed until a few others were up as well, and then headed down to Trader Joe's and back to use their restroom. I had a conversation on the way out with a clerk, who was curious about the protest. She said, "As long as they keep things organized and legal, what they're saying makes perfect sense to me. They're welcome to the restroom as far as I'm concerned."

By the time I got back with some gingerbread cookies, several things had changed. There had been a morning trash sweep, people were discussing what to do about breakfast, and the bike chop shop that had been on the opposite side of the lawn had been 95 percent cleaned up — all by about 8:15 a.m. I thought, "That's more productive than a lot of folks I know first thing in the morning."

For the duration of time I was there, I never once witnessed any illegal drug use. To my knowledge, no addicts stumbled through in the middle of the night. I gave some thanks, made a few farewells, and heard a few last stories before promising I'd visit again.

But I didn't make it back before Liberty City was raided. I spent the day of the raid in tears, reckoning with our community's intolerance. I pray that this can change. I believe there is hope. How can there not be?

There was a stabbing just prior to the raid which I'm sure raised valid concerns about safety. But to be clear here, I would like to make the point that the perpetrator was an outsider and not part of the demonstration.

Liberty City was a demonstration with two clear requests:

1. Participants asked that a set of proposed city ordinances effectively targeting the homeless be stricken entirely. The reasons for this request were that, in addition to their punitive nature, it became clear that in all likelihood their passage would adversely affect Berkeley's future affordable housing applications with HUD. Applying with HUD will be more competitive than ever this year: five million dollars in affordable housing monies as well as 130 Shelter Plus Care vouchers for Alameda County may be jeopardized now that the Berkeley City Council has voted to adopt this set of ordinances. The City Council was asked at the meetings on November 17 and again on December 1 to consider waiting to

make any decision until HUD could be contacted about these concerns, but the council refused.

2. Liberty City also asked the City of Berkeley to discuss establishing a permanent tent village, as some other cities have successfully done. They would like this to be done with their help in planning, and it is a request that has been made repeatedly over many years. But as with the first request, it remains unaddressed by the City.

And so the protesters that formed Liberty City continue to find ways to make their voices heard. I think they plan to hold out hope. Discussing alternative housing solutions is also part of the Homeless Task Force's Tier 2 Recommendations to City Council.

I feel grateful for their perseverance, even with health issues and amidst an El Niño year. Because I fear we've fallen prey to the kind of undiscerning intolerance that robs communities of their diversity. I've seen them steel themselves against that right up until this past week with such heavy rain.

I hope that sooner, rather than later, we will find the courage to listen to what they have been saying to us. I believe that they and those who continue to support them have the greatest good in mind.

Genevieve Wilson chairs the steering committee for Berkeley's Homeless Task Force and works at the Acme Bread Company in West Berkeley.

Lee, Katherine

From: Genevieve Wilson <genevieve.t.wilson@gmail.com>
Sent: Saturday, February 27, 2016 12:22 PM
To: Lee, Katherine
Subject: Fwd: [SAFE] prc

COMMUNICATION No. 1760

Follow Up Flag: Follow up
Flag Status: Flagged

This is from Mike Zint. I thought it might be of interest to the Commission:

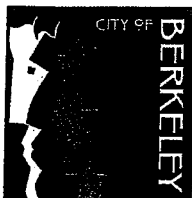
Begin forwarded message:

From: Mike Zint via Safe <safe@lists.pathawi.net>
Date: February 25, 2016 at 2:37:30 PM PST
To: safe@lists.pathawi.net, Sarah Menefee <sarahpiekiller@gmail.com>, JP Massar <massar@alum.mit.edu>, Mike Wilson <electionamend@gmail.com>, Carol Wolfley <cgwolfley@comcast.net>
Subject: [SAFE] prc
Reply-To: Mike Zint <mzint02@gmail.com>

My health is not the reason I'm not attending. My health is secondary. I won't participate in a pretend forum. The PRC is not representing us. They further an agenda that is using us, not including us. I spent a year convincing a handful of people that Berkeley residents would not stand for a police state. Yet when the PRC says encampment instead of occupation or protest, they are using the same tactics the police state uses. Saying what we were doing instead of listening to us is how the city dismantled us. Keeping the encampment label is an insult to the participants, and I see no change.

My response to the PRC actions on Liberty City include going to the press. Doing so may cost the PRC respect and support. Thinking I am just a homeless man is a mistake. Do the right thing by us and you have many new allies.

Safe mailing list
Safe@lists.pathawi.net
<http://lists.pathawi.net/listinfo.cgi/safe-pathawi.net>



Police Review Commission (PRC)

COMMUNICATION No. 1106

March 2, 2016

Michael Meehan, Chief of Police
City of Berkeley
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704

Re: Commendations of BPD employees January – June 2015

Dear Chief Meehan:

At its January 27, 2016 meeting, the members of the Police Review Commission reviewed the numerous letters and emails of thanks and praise for members of your staff, which your department received from January through June 2015. The Commissioners singled out a number of officers whose actions were worthy of specific mention. Those officers are:

Ofc. Lyle Ledward (three times)
Ofc. Jennifer Coats (twice)
Sgt. Todd Sabins
Ofc. Rush Jackson
Ofc. Beau Hunt (twice)
Ofc. Timothy Kaplan
Ofc. Scott Castle
Ofc. Brandon Butler
Ofc. Aron Belveal (twice)
Sgt. Jeffrey Chu
Sgt. Cesar Melero
Ofc. Brandon Smith
Ofc. Thomas Syto (twice)
Ofc. Brian Waggoner
Ofc. Christopher Waite (twice)
Sgt. Mary Kusmiss
Capt. Cynthia Harris
Capt. Andy Greenwood
Sgt. Patricia Dela Luna
Ofc. Lionel Dozier
Ofc. Erik Keene
Ofc. Greg Michalczyk (twice)


Capt. Andrew Frankel
Ofc. Anthony Cerletti
Ofc. Earl Emelson (twice)
Ofc. Joel Del Rosario
Ofc. Michael Yu
Sgt. Jennifer Wilson
Ofc. Joshua Smith
Ofc. Corey Shedoudy
Sgt. Melanie Turner
Ofc. Derek Radey
Ofc. Skyler Ramey
Ofc. Benjamin Phelps
Ofc. Darren Kacalek
Ofc. Miguel Salazar
Ofc. Devin Hogan
Ofc. Kevin Kleppe
Ofc. Brian Hartley
Ofc. Heriberto Diaz
Ofc. Jaylon De Bruin
Ofc. Jason Collier
Sgt. Van Huynh
Capt. Erik Upson

These officers were praised by individuals, businesses, community groups, and other public agencies for their sensitivity, responsiveness, patience, and expertise.

Please let these officers know that the PRC recognizes and thanks them for their exemplary actions.

The letters and emails that the PRC relied on are enclosed for your information.

Sincerely,


Katherine J. Lee
PRC Officer

Enclosures

cc: PRC Commissioners (w/o encls.)