

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
SPECIAL MEETING
AGENDA**

**June 17, 2015
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. ELECTION OF OFFICERS (discussion and action)**
 - a. Election of Chairperson to fill unexpired term.
 - b. Election of Vice-chairperson (needed only if current Vice-chairperson is elected Chairperson).
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**
Status of Complaints; announcements.
- 7. OLD BUSINESS (discussion and action)**
 - a. Policy investigation regarding the events of December 6, 7, and 8, 2014, and Council directive for an investigation into the events of December 6, as both are more fully identified in the regular meeting agenda of February 25, 2015; and including review of mutual aid practices and policies.
 - i) Discuss policy recommendations.
 - ii) Other discussion and action on investigation.

8. NEW BUSINESS (discussion and action)

- a. 2014 Annual Report *(to be delivered)*
Review and comment
- b. Outreach Activities
Consider participating in various upcoming events (including Juneteenth, June 21; National Night Out, August 4; Solano Stroll, September 13) to publicize the PRC and its mission.
- c. Establish Mutual Aid Agreements Subcommittee
- d. Request for research topics from U.C. student

9. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached

10. 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.)

11. ADJOURNMENT

Communications Disclaimer

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the PRC Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary for further information.



Communication Access Information (A.R.1.12)

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

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.

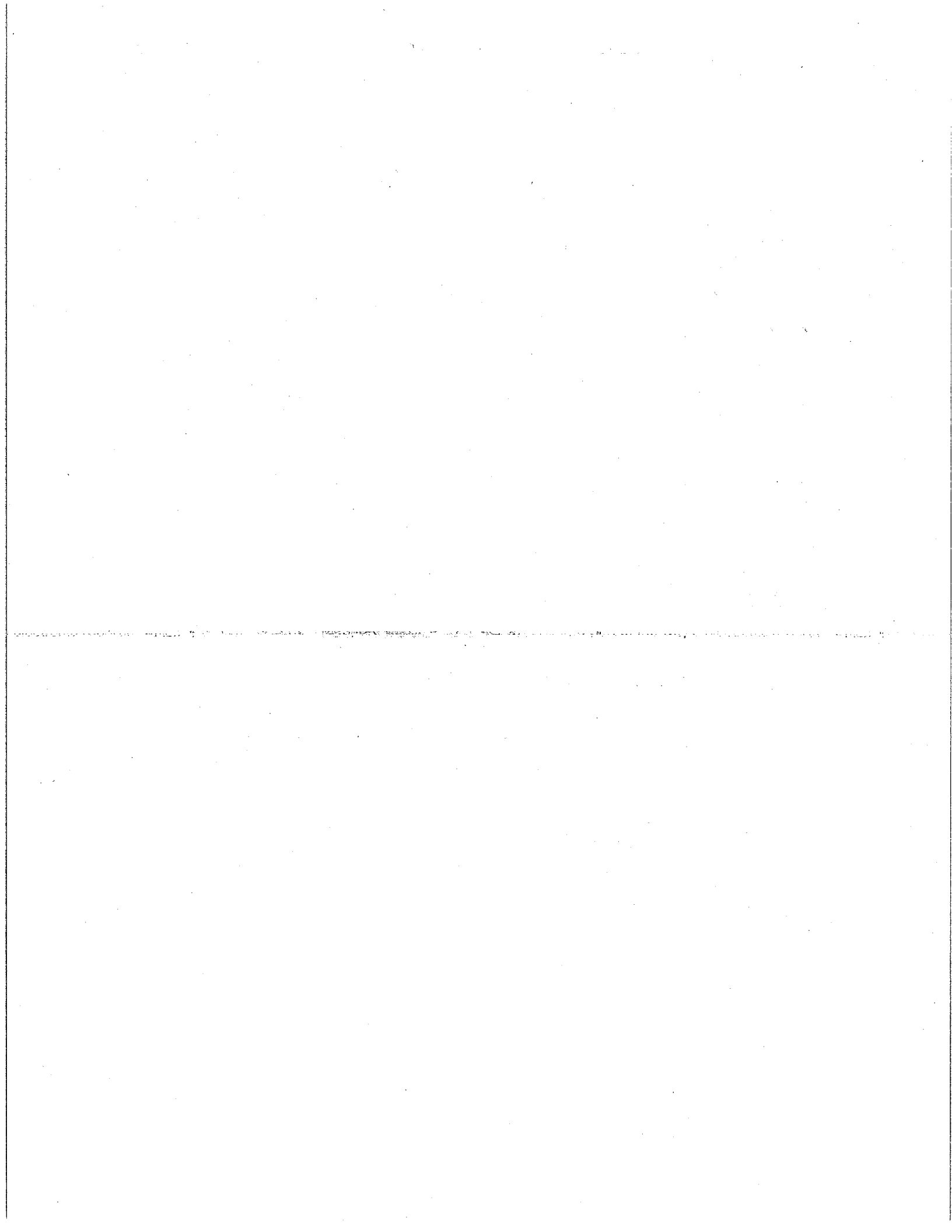
COMMUNICATIONS FOR PRC REGULAR MEETING June 17, 2015

MINUTES

None

COMMUNICATIONS

- Communication #1299** – Proposed revisions to General Orders C-64 and U-2 from Commissioner Lippman. Page 4
- Communication #4400** – Call for witness testimony regarding December 2014 protests. Page 12
- Communication #4160** – List of policies distributed to PRC Commissioners as of May 20, 2015. Page 14
- Communication #4370** – Memo from UC Berkeley student regarding request for research topics. Page 16



SUBJECT: CROWD MANAGEMENT AND CONTROL

2 - The mission of the Berkeley Police Department in all crowd situations is to appropriately manage events with the overall goal of ensuring public safety and protecting First Amendment rights of free speech and assembly.

(a) Appropriate action will be determined by the Incident Commander in the field, and will be based on the behavior of the people in the crowd.

(b) Police action shall be reasonable, intended to prevent lawlessness or restore order, and may include responses ranging from no police action to full crowd control tactics.

(c) Police officers will seek to navigate complex and confusing crowd situations which may have mixed elements of legal and illegal, peaceful and violent behavior. Facilitation of free expression, de-escalation of tension, and peaceful resolution of conflict are primary goals of police interaction with crowds.

3 - In the event a crowd situation is determined to be a peaceful protest or demonstration, wherein participants are exercising their rights to free speech in a lawful manner, the policy of the Berkeley Police Department shall be to facilitate the event to the extent possible.

39 - The Incident Commander shall, whenever possible, establish a liaison with the group or groups involved, and other potential stakeholders. BPD shall proactively and repeatedly make every reasonable attempt to establish and to maintain communication and cooperation with representatives or leaders of the demonstration or crowd event, without regard to whether a permit has been applied for or issued.

A group's failure to respond to BPD attempts to establish communication and cooperation prior to a demonstration shall not mitigate BPD's efforts to establish liaison and positive communication with the group as early as possible at the scene of the demonstration or crowd event. If a leader or cooperative event organizer is not identified, the Incident Commander shall ensure that attempts to communicate with the group and establish a liaison will continue to the extent reasonable.

The same policies and regulations concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder apply to a spontaneous demonstration or crowd event situation as to a planned demonstration or crowd event. Incident Commanders shall involve representatives of demonstrators or crowd events when planning and responding to both planned and spontaneous events.

(a) Stakeholders may include event organizers, business owners or their employees, or private residents that may be affected by an event.

(1) Stakeholder involvement is critical to the overall success of managing any crowd event, but may be especially helpful during planned demonstrations where civil disobedience is expected.

~~(2) If a leader or cooperative event organizer is not identified, the Incident Commander shall ensure that attempts to communicate with the group and establish a liaison will continue to the extent reasonable.~~

No retaliatory practices or adverse action shall be taken by BPD against a group because it has failed or refused to appoint a police liaison or otherwise establish lines of communication with BPD.

Communication with the identified police liaison shall continue even if enforcement actions commence.

Organized demonstrations in which some engage in coordinated, nonviolent civil disobedience should be distinguished, to the extent possible, from crowds in which substantial numbers of people are engaged in other types of unlawful acts.

58 - Employees shall not engage members of a crowd in debate or unnecessary dialogue that interferes with enforcement action, antagonizes or inflames members of the crowd. However, officers should remember that they and members of the crowd are part of the same community, for which they provide security. All BPD members are responsible for contributing to facilitation of free expression, de-escalation of tension, and peaceful resolution of conflict. Therefore, officers are permitted to use good judgment in responding to legitimate questions.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: June 11, 2009

GENERAL ORDER C-64

SUBJECT: CROWD MANAGEMENT AND CONTROL

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Use of Force

5 - Employees who employ force in a crowd control situation shall do so in conformance with policy set forth in General Order U-2.

- (a) The use of pain compliance techniques (e.g., gum nerve, buckle nerve pressure, etc.), impact weapons, and chemical agents ~~should not~~ cannot must not be used on individuals participating in a crowd situation who are committing an unlawful act with passive resistance (e.g., sitting or lying down to block a doorway) solely to effectuate a custodial arrest.
 - (1) Verbal commands to stand followed by control holds (e.g. wrist lock, twist lock, etc.) with reasonable pressure may be utilized to attempt to require an arrestee who is sitting or lying down to stand up to effectuate a custodial arrest.
 - (2) If an arrestee who is sitting or lying down continues to refuse to stand up in response to verbal commands followed by pressure applied from a control hold, the officer should use drag, carry, or roll techniques to effectuate the custodial arrest.
 - (3) Once an arrestee is standing in a self-supporting manner, the officer may counter an arrestee's lapse into passive resistance (e.g., attempting to fall or sit down) with control holds that would likely prevent such a movement.
- (b) Officers attempting to move a crowd or individual should not strike anyone who is unable to move back for reasons out of their control (i.e., physical disability, crowd surge, being pinned against a fixed object, etc.), or against a person who is under restraint.
- (c) Sworn officers should employ particular applications of force (e.g., a specific baton strike, such as a "rake" or "jab") as may be directed by their chain of command, when its use is intended to accomplish a desired crowd control objective.
- (d) Officers are not precluded from using authorized force, as appropriate, to address the actions of a particular person(s).

6 - If physical force becomes necessary to disperse the crowd, make arrests, or move a crowd from an area, only reasonable force shall be used to accomplish the mission.

7 - In squad or team movement, the type and scope of force used shall be at the discretion of the Incident Commander, Field Commander, Squad or Team Leader.

8 - Less-than-lethal munitions, chemical agents (excluding OC spray), and/or smoke shall only be deployed in crowd situations as outlined in General Order U-2.

Less-lethal or less-than-lethal specialty impact weapons that are designed to be direct fired at a specific target shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Less-lethal or less-than-lethal weapons may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.

(a) Such munitions may be used against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to him or herself, officers, or the general public or who is engaging in substantial destruction of property which creates an immediate risk to the lives or safety of other persons.

(b) In such instances, such munitions shall be used only when other means of arrest are unsafe and when the individual can be targeted without endangering other crowd members or bystanders.

(b) The use of such munitions must cease when the violent or destructive actions cease.

(c) Such munitions shall not be used against a person who is under restraint.

(d) Members shall not discharge such munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 4, 2009

GENERAL ORDER U-2

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Deployment and Use of Less-Than-Lethal Force

16: Less-lethal or less-than-lethal force shall only be used in the following situations, and, where feasible, after some warning has been given.

- (a) When an act of violence is occurring, or is about to occur;
- (b) To overcome the resistance of a physically combative person, or to gain compliance from a non-compliant person reasonably believed to be armed;
- (c) To deter a person who is reasonably believed to be armed and is threatening to harm him-/herself, another person, or an officer; or,
- (d) To resolve a potentially violent incident not otherwise described above, when deemed reasonable by the authorizing sergeant or commander.

Prohibited Uses of Force

20 - The following uses of force are prohibited:

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(d) Less-lethal or less-than-lethal munitions may be used against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to him or herself, officers, or the general public or who is engaging in substantial destruction of property which creates an immediate risk to the lives or safety of other persons.

In such instances, such munitions shall be used only when other means of arrest are unsafe and when the individual can be targeted without endangering other crowd members or bystanders.

The use of such munitions must cease when the violent or destructive actions cease.

Such munitions shall not be used against a person who is under restraint.

Members shall not discharge such munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 4, 2009

GENERAL ORDER U-2

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17 - When practical, approval for the deployment and use of less-than-lethal force will be obtained from the Patrol Division Watch Commander....

(a) Prior to deployment, efforts should be made to ensure an appropriate medical response is available. If chemical agents are contemplated in crowd situations, or are available during crowd control activities, BPD shall have medical personnel on site prior to their use and shall make provision for decontamination and medical screening to those persons affected by the chemical agent(s).

21 - When an officer or employee uses force that results in injury, or when a subject complains that an injury has been inflicted, the officer or employee shall ensure that the subject receives appropriate medical care. (See also General Order A-17)

Call for witness testimony regarding December 2014 protests

The Berkeley Police Review Commission (PRC) is conducting a policy investigation into the Berkeley Police Department response to the protests on December 6, 7, and 8, 2014, over the officer-involved shootings in Ferguson, MO, and New York.

As part of its evidence-gathering, the PRC would like to hear from witnesses to the events on those dates. If you participated in, or observed, any part of the protests and related police action in Berkeley on December 6, 7, or 8, 2014, and wish to provide your statement to the PRC, please contact us to set up an appointment or to obtain further information.

The PRC was created by Berkeley voters in 1973 to provide independent civilian oversight of the Berkeley Police Department. The PRC advises the City Council, Mayor, and City Manager on the policies, practices, and procedures of the BPD, and investigates complaints of police officer misconduct. More information about the PRC can be found at www.cityofberkeley.info/prc/.

To reach the Berkeley Police Review Commission:

Call 510.981.4950 or email prc@cityofberkeley.info.

COMMUNICATION No. 4400

Policies distributed to PRC Commissioners as of May 20, 2015
 (Berkeley Police Department policies unless noted otherwise)

Policy number or reference	Title	Where to find
General Order F-2	Firearms, Ammunition, and Non-Lethal Weapons: Training, Qualification, and Specifications	Agenda packet of May 6, pp. 23-28
General Order U-2	Use of Force	Agenda packet of January 28 or February 4 (identical packets), pp. 25-48
General Order C-64	Crowd Management and Control	
General Order M-2	Mutual Aid Agreements with Law Enforcement Agencies	
BPD MOU binder item #2.13	California Office of Emergency Services Law Enforcement Mutual Aid (LEMA) Plan and Law Enforcement Guide for Emergency Operations	Excerpts distributed at February 25 Meeting. Excerpts and link to full documents emailed February 23.
General Order P-29	Public/Media Relations	Distributed at February 4 Meeting
Police Regulations Chapter 3	Uniform and Equipment Regulations	Agenda packet of May 6, pp. 47-58
Police Regulations Chapter 4	Duties and Responsibilities of the Ranks and Department Organization	Agenda packet of May 6, pp. 29-45
Lexipol policies (not in effect; approved by PRC Dec. 11, 2013)	Policy 304 – Shooting Policy; Policy 308 – Control Devices and Techniques; Policy 346 – News Media Relations	Agenda packet of May 13, pp. 7 – 27; better copies (without titles cut off) distributed on various dates
	BPD Crowd Management Policies adopted by Council April 28, 1992	Agenda packet of May 20, pp. 9 - 14
Oakland Police Department (OPD) Training Bulletin III-G	Crowd Control and Crowd Management Policy (and cover memo dated 04 Oct 13)	Agenda packet of January 28 or February 4, pp. 68-93
OPD General Order K-1	Use of Force	Distributed at May 6 meeting; emailed May 5
OPD Training Bulletin V-F.2	Chemical Agents	Distributed at May 6 meeting; emailed May 5
OPD Training Bulletin III-H	Specialty Impact Munitions	Distributed at May 6 meeting; emailed May 5
San Francisco Police Department (SFPD) Crowd Control Manual	Crowd Control	Distributed at May 6 meeting; emailed May 4
SFPD General Order 5.01	Use of Force	Agenda packet of May 6, pp. 59-69
SFPD General Order 8.03	Crowd Control	Agenda packets of January 28 or February 4, pp. 94-95, and May 6, pp. 71-72
SFPD General Order 6.11	Obstruction of Streets & Sidewalks	Distributed at May 6 meeting; emailed May 5
SFPD General Order 8.01	Critical Incident Evaluation & Notification	Distributed at May 6 meeting; emailed May 5
SFPD Bulletin 13-212	Extended Range Impact Weapon Guide Sheet	Distributed at May 6 meeting; emailed May 5

COMMUNICATION No. 4160

From: ALEXANDER I MABANTA [<mailto:alex.mabanta@berkeley.edu>]
Sent: Tuesday, May 26, 2015 2:02 AM
To: Lee, Katherine
Subject: Re: [UC Berkeley Research Center]

Hi Katherine,

I'd most appreciate if you could pass on the following message.

Many thanks!

Best,
Alex Mabanta

Dear fellow commissioners,

My name is Alex Mabanta and I am a student at UC Berkeley and serve on Berkeley's Peace and Justice Commission. In the past three months, I have been working with university officials in creating a pipeline integrating community and city needs with world-class researchers and research facilities from numerous departments. The aim is to assist policymakers in drafting ordinances informed by methodological approaches and empirical data that will enable policymakers to more effectively serve the city.

As the pipeline (which is looking more like a research center) comes together, I wanted to ask you, Police Review commissioners, the following. As a body, what three distinct and specific areas of research particular to the work of your commission would you like the research center to work on?

Example: *Racial Profiling*. You may be interested in gaining a comprehensive picture of the state of racial profiling among Berkeley Police Department to more effectively craft police reform policy.

At your next commission meeting, please discuss what three areas you would like research on. Before the end of June, please email me at alex.mabanta@berkeley.edu on the three areas. Your three areas helps build a comprehensive need statement for the research center that gives university officials and faculty an understanding of what direction the center will go and how best it can serve you and your work.

Thanks in advance for your partnership in this process. I'm looking forward to your ideas.

Best Regards,
Alex Mabanta

COMMUNICATION No. 4370

