

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**December 9, 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. APPROVAL OF MINUTES**
 - a. Special Meeting of October 21, 2015
 - b. Regular Meeting of November 18, 2015
- 5. CHIEF OF POLICE'S REPORT**
Budget, staffing, training updates, and other items.
- 6. OLD BUSINESS (discussion and action)**
 - a. Create a workplan by prioritizing policy reviews and other postponed matters, and decide how to proceed, which may include forming subcommittees.
(See Attachment 1, PRC To-Do List.)
 - b. Review commendations of BPD staff from August through December 2014, and identify those worthy of particular recognition. *(See November 18, 2015 agenda packet.)*
 - c. Establish 2016 Regular Meeting schedule.
- 7. NEW BUSINESS (discussion and action)**
Request to review BPD's plans or orders for enforcing recently-enacted ordinances regarding conditions on sidewalks and other public places (Ordinance Nos. 7,448-N.S., 7,449-N.S., and 7,450-N.S.).

8. CHAIR'S REPORT

9. PRC OFFICER'S REPORT

Status of complaints; announcements.

10. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

11. 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

12. WHETHER TO ACCEPT LATE-FILED COMPLAINT

Complaint #2387

End of Closed Session

13. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

14. ADJOURNMENT

Communications Disclaimer

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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.

PRC To-Do List

Attachment 1 to PRC Agenda of December 9, 2015

	Subject Date/Source	Notes
1.	McKinley Ave. Staging – policy review 1-14-15 PRC accepted complaint	BPD response and report 3-25-15. Further follow-up needed; inadvertently omitted from Investigative Report.
2.*	Investigation into BPD response on Dec. 7 & 8, 2014 2-10-15 PRC initiated	PRC voted to look into BPD action on Dec. 6, 7, & 8, but focused on Dec. 6 in response to Council referral.
3.*	Revision of General Orders, incl. C-64, U-2, M-2 2-10-15 Council referral	Much review work already done in course of investigation.
4.*	Body worn and dash cameras 2-10-15 Council referral	<i>Note: This is currently on Council's calendar for presentation at a March 29, 2016 work session; report must be ready by February 25.</i>
5.*	Outreach A. Bernstein	
6.*	Fair and Impartial Policing (includes racial profiling concerns and evaluation and review of recently-released stop data)	Related: PRC voted on 10-8 to co-host community-wide anti-bias training. Awaiting further details.
7.	Revive Transgender G.O. Subcommittee	This Subcomm., dormant during investigation, is tasked with preparing a proposed General Order on treatment of transgendered persons.
8.	Policy review re Smoking Control Ordinance (Carol Denney) 7-8-15 PRC accepted complaint	On 7-15-15, PRC authorized further action as memorialized in 8-7-15 letter from PRC Officer to Chief expressing concerns and making requests.
9.	Policy review re Identification of race on traffic citations (Tesfaye Tsadik) 7-8-15 PRC initiated	
10.	Policy review of Citations to bicyclists running red lights (Stephen Pitcher) 11-18-15 PRC accepted complaint	(A. Bernstein would like to add "Idaho stop" issue)
11.	How to read CAD reports from Jan. 2015 agenda	Coordinate new date with Communications Center Manager.

* Items lending themselves to the formation of new subcommittees.

PRC To-Do List

Attachment 1 to PRC Agenda of December 9, 2015

	Subject Date/Source	Notes
12.	G.O. W-1: Right to Watch G. Lippman	
13.	BPD acquisition of non-military armored vehicle A. Bernstein	
14.	Evaluation of City policies regarding seizure and storage of homeless persons' property A. Bernstein; prompted by public commenter	
15.	Propose all BPD Use of Force Reports be sent to PRC within 21 days A. Bernstein	
16.	Review of BOI procedures and underlying authority (Copley Press, PSOBRA, BPA v. COB, etc.) A Bernstein	
17.	Achieving agreement with BPD regarding consultation on all new and changes to G.O.s A. Bernstein	
18.	Commissioner training on law and police procedures PRC Officer/BPA	
19	Review of pending regulation changes, and discussion of possible actions, including promulgation and implementation of agreed upon regulation changes and report to Council	
20	Request for Intelligence report from Chief Meehan, as required under General Order C-1, for at least the last three years	
21	Protest guide on BPD website	

COMMUNICATIONS FOR PRC REGULAR MEETING December 9, 2015

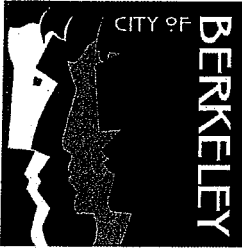
MINUTES

October 21, 2015 <i>Special Meeting</i>	Page 7
November 18, 2015 <i>Regular Meeting</i>	Page 13

COMMUNICATIONS

Communication #4370 – Proposed PRC 2016 Commission meeting dates.	Page 19
Communication #3034 – Email from Lt. Montgomery, dated November 18, 2015 re Data related to bicycle enforcement.	Page 21
Communication #4400 – “Protest 101” from BPD Website.	Page 23
Communication #4364 – Letter to the Berkeley City Council re PRC’s recommendations regarding the 2015 Mutual Aid Agreements Compendium (Mutual Aid Pacts).	Page 31
Communications #4400 – Email from Andrea Prichett, dated November 25, 2015 re Berkeley Copwatch Investigation of Black Lives Matter Protest of December 6, 2014.	Page 35

KJL:mgm



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
SPECIAL MEETING
MINUTES
(unapproved)

October 21, 2015
6:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 6:08 P.M.

Present: Commissioner Benjamin Bartlett
Commissioner Alison Bernstein (Chair)
Commissioner Jerry Javier
Commissioner George Lippman
Commissioner George Perezvelez (Vice Chair)
Commissioner Terry Roberts
Commissioner Ann Rogers
Commissioner Michael Sherman (arrived 6:30 p.m.)
Commissioner Ari Yampolsky (arrived 6:20 p.m.)

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan (left 7:00 p.m.), Lt. Andrew Rateaver (left 9:00 p.m.), Lt. Dan Montgomery, Sgt. Veronica Rodrigues (left 8:40 p.m.), Sgt. Melanie Turner (left 8:40 p.m.)

2. APPROVAL OF AGENDA

Commissioner Rogers requested permission to speak following approval of the minutes.

The agenda, including the above request, was approved by general consent.

3. PUBLIC COMMENT

There were 9 speakers.

4. APPROVAL OF MINUTES

On the special meeting minutes of October 8, 2015, a correction was made to reflect the maker (Rogers) and seconder (Bernstein) of the motion in New Business Item 8.b.

The minutes of the October 8, 2015, as amended, were approved by general consent

Commissioner Rogers announced that she is resigning effective November 9, 2015. She is serving on a BOI October 26 and 28, and this is her last Commission meeting.

5. CHIEF OF POLICE'S REPORT

The Chief thanked Commissioner Rogers for her service.

He reported that, following a record low year of crime last year, we are continuing to see violent crime and property crime increase this year, but starting to turn. Of the authorized 176 sworn officers, staffing is currently at 171.

The Chief was asked about the revised Right to Watch policy; costs associated with recommendations in the PRC's investigative report; how the new beats have affected response times; and recent attempted abductions of young girls.

6. OLD BUSINESS (discussion and action)

- a. Consider the Mutual Aid Pacts Subcommittee's recommendation that the PRC urge the Council to end participation in the Urban Shield exercise funded under the Urban Area Security Initiative (UASI) program.

By general consent, the rules were suspended to allow BPD representatives and two public members to speak, and for Commissioners to ask them questions.

Motion to recommend, as an alternative to the Mutual Aid Pacts Subcommittee's recommendation: the Berkeley PRC continues to support BPD's involvement in Urban Shield, but it asks BPD to work with the PRC to decrease militarization, and encourages BPD to do outreach to the community to explain the benefits of Urban Shield.

Moved/Seconded (Rogers/Sherman) **Motion Carried**

Ayes: Bartlett, Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.

Noes: Javier, Lippman Abstain: Sherman Absent: None

Before the above vote, the following actions were taken:

Motion to consider a substitute motion to recommend that Council support the BPD's participation in Urban Shield but, in light of militarization concerns, ask BPD to refrain from participating for one year, and take that time to explain to the community the value of Urban Shield, and review and take corrective measures to prevent hyper-militarization of the BPD.

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

Ayes: Bartlett, Javier, Lippman, Roberts, and Sherman.
Noes: Bernstein, Perezvelez, Rogers, and Yampolsky.
Abstain: None Absent: None

Motion to adopt the substitute motion.

Moved/Seconded (Bartlett/Lippman) **Motion Failed**

Ayes: Bartlett, Javier, Lippman, and Sherman
Noes: Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.
Abstain: None Absent: None

- b. 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 and approve "Discussion" section of report

By general consent, the Commission approved suggested changes to the draft Discussion section (handout #4, containing revisions from Commissioners Roberts and Bernstein):

All of Commissioner Bernstein's changes were approved.

Commissioner Roberts' changes were approved except that p. 1, lines 23-25, p. 7 lines 28-33, and p. 8 lines 1-19 were not; and p. 3 line 10-11, and p. 4 lines 22-25 were revised.

The Conclusion (p. 8, lines 21-30) will be moved to the very end of the report.

By general consent, the Commission approved suggested changes on Commissioner Lippman's Discussion section (handout #5), except:

P. GL-3 lines 16 & 17, p. GL-4 lines 24-25, p. GL-5 line 6, and p. GL-6, line 27 were not; p. GL-3 lines 6-7 and p. GL-6 lines 13-14 were revised; and p. GL-5 lines 13-16 to be revised by staff to correct the quote.

Motion to change p. GL-3, sentence starting on line 20 to begin, "Given the existing record, the use of CS gas appears arbitrary, . . ."

Moved/Seconded (Lippman/Sherman) **Motion Failed**

Ayes: Bartlett, Javier, Lippman, and Sherman.
Noes: Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.
Abstain: None Absent: None

By general consent the Commissioners agreed to place the "Get 'um running" quote in the Findings, not the Discussion section; PRC staff to determine exact placement.

Motion to approve the Discussion section with revisions as approved above.

Moved/Seconded (Perezvelez/Rogers) **Motion Carried**

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

ii) Discuss and approve any remaining aspects of report.

a) *Recommendations*

Motion to approve the introductory paragraph to the Recommendations as written.

Moved/Seconded (Sherman/Bernstein) **Motion Carried**

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

b) *Introduction*

Motion to reopen the Introduction for revisions.

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

Ayes: Bartlett, Javier, Lippman, Roberts, Sherman, and Yampolsky.

Noes: Bernstein, Perezvelez Abstain: Rogers Absent: None

(The version of the Introduction being discussed was handout #1 ("G. Lippman revisions, pages 1 & 3 only").)

Motion to delete, on page 1, 1st paragraph, 2nd sentence, the phrase beginning, "unfortunately" through the end of the sentence.

Moved/Seconded (Lippman/Sherman) **Motion Failed**

Ayes: Lippman, Sherman.

Noes: Bartlett, Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky.

Abstain: Javier

Absent: None

Motion to replace the above-discussed phrase beginning "unfortunately" with the following: "the peaceful resolve of the vast majority of demonstrators was undermined both by violent individuals in the crowd and by tactics employed by the Berkeley Police Department."

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

Ayes: Bartlett, Bernstein, Javier, Lippman, Roberts, Rogers, Sherman, and Yampolsky.

Noes: Perezvelez

Abstain: None

Absent: None

By general consent, the Commissioners agreed to: capitalize Black in the first sentence on page 1; replace on page 3, 1st full paragraph, 2nd sentence, the language following "unsure" to "which departments are

involved.”; and on page 3, 2nd full paragraph, use the phrase “up to 1500” in describing the crowd size.

Motion to approve the Introduction as revised.

Moved/Seconded (Perezvelez/Bartlett) **Motion Carried**

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

c) Minority Report

By general consent, the Commission asked staff to request an opinion from the City Attorney about whether a currently sitting commissioner may vote for a recommendation in the minority report when a predecessor in their seat, whether permanent or temporary, voted for the majority’s recommendation. The votes to be taken on the minority report may be revised depending on the answer.

The Commissioners reviewed the Recommendations on the Minority Report (handout #7) and signed on as follows:

Recommendations #18 and #22 (CS gas), were combined on the report but at the meeting, #18 was deleted and Commissioners Bartlett, Lippman, and Sherman signed onto the minority opinion for #22.

Recommendation #29 (media credentialing): No one signed on.

Recommendation #31 (video surveillance): Bartlett, Lippman, Sherman signed on

Recommendation on mutual aid: Bartlett, Lippman signed on.

By general consent, the Commission agreed that the recommendations of the minority report should remain together, at the end of the report; and staff may remove redundant language and reformat it consistent with the rest of the report.

d) Full report

By general consent, the Commission authorized staff to correct typographical and grammatical errors found as the final report is finalized.

Motion to approve the full Investigative Report.

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

Ayes: Bartlett, Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

- iii) Authorize the Chairperson to represent the PRC before the City Council when the investigative report is presented.

By general consent, the Commission authorized the Chair and the Vice-chair to represent the PRC before the City Council when the investigative report is presented (currently scheduled for the December 1, 2015 meeting).

7. NEW BUSINESS (discussion and action)

Authorize the Chairperson to represent the PRC before the City Council when amendments to BPD General Order N-17, Suspicious Activity Reporting, are considered (currently on the October 27, 2015 agenda.)

By general consent, the Commission authorized the Chair to represent the PRC before the City Council regarding the PRC's amendments to BPD General Order N-17.

8. CHAIR'S REPORT

None.

9. PRC OFFICER'S REPORT

None.

10. ANNOUNCEMENTS; ATTACHMENTS & COMMUNICATIONS

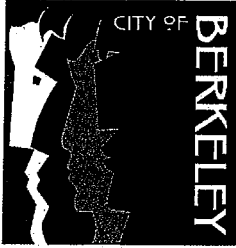
11. PUBLIC COMMENT

There were no speakers.

12. ADJOURNMENT

Motion to adjourn the meeting carried by general consent.

Meeting was adjourned at 11:00 p.m.



Police Review Commission (PRC)

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

**November 18, 2015
7:00 P.M.**

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

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:06 P.M.

Present: Commissioner Alison Bernstein (Chair)
Commissioner Jerry Javier
Commissioner George Lippman
Commissioner Terry Roberts
Commissioner Michael Sherman

Absent: Commissioners Perezvelez (Vice Chair), Rogers, Yampolsky

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Meehan, Capt. Greenwood, Capt. Frankel (left 8:10 p.m.); Lt. Montgomery, Sgt. Cardoza, Sgt. Ross

2. APPROVAL OF AGENDA

By general consent, the Commission agreed to move Item 8.a. to be heard after Item 6 and, with that change, approved the agenda.

3. PUBLIC COMMENT

(Any item not on the agenda.) There were no speakers.

4. APPROVAL AND CORRECTION OF MINUTES

a. For approval:

By general consent, the Commission approved the Regular Meeting minutes of October 14, 2015

By general consent, the Commission took these actions on the Special Meeting minutes of October 21, 2015: agreed, regarding Item 6.a., that references to the Mutual Aid Subcommittee should be to the Mutual Aid Pacts Subcommittee; asked the PRC Officer to review the recording of

the meeting to clarify signing on to the dissent on the media credentialing recommendation of the Dec. 6 Investigative Report (Minority Report), and postponed approval of these minutes to the next meeting.

- b. For correction of previously approved minutes:

Correction of the wording of the Mutual Aid recommendation in the Special Meeting minutes of October 8, 2015, was approved by general consent.

5. CHIEF OF POLICE'S REPORT

(See next item.)

6. MID-YEAR 2015 CRIME REPORT

Chief Meehan, Capt. Greenwood, and Capt. Frankel presented a modified version of their Mid-Year Crime Report to the City Council, as requested by the Commission. Command staff also answered questions that Commissioners had raised at their October 8, 2015 meeting.

7. OLD BUSINESS (discussion and action)

Public comment on old business: There were 5 speakers.

- a. Whether to initiate a policy review based on the policy complaint filed by Stephen Pitcher, and what steps should be taken.

Motion to open policy complaint regarding the ticketing of bicyclists who ride through stop signs on bicycle boulevards; issues to be included in the policy review could be expanded during discussion of Item 7.c., Workplan.

Moved/Seconded (Lippman/Bernstein) **Motion Carried.**

Ayes: Bernstein, Javier, Lippman, Roberts, and Sherman.

Noes: None Abstain: None

Absent: Perezvelez, Rogers, Yampolsky

- b. Mutual Aid Pacts:

i) Clarification of PRC recommendation to the Council regarding approval of Department of Homeland Security/Urban Area Security Initiative (UASI) program.

Motion that the PRC supports the BPD's agreement with UASI, with the following condition: We recommend to the City Council that, in light of the militarization concerns in this community, Council direct the BPD to refrain from participating in Urban Shield for one year, and that the BPD and PRC take that year to review the Urban Shield program and take effective measures to prevent hyper-militarization of the BPD.

Moved (Lippman). **Motion failed for lack of second.**

Motion regarding the recommendation that the Commission adopted on October 21, as reflected on page 2, Item 6.a. of the meeting minutes: it is the understanding of the Commission that when this was voted on, it contemplated the inclusion of the continuation of the mutual aid pact with the DHS for the UASI program as part of the motion.

Moved/Seconded (Sherman/Bernstein) Motion Carried

Ayes: Bernstein, Roberts, and Sherman.

Noes: Javier, Lippman Abstain: None

Absent: Perezvelez, Rogers, Yampolsky

ii) Update regarding receipt of Suspicious Activity Reports (SARs) summaries; clarification and review of prior recommendation regarding the agreement with the Northern California Regional Intelligence Center (NCRIC).

Main motion:

The PRC recommends to the City Council that, in light of the history of racial, ethnic, religious, and political abuses in the Suspicious Activity Reporting program, Council direct the BPD to refrain from participating in SAR reporting or other NCRIC-related activities for one year, and that the BPD and PRC take that year to review the intelligence fusion program and determine its merits and drawbacks.

Moved/Seconded (Lippman/Sherman)

Proposed substitute motion:

Given that the SAR summaries do not contain reports that are problematic; that there are only two of them; that neither of them seems to involve profiling or infringement on 1st Amendment activity, the Commission recommends approving the mutual aid pact with NCRIC.

Moved/Seconded (Bernstein/Roberts)

Friendly amendment to modify the substitute motion to read:

Given that there are only two SAR summaries for the preceding 12 months, and that they do not contain reports involve profiling, racial, ethnic, religious, or political abuses, or infringement on 1st

Amendment activity, the Commission recommends approving the mutual aid pact with NCRIC.

Moved/Accepted (Sherman/Bernstein & Roberts)

Motion to consider the amended substitute motion, instead of the main motion - Motion Carried.

Ayes: Bernstein, Javier, Roberts, and Sherman.

Noes: Lippman Abstain: None.

Absent: Perezvelez, Rogers, Yampolsky

Motion to adopt the amended substitute motion.

Moved/Seconded (Bernstein/Roberts) Motion Carried.

Ayes: Bernstein, Javier, Roberts, and Sherman.

Noes: Lippman Abstain: None

Absent: Perezvelez, Rogers, Yampolsky

- c. Create a Workplan by prioritizing policy reviews and other postponed matters, and decide how to proceed, which may include forming subcommittees.

By general consent, this item was postponed to the next meeting.

8. NEW BUSINESS (discussion and action)

- a. Questions regarding BPD's lack of consultation with the PRC on the new Protest Guide.

(This item was taken up following Item 6.)

Capt. Frankel answered questions and addressed concerns about the posting of the guide on the BPD website before consulting the PRC. PRC Officer to print the Protest Guide and include in the next agenda packet.

Public comment on New Business: There was one speaker

- b. Consider dissolution of subcommittees:
 - i) Regulations
 - ii) Suspicious Activity Reporting (or consider renewal)
 - iii) Investigation Steering

By general consent, all three subcommittees were dissolved.

- c. Review commendations of BPD staff from August through December 2014, and identify those worthy of particular recognition.

By general consent, this item was postponed to the next meeting.

- d. Establish 2016 Regular Meeting schedule.

By general consent, this item was postponed to the next meeting.

- e. Whether to have a Commissioners' holiday gathering; if so, date and place.

The Commissioners agreed to a December 16 evening gathering at a private home. This will not be a public meeting, so matters within the PRC's jurisdiction may not be discussed.

9. CHAIR'S REPORT

None.

10. PRC OFFICER'S REPORT

The PRC Officer reported on the status of individual complaints filed, including one filed today. The December 6, 2014 Investigative Report is on the City Council's December 1, 2015 agenda; the Chair, Vice-Chair, and PRC Officer will be presenting the report, and others are free to attend; that meeting will be at Longfellow School. The Council passed new ordinance allowing Councilmembers to establish a pool of alternate commissioners for designated commissions (PRC being one of them), so that appointees need to file their paperwork just once

during their term as an alternate. PRC Officer will be on an interview panel for the new Director of the Independent Office of Law Enforcement Review & Outreach position in Sonoma County. PRC Officer will see which of the adopted and agreed-upon Regulation changes can be implemented right away, pending outcome of meet-and-confer with BPA on the remaining Regulation changes.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

The Chair pointed out that a pepper-spray incident report is attached to the packet. The PRC Officer distributed a copy of the BPD's MOU with the Center for Policing Equity, and two communications from the public.

12. PUBLIC COMMENT

There were no speakers.

Closed Session

13. VOTE ON PETITION FOR REHEARING

Complaint #2361.

Motion to deny the petition for rehearing in Complaint #2361.

Moved/Seconded (Bernstein/Sherman) **Motion Carried**

Ayes: Bernstein, Javier, Lippman, Roberts, and Sherman.

Noes: None Abstain: None

Absent: Perezvelez, Rogers, Yampolsky

End of Closed Session

14. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

The above vote was announced.

15. ADJOURNMENT

The meeting was adjourned by general consent at 10:17 p.m.

**PROPOSED – POLICE REVIEW COMMISSION
2016 Commission Meeting Dates**

Please complete this form and email it to the
Commission Inbox by: **Thursday, January 7, 2016**

COMMUNICATION No. 4370

Name of Commission: _____

Commission Secretary: _____

Please Note the Commission Meeting Dates for 2016 Below

Please fill in meeting date below. If no meeting for the month is scheduled please note as "No Meeting."

"Example"

Month	Meeting Day and Date	Time
January 2016	Tuesday 1/05/16	7:00 pm

Month	Meeting Day and Date	Time
July 2016	No Meeting	

2016 Meeting Dates

Month	Meeting Day and Date	Time
January 2016	Wednesday 1/13/16	7:00 p.m.
	Wednesday 1/27/16	7:00 p.m.
February 2016	Wednesday 2/10/16	7:00 p.m.
	Wednesday 2/24/16	7:00 p.m.
March 2016	Wednesday 3/09/16	7:00 p.m.
	Wednesday 3/23/16	7:00 p.m.
April 2016	Wednesday 4/13/16	7:00 p.m.
	Wednesday 4/27/16	7:00 p.m.
May 2016	Wednesday 5/11/16	7:00 p.m.
	Wednesday 5/25/16	7:00 p.m.
June 2016	Wednesday 6/08/16	7:00 p.m.
	Wednesday 6/22/16	7:00 p.m.

Month	Meeting Day and Date	Time
July 2016	Wednesday 6/13/16	7:00 p.m.
	Wednesday 6/27/16	7:00 p.m.
August 2016	No Meeting	
September 2016	Wednesday 9/14/16	7:00 p.m.
	Wednesday 9/21/16*	7:00 p.m.
October 2016	Thursday 10/13/16**	7:00 p.m.
	Wednesday 10/26/16	7:00 p.m.
November 2016	Wednesday 11/09/16	7:00 p.m.
December 2016	Wednesday 12/14/16	7:00 p.m.

* NACOLE conference is 9/25 – 9/29

** Yom Kippur is 10/12

Please Return via Email to:

The Commission Inbox-City Clerk Department

Email: Commission@CityofBerkeley.info Please contact Sheila Soo at x6916 with questions.

2016 City-Observed Holidays

Holiday	Date	Day
New Year's Day	January 1	Friday
Martin Luther King Jr. Birthday (Observed)	January 18	Monday
Lincoln's Birthday (Observed)	February 12	Friday
Washington's Birthday (Observed)	February 15	Monday
Malcolm X Day (Observed)	May 20	Friday
Memorial Day	May 30	Monday
Independence Day	July 4	Monday
Labor Day	September 5	Monday
Indigenous People's Day	October 10	Monday
Veteran's Day	November 11	Friday
Thanksgiving Holiday	November 24-25	Thursday - Friday
Christmas Day	December 25	Sunday
Christmas Day (Observed)	December 26	Monday

Lee, Katherine

From: Montgomery, Daniel R.
Sent: Wednesday, November 18, 2015 8:48 PM
To: Lee, Katherine
Subject: Data related to bicycle enforcement

Statewide in 2012 (the latest Office of Traffic Safety (OTS) data) the City of Berkeley had the highest number of bicycle related injuries compared to fifty-six (56) other cities of comparable demographics. Basically, we are ranked #1 out of fifty-six (56) similarly sized cities. We are also ranked #1 out of fifty-six (56) similarly sized cities for number of injury collisions involving pedestrians.

Between January 1st 2012 and September 30th 2015, there were a total of 1,953 injury collisions investigated by Berkeley PD. Five hundred and seventy-seven (577) involved bicyclists which is approximately 30% of all injury collisions. Bicyclists were listed as the party at fault in 50.4% of the collisions.

The top PCF's for bicycle related injury collisions between January 1st 2012 and September 30th 2015 were:

- (1) Unsafe speed for conditions
- (2) Failure to yield the right of way
- (3) Unsafe turns
- (4) Stop sign violations

Between July 1st and September 30th 2015, there were one hundred and forty-two (142) total injury collisions. Forty (40) involved bicyclists. Bicyclists were listed as the party at fault in approximately 50% of the collisions.

As far as enforcement during that same time period, July 1st through September 30th, 2015, the four motors officers plus the traffic analyst, wrote a total of nine hundred and fifteen (915) citations. From those nine hundred and fifteen citations, sixty-nine (69) were given to bicyclists who committed moving violations.

Lt. Dan Montgomery
Operations Division - Watch Commander
Berkeley Police Department
(510) 981-4972

COMMUNICATION No. 3034

7

Welcome to Protest 101

Protest 101 is a guide to assist anyone interested in organizing or participating in a safe and legal protest, march, demonstration, rally or labor action in the City of Berkeley.

During demonstrations, protest marches, public rallies or labor actions, the Berkeley Police Department is responsible for providing for the safety and security of the general public, while both monitoring and facilitating any peaceful demonstration. We facilitate the peaceful expression of First Amendment Rights, including but not limited to assembling, marching, carrying signs, making speeches, or other lawful activity designed to express or advocate political, religious, or social opinions.

While recognizing the above rights, the Berkeley Police Department will make every attempt to quickly identify and/or arrest only those specifically involved in criminal activity or violence. Citizens' rights are of the utmost importance and our goal is to ensure a safe environment for everyone involved.

To ensure that you have a safe and legal event, we recommend that organizers and attendees follow these guidelines.

What do I need to know as an organizer? ③-④

What do I need to know as a participant? ⑤-⑥

What do I need to know regarding labor actions? ⑦

What do I need to know if I am part of the media? ⑧

Event Planning Checklist ②

COMMUNICATION No. 4400

①

Event Planning Checklist

The Berkeley Police and City of Berkeley want to facilitate the safe expression of constitutionally protected speech. We want to work in partnership with you to hold a safe and peaceful event. The following items are things that we recommend you do to ensure a safe event.

Go to City of Berkeley Website

- Download and complete forms
- File them at the Recreation Department

Contact the Police Department and Provide:

- Purpose of protest
- Date(s) and time of event
- Location(s)
- Route of march, if planned
- Estimated attendance
- Organizing person or group
- Number of organizers
- How to identify and contact organizers/monitors at the event (hats, shirts, armbands)
- What will they be wearing?
- Will they have mobile phones?
- Do you want symbolic arrests?
- If so, where and when?

When advertising on social media

- Inform people of date, time and location
- Encourage peaceful expression and lawful behavior by attendees
- Discourage certain items from being brought to the event

During the Event

- Make organizers/monitors visible through clearly identifiable clothing
- Coordinate at the event with uniformed bicycle officers, they will help facilitate the event
- Stay on your planned march route, if applicable
- Maintain communication with officers throughout the event and notify them of any change in plans

What do I need to know as an organizer?

Do I need a permit to have a protest, march, demonstration or rally?

Berkeley Municipal Code (BMC) 13.44 requires event organizers apply for and obtain a permit from the City to conduct a street event. This includes any march, demonstration, assembly, parade, festival, street fair, concert or any other gathering which takes place in a public street or right-of-way.

If the event applicant wishes to utilize amplified sound, a sound permit will also be required.

For more detailed information on applying for an event permit, we ask that you use these links:

[City of Berkeley Event Policies and Procedures](#)

[City of Berkeley Street Event Permit Planning Guide](#)

[Berkeley Municipal Code relating to permits for StreetEvents](#)

After completing the required paperwork, please file it at the:

Recreation Customer Service Hub - Willard

2701 Telegraph Ave.

Berkeley, CA 94705

510-981-5150

Consequences of unpermitted events

Per BMC13.44.130, an intentional violation of this Chapter is a misdemeanor.

Should I call the police in advance of my event?

We would like to talk with organizers when you are planning your event. We can help you plan safe routes, provide safety tips, prepare to facilitate your event and answer any questions you might have about police response. We can also establish a liaison (point of contact person) with your leadership, should you need help during the event. We recommend regular communication with the police liaison during the event.

Please contact the Berkeley police Special Events Coordinator ahead of your event. They can be reached by calling (510) 981-5821.

How can the police help?

Given enough notice, the Police Department may provide police officers or parking enforcement officers to control traffic to facilitate the protest or march. Additionally, the Berkeley Police Department may assign officers to safeguard First Amendment activity. Officers may join the protest on bikes or on foot.

③

How can organizers improve protester participant safety?

Establish safety monitors for crowd management and security. Discourage dangerous items from being brought to the event (any item that can be used as a projectile or weapon). Make organizers and safety monitors identifiable by wearing brightly colored matching armbands, hats or shirts. Inform your police liaison how police can identify organizers and safety monitors as well as contact information for them during the event.

Should we march or not?

If you are well organized and do not have any issues with unwanted or violent elements within your crowd, marching might be okay. The police will assist, when possible, by blocking traffic and protecting the march as it moves through the streets. If you do have problems with unwanted elements, we suggest you do not march. Marching makes it more difficult for the police to deter or stop unacceptable behavior. If you are marching and experience problems from unwanted groups including looters, arsonists, vandals, or people fighting with or intimidating members of your event, stop and call for police assistance.

What do I need to know as a participant?**How far should I stay from officers standing on a police line?**

We recommend that participants stay approximately 6 feet back from a police line unless directed to do otherwise by officers. They need space and time to correctly perceive, evaluate and react to potential threats. Officers need space for their safety. This space gives officers time to make better use of force decisions. Advancing on officers only reduces the time an officer will have to make those decisions. If you don't encroach on their safety zone, they are not likely to feel you are a threat and won't need to order you to move back. If you fail to follow warnings or if an officer feels you pose a threat to their safety, you may be pushed away from the police line with a hand, arm or baton.

Why don't the officers on the police line respond to my questions?

Officers will not engage in conversations with the crowd. Officers on a police line are watching for threats and are watching the whole crowd, not just the people directly in front of them. Their safety helmet also makes it harder to hear and be heard. Engaging in conversations encourages people to come closer to the line to hear and be heard. As discussed, being close to the police line impacts officer and protester safety. If you need to communicate with an officer, go to the end of the police line (away from the center of the crowd) and ask to speak to a supervisor or call the non-emergency number (510) 981-5900. If staffing allows, an officer will be sent to contact people requesting police assistance.

What would cause the police to issue a dispersal order?

The police may issue a dispersal order if members of the crowd pose a clear and present danger to the public. This may include looting, assaults, lighting fires, or throwing objects at people (including officers).

What if I am not part of the protest? Do I have to leave the area?

Yes. After a dispersal order is issued, anyone within earshot of the order is required by law to leave the area to comply with the order. You are no longer allowed to remain together as a group. The order also applies to those present who are not members of the group protesting, are just curious bystanders, or did not participate in any of the activity that led to the issuance of the dispersal order.

What will happen if I don't disperse?

The police may make arrests for failure to disperse per California Penal Code section 409. Depending on the circumstances, you may be cited or booked into jail and charged with a crime. If necessary, the police may use reasonable physical force to disperse the crowd.

This may include the use of police batons, less than lethal foam baton rounds, and CS gas (tear gas). These uses of force can cause physical discomfort, significant pain and potential injury.

Should I try to stop people who are looting, lighting fires, causing damage or fighting?

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We do not recommend physically confronting these elements in a crowd. This can be extremely dangerous. Crowding around looters only slows police response. We recommend peaceful protesters back away and call the police. Be a good witness, use your camera phones and, when possible get good pictures or videos of the suspects. This is only helpful if you share the video with the police department or make it available online.

BPD wants you to have safe protests. This may mean violent elements need to be arrested and removed from the crowd. Violations of laws may result in detentions, citations, or arrests. Do not interfere with officers trying to detain people or make arrests. No matter how chaotic the scene surrounding an arrest may appear, please keep your distance and allow the officers to safely place someone in custody. While in public, it is your Constitutional right to film or photograph officers taking action.

Why do the police want to keep protests off of the freeway and train tracks?

Entering a freeway or railroad right of way can be extremely dangerous. Entering the freeway could lead to collisions between motorists and protesters and also between motorists trying to stop abruptly. At speed, these collisions could cause serious damage, injury or prove fatal. Trains are large and may appear slow but can move deceptively fast. Trains can take over a mile to stop once the engineer sees a problem on the track and applies the brakes. However, when arriving in Berkeley, engineers may not have a mile long line of sight. For these reasons, entering the freeway or train tracks can be extremely dangerous and is not advised.

(6)

What do I need to know regarding labor actions?

Protesters may not block driveways or deny worker or vehicle access to businesses.

Protesters may not enter private property. Once asked to leave, noncompliant protesters are subject to citation or arrest for trespassing.

The use of amplified sound requires a permit and is limited to the hours between 10:00 AM and 8:00 PM.

Protesters may not block sidewalks, roadways or impede vehicle traffic.

Protesters may carry signs and/or banners.

Under Penal Code Section 602.1(c)(2), individuals may engage in "protected" activity upon private business property open to the public. In general, protected activity includes holding rallies, picketing, leafleting, etc., on an employer's private property that is open to the public so long as the conduct is peaceful and does not obstruct the streets and passageways to and from the employer's place of business.

Under the California Constitution, most activities which express ideas in a peaceful non-disruptive manner and are conducted on privately owned property that is open to the public would be regarded as "protected constitutional activities" within the meaning of Penal Code Section 602.1(c)(2). These activities can include circulating petitions, handing out leaflets, and other forms of free speech activity.

The Berkeley Police Department, however, may arrest individuals engaged in labor or other activities if their conduct constitutes a threat to public safety by becoming threatening or violent, by obstructing free access to the employer's place of business, by obstructing streets and sidewalks, or by constituting conduct in violation of other Penal Code Sections.

An illustration of such a situation could be where strikers or picketers resort to physical violence or threats of violence, harassment, destruction of property, picketing with weapons, blocking access to the employer's place of business, or obstructing streets.

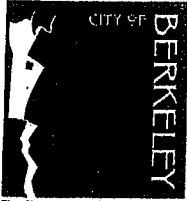
Under such circumstances, local law enforcement agencies are justified in arresting the individuals responsible without violating the aforementioned labor activity exemptions.

What do I need to know if I am part of the media?

With its rich history in the Free Speech movement, the City of Berkeley is, and remains, committed to allowing the public to peacefully assemble. Unfortunately, some of the participants in demonstrations may resort to criminal activity. Acts of violence, oftentimes, lead to a chaotic environment for officers as well. Because of this, it can be difficult for line officers to quickly differentiate demonstrators from members of the media who need access to the location.

We value your safety as you cover important events in our community and want you to be safe while you do your work. With this in mind, the Berkeley Police Department would like you to consider these personal safety measures when you cover demonstrations:

- Officers in the area may not be able to ensure your safety.
- Have your media credentials clearly visible for officers.
- Try to cover the event from the side of any established police lines.
- If that is not possible, ask an officer to be let through the police line to cover the incident from behind the police officers. For even better results, ask a police supervisor.
- If you experience difficulty getting the access and freedom of movement you require, contact the Department's Public Information Officer for assistance.
- If you are photographing or video recording in the midst of violent and assaultive activity, consider moving away from the situation to a safer place.



Police Review Commission (PRC)

November 23, 2015

COMMUNICATION No. 4364

Berkeley City Council
Civic Center Building
2180 Milvia Street
Berkeley, CA 94704

Re: PRC's recommendations to the City Council regarding the 2015 Mutual Aid Agreements Compendium (Mutual Aid Pacts)

Dear Mayor and Members of the City Council,

Each year, the Police Review Commission forms a Mutual Aid Pacts Subcommittee, which is tasked with reviewing the year's annual compendium of the Berkeley Police Department's (BPD) Mutual Aid Pacts. Working with representatives from BPD, the subcommittee reviews all new Mutual Aid Pacts, and any existing mutual aid pacts that any member of the subcommittee wishes to address. The Subcommittee's recommendations are then presented to the full Commission for consideration.

This year, the Mutual Aid Pact Subcommittee's recommendations were discussed and voted on at several PRC meetings.

New or amended agreements

The PRC passed the following motion on October 8, 2015:

Recommend to City Council that the City Council approve the four new or amended Mutual Aid Pacts with these entities: Alameda County District Attorney's Office Violence Against Women/Domestic Violence Project; Alameda County District Attorney's Office; A Safe Place; and University of California, Berkeley, Police Department. Moved/Seconded (Perezvelez/Sherman) - Motion Carried. Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, and Sherman. Noes: None. Abstain: None. Absent: Bartlett, Yampolsky.

Agreement with the Dept. of Homeland Security, Urban Area Security Initiative (UASI) program

On October 8, the Mutual Aid Pacts Subcommittee also recommended that the PRC urge the City Council to end BPD's participation in the annual Urban Shield exercise, which is funded by the Department of Homeland Security's UASI program. The vote was postponed so that BPD could make a presentation about

the Urban Shield exercise, and have the appropriate command staff representative present to answer questions from the Commission regarding the department's participation in Urban Shield. At its October 21, 2015 meeting, the Commission heard from both the BPD and from many members of the public denouncing Urban Shield's encouragement and emphasis on increased militarization of the police, and demanding that the City withdraw its participation in this annual exercise. Commissioners were allowed to ask questions of both BPD and representatives of the loose coalition who opposed ongoing participation in Urban Shield. After careful deliberation, a majority of the Commission disagreed that the BPD should withdraw from participating in the Urban Shield activity, and passed this motion:

Recommend, as an alternative to the Mutual Aid Pacts Subcommittee's recommendation: the Berkeley PRC continues to support BPD's involvement in Urban Shield, but it asks BPD to work with the PRC to decrease militarization, and encourages BPD to do outreach to the community to explain the benefits of Urban Shield. Moved/Seconded (Rogers/Sherman) - Motion Carried. Ayes: Bartlett, Bernstein, Perezvelez, Roberts, Rogers, and Yampolsky. Noes: Javier, Lippman. Abstain: Sherman. Absent: None.

Subsequently, Commissioners realized that their recommendation did not address the mutual aid pact with the Department of Homeland Security for the UASI program. Therefore, at its November 18, 2015 meeting, the PRC voted to clarify its intent regarding the DHS mutual aid pact:

Regarding the recommendation that the Commission adopted on October 21, as reflected on page 2, Item 6.a. of the meeting minutes, it is the understanding of the Commission that when this was voted on, it contemplated the inclusion of the continuation of the mutual aid pact with the DHS for the UASI program as part of the motion. Moved/Seconded (Sherman/Bernstein) - Motion Carried. Ayes: Bernstein, Roberts, and Sherman. Noes: Javier, Lippman, Abstain: None. Absent: Perezvelez, Rogers, Yampolsky.

Agreement with the Northern California Regional Intelligence Center (NCRIC)

In previous years, summaries of Suspicious Activity Reports (SARs) that the BPD sent to NCRIC were submitted to the City Council along with the compendium of mutual aid pacts submitted for the Council's review and approval. The PRC has had a long-held concern that the submission of some SARs may be inappropriate, resulting in the unnecessary sharing of private information or infringement on 1st Amendment activity. Rather than proposing that the BPD sever the relationship with NCRIC completely, it was suggested that the SARs summaries be provided before the PRC and Council were asked to approve the NCRIC pact. Thus, at its October 8, 2015 meeting, the PRC voted to:

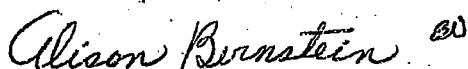
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Recommend that the City Council not approve the Mutual Aid Pact with the Northern California Regional Intelligence Center (NCRIC) until the Council and the PRC have had an opportunity to review the Suspicious Activity Reports. Moved/Seconded (Lippman/Sherman) - Motion Carried.
Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, and Sherman.
Noes: None. Abstain: None. Absent: Bartlett, Yampolsky.

Suspicious Activity Report (SAR) summaries for the prior reporting year were furnished to the PRC on November 16, 2015. Thereafter, at its November 18, 2015 meeting, the PRC passed the following motion:

Given that there are only two SAR summaries for the preceding 12 months, and that they do not contain reports involve profiling, racial, ethnic, religious, or political abuses, or infringement on 1st Amendment activity, the Commission recommends approving the mutual aid pact with NCRIC. Moved/Seconded (Bernstein/Roberts) - Motion Carried. Ayes: Bernstein, Javier, Roberts, and Sherman. Noes: Lippman. Abstain: None. Absent: Perezvelez, Rogers, Yampolsky.

Sincerely,


Alison Bernstein, Chair
Police Review Commission

From: Andrea Prichett <prichett@locrian.com>
Sent: Wednesday, November 25, 2015 7:41 AM
To: Lee, Katherine; PRC (Police Review Commission)
Subject: Berkeley Copwatch Investigation of Black Lives Matter Protest of December 6, 2014

Dear Kathy or whom it may concern,

Can you please forward this email to members of the Police Review Commission? It is an elaboration on Berkeley Copwatch's point of view. If nothing else, it communicates our frustration that Berkeley officers who committed misconduct will not be held accountable for it.

Thanks for your help,

Andrea Prichett

Berkeley Cops and BPD Brass Getting Away with Assaulting Black Lives Matter Protest

Berkeley Copwatch Releases People's Investigation before City Council Vote

Berkeley Copwatch announces the release of it's own investigation of the police response to the Black Lives Matter protest of December 6, 2014. Over the past year, Copwatch has gathered primary documents, videos, pictures and accounts of what happened on that night. We have made these available as part of the investigative timeline and we encourage people to examine them and to draw their own conclusions.

"We believe that instead of making our community safer, the investigation clearly shows that the police were THE MOST DANGEROUS element on the streets that night. We invite you to look over our account of what happened that night and then ask yourself: Did police make our city more or less safe that night? If they injured people unnecessarily, what assurance do we have that this will not happen again?" said Andrea Prichett, co-author of the on-line presentation.

On December 1st at 7pm in the Longfellow School Auditorium (1500 Derby Street, Berkeley) the City Council will receive the report of the Berkeley Police Review Commission. While the PRC report contains many worthwhile reforms, we don't believe that it has resolved the most important point: cops who brutalize members of our community MUST be disciplined and LEADERS who authorize this kind of violence must also be held accountable. We encourage residents and those who witnessed the police response to contact your city council representative and demand justice for the people of Berkeley and accountability for the Berkeley police.

To view the People's Investigation: <http://berkeleycopwatch.org/timeline/>