

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION  
REGULAR MEETING  
AGENDA**

**Wednesday, April 13, 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 March 23, 2016  
*(To be delivered.)*

**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. OLD BUSINESS (discussion & action)**

- a. Policy complaint: McKinley Avenue staging: BPD presentation of new general order on staging practices; consider closure of complaint.
- b. Changes to Regulations for Handling Complaints Against Members of the Police Department
  - i. Accept agreed-upon changes to Regulations signed by the Deputy City Manager and the BPA President, and non-substantive clean-up changes.
  - ii. Next steps regarding the standard of proof.

- c. Senate Bill 1286, Increasing Law Enforcement Transparency bill.  
(See also materials attached to March 9, 2016 agenda.)
- d. Inventory of less-than-lethal munitions held by BPD.

**9. 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  
Update; schedule next meeting date
- d. Transgender G.O. Subcommittee  
Update; consider dissolution of subcommittee

**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. VOTE ON RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

Complaint #2386  
*(To be delivered.)*

**13. VOTE ON PETITION FOR REHEARING**

Complaint #2390

**End of Closed Session**

**14. 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, 3<sup>rd</sup> floor, during regular business hours.

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



# PRC REGULAR MEETING ATTACHMENTS

## April 13, 2016

### MINUTES

None

### AGENDA RELATED

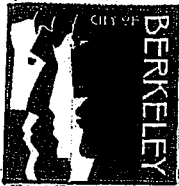
<b>Item 8.a.</b>	1. Policy Complaints #2362, #2363.	Page	7
	2. Informational memo from BPD dated March 6, 2015.	Page	25
	3. Draft G.O. U-4 and current G.O. U-4.	Page	41
<b>Item 8.b.</b>	– Regulations for Handling Complaints Against Members of the Police Department.		
	1. Highlights	Page	45
	2. Memo: Background on process and detailed description of changes.	Page	47
	3. Memo from Deputy City Manager attaching Agreed-Upon changes signed by him and BPA	To be delivered	
	4. Regulations – redlined	Page	53
	5. Regulations – clean	Page	75
<b>Item 8.c.</b>	– Information on SB 1286.	Page	95
<b>Item 8.d.</b>	– Inventory of Less-than-lethal Weapons and Munitions from BPD.	Page	101

### COMMUNICATIONS

• Letter to the City Manager, dated March 23, 2016 re Police Chief's consideration of PRC Board of Inquiry findings when imposing discipline.	Page	103
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- Letter to the Chief of Police, dated March 31, 2016 re PRC recommendation Regarding General Order on The Right to Watch. Page 105
- Letter to the Chief of Police, dated March 31, 2016 re Status of post-incident review recommendations nos. 1, 14, 15, 31 and 32. Page 107
- Email from citizen, dated March 22, 2016 re Militarization of Mental Health and the Berkeley Police. Page 109
- Article dated March 25, 2016: *Twilite Basketball helps Berkeley youth, police connect.* Page 111
- Emails to/from Liberty City organizers. Page 115
- C.I.T. Training Information. Page 119

KJL:mgm



# POLICY COMPLAINT FORM

**Police Review Commission**  
 1947 Center Street, 3<sup>rd</sup> Floor, Berkeley, CA 94704  
 Website: <http://www.ci.berkeley.ca.us/prc>  
 E-mail: [prc@ci.berkeley.ca.us](mailto:prc@ci.berkeley.ca.us)  
 Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received: 12-23-14

PRC POLICY CASE #: 2362

**1**

Name of Complainant: Lindsay Virginia Carolyn  
Last First Middle

Home Address: 2138 McKinley Avenue Apt. D Berkeley, CA 94703  
Street City State Zip

Home Phone: ( 510 ) 5296453 Alt. Phone: ( )

E-mail address: vclindsay@gmail.com

Occupation lawyer Gender: F Date of Birth: 26 May 19

Ethnicity:  Asian  Hispanic  
 Black  Multiethnic: \_\_\_\_\_  
 Caucasian  Other: \_\_\_\_\_

COPY

**2**

Please identify the Berkeley Police Department (BPD) policy or practice you consider to be improper or would like the Commission to review.

1. lack of notice/procedures/transparency for police seizure of residential street
2. illegal procedures/bias in operation of barricades at each end of the block
3. militarized training of police: unnecessary use of threats of force, need for oversight/transparency regarding who is doing the training/making rules
4. slow process of adopting fair and unbiased policing policies (Gen. Order B-4) has undermined the internalization of standards
4. fear management: lack of procedure for managing police reactions in face of public threats

**3**

Please provide a factual description of the incident that forms the basis of your complaint. Please be specific, and include the date, time, place, what transpired, and how the incident ended.

See Attachment A (emailed complaints)

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What changes to BPD policy, practice, or procedure would you propose?

- 1. ~~There should be procedures in place to provide prior notice and independent review of reasonableness prior to the seizure of residential streets for police purposes.~~
- 2. ~~Fear management: the police are not able to manage their fear in the face of public threats. There should be some sort of assistance in helping them to remain objective and not over-react. Political leader should play a role?~~
- 3. ~~Who is doing the police training and who sets standards? Police training to keep people at baton's length was described in a meeting with police. It corresponds with people getting poked in the back with batons (heard at city council meeting). Is the training militarizing our police? Given recent report on CIA torture practices, are we certain those complicit in torture are not training our police?~~
- 4. ~~General Order B-4 should have been implemented when training occurred. That 80 % have been trained yet the barricades were so biased is disturbing.~~

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Is there any additional information you can provide the PRC about your complaint?

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**VERIFICATION**

*I hereby certify that, to the best of my knowledge, the statements made herein are true.*

V. C. Murray  
Signature of Complainant

23 Dec 2014  
Date signed

7

**How did you hear about Berkeley's Police Review Commission?**

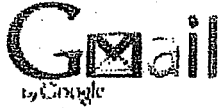
- Internet
- Publication: \_\_\_\_\_
- Referral: \_\_\_\_\_
- Other: \_\_\_\_\_

*For Office Use Only*

Complaint Received By: \_\_\_\_\_

4/21/10





Ginger Lindsay &lt;vclindsay@gmail.com&gt;

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**staging/occupation of 2100 block of McKinley Ave. 12/6/15 through 12/10/15**

10 messages

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**Robin McDonnell**

Fri, Dec 12, 2014 at 9:03 AM

Hello, yesterday afternoon we had an impromptu meeting regarding the police staging on the 2100 block of McKinley Ave with Captain Greenwood of the Berkeley police. The egregious lack of regard for the people who live on this street and the trauma that they experienced during the weeklong occupation of our block was discussed. Captain Greenwood also explained the the police situation in the face of the unprecedented actions of the demonstrators. Promises and apologies were made. However, this does not change that the police never once considered the neighborhood during planning in the two days before the demonstration and subjected us to the treatment documented in the letters below. Given these actions, we as a neighborhood would like to see solid policy shifts and a future guarantee that we are never subjected to this again. At this stage we are going forward with police commission complaints and reviewing options.

We would like to see our council member and The Mayors office strong support for the residents of our neighborhood. We need your help to ensure that the citizens of our street and our families are considered in all future police strategizing.

I look forward to hearing back from you,

Robin McDonnell  
2128 McKinley Ave.

**From:** Susan Church

**Date:** December 10, 2014 at 4:06:28 PM PST

**Subject:** Complaint about our 2100 block of McKinley Ave vs Berkeley Police Staging

This is to register my citizen's outrage about the Berkeley and other Police Departments' complete disregard for our residential street and we residents this past week in their commandeering of the entire block all day and night for their staging area.

Starting with the mysterious "SPECIAL EVENT NO PARKING" signs appearing without explanation on Friday, towing cars without the 72 hour notification, and then continuing loud, disrespectful police state tactics toward the residents into the wee hours. And now the signs have been changed to allow this to continue until next Sunday!!

I believe our neighborhood has had in the past had agreements with the Berkeley Police Department regarding our location adjacent to the their facilities and previous police chiefs have respected this. With the exception of the occasional speeding police car, accompanied by a driver with lots of "attitude" when asked to slow down, we have been mostly unaffected by their presence in our residential neighborhood.

Our neighborhood actually has a liaison person, Polizziani, who is supposed to take care of our concerns and, one would think, keep us informed of possible police activities that would impact us this severely. We not only heard nothing, we continue to hear nothing.

I can understand the need for a staging area, but do not accept that it needs to be on a residential street, that the officers need to be disrespectful, and why, exactly, is there no,

parking all day long when the police only show up after dark?

This is all totally unacceptable and unfortunately a little view into the disrespect police departments seem to have for their citizens.....I believe this is what all the protests are actually about.

Thank you

Susan Church  
2128 McKinley Avenue  
Berkeley, CA 94703

Date: December 10, 2014 at 10:22:25 AM PST  
Subject: 2100 block of McKinley Ave. - complaint regarding seizure of 2100 block of McKinley  
From: Ginger Lindsay

Hello,

For the last four nights, we have been living in an armed camp after dark. Our block (2100 block of McKinley which is directly behind the police station) has been barricaded at both ends each night, with police officers requiring identification from residents. I was walking up Addison on Friday evening from the North Berkeley BART station going home, and as I approached McKinley street, as soon as I was within yelling distance, police officers were yelling at me to stop. They wanted me to stop and then yell at them to identify myself. It was as if they were afraid I was a suicide bomber. For four nights there have been armored vehicles covered with robo-cops who sit with motors running, glaring at us if we leave our houses. Ranks of robo-cops actually marching, then later high fives and laughter as they debrief on the sidewalk right outside our living room. All audible through the walls of our living room. Our walls and those of our neighbors.

We have lost the quiet enjoyment of our homes without having any say in the matter. How did this happen? I am outraged that problems with demonstrators in commercial centers a good distance from our homes have meant that we have to live in such a militarized zone. Monday was the worst, but last night, Tuesday, was only better because a number of us gathered on the sidewalk to protest the noise. Still, some of the robo-cops clearly felt we were being somehow disloyal. It has become an very uncomfortable place to live, and I would really like to know how the decision was made to do this to us.

It all began on Friday, December 5, when we woke up to find posted outside our front door laminated "No Parking Tow Away" signs for a "Special Event" that would begin at noon on Saturday and continue to midnight. These signs were also posted in the 2000 block of McKinley, and at least along one block of Grant Street, Allston Way and Bancroft Way.

I was under the impression that 76 hours notice was required to make an area a tow away zone. Because I was curious, I walked over to the police station and stopped a police officer to ask what the signs were about. The police officer said he had no idea.

I stopped one of the parking enforcement officers in one of the little cars, but he had no idea what the signs were about.

So I walked over to the permit office, and they did not know, They directed me to the traffic department in another building around the corner.

I walked around the corner and went up to the traffic department, but they did not know anything about the signs. They directed me one floor down to a department I don't remember the name of. Maybe planning. Parks? There, no one knew anything about the signs, but as I stood there, a secretary came back from her lunch break and said, oh, I think I got an email this morning. She went to her computer and found the email from the police department, which accurately described the laminated signs that had been posted and said it was necessary because of planned demonstrations. I expressed concern over the lack of notice and the scope of the area covered by the tow away zone, which then extended over at least four square blocks. Later that day or the next, I believe most of the signs were removed, except for the 2100 block of McKinley Avenue, where we live. On our block, the signs remained.

On Saturday, December 6, at around 2 p.m., I observed that cars were being towed (with less than 48 hours notice). That evening, police blockades were set up at either end of our street. Once it became dark, suddenly our street was a parking lot/locker room for groups of robo-cops. They were noisy, clamping on their armor early on, and then taking it off after a long night of fighting the kids, I guess. The camaraderie would have been touching but for the complete lack of understanding that they were standing ten feet from our front door, and were making so much noise and exhaust fumes that we could hardly sit there. They were asked to keep it down but did nothing but look at us like we were disloyal traitors. The helicopters overhead did not help. My husband left to walk around and was constantly harassed for identification. I stayed inside, not feeling well.

On Sunday around 11 a.m., photocopied paper was taped on the laminated signs to extend the tow away period from noon to midnight on both Sunday, December 7 and Monday, December 8. Around 2 p.m. we observed cars were being towed (with less than three hours notice). I guess they got tired of towing cars, so they replaced the sign again, but this time re-stating the times so that it is continuous (Sun day, December 7 noon to Monday, December 8 at midnight). Now we cannot park there even during the mornings.

No notice given, no explanations for why this block is needed for a locker room area. No consideration given that we live here. My husband and I live directly

behind the old city hall. The front door to our living room opens directly onto a small porch and then the sidewalk, which runs directly along the street. The distance from our front door (and the front doors of our neighbors) to the sidewalk is about ten feet. Our space is being violated each night.

We had thought that by ignoring it, things would get better, but the abuse is continuing. Yesterday, new signs were posted that say our block is a tow away zone from 2 p.m. Monday, December 8, to midnight on Saturday, December 13. Really? This is not ok. You cannot keep doing this to us. It is torture. It must stop, or we want compensation for having lost the quiet enjoyment of our leaseholds. We demand that the signs be removed immediately and that the Berkeley police department find more suitable environs for their staging and locker room activities. Enough is enough.

Thank you for your consideration.

**From:** David MacFadden  
**Date:** December 11, 2014 at 8:51:30 AM PST  
**Subject:** Police Staging on McKinley

Dear Ms. Polizziani and Councilmember Arreguin, et al.

Ah, there is nothing like a storm to actually calm down the block. McKinley Avenue is starting to flood now, but at least it's not being used as a practice ground for military-type exercises. In fact, last night, as the rain started, it had already quieted down. I only spotted one cop all night—a guy driving backwards about 30mph in the middle of the road with his lights off.

And that's the type of disregard we have enjoyed since Saturday. A very cold, robotic shrug from everyone who has visited us, from Hayward to Fairfield to Dublin to San Mateo. They all thunder out of their cars, busses, armored vehicles, and do a quick glance toward the homes—people live here?—before slapping on their armor and tuning their batons.

As mother always told me, "You are responsible for your friends." i.e. If you bring a friend to a sleepover and they start acting a fool, it's your job to apologize and clean up the mess. So I hold the BPD personally accountable for the actions of all of the other departments they've invited to occupy McKinley since Saturday. There has been a good amount of litter—yes, grown, public servants littering a residential block with wrappers, cups, and half-eaten food. There was also an unfortunate moment when I spotted a cop peeing against your wall—what, you wouldn't let them in to use the restrooms? Finally, there is the sort of intangible menace, an ominous pall that has settled in on McKinley. It's harder to describe, but you know it when it hits you:

--When you find yourself fearful of taking the garbage bins out, down a dark driveway, because the road is flanked by armed men and you don't want to spook them with your rumbling refuse and become the next cause.

--When the cop barring your block tells you to keep your hands out of your pockets. (The sub-text, again, is that you might be shot for a quotidian saunter down your own street.)

--When you find yourself rushing around the city, running errands so you can get home before the block is shuttered at 5pm, like some poor denizen of occupied Germany trying to get back across the wall to East Berlin before nightfall.

When you feel this way on a daily basis, you wonder whether you're still living in a free and democratic society. Needless to mention, this sort of treatment is a foul and ironic echo of the sort of treatment being protested each night.

At the very least, we should have been notified of the Occupy McKinley movement. Not with "No Parking / Special Event" signs, which had me thinking I'd missed an invite to a block party, but with actual boots-on-the-ground outreach. A happy, helmet-in-hand, hi-how-ya-doin, Sorry but we're taking the block over for the foreseeable future. And, of course, BPD should clean up after its friends. And, you know, it's only right that the police bring some sort of "hostess gift."

Let me restate the simple facts: No RSVP. Friends make a mess. No clean up. No hostess gift. No manners. We are neighbors. Act like it.

Regards,  
David MacFadden-Elliott

David MacFadden-Elliott  
writer-at-large  
2126 McKinley Ave.  
Berkeley, Calif. 94703

**From:** Robin McDonnell  
**Subject:** McKinley Ave staging/ Neighborhood relations  
**Date:** December 10, 2014 at 10:07:15 AM PST

Dear Stephanie, After thirty years of being a neighbor to the Berkeley Police department I was shocked and saddened to see how bad your departments relations with its immediate neighbors are.

We were given no notice regarding the staging for the demonstrations except for signs saying no parking on Saturday (when a neighbor tried to find out what the signs were for the police denied it was theirs) Nothing that would prepare us for the complete lockdown of our street and the hundreds of police coming and going in full riot gear..They shouted and marched and had complete disregard for the neighbors till past midnight. They gathered ,,changed clothes , yelling back and forth,, full locker room language.We have children on our block and it was unbelievable what they were exposed to. That combined with the helicopters overhead. Not once did a Berkeley police officer ask them to keep it down until a wonderful officer named Lyle on night four took it upon himself. One Berkeley police officer just said keep the children in the back of the house.

We were barricaded in had to give Id ..couldn't drive in or out. A young woman who lives next to me after going through the road block was yelled at to keep her hands out.

This complete disregard for the community became glaringly akin to what the demonstrators were marching about.

This must not happen again.As the community liason some consideration to the neighborhood, A notice , a call, an officer checking in with the neighbors..should have been taken.

We are shakily looking forward to the storm and are figuring out how to handle this so that it never happens again. Obviously ,there needs to be a meeting with the police department and city managers office. I would appreciate it if you could get back to us on this.

best,  
Robin McDonnell

**Date:** December 11, 2014 at 12:11:25 PM PST  
**From:** Julie Guilfof  
**Reply-To:** Julie Guilfof  
**Subject:** McKinley Ave. nieghbors

Dear Ms. Polizziani,

I am a 14+ year homeowner on McKinley Avenue (2112 McKinley Ave. #A). My family has always been supportive and cooperative with the local police. We supported them during the new station building and have always had positive community relations over the years.

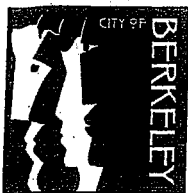
This past week I have been treated rudely and been disrespected and harassed in my comings and goings for no apparent reason. Once I was told that I would not be allowed out of the block after 7PM and another time was forced to wait and then follow a policeman walking very slowly down the block to enter my driveway. Tuesday night the patrolmen stuffed my garbage can full of pizza boxes and threw pizza all over the street. I would have gladly brought out my paper bin for the pizza boxes if they had asked me and I had to pick up all the debris so my dog wouldn't eat it.

While I am opposed to the police turning my residential neighborhood into a military zone, at least they could have bothered to talk to the handful of homeowners with driveways so we wouldn't be harassed just trying to come home from work in the evening.

Sincerely,

Julie Guilfof

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# POLICY COMPLAINT FORM

## Police Review Commission

1947 Center Street, 3<sup>rd</sup> Floor, Berkeley, CA 94704

Website: <http://www.ci.berkeley.ca.us/prc>

E-mail: [prc@ci.berkeley.ca.us](mailto:prc@ci.berkeley.ca.us)

Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received: 1-8-15

PRC POLICY CASE #: 2363

**1** Name of Complainant: McDonnell Robin  
Last First Middle  
Home Address: 2128 McKinley Ave. Berkeley CA 94703  
Street City State Zip  
Home Phone: (510) 289-0564 Alt. Phone: (510) 841-7709  
E-mail address: robinmcdonnell@sbcglobal.net  
Occupation Self employed Gender: female Date of Birth: 11/12/19  
Ethnicity:  Asian  Hispanic  
 Black  Multiethnic: \_\_\_\_\_  
 Caucasian  Other: \_\_\_\_\_

COPY

**2** Please identify the Berkeley Police Department (BPD) policy or practice you consider to be improper or would like the Commission to review.

1. Lack of notice/ procedure/ transparency in the police seizure of a residential street for staging.

2. Barricading with a hostile manner a residential street for five days.

**3** Please provide a factual description of the incident that forms the basis of your complaint. Please be specific, and include the date, time, place, what transpired, and how the incident ended.

On December 6th the police without notification barricaded and staged multiple police units on the 2100 block of McKinley ave..We were subjected to a complete nightly lockdown for five nights. We were denied access and egress via our cars except for one entry early in the evening. We were ID'd and treated hostilely everytime we tried to walk in or out of our street. Multiple police units from other areas were staged on our block -they urinated, left trash and were loud and belligerent until after midnight nightly with no awareness that they were on a residential block. One Berkeley police officer said to put children in the back of the house so they wouldn't be upset by the units in full riot gear marching and yelling commands.

4

What changes to BPD policy, practice, or procedure would you propose?

1. No more staging on a residential street. Park police cars on McKinley Ave. diagonally and stage in the police parking lot.

2. A deep review of the police policy towards its residential neighbors. This has seriously eroded under the new police chief. We were treated as if we were the 'enemy'.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Is there any additional information you can provide the PRC about your complaint?

Please see attached email complaints.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**VERIFICATION**

*I hereby certify that, to the best of my knowledge, the statements made herein are true.*



Signature of Complainant

January 8, 2015

Date signed

7

**How did you hear about Berkeley's Police Review Commission?**

- Internet
- Publication: \_\_\_\_\_
- Referral: \_\_\_\_\_
- Other: \_\_\_\_\_

**For Office Use Only**

Complaint Received By: \_\_\_\_\_

\_\_\_\_\_

4/21/10



**Norris, Byron**

**From:** Ginger Lindsay [vclindsay@gmail.com]  
**Sent:** Friday, December 12, 2014 11:07 AM  
**To:** Robin McDonnell  
**Cc:** susan church; David MacFadden; Lillian Kang; Julie Guilfooy; Julia Cost; maravanells@gmail.com; Maya Hlavacek; John Madill  
**Subject:** Re: staging/occupation of 2100 block of McKinley Ave. 12/6/15 through 12/10/15

Hello all,

I want to send a follow up letter to Captain Greenwood, as part of my preparation of a police action complaint. I know the discussions with Captain Greenwood continued after I left, so I thought I would circulate this draft to see if anyone had comments/suggestions/additions/criticisms before sending it later today. The draft letter is set out below. I would be happy to make this a more collective letter, substitution "we" for "I". but I did not want to be presumptuous. Just let me know what you all think.

Best,  
Ginger

Dear Captain Greenwood:

Thank you for meeting with the residents of the 2100 block of McKinley last night. We all felt it was a very productive meeting, and we hope that as we proceed to address the different issues that have arisen, that we will all be able to collaborate effectively to meet everyone's needs.

Because I plan on lodging a complaint about the lack of policies and procedures governing the seizure of our street, I am setting out my understanding of the information we obtained at the meeting. If I misunderstand anything, please let me know as soon as possible, as I will be relying on these facts when stating our complaints and suggesting appropriate remedies. I expect to file the complaint by 17 December, and I would be grateful for any clarifications before that date.

At the meeting, we learned that the tow away zone and blockade was imposed for two reasons: (1) to provide a private area for staging of mutual aid forces arriving from CHP and surrounding police departments; and (2) to provide security for the back wall of the police department compound. There is a history of the 2100 block being used to park police vehicles during times of unrest, but it has never before been physically blockaded and used as a police parade and staging ground. You gave the impression that the decision to treat the 2100 block as a staging area/ locker room was a unilateral police decision and was not communicated to city government except by an email on Friday morning after the signs had been posted. No prior approval by any non-police authority was required or obtained.

You described an unprecedented assault on the police department on Saturday. It appears from news reports that this occurred around 4 p.m. on Saturday, although the unprecedented nature of the attack does not appear in the news reports. But we accept your description of the attack and we believe this could explain the level of fear which we felt coming from the police. We do not approve of the attack on the police department, but neither do we believe that we should be used as scapegoats for the police angst that was caused by the attack.

You also describe attacks on Sunday along Shattuck, and I believe you conceded that as a result the number of mutual aid forces was greatly increased on Monday, which certainly corresponds with the height of the inconsiderate and threatening conduct towards the residents.

You listened to our descriptions of how persons of different ethnic backgrounds were treated even worse than the Caucasian residents, who were also treated with disrespect by officers staffing the barricades. I believe you indicated there are no protocols for the running of a traffic barrier in a neighborhood area. You promised that training would be undertaken to remedy this misconduct, but I did not hear any indication that a protocol would be forthcoming.

One person complained that his car was ticketed and towed without adequate notice. You provided that person your card and indicated that you would help him get his \$300 in towage fees returned and to have the ticket dismissed. I know that if I had posted a tow away sign with only a few hours' notice, the parking wardens would not have enforced it with a ticket. It should be the same for the police. Perhaps they have the power to tow due to some exigency, but the writing of fraudulent tickets that purport that lawful notice was given adds to the notion that law enforcement just write their own rules outside the democratic process.

I will not summarize the alternative arrangements that were discussed at the meeting. We were fortunate to have long-time residents present who remember how things were handled in the past, and we are hopeful there is a relatively easy fix to avoid problems in future. And we are grateful for your making yourself available directly should concerns arise again. However, if you dropped dead next year of a heart attack, we could again find ourselves without any protections. Therefore we will be seeking institutional change so that the protections are more durable.

At a minimum, I will be asking that

1. a protocol for traffic barriers be developed and adopted to ensure the rights of residents are respected and that all residents are treated equally.
2. There should be a procedure for suspending parking regulations which provides for transparency and notice, both to residents of the affected area and to the City Council, who share in the responsibility of police oversight.
3. There should be a similar procedure for blockading and taking over a residential block as was done in this case, which requires transparency and some authority other than the police to determine whether the seizure is reasonable and necessary and done in a way to minimize the impact on innocent residents who are affected.

Thank you again for meeting with us, and for your service on behalf of the community. We see that we are not the only ones who have been living under a terrible strain for the last week. Hoping for a stress free holiday season for us all.

On Fri, Dec 12, 2014 at 9:03 AM, Robin McDonnell <[robinmcd@me.com](mailto:robinmcd@me.com)> wrote:

Hello, yesterday afternoon we had an impromptu meeting regarding the police staging on the 2100 block of McKinley Ave with Captain Greenwood of the Berkeley police. The egregious lack of regard for the people who live on this street and the trauma that they experienced during the weeklong occupation of our block was discussed. Captain Greenwood also explained the the police situation in the face of the unprecedented actions of the demonstrators. Promises and apologies were made. However, this does not change that the police never once considered the neighborhood during planning in the two days before the demonstration and subjected us to the treatment documented in the letters below. Given these actions, we as a neighborhood would like to see solid policy shifts and a future guarantee that we are never subjected to this again. At this stage we are going forward with police commission complaints and reviewing options.

We would like to see our council member and The Mayors office strong support for the residents of our neighborhood. We need your help to ensure that the citizens of our street and our families are considered in all future police strategizing.

I look forward to hearing back from you,

Robin McDonnell  
2128 McKinley Ave.

**From:** Susan Church <[schurch545@icloud.com](mailto:schurch545@icloud.com)>

**Date:** December 10, 2014 at 4:06:28 PM PST

**Subject:** Complaint about our 2100 block of McKinley Ave vs Berkeley Police Staging

**To:** [JArreguin@ci.berkeley.ca.us](mailto:JArreguin@ci.berkeley.ca.us); [SPolizziani@ci.berkeley.ca.us](mailto:SPolizziani@ci.berkeley.ca.us), [manager@cityofberkeley.info](mailto:manager@cityofberkeley.info), [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info)

This is to register my citizen's outrage about the Berkeley and other Police Departments' complete disregard for our residential street and we residents this past week in their commandeering of the entire block all day and night for their staging area.

Starting with the mysterious "SPECIAL EVENT NO PARKING" signs appearing without explanation on Friday, towing cars without the 72 hour notification, and then continuing loud, disrespectful police state tactics toward the residents into the wee hours. And now the signs have been changed to allow this to continue until next Sunday!!

I believe our neighborhood has had in the past had agreements with the Berkeley Police Department regarding our location adjacent to the their facilities and previous police chiefs have respected this. With the exception of the occasional speeding police car, accompanied by a driver with lots of "attitude" when asked to slow down, we have been mostly unaffected by their presence in our residential neighborhood.

Our neighborhood actually has a liaison person, Polizziani, who is supposed to take care of our concerns and, one would think, keep us informed of possible police activities that would impact us this severely. We not only heard nothing, we continue to hear nothing.

I can understand the need for a staging area, but do not accept that it needs to be on a residential street, that the officers need to be disrespectful, and why, exactly, is there no parking all day long when the police only show up after dark?

This is all totally unacceptable and unfortunately a little view into the disrespect police departments seem to have for their citizens.....I believe this is what all the protests are actually about.

Thank you

Susan Church  
2128 McKinley Avenue  
Berkeley, CA 94703

Begin forwarded message:

**Date:** December 10, 2014 at 10:22:25 AM PST

**Subject:** 2100 block of McKinley Ave. - complaint regarding seizure of 2100 block of McKinley

**From:** Ginger Lindsay <[vclindsay@gmail.com](mailto:vclindsay@gmail.com)>

**To:** [SPolizziani@ci.berkeley.ca.us](mailto:SPolizziani@ci.berkeley.ca.us), [JArreguin@ci.berkeley.ca.us](mailto:JArreguin@ci.berkeley.ca.us), [manager@cityofberkeley.info](mailto:manager@cityofberkeley.info), [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info)

Hello,

For the last four nights, we have been living in an armed camp after dark. Our block (2100 block of McKinley which is directly behind the police station) has been barricaded at both ends each night, with police officers requiring identification from residents. I was walking up Addison on Friday evening from the North Berkeley BART station going home, and as I approached McKinley street, as soon as I was within yelling distance, police officers were yelling at me to stop. They wanted me to stop and then yell at them to identify myself. It was as if they were afraid I was a suicide bomber. For four nights there have been armored vehicles covered with robo-cops who sit with motors running, glaring at us if we leave our houses. Ranks of robo-cops actually marching, then later high fives and laughter as they debrief on the sidewalk right outside our living room. All audible through the walls of our living room. Our walls and those of our neighbors.

We have lost the quiet enjoyment of our homes without having any say in the matter. How did this happen? I am outraged that problems with demonstrators in commercial centers a good distance from our homes have meant that we have to live in such a militarized zone. Monday was the worst, but last night, Tuesday, was only better because a number of us gathered on the sidewalk to protest the noise. Still, some of the robo-cops clearly felt we were being somehow disloyal. It has become an very uncomfortable place to live, and I would really like to know how the decision was made to do this to us.

It all began on Friday, December 5, when we woke up to find posted outside our front door laminated "No Parking Tow Away" signs for a "Special Event" that would begin at noon on Saturday and continue to midnight. These signs were also posted in the 2000 block of McKinley, and at least along one block of Grant Street, Allston Way and Bancroft Way.

I was under the impression that 76 hours notice was required to make an area a tow away zone. Because I was curious, I walked over to the police station and stopped a police officer to ask what the signs were about. The police officer said he had no idea.

I stopped one of the parking enforcement officers in one of the little cars, but he had no idea what the signs were about.

So I walked over to the permit office, and they did not know, They directed me to the traffic department in another building around the corner.

I walked around the corner and went up to the traffic department, but they did not know anything about the signs. They directed me one floor down to a department I don't remember the name of. Maybe planning. Parks? There, no one knew anything about the signs, but as I stood there, a secretary came back from her lunch break and said, oh, I think I got an email this morning. She went to her computer and found the email from the police department, which accurately described the laminated signs that had been posted and said it was necessary because of planned demonstrations. I expressed concern over the lack of notice and the scope of the area covered by the tow away zone, which then extended over at least four square blocks. Later that day or the

next, I believe most of the signs were removed, except for the 2100 block of Kinley Avenue, where we live. On our block, the signs remained.

On Saturday, December 6, at around 2 p.m., I observed that cars were being towed (with less than 48 hours notice). That evening, police blockades were set up at either end of our street. Once it became dark, suddenly our street was a parking lot/locker room for groups of robo-cops. They were noisy, clamping on their armor early on, and then taking it off after a long night of fighting the kids, I guess. The camaraderie would have been touching but for the complete lack of understanding that they were standing ten feet from our front door, and were making so much noise and exhaust fumes that we could hardly sit there. They were asked to keep it down but did nothing but look at us like we were disloyal traitors. The helicopters overhead did not help. My husband left to walk around and was constantly harassed for identification. I stayed inside, not feeling well.

On Sunday around 11 a.m., photocopied paper was taped on the laminated signs to extend the tow away period from noon to midnight on both Sunday, December 7 and Monday, December 8. Around 2 p.m. we observed cars were being towed (with less than three hours notice). I guess they got tired of towing cars, so they replaced the sign again, but this time re-stating the times so that it is continuous (Sun day, December 7 noon to Monday, December 8 at midnight). Now we cannot park there even during the mornings.

No notice given, no explanations for why this block is needed for a locker room area. No consideration given that we live here. My husband and I live directly behind the old city hall. The front door to our living room opens directly onto a small porch and then the sidewalk, which runs directly along the street. The distance from our front door (and the front doors of our neighbors) to the sidewalk is about ten feet. Our space is being violated each night.

We had thought that by ignoring it, things would get better, but the abuse is continuing. Yesterday, new signs were posted that say our block is a tow away zone from 2 p.m. Monday, December 8, to midnight on Saturday, December 13. Really? This is not ok. You cannot keep doing this to us. It is torture. It must stop, or we want compensation for having lost the quiet enjoyment of our leaseholds. We demand that the signs be removed immediately and that the Berkeley police department find more suitable environs for their staging and locker room activities. Enough is enough.

Thank you for your consideration.

Sincerely yours,

V. C. Lindsay

2138 McKinley Street, Apt. D  
Berkeley, CA 94703  
tel: 510-529-6153

Before printing this e-mail, please think about the Environment.  
Begin forwarded message:

**From:** David MacFadden <[davidmacfadden@gmail.com](mailto:davidmacfadden@gmail.com)>  
**Date:** December 11, 2014 at 8:51:30 AM PST  
**Subject:** Police Staging on McKinley  
**To:** [spolizziani@ci.berkeley.ca.us](mailto:spolizziani@ci.berkeley.ca.us), [jarreguin@ci.berkeley.ca.us](mailto:jarreguin@ci.berkeley.ca.us), [manager@cityofberkeley.info](mailto:manager@cityofberkeley.info),  
[prc@cityofberkeley.info](mailto:prc@cityofberkeley.info)  
**Cc:** "[Schurch545@mac.com](mailto:Schurch545@mac.com)" <[schurch545@mac.com](mailto:schurch545@mac.com)>, [robinmcd@me.com](mailto:robinmcd@me.com), Lillian Kang  
<[mrsmochi@gmail.com](mailto:mrsmochi@gmail.com)>, Julia Cost <[juliaacost@gmail.com](mailto:juliaacost@gmail.com)>

Dear Ms. Polizziani, and Councilmember Arreguin, et al.

Ah, there is nothing like a storm to actually calm down the block. McKinley Avenue is starting to flood now, but at least it's not being used as a practice ground for military-type exercises. In fact, last night, as the rain started, it had already quieted down. I only spotted one cop all night--a guy driving backwards about 30mph in the middle of the road with his lights off.

And that's the type of disregard we have enjoyed since Saturday. A very cold, robotic shrug from everyone who has visited us, from Hayward to Fairfield to Dublin to San Mateo. They all thunder out of their cars, busses, armored vehicles, and do a quick glance toward the homes--people live here?--before slapping on their armor and tuning their batons.

As mother always told me, "You are responsible for your friends." i.e. If you bring a friend to a sleepover and they start acting a fool, it's your job to apologize and clean up the mess. So I hold the BPD personally accountable for the actions of all of the other departments they've invited to occupy McKinley since Saturday. There has been a good amount of litter--yes, grown, public servants littering a residential block with wrappers, cups, and half-eaten food. There was also an unfortunate moment when I spotted a cop peeing against your wall--what, you wouldn't let them in to use the restrooms? Finally, there is the sort of intangible menace, an ominous pall that has settled in on McKinley. It's harder to describe, but you know it when it hits you:

--When you find yourself fearful of taking the garbage bins out, down a dark driveway, because the road is flanked by armed men and you don't want to spook them with your rumbling refuse and become the next cause.  
--When the cop barring your block tells you to keep your hands out of your pockets. (The sub-text, again, is that you might be shot for a quotidian saunter down your own street.)  
--When you find yourself rushing around the city, running errands so you can get home before the block is shuttered at 5pm, like some poor denizen of occupied Germany trying to get back across the wall to East Berlin before nightfall.

When you feel this way on a daily basis, you wonder whether you're still living in a free and democratic society. Needless to mention, this sort of treatment is a foul and ironic echo of the sort of treatment being protested each night.

At the very least, we should have been notified of the Occupy McKinley movement. Not with "No Parking / Special Event" signs, which had me thinking I'd missed an invite to a block party, but with actual boots-on-the-ground outreach. A happy, helmet-in-hand, hi-how-ya-doin, Sorry but we're taking the block over for the

foreseeable future. And, of course, [redacted] should clean up after its friends. And [redacted] you know, it's only right that the police bring some sort of "hostess gift."

Let me restate the simple facts: No RSVP. Friends make a mess. No clean up. No hostess gift. No manners. We are neighbors. Act like it.

Regards,  
David MacFadden-Elliott

David MacFadden-Elliott  
writer-at-large  
2126 McKinley Ave.  
Berkeley, Calif. 94703  
917.653.9970

[Inkyhill.com](http://Inkyhill.com)

Begin forwarded message:

**From:** Robin McDonnell <[robinmcd@me.com](mailto:robinmcd@me.com)>  
**Subject:** McKinley Ave staging/ Neighborhood relations  
**Date:** December 10, 2014 at 10:07:15 AM PST  
**Cc:** "Arreguin, Jesse L." <[JARreguin@ci.berkeley.ca.us](mailto:JARreguin@ci.berkeley.ca.us)>, [manager@cityofberkeley.info](mailto:manager@cityofberkeley.info), [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info), [mayor@cityofberkeley.info](mailto:mayor@cityofberkeley.info), [davidmacfadden@gmail.com](mailto:davidmacfadden@gmail.com), Lillian Kang <[mrsmochi@gmail.com](mailto:mrsmochi@gmail.com)>, Susan Church <[schurch545@me.com](mailto:schurch545@me.com)>, [julieguifoy@yahoo.com](mailto:julieguifoy@yahoo.com)  
**To:** Stephanie Polizziani <[spolizziani@ci.berkeley.ca.us](mailto:spolizziani@ci.berkeley.ca.us)>

Dear Stephanie, After thirty years of being a neighbor to the Berkeley Police department I was shocked and saddened to see how bad your departments relations with its immediate neighbors are. We were given no notice regarding the staging for the demonstrations. except for signs saying no parking on Saturday (when a neighbor tried to find out what the signs were for the police denied it was theirs) Nothing that would prepare us for the complete lockdown of our street and the hundreds of police coming and going in full riot gear..They shouted and marched and had complete disregard for the neighbors till past midnight. They gathered ,,changed clothes , yelling back and forth,, full locker room language. We have children on our block and it was unbelievable what they were exposed to. That combined with the helicopters overhead. Not once did a Berkeley police officer ask them to keep it down until a wonderful officer named Lyle on night four took it upon himself. One Berkeley police officer just said keep the children in the back of the house. We were barricaded in had to give Id ..couldn't drive in or out. A young woman who lives next to me after going through the road block was yelled at to keep her hands out. This complete disregard for the community became glaringly akin to what the demonstrators were marching about. This must not happen again.As the community liason some consideration to the neighborhood, A notice , a call, an officer checking in with the neighbors..should have been taken. We are shakily looking forward to the storm and are figuring out how to handle this so that it never happens again. Obviously ,there needs to be a meeting with the police department and city managers office. I would appreciate it if you could get back to us on this.

best,  
Robin McDonnell  
2128 McKinley Ave.  
Begin forwarded message:

**Date:** December 11, 2014 at 12:11:25 PM PST

**From:** Julie Guilfooy <juliegulfooy@yahoo.com>  
**Reply-To:** Julie Guilfooy <juliegulfooy@yahoo.com>  
**To:** "SPolizziani@ci.berkeley.ca.us" <SPolizziani@ci.berkeley.ca.us>, "robinmcd@me.com" <robinmcd@me.com>, "JArreguin@ci.berkeley.ca.us" <JArreguin@ci.berkeley.ca.us>  
**Subject:** McKinley Ave. nieghbors

Dear Ms. Polizziani,

I am a 14+ year homeowner on McKinley Avenue (2112 McKinley Ave. #A). My family has always been supportive and cooperative with the local police. We supported them during the new station building and have always had positive community relations over the years.

This past week I have been treated rudely and been disrespected and harassed in my comings and goings for no apparent reason. Once I was told that I would not be allowed out of the block after 7PM and another time was forced to wait and then follow a policeman walking very slowly down the block to enter my driveway. Tuesday night the patrolmen stuffed my garbage can full of pizza boxes and threw pizza all over the street. I would have gladly brought out my paper bin for the pizza boxes if they had asked me and I had to pick up all the debris so my dog wouldn't eat it.

While I am opposed to the police turning my residential neighborhood into a military zone, at least they could have bothered to talk to the handful of homeowners with driveways so we wouldn't be harassed just trying to come home from work in the evening.

Sincerely,

Julie Guilfooy

--  
Virginia C. Lindsay

2138 McKinley Street, Apt. D  
Berkeley, CA 94703

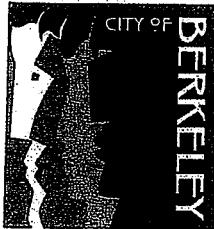
tel: 510-529-6153

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Police Department

March 6, 2015

To: K. Lee, Secretary, Police Review Commission

From: Michael Meehan, Chief of Police *M. Meehan*

Subject: Information; PRC Complaints 2362, 2363

The purpose of this memorandum is to provide the Commission with information regarding the Department's use of the 2100 block of McKinley during large-scale demonstrations in early December 2014. This includes background information, a chronology of the meetings and communication with McKinley neighbors, and policy considerations. A fairly high level of detail is provided for the Commission's consideration of the Department's response to the issues raised by the McKinley neighbors, including the complainants in this matter.

### **Background**

In early December 2014, the Department prepared for a demonstration arising out of the deaths of Michael Brown in Ferguson and Eric Garner in New York. The imagery and words of the posters appeared to encourage violence in Berkeley during the planned Saturday, December 6 activity. The demonstration was preceded by numerous related protests in Oakland. It appeared likely that hundreds of people would be involved, and apparent calls for violence escalated in the days leading into the weekend.

Extensive plans were undertaken to prepare the Department and personnel to manage this incident. These plans included the full mobilization of all Berkeley Police officers, and a request for mutual aid resources was made to the county. It was anticipated that Mutual Aid resources would include scores of officers and vehicles. The resources expected exceeded the capacity of our site parking lot. The 2100 block of McKinley was chosen as a location for mutual resource staging of personnel and vehicles. Its proximity to the Department allows for access of personnel to the Department, for briefings, etc.

The block was posted no parking/tow-away on Friday Dec. 5, effective Sat. Dec. 6.

The street was blocked off and used by numerous law enforcement agencies' personnel late into the night and early morning hours of December 6-7. BPD officers blocked off the streets with metal barriers and controlled access while operations were underway.

By the end of the first night, a second demonstration was slated to occur the following evening, December 7. Similar needs for resources—including the use of 2100 McKinley—were anticipated. No Parking signs were modified with changes in the days. Ultimately, the Department was mobilized for five nights straight, the greatest on-site presence of Mutual Aid personnel on McKinley occurred on the first and second nights.

### **Response Timeline**

#### **Wednesday, December 10:**

BPD received an email from Ms. Lindsay regarding the experience she and neighbors had undergone the past four nights. Capt. Greenwood was assigned to meet with the neighbors, and arranged with Ms. Lindsay to meet with concerned neighbors the following day, Thursday December 11.

#### **Thursday, December 11:**

Several hours prior to the scheduled meeting, all No Parking signs were removed from the block. That morning's appraisal of the next few days of activity indicated it appeared unlikely that Mutual Aid personnel would be needed on Thursday or Friday. Therefore, space on McKinley Ave. would not likely be needed. Based on this assessment, all No Parking signs were removed.

At 4 PM, Capt. Greenwood and Area Coordinator Ofc. Byron White met with a group of neighbors at a residence. Capt. Greenwood began by acknowledging that the Department had fallen far short in terms of outreach and communication with the residents of 2100 block of McKinley. Neighbors directly and candidly talked about their negative experiences over the previous nights. The concerns voiced during this meeting are largely reflected in the policy complaints received by the PRC. (The meeting was reported on by a resident who wrote an article for [BerkeleySide.com](http://BerkeleySide.com).)

Capt. Greenwood expressed his understanding for what the residents had experienced. During the ensuing discussion, residents raised numerous issues and made suggestions, generally around themes of communication, transparency, and accountability:

- BPD should identify and seriously consider alternate sites for Mutual Aid staging whenever possible in planning efforts.
- If the street is needed, BPD should use the east side of McKinley for BPD vehicles normally in the BPD lot, thus freeing space inside the lot for Mutual Aid vehicles and personnel, and *decreasing* activity on McKinley Ave.
- The need for a set process for communicating to residents if BPD anticipates blocking off the street for a planned event.
  - Residents and elected officials should know ahead of time, where possible

- Residents should be given information as to the necessity and duration of the need.
- Ensuring residents are respectfully and consistently treated, through creation of a uniform protocol for allowing access when the street is blocked.
  - Officers responsible for allowing access to the block should be guided by a specific protocol, which would also be provided ahead of time to residents.
  - Residents should be provided pedestrian and vehicle access with the greatest amount of ease as possible.
- BPD should establish liaisons with the neighbors, to ensure accountability for use of street and a quick response to any resident's concerns.
- An on-site daily meeting opportunity between residents and BPD supervisory staff responsible for the street whenever use of the street is anticipated.
  - Ensures accountability
  - Get to know each other
- Provide Portable Toilets if the street is used.
- Ensure Public Works post-incident clean up to remove any garbage left behind.
- Excuse citations and reimburse affected neighbors for tows off of McKinley.

At the meeting, neighbors were informed that a demonstration was slated for the upcoming Saturday, December 13, and that there was a possibility mutual aid—and the McKinley block—would again be needed. A meeting was set for Saturday afternoon so that neighbors could meet BPD supervisors responsible for oversight on McKinley on Saturday night.

**Friday December 12:**

Ofc. White and Capt. Greenwood followed up via email to update residents on several issues:

- Regarding the upcoming demonstration on Saturday December 13:
  - Assessment of the event scheduled for Saturday night indicated a possibility that McKinley would be needed. As a result, new "No Parking" signs were posted for Saturday March 13 from 2 PM-6 PM, with some changes:
    - Residents would be clear to park on west side of street, while BPD would use the east side.
    - BPD would attempt to contact any owner of any vehicle in order to avoid having it towed.
    - Neighbors were asked to help locate any neighbor whose vehicle might be towed.
- Established a simple protocol (simply asking for an address) to be consistently used by all personnel, to allow residents onto the block.
- Arranged for a portable toilet, and post-event sweep/clean-up of block
- Briefed Chief and Commanders on McKinley issues and actions taken.
- Added a "be good neighbors" element to Briefings for BPD personnel, as well as any briefings given to mutual aid personnel.

- Proposed a neighbor meeting on McKinley on Saturday afternoon for anyone interested. This meeting would be an opportunity for neighbors to meet with supervisors in charge of McKinley, ask questions, and receive information.

The above measures were direct outcomes of the meeting with neighbors on Thursday night.

(Friday evening, BPD learned that the 2100 block of McKinley had been shut down due to a PG&E gas leak. This information was shared via email with neighbors. Work on the leak was completed Saturday morning. While not directly related to BPD's use of McKinley, this communication effort reflected BPD's sensitivity to the disruptions experienced by McKinley neighbors.)

### **Saturday, December 13**

Ofc. White, Capt. Greenwood, and two BPD sergeants met as planned with neighbors on McKinley. Introductions were made, plans discussed, and contacts established. There were no new significant developments or issues raised.

The evening was uneventful in terms of the use of McKinley.

### **Sunday, December 14**

Capt. Greenwood was contacted by a resident whose car was towed. An attendee of the December 11 meeting followed up with the citation and tow information. This matter was resolved within 48 hours, with the citation voided, and arrangements made for refund of the tow and storage fees to be made to the resident.

### **Tuesday, December 16**

Ofc. White emailed neighbors regarding the possibility that McKinley would be needed in support of our management of the possible demonstrations surrounding the City Council meeting on December 16. An on-street meeting was set for 4 PM. Neighbors were reminded to let BPD know if anyone had any unresolved citation or tow issues lingering from the previous week. He further advised that McKinley would be used for patrol vehicles, so that the Department's parking lot would be used for staging any outside resources.

Of note, this was the first Council meeting following the demonstrations. A march and demonstration were advertised for the Council meeting to be held at Longfellow Middle School. The Department was aware of the potential for disruption and disturbance in the Longfellow neighborhood. As a direct result of the dialogue between the McKinley Ave. neighbors and BPD, we recognized the potential impact on the neighborhood, and saw an opportunity to more effectively communicate, ahead of the incident. An informational flyer was hand-delivered door-to-door on streets adjacent to Longfellow, and passed along via Nixle to the larger community. The Department subsequently received few if any complaints or calls for service during the event.

No additional police resources were needed, and McKinley was quiet.

### **Wednesday, December 17**

Ms. Lindsay advised Capt. Greenwood that she was filing a complaint with the PRC. Cpt. Greenwood provided Ms. Lindsay with an update and described how the McKinley issues had positively influenced plans for the City Council meeting on the previous night. An update was provided for the next couple of days.

Since mid-December, there have been no additional anticipated, planned events that would appear to call for the use of McKinley for staging or parking.

### **Policy Discussion**

A comprehensive review of the events of early December is underway. The results of that review will include policy and/or protocols to use in the face of anticipated large-scale demonstration and other situations potentially impacting neighbors. Policies which would mitigate or eliminate the issues experienced by our neighbors on McKinley will include:

- Consideration of alternate sites: Where large-scale mutual aid presence is anticipated, consideration of alternate sites, with an effort to avoid using McKinley if circumstances allow.
- Focused, proactive communication with impacted residents. If the Department needs to use McKinley Ave. (or any other street) for planned resource staging or operational use, focused communication to the affected neighbors and the City Manager's office for briefing councilmembers. Elements will include the location, anticipated duration, and reason for need. Communication may be made in-person, at meetings, through flyer distribution, email distribution lists, Nixle, and other means as appropriate.
- Policy for access to blocked streets to be communicated to neighbors, and applied consistently to all residents.
- Consider disruption to the neighborhood and quality of life, and seek to identify measures to mitigate and reduce negative impacts; e.g. Portable toilets, Public Works clean up, et al.

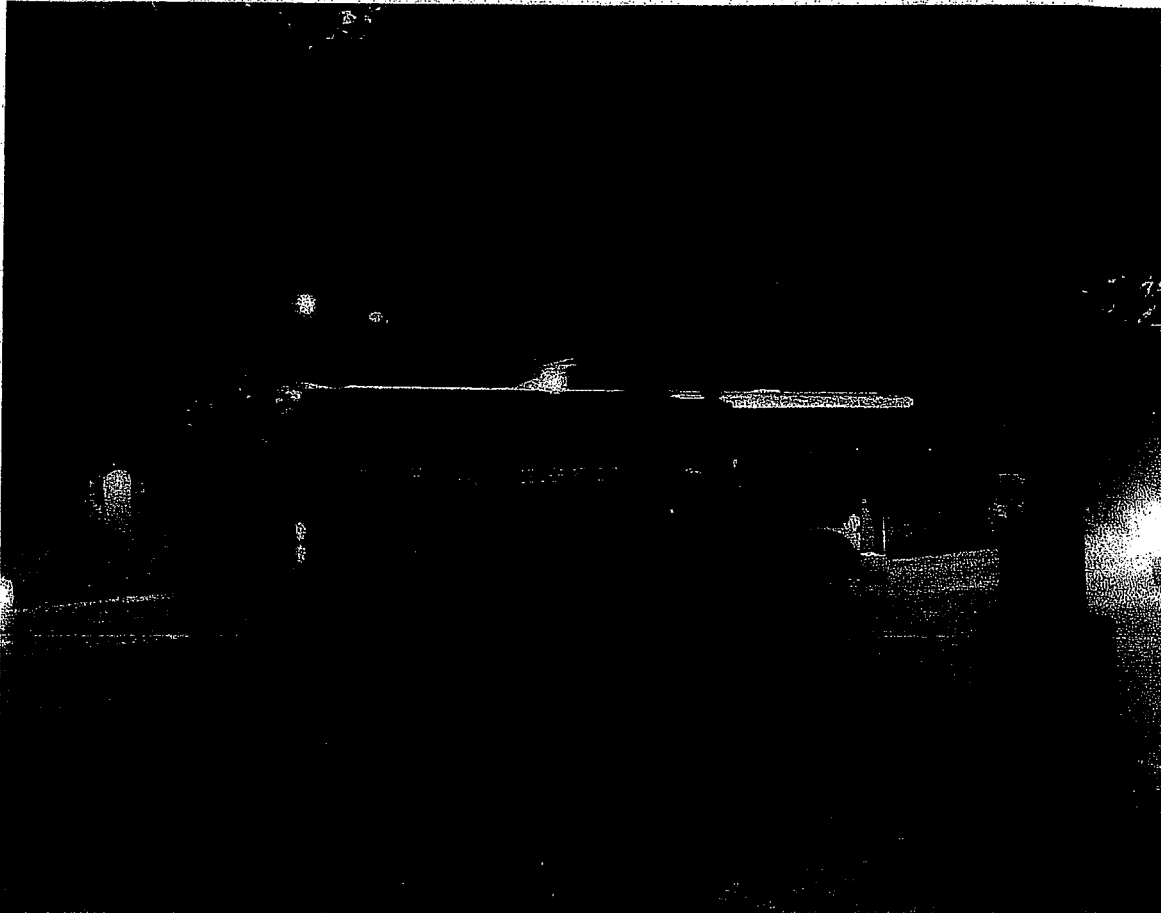
The Berkeley Police Department is committed to learning from experience, and finding the best way to incorporate lessons learned into our incident management processes, in order to best serve our community.

### **Attachments:**

1. December 15, 2014 Berkeleyside.com report on meeting:  
<http://www.berkeleyside.com/2014/12/15/neighbors-complain-about-berkeley-police-commandeering-their-street-to-get-ready-for-protests/>.
2. Longfellow Meeting Flyer, Nixle alert, and flyer distribution map

## Neighbors complain about Berkeley Police commandeering their street to get ready for protests

December 15, 2014 2:00 pm by Mara Van Ellis



During the week of protests that began Dec. 6, police commandeered McKinley Avenue in Berkeley to set up a staging area for mutual aid from other departments. On Dec. 9, 2014, a Hayward Police Department van was parked on the street. Photo: Ashley Atkinson

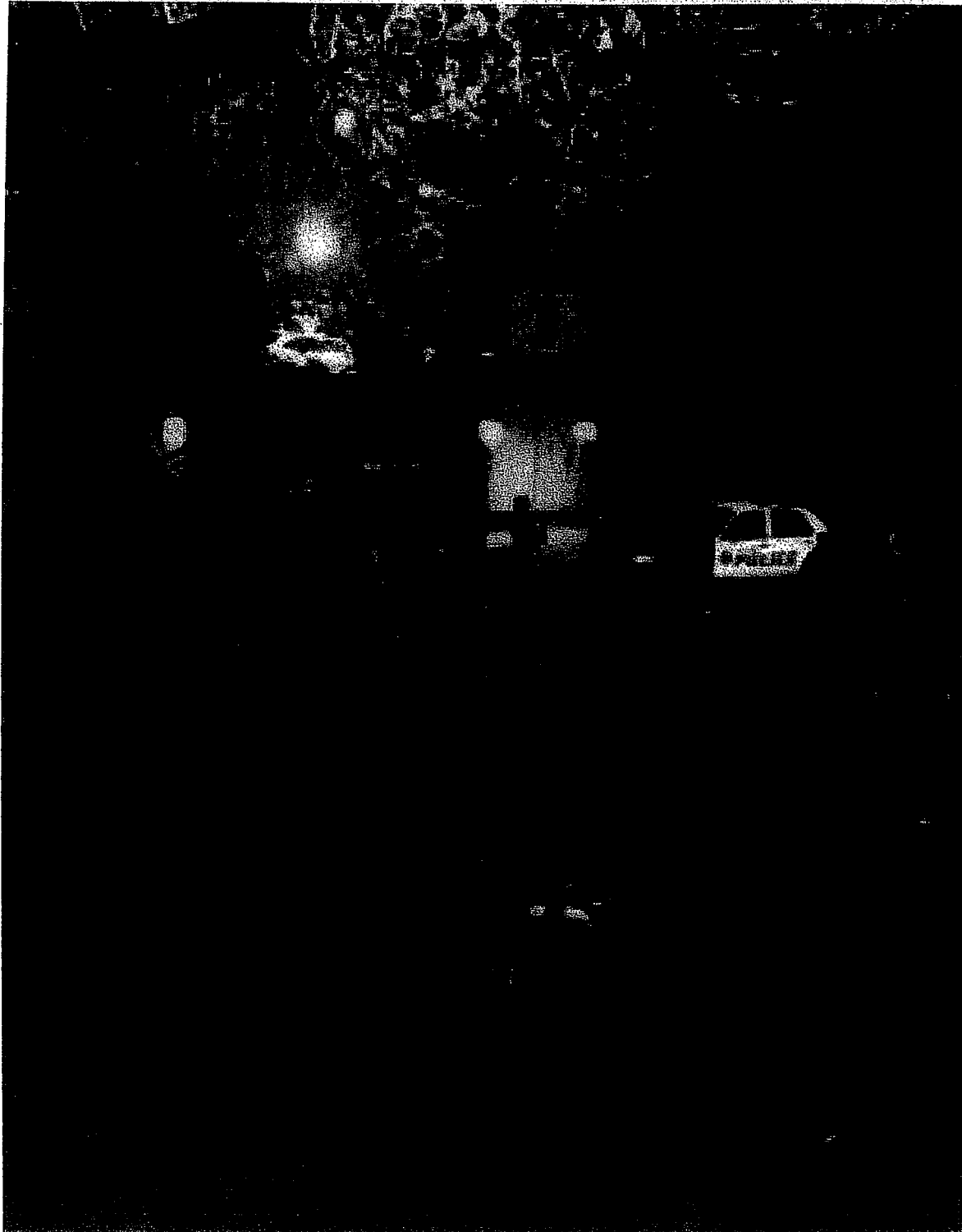
**By Mara Van Ellis**

Residents on McKinley Avenue near the Berkeley Police station are seething after a week of protests which saw parking banned, the street blocked to normal traffic after 5 p.m., and police cars and armored vehicles stationed there.

Some neighbors said when they tried to go home, police yelled at them and demanded to see their identification. They were also told, "no ins and outs."

**See complete Berkeleyside coverage of the recent Berkeley protests.**

"I was treated like a criminal for trying to come home from work," said Julie Guilfoxy, who has lived in the neighborhood for 14 years.





Police from other jurisdictions provided mutual aid to the Berkeley Police Department during recent protests, and set up on McKinley Avenue. Photo, taken on Dec. 8, 2014, by Ashley Atkinson

On Dec. 11, two representatives from the Berkeley Police Department met with nine residents of McKinley Avenue at resident Robin McDonnell's house to respond to the neighbors' frustration, fear, and anger over how their street was seized as a law enforcement staging area.

Among the neighbors' chief complaints were not being informed of the situation beforehand, a lack of respect from officers, police changing clothes on the street, and officers leaving behind garbage like pizza boxes.

McDonnell said she felt "like a prisoner in her own home," adding, "we were under siege without any warning and, frankly, it was totally inappropriate."

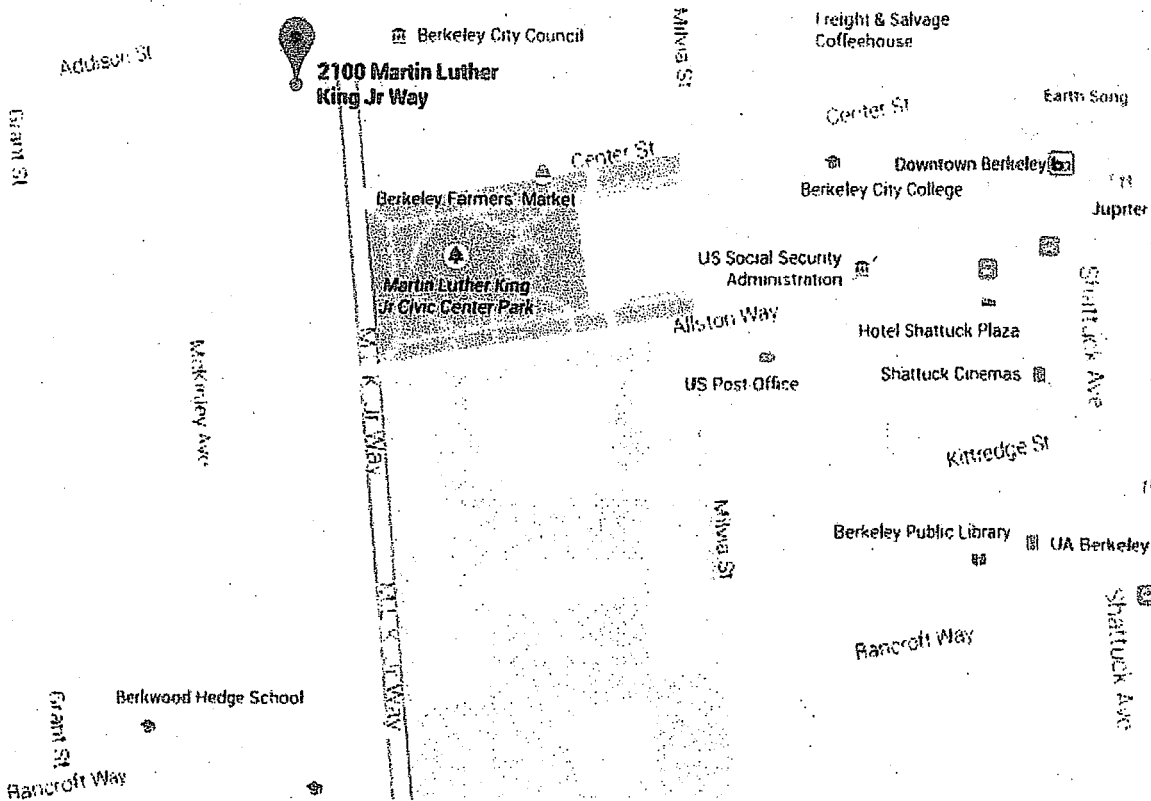
"It's like being invaded," neighbor John Madill said.

Captain Andrew Greenwood of the Berkeley Police Department expressed regret at the way the neighborhood was treated and pledged to look for a new staging location.

"We totally fell short on communicating to you guys what was going on and why," said Greenwood, as he listened and wrote down the residents' concerns at the meeting.

Police had blocked off the street Dec. 6 in anticipation of requiring mutual aid from other police departments for a planned protest. They also wanted to protect the back of the police department, Greenwood said. McKinley Avenue was chosen because it was near to the station and could be secured on both ends. Other locations were considered, he said, but McKinley was the best option under time constraints.





McKinley is to the west and to the rear of the Berkeley Police Department HQ at 2100 MKL Jr. Way. Image Google Maps

Police weren't experienced in dealing with this kind of situation, Greenwood said. The department had never faced protests of this magnitude before, he said.

"This was bigger than Rodney King," he said, referencing the protests that broke out in Berkeley in 1992 after four Los Angeles police officers — charged with assault with a deadly weapon and use of excessive force for beating King — were acquitted.

"This is kind of historical in terms of size and scope," Greenwood said.

"It challenges us because we don't have the experience doing it," he said, adding that next time, "we'll take all the measures we can to mitigate the impacts."

On Dec. 4, signs went up on the block stating no parking would be allowed from 12 p.m. on Dec. 6 until midnight. On Dec. 7, other signs went up that stated no parking would be allowed for the rest of the week.

Lillian Kang, who has lived in the neighborhood for six years, said when she first saw the signs, she assumed that there was an event happening nearby. When her husband suggested that it might be related to the Berkeley protests she argued with him. "They would've told us," she said she told her husband.

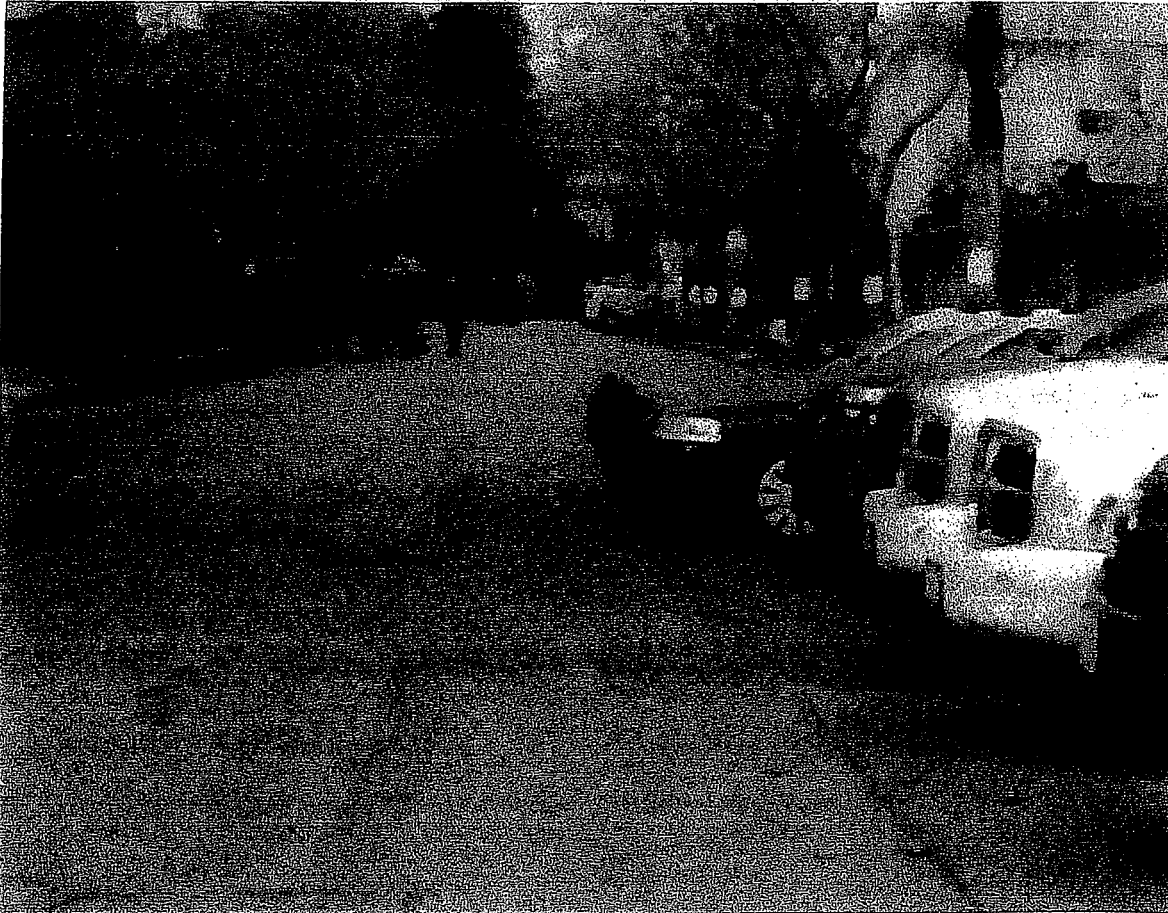
Neighbor Ben Wolfson said he was ticketed and his car was towed — which cost him \$300 to retrieve. He is contesting the ticket.

Greenwood gave Wolfson his business card and told him he would try to refund him for the tow and the citation,



explaining that police were "short for time" when they towed cars with little notice. "Bottom line is, we want to make it right," he said.

The neighbors also said they were upset about the way they were treated when they tried to get home after the blockades were up.



Police cars replaced residents' cars on Dec. 6 after the Berkeley Police Department ordered neighbors to park elsewhere. Photo: Mara Van Ellis

While walking home, neighbor Ginger Lindsay said police "started screaming" at her to stop when she came within half a block of McKinley. She kept walking and said she wondered, "Am I going to get shot? ... I did not feel safe."

Similarly, John Madill was outraged that police demanded to know where he lived in order to be let onto his block. "My civil rights were violated," he said. "They asked me where I lived. I said, 'I don't have to tell you that.'"

McDonnell expressed frustration that the police area coordinator for the neighborhood didn't respond all week to phone calls and emails requesting information. Greenwood said the officer in question had been working on another project and promised that he would be the go-to officer for information in the future.

There needed to be a better plan and better communication with neighbors, said Greenwood, who told neighbors he would look into alternate staging spaces for the future. "Nothing's preventing us from doing that," he said.

### Read more about Berkeley protests on Berkeleyside.

Things improved on Dec. 13, after police put up "no parking" signs in anticipation that protests in Oakland might come toward Berkeley. This time, they emailed the neighbors to let them know about the situation beforehand, and met with them outside at 3:30 p.m. Residents of McKinley were allowed to park on the west side of the street. A portable toilet was erected for police to use, and officers at the barricades were instructed to ask for the addresses of people who were coming and going, but not to demand to see identification.

Protesters didn't come near Berkeley on Dec. 13, so the department didn't call in reinforcements. However, Lindsay said she was "delighted" with the changes the police had made so far. "I think they've made big strides," she said. "Of course, if there's another big night with lots of troops, then we'll see what happens."

Lindsay said she still plans to lodge a complaint by Dec. 20 with the Police Review Commission regarding the lack of policies and procedures governing the seizure of the street.

Neighbors plan to ask for the city to develop a protocol for when traffic barriers are set up to ensure that all residents are treated equally, Lindsay said in an email. Neighbors will also request a transparent procedure for suspending parking regulations that would be overseen by the city council. They also want higher authorities to oversee procedures for blockading and taking over a city block.

McKinley Avenue residents agreed that they don't want their block taken over again.

"They need to not use a residential neighborhood for that kind of militarized staging," Lindsay said. "It's just not appropriate."

Police will continue looking for an alternative staging spot, Greenwood said.





*Mara Van Ellis is an aspiring digital journalist who is pursuing a master's degree at UC Berkeley's Graduate School of Journalism. Van Ellis lives on McKinley Avenue, the street behind the Berkeley Police Department. She identified herself as a neighbor but also as a journalist who might do a story when speaking with officers and neighbors for this story. She attended the community meeting to take notes as a journalist rather than as a neighbor expressing her own opinion.*

#### **Related:**

- Black Student Union leads peaceful march from Berkeley to Oakland (12.13.14)
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**December 16, 2014**

**Dear Longfellow Middle School Neighbors,**

**Tonight the Berkeley City Council will be holding a special council meeting at 5:30 PM at Longfellow School, the designated alternate site for City Council meetings that expect a large audience.**

**The meeting, which may go late into the night, is expected to draw a large crowd which may include protestors who may be loud. The First Amendment allows for the peaceful expression of free speech, including on-going loud and boisterous activity.**

**We wanted to alert you to this meeting and share the following information to mitigate any possible negative effects:**

- **Expect a large number of people walking through the neighborhood.**
- **Though it is expected to rain, there may be a crowd outside the school on Derby St., which is where people will be let into the building.**
- **Consider parking your vehicle in your driveway if possible.**
- **Consider bringing in your trash and recycling bins into your yards and away from the curb**

**If you need police services for a non-emergency issue, please call 981-5900 (non-emergency), or 9-1-1 (emergency) from your home phone, or 981-5911 from your mobile phone.**

**Please feel free to share this information with your neighbors. We are also putting this information out through Nixie and email as well.**

**If you have any questions, please feel free to contact me at 981-5773, or via email [bwhite@ci.berkeley.ca.us](mailto:bwhite@ci.berkeley.ca.us).**

**Ofc. Byron White  
Berkeley Police Department**

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**Berkeley Police Department**

Tuesday December 16th, 2014 :: 12:54 p.m. PST

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Advisory

**Advisory: Tues. Night Demonstration coming to Longfellow Middle School Neighborhood**

[Message Expired](#)

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To Longfellow Middle School and surrounding area Neighbors:

Tonight the Berkeley City Council will be holding a special council meeting at 5:30 PM at Longfellow School, the designated alternate site for City Council meetings that expect a large audience.

The meeting, which may go late into the night, is expected to draw a large crowd which may include protestors who may be loud. The First Amendment allows for the peaceful expression of free speech, including on-going loud and boisterous activity.

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Ofc. Byron White

Berkeley Police Department

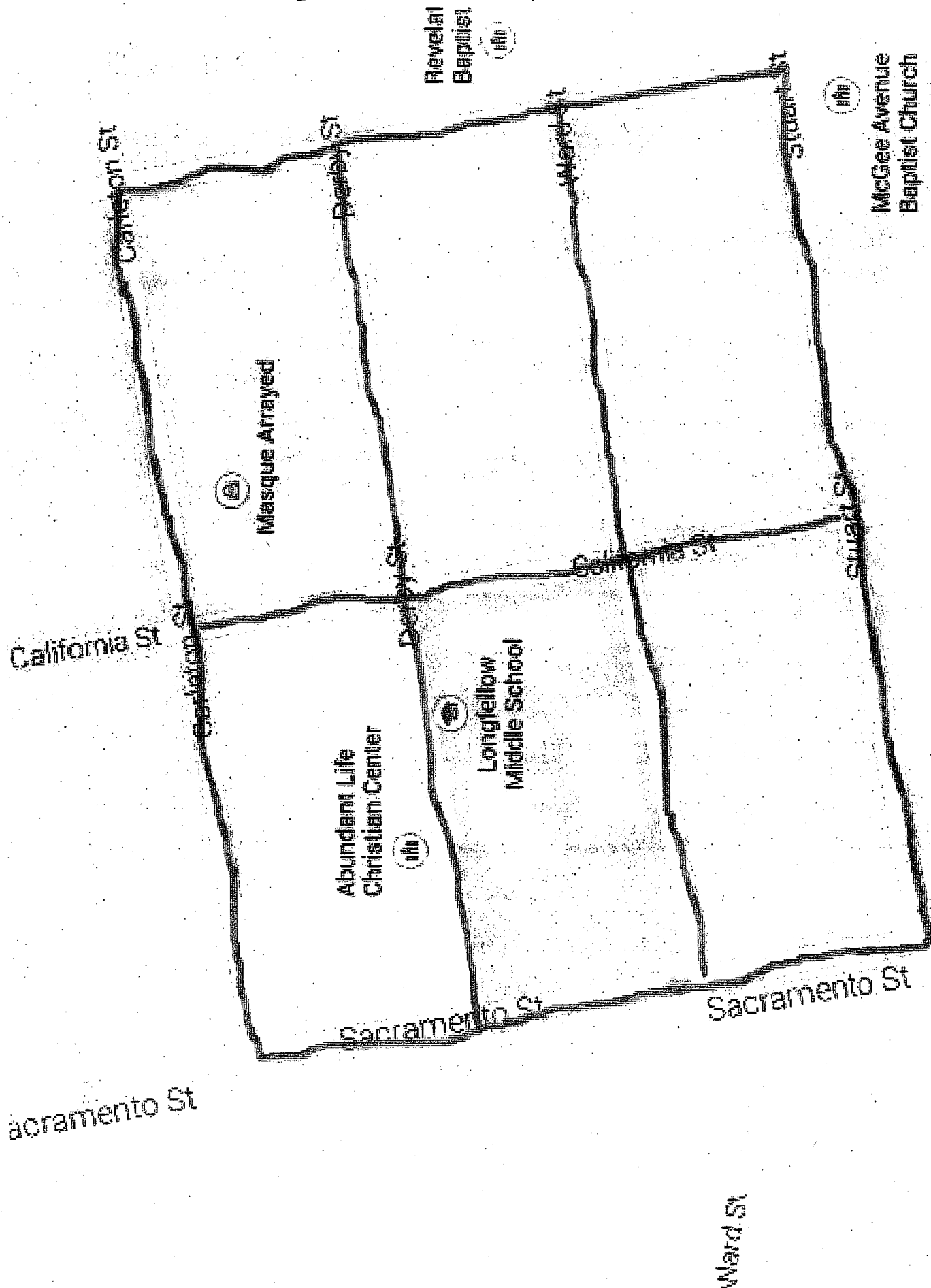
Address/Location  
**Berkeley Police Department**  
2100 Martin Luther King Junior Way  
Berkeley, CA 94704

Contact  
Emergency: 9-1-1  
Non-emergencies: 510-981-5900

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# Areas near Longfellow - Flyer distribution





# BERKELEY POLICE DEPARTMENT

DATE ISSUED: TBD

GENERAL ORDER U-4

SUBJECT: UNUSUAL OCCURRENCES

## PURPOSE

1. The purpose of this Order is to identify planning, operational and coordination responsibilities in the response to and the resolution of unusual occurrences. Unusual occurrences are generally defined as situations, generally of an emergency nature, that result from disasters and civil disturbances.
2. Specific instructions and checklists for handling unusual occurrences are contained in the Event Management Manual maintained in the Operations Watch Commanders office.

## POLICY

3. It is the policy of the Berkeley Police Department to maintain the capability to plan for and respond to unusual occurrences so as to provide for the safety of the community.

## PROCEDURES

4. Whenever possible, a plan will be developed and communicated to all responding personnel prior to any police response. In scheduled events, the mission statement will be in writing and briefed to all assigned personnel prior to deployment. In spontaneous events or incidents, the plan may be communicated verbally, but must still be an integral part of the planning process.
5. As soon as possible in spontaneous events or incidents, and in every instance in scheduled events, an operations plan shall be developed and followed. When events are scheduled in advance, a Special Order will be developed and distributed.
6. In every unusual occurrence, an Event Commander will be appointed. In small scheduled events or spontaneous incidents, the Event Commander may be a Sergeant. In larger operations, the Event Commander may be a Lieutenant. In every instance, the Incident Commander will be identified and his/her identity broadcast to all assigned personnel. Every change of Incident Commander will be logged in all logs maintained by the command post and/or the Communications Center.
7. After-action reports will be the responsibility of the Incident Commander in command at the time the event is over, or as assigned by the Division Commander. A copy of the after-action report will be routed via the chain of command to the Chief of Police.
8. The Operations Captain is responsible for overall planning responses to unusual occurrences. The Captain may delegate this responsibility to a lieutenant.

## BERKELEY POLICE DEPARTMENT

DATE ISSUED: TBD

GENERAL ORDER U-4

9. The Operations Captain is responsible for maintaining liaison with appropriate City, County, State, and Federal officials and agencies, to include attendance at meetings, training sessions and exercise as necessary. This function may be delegated to a lieutenant.

### STAGING SITE CONSIDERATIONS

10. Lengthy, large-scale events may require the establishment of additional staging sites, outside of the Public Safety building and its secure parking lots.
11. Planners shall consider sites other than the 2100 block of McKinley Avenue when determining the most suitable location for staging resources and personnel through a lengthy event or series of events.
12. Planners shall consider the time and duration(s) of the scheduled events, and consider the availability and security of alternative sites including but not limited to City of Berkeley properties, parking lots, and street blocks, Berkeley Unified School District sites, University of California sites, and other commercial sites and parking lots.
13. Planners shall consider likely negative impacts to any area selected as an alternative staging area, including the impacts to residents in or adjacent to the potential staging area. Should a residential street block be selected as a staging site, planner shall ensure a communication plan is in place to inform residents of the anticipated use of the street.
14. Planners shall establish a communication plan assigning specific personnel to provide information to residents of the affected area. For scheduled events, assigned personnel shall contact residents and provide information prior to the onset of the event, and in any case prior to street closures. Assigned personnel shall ensure information is also shared with the City Manager's Office. Information provided to residents shall include, but not be limited to:
  - a) The reason for the need of a staging site;
  - b) The anticipated duration of the operation,
  - c) A designated point-of-contact for BPD
  - d) An offer of a daily meeting opportunity for residents
  - e) Specific plans to provide access to residents, to be applied consistently to all residents.
  - f) An offer to be added to an email list for updates
15. Planners shall establish a site-support plan, to include measures to mitigate negative impacts on residents, including placement of portable toilets, scheduling City clean-up crews, and inspecting the area post-event.

# BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 6, 1995

GENERAL ORDER U-4

SUBJECT: UNUSUAL OCCURRENCES

## PURPOSE

- 1 - The purpose of the General Order is to identify planning, operational and coordination responsibilities in the response to and the resolution of unusual occurrences. Unusual occurrences are generally defined as situations, generally of an emergency nature, that result from disasters and civil disturbances.

Specific instructions and checklists for handling unusual occurrences are contained in the Event Management Manual maintained in the Patrol Lieutenant's Office.

## POLICY

- 2 - It is the policy of the Berkeley Police Department to maintain the capability to plan for and respond to unusual occurrences so as to provide for the safety of the community.

## PROCEDURES

- 3 - Whenever possible, a mission statement (plan) will be developed and communicated to all responding personnel prior to any police response. In scheduled special events, the mission statement will be in writing and briefed to all assigned personnel prior to deployment. In spontaneous events or incidents, the mission statement may be distributed verbally, but must still be an integral part of the planning process.
- 4 - As soon as possible in spontaneous events or incidents, and in every instance in scheduled special events, an operations plan will be developed and followed. When events are scheduled in advance, a Special Order will be developed and distributed.
- 5 - In every unusual occurrence, an Event Commander will be appointed. In small scheduled events or spontaneous incidents, the Event Commander may be a Sergeant. In larger incidents, the Event Commander may be a Watch Commander, the Duty Command Officer, or a Division Commander. **In prolonged civil disorder, the CMT Lieutenant will be the event commander.\*** In every instance, the Event Commander will be identified and his/her identity broadcast to all assigned personnel. Every change of Event Commander will be logged in all logs maintained by command post(s) and communication center(s).
- 6 - After-action reports will be the responsibility of the Event Commander having command at the time the incident is declared over, or as assigned by the Division Commander. A copy of the after-action report will be routed via the chain of command to the Chief of Police.

**BERKELEY POLICE DEPARTMENT**

**DATE ISSUED: September 6, 1995**

**GENERAL ORDER U-4**

- 7 - The Patrol Captain is designated as the individual responsible for planning responses to unusual occurrences. The Patrol Captain may delegate this responsibility to one of the Patrol Lieutenants, or **CMT Commander.\***
- 8 - The Patrol Captain is responsible for maintaining liaison with appropriate City, County, State, and Federal disaster officials and agencies, to include attendance at meetings, training sessions and exercises as necessary. This function may be delegated to one of the Patrol Lieutenants.
- 9 - All plans developed to deal with unusual occurrences will be reviewed annually and, when necessary, updated.
- 10 - All equipment designated for use in unusual occurrences, to include Department controlled vehicles and radios, will be inspected monthly by the using Division/Bureau and noted deficiencies will be reported in the Monthly Management Report.

**References: CALEA Standards  
Event Management Manual  
CMT Manual\***

## **2016 PRC REGULATIONS HIGHLIGHTS**

### **\*Shortens investigatory deadlines for individual complaints**

- Prioritizes that BOI-eligible cases should be completed to meet 120-day deadline for imposition of discipline as set by MOU between City and BPA.
- Establishes a goal of having the BOI hearing packet issue in 80 days.
- Shortens time for issuing BOI findings in timely-filed cases.

### **\*Broadens complaint process for criminal defendants**

- Individuals subject to criminal proceedings related to potential PRC complaint may delay filing until adjudication of criminal case.

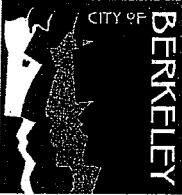
### **\*Elevates late-file cases**

- In these cases, subject officers must appear before BOIs and these cases may be considered for imposition of discipline

### **\*Extends time for mediation selection**

- Complainants may opt for mediation until time that BOI is scheduled.





Police Review Commission (PRC)

April 6, 2016

To: Police Review Commissioners

From: Katherine J. Lee, PRC Officer 

Re: Background on Process and Description of Changes to PRC Regulations for Handling Complaints Against Members of the Police Department, Finalized March 28, 2016

## I. Process

The Regulations Subcommittee was constituted in July 2013 and met four times that year. It was the most active subcommittee in 2014, meeting 12 times in six months to perform a comprehensive review of the Regulations. The full Commission adopted all the Subcommittee's proposed revisions, with some minor modifications, over two meetings in July 2014.<sup>1</sup> In August 2014, the PRC Officer sent the changes to the City Manager with a request to advise whether any were subject to meet-and-confer with the BPA.

(Meanwhile, in June 2014 the Commission adopted revisions to bolster the confidentiality provisions, after findings in a death case were leaked to the media. These changes did not affect the BPA, and went into effect July 9, 2014.)

For a variety of reasons, including turnover of the City Manager and Deputy City Manager positions, completing the meet-and-confer process with the BPA took quite some time. A set of non-controversial changes was agreed upon on April 15, 2015. The Deputy City Manager asked that they be presented to the PRC to accept, and the PRC did so on May 20, 2015. The second set was signed on March 28, 2016. These are presented for the PRC to accept at its April 13, 2016 meeting.

## II. Changes described

The rest of this memo describes in detail all of the Regulations revisions approved by the PRC and agreed to by the BPA. The group of "streamlining" changes is explained first, followed by a listing of the remaining changes. ***Changes in italics and boldface are modifications to revisions the PRC approved in July 2014 and, in one case, a new revision.***

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<sup>1</sup> One additional revision was adopted in November 2014.

### "Streamlining" changes

A group of changes was designed to streamline the process leading up to the Board of Inquiry (and one post-BOI task), with the goal of increasing the chances that the PRC will issue BOI findings in time for possible consideration in discipline; i.e., within 120 days of the incident date or the date the city has knowledge of the incident.

Essentially, the old two-step report process was converted into a single report that is issued for each BOI.

Formerly, the Regulations called for staff to issue a "Report of Investigation" within 75 days after the complaint is filed. (Sec. III.D.2.) This report includes the allegations, a complaint summary, applicable laws, rules and regulations, and interview transcripts available at that time.

Then, at least 10 business days before the BOI hearing date, staff was to issue the "BOI Hearing Packet." (Sec. VII.B.) It included all materials included in the Report of Investigation, plus a copy of the complaint, a summary of interview statements, additional interview transcripts, police reports, other documentary evidence, and discussion of summary disposition or procedural matters.

The revised Regulations retain the Report of Investigation (and 10-day lead time), but give staff 80 days to complete it, and contemplate that it will include all, or nearly all, the information included in the former BOI Hearing Packet.

The specific changes proposed relating to the above are:

- Section I.B.15 Report of Investigation defined  
Report of Investigation is defined as the Report issued within 80 [formerly 75] days of the complaint filing.
- Section I.B.18 Supplemental Report of Investigation defined  
Deleted [formerly part of the BOI packet].
- Section III.A. [Priority of Investigations]  
New section expresses policy direction that, in recognition of 120-day time limit for discipline, priority of staff shall be, when a BOI is convened, to issue BOI findings within 105 days of complaint filing.
- Section III.C.2. a. and b. Time for Investigation  
New provisions state that PRC staff are to make every effort to complete the Report of Investigation within 80 days of filing; and if it is not done in time, staff must make an oral report to the Commission in closed session explaining why.
- Section III.D.2. Interview notices  
Changes lead time for PRC staff to give subject and witness officers notice of a scheduled interview. **Commission voted to change from 2 weeks to 5 business days; this was negotiated to 9 calendar days.**



- Former Section III.D.2. Report of Investigation  
Language deleted: Report of Investigation shall issue within 75 days of the complaint filing, and, if not timely, would be submitted for administrative closure at the next PRC meeting, unless the Commission found good cause for the delay.  
New language – Section III.F.2.: Upon completion, Report is sent subject officers, reps, Chief, DCO.
- Section VII.B. BOI Hearing Packet  
States what the Hearing Packet sent to BOI Commissioners, BPD, and the complainant contains; the changes here reflect that the Report of Investigation constitutes the bulk of the BOI packet, and deletes references to the Supplemental Report of Investigation.
- Section VIII.E.2. Findings Report and Notification  
Shortens time for issuance of Findings Report to 15 days from 30 days of the BOI hearing, except in late-filed complaints, where the time remains 30 days.

#### Remaining changes

- Section I.B. Definitions
  - 2. "Aggrieved party" added, to clarify and conform to longstanding practice.
  - 8. "Complainant" definition revised to be consistent with "aggrieved party" definition.
  - 10. (former) "Investigation" deleted as unnecessary.
  - 11. "Mediation" revised for clarity.
- Section II.A.2.b. Filing Period
  - The former section stated for late-filed cases, subject officers are not required to appear before a BOI, and the Board's findings will not be considered by the City Manager or Police Chief in imposing discipline. This provision is deleted, meaning that subject officers must appear before a BOI in late-filed cases, and the Board's findings may be considered in disciplinary action.
  - The new section allows a tolling of the 90-day period to file a complaint for anyone who is the subject of a criminal proceeding related to the subject matter of the complaint. The time is tolled until the criminal matter is adjudicated or dismissed. This will address the concerns of persons whose criminal defense lawyers advise them not to file a complaint while their criminal case is pending. ***Commission's original language referred to a "complainant" who is the subject of a criminal proceeding; changed to a "person," because someone who hasn't yet filed is not a complainant.***

- Section II.A.4.a. Sufficiency of Complaint  
The last sentence is new, and clarifies existing policy and interpretation of this section, which is that Commission-initiated complaints are not subject to this section (which requires Complainants to state a prima facie case).
- Section II.4.b. Sufficiency of complaint  
For policy complaints, lengthens time in which it must be brought to the Commission to account for months it does not meet or meets only monthly.
- Section II.B. Mediation
  - 1.a. Allows the Complainant to opt for mediation up until the time a BOI notice is issued
  - 1.c. Revised to delete references to mediation breaking down due to an officer acting bad faith, because the PRC is not informed of the results of mediation, no matter what the outcome. In place of tolling the 120-day disciplinary deadline if the mediation breaks down for an officer's bad faith, it is now tolled if an officer chooses mediation but then changes his/her mind before the mediation begins.
  - 1.e. Makes clear that once both parties have agreed to mediate, the complainant cannot get back on the investigation track (unless the officer withdraws).
  - 2. Again, because the PRC is not informed of the results of mediation, this language is irrelevant.
  - 3. This change conforms the language to actual practice.
- Section VI.E.2. BOIs – Function  
Provision on accepting court dispositions was moved to a more appropriate place, Section VII.E.2., Hearings - Evidence, and broadened to include any judicial court disposition, not just traffic court.
- Section VII.A.1. Scheduling and Notice – BPD Schedules  
***New language to address a situation that arose after Commission approved its Regulation changes.*** Adds language for situations where subject officers don't share a common duty day. Staff has always scheduled BOIs on a days the subject officers are on duty, but when Monday-to-Thursday and Friday-to-Sunday shifts began, this became impossible.
- Section VII.C.4. Continuances
  - b. Adds language stating that continuance request should be considered at a special meeting of the BOI whenever possible.
  - d. For continuance requests made within 3 business days of the hearing, clarifies showing that the requesting party must make.

- Section VII.D.7. and 8. Procedure  
Clarifies the process during the BOI hearing.
- Section VII.E. Evidence  
Deletes definition of hearsay evidence, which was deemed confusing and ultimately unnecessary.
- Section VII.E.1.g) Evidence  
Former language contemplated a BOI receiving evidence without reconvening, but to consider the evidence without doing so would be a Brown Act violation. Preceding subsection expressly refers to possible need for a City Attorney opinion, so that is added as a reason to reconvene.
- Section VIII.B. Majority Vote  
The former language was interpreted by the City Attorney to require five votes for a finding in a death case (relying on Section II.A.3.). Revision changes the requirement to a majority vote of those present.
- Section VIII.F.2. Petition for Rehearing
  - Changes 21 day requirement for Commission to consider a petition for rehearing, to next regularly scheduled meeting, to account for months the PRC does not meet or meets only once.
  - Adds that the one-year investigatory deadline should be tolled, in addition to the existing tolling of the 120-day disciplinary deadline, if the subject officer requests the rehearing.
- Section VIII.F.3. Petition for Rehearing
  - New language spelling out preferred composition of BOI on rehearing.
- Various sections: Changed references from "PRC Officer or Investigator" to "PRC staff."

"Clean-up" language identified by staff

- References to "PRC Officer or Investigator" were changed to "PRC staff" when a section was revised for some other reason. Untouched sections that contain the reference to both the Officer and Investigator should be changed to "staff."
- Some references to section numbers need correcting due to the insertion of Section III.A. and Section IV.

- The PRC adopted Section III.A. without a heading; for consistency, it should have one. ("Priority of Investigations.")
- "Exhibit A" (Report of Mediation) has not been in use since at least 1993 and not been published as part of the Regulations since 2007. Exhibit B (Memorandum from City Manager re Subject Officer Testimony), the sole exhibit to the Regulations, should be Exhibit A.

With strikeouts and underlining

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# ***CITY OF BERKELEY***

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# **REGULATIONS**

**For Handling Complaints Against  
Members of the Police Department**

***Showing all amendments approved as of July 23, 2014 and  
agreed to March 28, 2016.***

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# ***POLICE REVIEW COMMISSION***

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# BERKELEY POLICE REVIEW COMMISSION

## REGULATIONS FOR HANDLING COMPLAINTS AGAINST MEMBERS OF THE POLICE DEPARTMENT

(Adopted May 13, 1975. Amended August 8, 1984; April 30, 1990; May 26, 1993;  
November 7, 2007; July 14, 2010; July 9, 2014; March 28, 2016)

### PREAMBLE

The following procedures for handling complaints against members of the Berkeley Police Department (BPD) have been drawn up in accordance with the enabling Ordinance establishing the Police Review Commission for the City of Berkeley. That Ordinance, No. 4644-N.S., passed by the voters April 17, 1973, was intended to provide prompt, impartial, and fair investigation of complaints brought by individuals against the BPD and these regulations are adopted by the Commission to carry out that purpose.

That Ordinance, by setting up this Commission made up of community residents, is intended to establish a process for reviewing Police Department policies, practices and procedures and for handling individual complaints against members of the BPD that is available to any individual, free of charge and without the need for attorneys or other professional advisors. The Ordinance gives the Commission the power to adopt rules and regulations and develop procedures for its own activities and investigations.

Accordingly, the Commission reserves the right to establish and interpret its procedures in the spirit of the Ordinance and in the best interests of the City of Berkeley, as long as they are consistent with the powers granted to it by the enabling Ordinance, current California case law, the Public Safety Officers Procedural Bill of Rights Act (Gov't Code sections 3300-3319), and Penal Code sections 832.5 and 832.7, governing the confidentiality of peace officer personnel records.

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. Confidential information may be provided through witness testimony or through electronic or hard-copy transmission. Regardless of how the confidential information is communicated, it shall not be disclosed to any unauthorized person or organization, and it is the responsibility of each PRC Commissioner to protect confidential information from unauthorized disclosure. It is vitally important to the integrity of the Berkeley Police Review Commission process that all parties involved understand and adhere to the confidentiality of the process, and do all in their power to protect the privacy rights of Berkeley Police Department employees as required by law.

### I. GENERAL

#### A. Application of Regulations - Confidentiality of Complaint Proceedings

The following regulations govern the receipt and processing of complaints submitted to the Police Review Commission (PRC or Commission). All Board of Inquiry (BOI) and Commission proceedings relating to the investigation of an individual complaint against an officer shall be closed to the public. Records of these investigations shall be treated as confidential and will not be disclosed to members of the public. Any

public records included in, or attached to, any investigative reports shall remain public records, and copies shall be made available to the complainant and subject officer.

B. Definitions.

The following definitions shall apply in these regulations:

1. Administrative Closure: Complaint closure before a BOI hearing: Administrative closure requires a majority vote of the Commissioners, in closed session, at a regularly scheduled meeting, and does not constitute a judgment on the merits of the complaint.
- 1.2. Aggrieved Party: Any person directly affected by the alleged police misconduct. Only an aggrieved party may file a complaint, except that a complaint by an aggrieved minor must be filed by the minor's parent or guardian.
- 2.3. Allegation: A specific assertion of police misconduct by a complainant or the Commission.
- 3.4. Board of Inquiry (BOI): Three Commissioners impaneled to hear and render findings on complaints; a BOI Commissioner is required to sign a confidentiality and nondisclosure agreement.
- 4.5. BOI Hearing Packet: Evidence and information for the hearing, issued no later than 10 business days before the scheduled hearing.
- 5.6. Commissioner: A resident of Berkeley appointed by a City Council member or the Mayor to serve on the PRC.
- 6.7. Complaint: A declaration that alleges misconduct by a Berkeley Police Department (BPD) employee (including employees of the Public Safety Communications Center) while engaged in official duties.
- 7.8. Complainant: Any person-aggrieved party who files a complaint with the PRC; is considered a witness to the complaint during a BOI hearing.
- 8.9. Duty Command Officer (DCO): A sworn BPD officer designated by the BPD's Chief of Police to appear at a Board of Inquiry and answer procedural questions clarifying BPD policy.
- 9.10. Findings Report: Summary of the BOI's findings, provided to the City Manager and the Chief of Police within 30 calendar days of the hearing.
10. Investigation: A formal process of resolving complaints.
11. Mediation: A process of reaching a mutually agreeable resolution to a resolving complaint, s informally, without investigation, in conjunction with which is facilitated by a local mediation agency, if both the complainant and the subject officer agree. Mediation may be considered in all cases except those involving the death of an individual.
12. Policy Complaint: A declaration alleging that a BPD policy, practice or procedure is improper or should be reviewed or revised.
13. PRC Investigator: A person employed by the City Manager and assigned to the PRC to investigate complaints.



14. PRC Officer: A person employed by the City Manager and assigned to the PRC as the office administrator and secretary to the Commission.
15. Report of Investigation: Report issued within 75-80 calendar days of the filing date of the complaint.
16. Subject Officer: A sworn BPD officer, or other BPD employee, against whom a complaint is filed.
17. Summary Dismissal: Dismissal of any or all of the allegations in a complaint prior to the start of a BOI hearing; requires a unanimous vote of the BOI Commissioners, and constitutes a judgment on the merits.
- ~~18. Supplemental Report of Investigation: Report issued no later than 10 business days before a BOI hearing, as part of the BOI Hearing Packet.~~
- ~~19-18. Toll: Stop the running of the clock/investigation timeline.~~
- ~~20-19. Witness Officer: A sworn BPD officer, or other BPD employee, who has personal knowledge of events described in a complaint, but is not the subject officer.~~

## II. INITIATING THE PROCESS

### A. Filing a Complaint

#### 1. Complaint Form

Complaints and policy complaints must be filed on a form provided by the PRC and, except as provided in section 3, signed by the complainant. Non-policy complaint forms will include information about the difference between mediation and an investigation; and language advising a complainant who is the subject of, or has commenced, litigation relating to the incident that gave rise to the complaint to consult an attorney before filing a complaint. Non-policy complaint forms will conclude with the following: "I hereby certify that, to the best of my knowledge, the statements made herein are true. I also understand that my oral testimony before the Board of Inquiry shall be given under oath."

#### 2. Filing Period

- a. To be considered timely, a complaint must be filed within 90 calendar days of the alleged misconduct, except that the 90-day period shall be tolled when a complainant is incapacitated or otherwise prevented from filing a complaint. Any complaint filed after 90 calendar days of the alleged misconduct shall be dismissed, unless accepted as a late-file. A complaint filed between 91 and 180 calendar days of the alleged misconduct must include a late-file form, and can be accepted as a late-file if at least 6 Commissioners find, by clear and convincing evidence, good cause for the complainant's failure to file in a timely fashion. The PRC Officer or Investigator will submit a late-file to the Commission for a vote in closed session at the next regularly scheduled meeting. Any complaint filed after 180 calendar days of the alleged misconduct will not be accepted.

~~b. For late-filed complaints, the subject officer(s) are not required to appear before a Board of Inquiry, and the Board's findings will not be considered in any disciplinary actions by the City Manager or the Chief of Police.~~

b. If a person is the subject of a criminal proceeding related to the subject matter of the complaint, the time for that person to file a complaint shall be tolled until the criminal matter has been adjudicated or dismissed.

### 3. Unavailability of Complainant

If there is no complainant able to initiate a complaint, and in any case where a sworn officer or other BPD employee is involved in a death, 5 Commissioners may vote to authorize an investigation or take such other action they deem appropriate.

### 4. Sufficiency of Complaint

a. ~~Complaints must allege facts that, if true, would establish that misconduct occurred. Complaints that do not allege prima facie misconduct, or are frivolous or retaliatory shall be referred by the PRC Officer or Investigator staff to the Commission for administrative closure at the next regularly scheduled meeting, provided there is sufficient time to give the complainant notice (see Sec. IV(A)(2)), and before the Notice of Allegations is issued. If a majority of the Commissioners agree, the case will be closed; if not, the Notice of Allegations will be issued within 10 calendar days after the date of the vote rejecting the PRC Officer's recommendation for closure, unless the complainant has elected mediation. This Section II.4.a. does not apply to complaints initiated by the Commission under Section II.A.3.~~

b. Policy complaints will be brought to the Commission for discussion or action, within 30 calendar days of filing, or at a the next regularly scheduled meeting of the PRC if the 30 days has expired for discussion or action. If a majority of the Commissioners feel that a policy review is warranted, they may take appropriate action, including, but not limited to, initiating a formal investigation or establishing a subcommittee; a subcommittee, if established, will seek BPD involvement in its review of a BPD policy. Upon completion of its review, the subcommittee will present its conclusions and recommendations to the full Board.

### 5. Right to Representation

Complainants and subject officers have the right to consult with, and be represented by, an attorney or other representative, but an attorney is not required. If PRC staff is notified that a complainant or subject officer is represented by an attorney, PRC staff shall thereafter send copies of any materials and notification provided to the complainant or the subject officer(s) to their representative.

## B. Mediation

### 1. Election

a. ~~The PRC Officer or Investigator staff shall, prior to, or concurrent with, the filing of a complaint, provide the complainant with information about the difference between option to select mediation and an investigation. The~~

complainant may elect to enter into mediation up until notice of the Board of Inquiry hearing has been issued. PRC staff shall make all reasonable every efforts, and document their efforts, to contact the complainant within 2 business days of the filing of the complaint to discuss the complainant's preference, provided the complaint is appropriate for to ensure complainants understand the mediation option.

- b. If the complainant elects mediation, the PRC staff shall provide the subject officer with a copy of the complaint, if not previously provided, and notify him or her of the complainant's election, within 10 calendar5 business days.
- c. If the subject officer agrees to mediation, she or/ he shall notify the PRC Officer or the Investigator staff within 10 calendar days of being informed of the complainant's election. A subject officer who agrees to mediation must agree to toll the City's 120-day disciplinary deadline should the mediation break down and the mediator determine that the officer is acting in bad faith. the officer later withdraw from mediation before the start of the mediation session.
- d. If notice of a Board of Inquiry hearing has been issued, the hearing shall be cancelled upon both parties agreeing to mediation.
- e. Once both parties agree to mediation, the complainant no longer has the option to proceed to a Board of Inquiry hearing unless the subject officer withdraws from mediation.

## 2. Conclusion Notice of completion

- a. ~~Mediation may continue as long as the mediator feels that progress is being made; it may be terminated if the mediator determines that either party is acting in bad faith. If the mediator terminates the mediation because the subject officer is acting in bad faith, the complainant will be advised of his/her right to proceed with the PRC investigation and hearing. If the mediator terminates the mediation because the complainant is acting in bad faith, the PRC Officer or Investigator shall submit the complaint to the Commission for administrative closure.~~
- b. ~~If mediation is successfully concluded, the mediator will provide written notice to the PRC and the BPD within 5 calendar days of the last mediation session. The PRC will consider the matter resolved and the complaint will be submitted for administrative closure.~~

## 3. Records retention

~~Mediation records will be destroyed 1 year from the date of election by the complainant.~~

After receiving notice from the mediator that a mediation has concluded, PRC staff shall close the case and inform the Commission.

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<sup>1</sup>Bad Faith: An intentional dishonest act by not fulfilling legal or contractual obligations, misleading another, entering into an agreement without the intention or means to fulfill it, or violating basic standards of honesty in dealing with others. (West's Encyclopedia of American Law, edition 2, Copyright 2008).

### III. COMPLAINT INVESTIGATION

#### A. Priority of Investigations<sup>2</sup>

Recognizing that the Memorandum of Understanding between the City of Berkeley and the Berkeley Police Association places a 120-day limit on the imposition of officer discipline, it shall be the priority of staff in those cases where a BOI is convened, that the BOI findings be issued within 105 days of the filing of the complaint.

#### B. Notice and Availability of Complaint

##### 1. Notice of Allegations

Within 20 business days of the date a timely-filed complaint is received at the PRC office, unless it is submitted to the Commission for administrative closure or the complainant elects mediation, the Investigator shall prepare a Notice of Allegations. The Notice of Allegations shall be sent in hard copy ~~and, when feasible, or~~ electronically, to the complainant, the Chief of Police and/or BPD Internal Affairs, and, by delivery to the BPD, each identified subject officer. If the Notice of Allegations is not issued in the time required, the PRC Officer or Investigator shall submit the case to the Commission for administrative closure at the next regularly scheduled meeting; the complaint shall be closed, unless the Commission determines that good cause exists for the delay.

##### 2. Availability of Complaint

The complaint shall be available at the PRC office, and a copy shall be provided to the subject officer with the Notice of Allegations. PRC staff shall maintain a central register of all complaints filed.

#### BC. Investigation Process

##### 1. Nature of Investigation

The investigation of a complaint shall consist of conducting recorded interviews with the complainant, the subject officer(s), and any witnesses to the incident that gave rise to the complaint;<sup>3</sup> collecting relevant documentary evidence, including, but not limited to: police reports and records, photographs, and visual or audio records; and issuing a Notice of Allegations, ~~and Report of Investigation, and a Board of Inquiry Hearing (Hearing) Packet.~~

##### 2. Time for Investigation

- a. PRC staff shall make every effort to complete the Report of Investigation within 80 days of filing.
- b. If the Report of Investigation is not completed within 80 days, PRC staff shall make an oral report to the full Commission in a closed session at its next regularly scheduled meeting.

<sup>2</sup> New section approved by the PRC on July 23, 2014, did not include a section heading.

<sup>3</sup> Recordings of interviews shall be kept for 100 days or until the Board of Inquiry's Findings Report has been provided to the City Manager, whichever is later.

c. The investigation must be completed within one year, unless a Government Code Sec. 3304(d) exception applies.

b. ~~d.~~ If the investigation is not completed within one year, the PRC Officer or Investigator shall submit the case to the Commission for administrative closure at the next regularly scheduled meeting; the case shall be closed, unless the Commission determines that a Government Code Sec. 3304(d) exception applies.

c. ~~e.~~ If a Government Code Sec. 3304(d) exception to the one-year limitation period applies, the BOI Hearing Packet shall state the applicable exception.

### 3. Pending Criminal Action

If the complainant or the subject officer is the subject of criminal proceedings related to the matter of the complaint, the PRC shall not undertake an investigation until the criminal matter has been adjudicated or dismissed. All time limitations applicable to the processing of PRC complaints shall be tolled during the pendency of any such criminal proceedings. Within one week of the filing of the complaint, or as soon thereafter as possible, the PRC Officer shall determine the status and anticipated resolution of the criminal proceedings by communicating, in writing, directly with the District Attorney's Office.

## CD. Interviews

### 1. Conduct

Interviews should be conducted in a manner that will produce a minimum of inconvenience and embarrassment to all parties. BPD officer interviews must be conducted in compliance with the Peace Officers Procedural Bill of Rights, Government Code Section 3303. When possible, BPD employees should not be contacted at home, and others should not be contacted at their places of employment.

### 2. Notice

PRC staff shall notify subject and witness officers at least ~~2 weeks~~ 9 calendar days before the ~~a~~ scheduled interview date by providing a hard copy and, when feasible, an electronic mail notification. ~~Follow-up notices will be sent at least one week before the scheduled date.~~ An officer who is unavailable for an interview shall contact the PRC Officer or the Investigator immediately to state the reason for his/her unavailability.

### 3. Exercise of Constitutional Rights

Subject officer testimony shall be required, in accordance with the City Manager's policy (see Exhibit B). While all BPD employees have a right to invoke the Fifth Amendment, they also have a duty to answer questions before the PRC regarding conduct and observations that arise in the course of their employment and may be subject to discipline for failure to respond. The exercise of any or all constitutional rights shall not be considered by the Commission in its disposition of a complaint.

## D. Reports

### ~~E.~~ BPD Reports

- a1. The PRC should receive un-redacted police reports from BPD once the PRC Officer has established and implemented security and chain of custody procedures that satisfy the City Manager and the Chief of Police. Police reports will be redacted when distributed to BOI Commissioners, but un-redacted reports will be available at the PRC Office for BOI Commissioners to review.
- b2. Whenever a PRC investigation is tolled, the Chief of Police shall take appropriate steps to assure preservation of the following items of evidence:
  - 1a) The original Communications Center tapes relevant to the complaint.
  - 2b) All police reports, records, and documentation.
  - 3c) Names, addresses, telephone numbers, and statements of all witnesses.

2F. Report of Investigation

- a1. ~~The PRC Officer or the Investigator~~ staff shall assemble all relevant information in a confidential Report of Investigation. The Report shall list the allegations, provide a summary of the complaint, provide the applicable BPD, state or local rules and regulations, and include a copy of the interview transcripts.
- b2. ~~The Report shall be provided to the subject officers, with a copy to the Chief of Police, within 75 calendar days of the date of filing of the complaint. If the Report is not timely, the PRC Officer or Investigator shall submit the case to the Commission for administrative closure at the next regularly scheduled meeting; the complaint shall be closed, unless the Commission determines that good cause exists for the delay. Upon completion, the Report of Investigation shall be provided to subject officers, and any known representatives, with a copy to the Chief of Police and the Duty Command Officer.~~

IV. CONFIDENTIALITY OF PERSONNEL MATTERS

A. Responsibilities of PRC Commissioners

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. Confidential information may be provided through witness testimony or through electronic or hard-copy transmission. Regardless of how the confidential information is communicated, no Commissioner shall disclose it to any unauthorized person or organization.

B. Conduct

- 1. It is the responsibility of each PRC Commissioner to protect confidential information from unauthorized disclosure.
- 2. At any proceeding in which confidential information was distributed to the Commissioners, each Commissioner shall return all confidential material to the PRC staff at the close of the proceeding or as soon thereafter as practicable.

V. PRE-HEARING COMPLAINT DISPOSITION

A. Administrative Closure

## 1. Grounds

The grounds upon which a complaint may be administratively closed include but are not limited to the following:

- a) Complaint does not allege prima facie misconduct or is frivolous or retaliatory.
- b) Request for closure by complainant.
- c) Unavailability of complainant where staff has attempted at least 3 telephone, electronic mail and/or regular mail contacts. Attempts to reach the complainant by telephone and/or mail shall be documented in the recommendation for Administrative Closure.
- d) Mootness of the complaint including but not limited to situations where the subject officer's employment has been terminated or where the complaint has been resolved by other means (e.g. mediation)
- e) Failure of the complainant to cooperate, including but not limited to: refusal to submit to an interview, to make available essential evidence, to attend a Board of Inquiry hearing, and similar action or inaction by a complainant that compromises the integrity of the investigation or has a significant prejudicial effect.
- f) Failure to timely issue the Notice of Allegations, as set forth in Section III(A)(1).
- g) Failure to timely issue the Report of Investigation, as set forth in Section III(D)(2)(b).
- h) Failure to timely complete its investigation, as set forth in Section III(B)(2).
- i) A policy complaint that has been considered by the Commission.

## 2. Procedure

A complaint may be administratively closed by a majority vote of Commissioners during closed session at a regularly scheduled meeting. The complainant shall be notified of the opportunity to address the commission during closed session at this meeting and such notice shall be sent no later than 5 calendar days prior to said meeting. Cases closed pursuant to this section shall be deemed "administratively closed" and the complainant, the subject officer, and the Chief of Police shall be notified by mail.

A policy complaint may be administratively closed by a majority vote of Commissioners during open session at a regularly scheduled meeting.

## 3. Effect of Administrative Closure

Administrative Closure does not constitute a judgment on the merits of the complaint.

## B. No Contest Response

A subject officer who accepts the allegations of the complaint as substantially true may enter a written response of "no contest" at any time before a hearing. Upon receipt of a "no contest" response, the PRC Officer or Investigator shall refer the file and the response to the City Manager and the Chief of Police for appropriate action.

### C. Waiver of Hearing

Either the complainant or the subject officer may request that findings be rendered without a hearing. If both the complainant and the subject officer sign a written waiver of their right to a hearing, a Board of Inquiry may issue findings based on interview statements and documentary evidence.

## VI. BOARDS OF INQUIRY

### A. Composition

A Board of Inquiry (BOI) shall consist of 3 Commissioners, who shall designate one of them to be Chairperson. In cases involving the death of a person, and in such other cases as the Commission shall determine by a vote of 6 Commissioners, the Commission shall sit as a Board of the whole, with a minimum of 6 Commissioners.

### B. Designation

#### 1. Obligation to Serve

Commissioners will volunteer for dates upon which hearings have been scheduled, without knowledge of the factual dispute to be heard. PRC staff will keep a record of the number of cases heard by each Commissioner, who will be expected to hear an approximately equal number of cases over each three-month period. A BOI Commissioner is required to sign a confidentiality and nondisclosure agreement.

#### 2. Unavailability of BOI Member

If any member of a Board of Inquiry becomes unavailable, s/he shall be replaced by another Commissioner. Notice of this substitution shall be made as soon as possible to the subject officer. If a Commissioner is substituted within 7 calendar days of a Board of Inquiry, the subject officer will retain the right to challenge said Commissioner for cause under Section 4(C) below. The notice of challenge of a substituted Commissioner must be made at least 3 business days prior to the convening of a Board of Inquiry and shall be deemed as just cause for a continuance of the hearing.

#### 3. Effect of Continuance

If a hearing is rescheduled due to the unanticipated unavailability of the complainant(s), the subject officer(s) or the complainant's or subject officer's attorney, the case may be reassigned to another Board of Inquiry. The Board composition shall not change once a hearing has been convened, however.

### C. Challenge of BOI Commissioner

#### 1. Basis for Challenge

A Commissioner who has a personal interest, or the appearance thereof, in the outcome of a hearing shall not sit on the Board. Personal interest in the outcome of a hearing does not include political or social attitudes or beliefs. Examples of personal bias include, but are not limited to:

- a) a familial relationship or close friendship with the complainant or subject officer;



- b) witnessing events material to the inquiry;
- c) a financial interest in the outcome of the inquiry;
- d) a bias for or against the complainant or subject officer.

## 2. Procedure

- a. Within 7 calendar days from the date of mailing of the Board of Inquiry hearing packet, which includes the names of the Commissioners constituting that Board, the complainant or the subject officer(s) may file a written challenge for cause to any Commissioner. Such challenge must specify the nature of the conflict of interest.
- b. The PRC Officer or his/her designee shall contact the challenged Commissioner as soon as possible after receipt of the challenge.
- c. If the Commissioner agrees, PRC Officer or his/her designee shall ask another Commissioner to serve.
- d. If the Commissioner does not agree that the challenge is for good cause, PRC Officer or his/her design shall poll the other members of the Board and, if both agree that the challenge is for good cause, shall inform the challenged Commissioner and ask another to serve.
- e. If a challenge to a Commissioner is rejected, and the Commissioner serves, the written challenge and the Commissioner's written response shall be part of the record of the complaint.

## 3. Replacement of Commissioners

Any Commissioner who is unable to serve for any reason shall be replaced by another Commissioner, except in cases involving a death.

## D. Responsibilities of BOI Commissioners

### 1. Confidentiality

- a. Each Commissioner shall maintain the confidentiality of personnel matters as required under Section IV of these Regulations and by state law.
- b. Consistent with Section IV.B.2., each Commissioner shall return the confidential portions of the Hearing Packet and any other confidential documents to PRC staff at the close of the BOI.

### 2. Conduct

In accordance with the PRC enabling ordinance, which requires that complaint investigations be conducted in a fair and impartial manner, no member of a BOI shall: publicly state an opinion regarding policies that are directly related to the subject matter of a pending BOI complaint; publicly comment on any of the facts or analysis of a pending complaint; or pledge or promise to vote in any particular manner in a pending complaint.

### 3. Violation

- a. A violation of Sections VI.D.1. or VI.D.2. above, before or during a BOI shall automatically disqualify a Commissioner from a BOI.

- b. In addition, a Commissioner or PRC staff may agendize an alleged violation of Sections VI.D.1. or VI.D.2. for discussion and action at a regularly scheduled meeting. Any action adverse to a Commissioner requires a two-thirds vote of the Commissioners present. Such action may include: notice of the violation to the Commissioner's appointing City Councilmember; a communication to the City Council; or a prohibition from sitting on future BOIs for the remainder of the Commissioner's term.

#### E. Function

1. The BOI members shall review the confidential Hearing Packet and the evidence gathered in connection therewith, hear testimony in closed session, prepare findings, and advise the Chief of Police and the City Manager of its findings.
2. ~~The BOI members shall accept court disposition of traffic or parking citations. It shall assume that uncontested citations are justified, and shall make no assumptions regarding dismissed citations.~~

#### F. Subpoena Power

The Commission's subpoena power shall be used to the extent necessary to insure fairness to all parties.

### VII. HEARINGS

#### A. Scheduling and Notice

##### 1. BPD Schedules

The Chief of Police, or his designee, shall provide PRC staff with a subject officer's schedule prior to the scheduling of a hearing. Hearings shall not be held on an officer's regular days off, scheduled vacation, or any authorized leave of absence, except if subject officers in the same complaint do not share a common day on duty. In such cases, a hearing may be scheduled on an officer's regular day off, but not during a scheduled vacation or any authorized leave of absence. PRC staff shall determine the complainant's and the subject officer's availability before scheduling a hearing.

##### 2. Notice

No later than 10 business days before the hearing date, the PRC Officer or the Investigator shall provide written notice of the date, time and location of the hearing, and the composition of the Board of Inquiry, to the complainant, the subject officer(s), any representatives, civilian witnesses, witness officers, the BOI members and the Chief of Police.

#### B. Board of Inquiry Hearing Packet

No later than 10 business days before the hearing date, the PRC Officer or the Investigator shall provide a Hearing Packet to the BOI members, the complainant, the subject officer(s), any representative(s), any witnesses, the DCO and the Chief of Police.

1. ~~The BOI members shall receive a Hearing Packet that distributed to the BOI members shall contains:~~

- ~~a) The PRC Officer's or the PRC Investigator's recommendations, if any, concerning summary disposition or procedural matters.~~
  - ~~b)a) The Report of Investigation referenced in Section III.F.A copy of the complaint.~~
  - ~~e)b) The Supplemental Report of Investigation, which includes a summary of the complaint, a summary of the interview statements, the applicable BPD, state or local rules and regulations, and a brief analysis. Any supplemental evidence or analysis staff deems necessary.~~
  - c) A copy of the complaint, if not contained in the report of investigation.
  - d) Police reports and any other relevant documentary evidence, including evidence submitted by the complainant.
  - e) The PRC staff's recommendations, if any, concerning summary disposition or procedural matters.
  - ~~e) A copy of all the interview transcripts.~~
2. The BOI Hearing Packet distributed to the subject officer(s), the officer's representative, the DCO, and the Chief of Police shall receive a Hearing Packet that contains the documents listed in Section V(B) (1)(a, c, d) above;
- a) Any supplemental evidence or analysis staff deems necessary.
  - b) a copy of the complaint, if not included in the Report of Investigation (Section V(B) (1)(b)) and the interview transcripts (Section V(B) (1)(e)) shall be provided only if they have not been provided previously.
  - c) Any evidence submitted by the complainant.
3. The BOI packet distributed to the complainant shall receive a Hearing Packet that contains:
- a) A copy of the complaint.
  - b) Police reports and any other non-confidential, relevant documentary evidence, including evidence submitted by the complainant.
  - c) A copy of the complainant's interview transcript.
4. Each witness shall receive a copy of his/her interview transcript.

### C. Pre-Hearing Motions

#### 1. Newly Discovered Evidence and/or Witnesses

The complainant and subject officer shall provide any newly discovered evidence or witnesses' names to the PRC Officer or Investigator no later than 10 business days before the scheduled hearing date, with an explanation as to why the evidence or witnesses could not have been discovered earlier and its significance. The PRC Officer or Investigator shall inform the BOI of the newly discovered evidence or witnesses as soon as possible.

The BOI shall decide whether or not to allow the evidence or witnesses no later than 4 business days before the scheduled hearing date, and the PRC Officer or

Investigator shall notify both the complainant and the subject officer of the Board's decision.

2. Procedural Issues

The complainant and subject officer shall raise any procedural issues, by submitting them to the PRC Officer in writing, no later than 5 business days before the scheduled hearing date. Procedural issues can include, but are not limited to, the expiration of the 1-year limitation period and/or whether an officer should testify.

3. Summary Disposition

a. Summary Dismissal

After reviewing the Hearing Packet, the BOI may summarily dismiss any or all of the allegations that it finds clearly without merit, by unanimous vote, on the recommendation of the PRC Officer or Investigator, its own motion, or that of the subject officer. Parties to the complaint shall be notified of the summary dismissal, and may appear to argue for or against summary disposition.

b. Summary Affirmation

After reviewing the Hearing Packet, the BOI may summarily sustain any or all of the allegations that it finds clearly meritorious, by unanimous vote, on the recommendation of the PRC Officer or Investigator, or its own motion. The subject officer shall be notified of the summary affirmation, and may appear to object to the summary affirmation, which shall not occur over the subject officer's objection.

4. Continuances

- a.. A continuance may be granted by a majority of the BOI. In considering whether to grant such a continuance, the BOI members shall consider the reason for the request; the timeliness of the request; the prejudice to the other party; the date of the filing of the complaint; previous continuance requests; and other relevant information.
- b. A continuance request shall be presented to the BOI as soon as the cause for continuance arises. Whenever possible, requests for continuance shall be considered at a specially convened meeting of the BOI. Such a meeting shall be convened in accord with existing procedures and regulations.
- c. A continuance shall not be granted in the absence of good cause.
- d. A request for continuance made within 3 business days of the hearing date shall not be granted unless the ~~moving requesting party can demonstrate a grave is unable to attend due to a personal emergency, or can demonstrate substantial that will unduly prejudice him or her if the hearing is not continued if a continuance is denied.~~
- e. A continuance granted at the request of the subject officer shall toll any BPD disciplinary time period.

D. Procedure

1. All BOI hearings shall be closed to the public. PRC staff may be present during the entirety of the closed hearing, and the DCO shall be present for all but the Commissioners' deliberations.
2. An attorney or other person acting on behalf of any complainant or subject officer may participate in the hearing. However, a representative is not required and the complainant and subject officer is each responsible for insuring his/her counsel's presence at the hearing.
3. If good cause is shown, the BOI may continue the hearing due to the unanticipated unavailability of a witness or a representative.
4. Absent good cause, if the complainant fails to appear within 30 minutes after the scheduled time for the hearing, the complaint will be dismissed. Absent good cause, if the subject officer fails to appear within 30 minutes after the scheduled time for the hearing, the hearing will proceed and the allegations may be sustained.
5. If a third Commissioner fails to appear within 30 minutes after the scheduled time for the hearing, the hearing will be continued until a third Commissioner is seated unless all the parties present agree to proceed with 2 Commissioners. If the hearing proceeds with 2 Commissioners, all findings must be unanimous.
6. The PRC Officer or Investigator will present the complaint, introduce witnesses, if any, and answer appropriate questions addressed to them.
7. The complainant and any civilian witnesses will be called into the hearing room to testify separately; the subject officer and the officer's representative may be present during the complainant's and the civilian witnesses' testimony. The complainant may make a statement or rely on the interview statements, and will then answer questions from the subject officer(s) or the subject officer's representative(s) and the Commissioners. Questioning will then proceed as follows: a) Commissioners may ask questions; b) the subject officer or his or her representative may ask question; c) Commissioners may ask follow-up questions. After questioning is completed, the complainant will have up to 15 minutes to provide a summary of his/her case and/or closing statement.
8. The complainant and any civilian witnesses will each be excused from the hearing room after his/her testimony is completed.
- ~~8-9.~~ 9. The subject officers and any witness officers will be called into the hearing room to testify separately. Any subject officers' representative(s) will be allowed to remain in the hearing room through the duration of all testimony. Each subject officer may make a statement or choose to rely on the interview statements. The subject officer(s) will be questioned by his/her representative first, after which the officer may be questioned by 2 Board members, unless s/he waives this requirement. After questioning is completed, each subject officer will have up to 15 minutes to provide a summary of his/her case and/or closing statement. The subject officers and any witness officers will each be excused from the hearing room after his/her testimony is completed.
- ~~9-10.~~ 10. No person who is present at a BOI hearing shall become the subject of undue harassment, personal attack, or invective. If the Chairperson fails to maintain reasonable order, BPD employees may leave the hearing without prejudice. The

burden shall be upon the BPD employee to establish to the City Manager's satisfaction that his/her reason for leaving was sufficient.

#### E. Evidence

The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. ~~Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. "Hearsay evidence" is evidence of a statement that was made by someone other than the witness testifying at the hearing.~~

##### 1. Evidence shall be taken in accordance with the following provisions:

- a) The complainant and subject officer(s) shall have the right to testify and refer to any relevant documentary evidence and exhibits. If the complainant or subject officer does not testify on his/her own behalf, he/she may be called and examined as if under cross-examination.
  - b) Oral evidence shall be taken only under oath.
  - c) The Chairperson shall exclude irrelevant and unduly repetitious evidence.
  - d) The Chairperson shall exclude unruly or disruptive persons from the hearing.
  - e) The Chairperson will conduct the hearing subject to being overruled by a majority of the BOI members. BOI members shall be primarily responsible for obtaining testimony. The PRC Officer or his/her designee will answer Commissioner's questions on the evidence, points of law, and procedure.
  - f) The City Attorney's opinion will be sought whenever the interpretation of City of Berkeley Ordinance is contested and pivotal in the case, or when a case raises substantial legal issues of first impression.
  - g) If the BOI needs additional evidence or an opinion from the City Attorney to reach its findings, it will may continue the hearing to a future date, unless the parties agree to allow the Board to receive such material in writing without reconvening.
  - h) If upon the petition of either party, the hearing is continued for consideration of motions or points of law, any applicable BPD disciplinary time limit shall be tolled for the period of such continuance.
2. Either party may present to the BOI evidence of the disposition of a related matter by any branch of the judiciary (including but not limited to superior court, traffic court, and small claims court), and the BOI shall accept those findings as true.

### VIII. DELIBERATION AND FINDINGS

#### A. Deliberation

After the hearing has been concluded, the Board will deliberate outside of the presence of the complainant, the subject officer(s), and any witnesses or

representatives. The Board shall not consider any information not received in the Hearing Packet or during the hearing.

**B. Majority Vote**

All action by the Board under Section VIII of these regulations shall be by majority vote of those Commissioners present, ~~except as specified in these procedures.~~

~~A~~Each dissenting member shall set forth the reasons for dissenting in writing, and such dissent shall be circulated in the same manner as the decision of the majority.

**C. Standard of Proof**

No complaint shall be sustained unless it is proven by clear and convincing evidence presented at the hearing or otherwise contained in the record. "Clear and convincing" is more than a preponderance of the evidence, but less than beyond a reasonable doubt.

**D. Categories of Findings**

1. If the evidence shows that the alleged act did not occur, the finding shall be "Unfounded".
2. If the evidence fails to support the allegations, but the allegations cannot be shown as false, the finding shall be "Not Sustained".
3. If the evidence shows that the alleged act did occur, but was lawful, justified, and proper, the finding shall be "Exonerated".
4. If the evidence shows that the alleged act did occur and the action was not justified, the finding shall be "Sustained".

**E. Findings Report and Notification**

1. Within 7 calendar days of the hearing, the PRC office shall inform the complainant and subject officer, in writing, whether the allegation was sustained, not sustained, unfounded or exonerated, and about the right to petition for rehearing.
2. Within ~~30-15~~ calendar days of the hearing, the PRC office shall submit a Finding Report, together with the Hearing Packet, to the City Manager and the Chief of Police, except that for late-filed complaints, the Findings Report shall be filed within 30 calendar days of the hearing.

**F. Petition for Rehearing**

1. Within 15 calendar days of the mailing of the Board's findings, any party to the complaint may petition in writing for a rehearing. A rehearing may be granted only if the applicant establishes that: there is newly discovered, material evidence that, with reasonable diligence, could not have been discovered and produced at the hearing; or, that there was substantial procedural error likely to have affected the outcome.
2. ~~Within 21 calendar days of the~~After receipt of a petition for rehearing by either party, the Commission shall vote in closed session whether to grant or deny it at its next regularly scheduled meeting for which there is adequate time to meet Brown Act requirements. Both the complainant and the subject officer shall receive notice that the Commission will vote on the petition for rehearing. If, by a

majority vote of the Commissioners, a rehearing is granted, it shall be held within 35-60 calendar days of the receipt of the petition. If the officer makes the request, the officer must agree to toll the 120-day disciplinary period and the requirement that the Commission's investigation be completed within one year, provided the request is granted; tolling reverts back to the date the request is submitted and continues until the hearing is concluded and the findings are issued. However, there shall be no tolling if the 120 days has already passed.

3. If a petition for rehearing is granted, the Board of Inquiry shall be composed of the same Commissioners who presided over the original hearing unless circumstances make such composition impossible.

#### IX. AMENDMENT AND AVAILABILITY OF REGULATIONS

- Amendments to the Regulations for Handling Complaints Against Members of the Police Department (Regulations) require a majority vote of the Commission.
- Amendments shall be distributed to Commissioners, the Berkeley Police Association, the City Manager, the City Attorney, and the Chief of Police.
- The PRC office shall maintain a complete set of the current Regulations.



SUBJECT OFFICER TESTIMONY

MEMORANDUM

July 20, 1990

To: Ronald D. Nelson, Chief of Police  
Police Review Commission  
Berkeley Police Association

From: Michael F. Brown, City Manager

Subject: SUBJECT OFFICER TESTIMONY

The purpose of this memorandum is to set forth my policy regarding testimony by accused officers at Police Review Commission (PRC) Boards of Inquiry.

Subject officer testimony has been required since July 1, 1983 based on agreements reached in negotiations between the PRC, the Berkeley Police Association (BPA), and the City Manager's Office (CMO) in the fall of 1982.

The requirement is as follows:

Each Subject Officer, each BPD Member Witness, the Duty Command Officer (DCO), the Complainant, and the Police Review Commission's Investigator shall be present at PRC Boards of Inquiry and shall testify unless otherwise directed by the City Manager.

If the DCO observes actions which in his/her opinion constitute a violation of PRC rules and Regulations, the DCO shall request of the Chairperson that the violation be corrected. If the violation is not corrected, the DCO may direct the Subject Officer to leave the hearing. Such a decision should only be reached under very extreme circumstances after all other means of resolving the situation have failed.

The requirement of the Subject Officer to testify shall not apply in cases where the complaint was filed during the 90-day filing extension period.

The requirements to testify before the PRC shall not apply to non-sworn employees of the Parking Division.



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# **CITY OF BERKELEY**

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# **REGULATIONS**

**For Handling Complaints Against  
Members of the Police Department**

***Effective March 28, 2016***

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# **POLICE REVIEW COMMISSION**

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**POLICE REVIEW COMMISSION OFFICES: 1947 Center Street, First Floor, Berkeley, CA 94704**  
**Tel: 510.981.4950 • TDD: 510.981.6903 • Fax: 510.981.4955**  
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# **BERKELEY POLICE REVIEW COMMISSION**

## **REGULATIONS FOR HANDLING COMPLAINTS AGAINST MEMBERS OF THE POLICE DEPARTMENT**

(Adopted May 13, 1975. Amended August 8, 1984; April 30, 1990; May 26, 1993;  
November 7, 2007; July 14, 2010; July 9, 2014; March 28, 2016)

### **PREAMBLE**

The following procedures for handling complaints against members of the Berkeley Police Department (BPD) have been drawn up in accordance with the enabling Ordinance establishing the Police Review Commission for the City of Berkeley. That Ordinance, No. 4644-N.S., passed by the voters April 17, 1973, was intended to provide prompt, impartial, and fair investigation of complaints brought by individuals against the BPD and these regulations are adopted by the Commission to carry out that purpose.

That Ordinance, by setting up this Commission made up of community residents, is intended to establish a process for reviewing Police Department policies, practices and procedures and for handling individual complaints against members of the BPD that is available to any individual, free of charge and without the need for attorneys or other professional advisors. The Ordinance gives the Commission the power to adopt rules and regulations and develop procedures for its own activities and investigations.

Accordingly, the Commission reserves the right to establish and interpret its procedures in the spirit of the Ordinance and in the best interests of the City of Berkeley, as long as they are consistent with the powers granted to it by the enabling Ordinance, current California case law, the Public Safety Officers Procedural Bill of Rights Act (Gov't Code sections 3300-3319), and Penal Code sections 832.5 and 832.7, governing the confidentiality of peace officer personnel records.

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. Confidential information may be provided through witness testimony or through electronic or hard-copy transmission. Regardless of how the confidential information is communicated, it shall not be disclosed to any unauthorized person or organization, and it is the responsibility of each PRC Commissioner to protect confidential information from unauthorized disclosure. It is vitally important to the integrity of the Berkeley Police Review Commission process that all parties involved understand and adhere to the confidentiality of the process, and do all in their power to protect the privacy rights of Berkeley Police Department employees as required by law.

### **I. GENERAL**

#### **A. Application of Regulations - Confidentiality of Complaint Proceedings**

The following regulations govern the receipt and processing of complaints submitted to the Police Review Commission (PRC or Commission). All Board of Inquiry (BOI) and Commission proceedings relating to the investigation of an individual complaint against an officer shall be closed to the public. Records of these investigations shall be treated as confidential and will not be disclosed to members of the public. Any

Section I.A.

public records included in, or attached to, any investigative reports shall remain public records, and copies shall be made available to the complainant and subject officer.

**B. Definitions.**

The following definitions shall apply in these regulations:

1. **Administrative Closure:** Complaint closure before a BOI hearing. Administrative closure requires a majority vote of the Commissioners, in closed session, at a regularly scheduled meeting, and does not constitute a judgment on the merits of the complaint.
2. **Aggrieved Party:** Any person directly affected by the alleged police misconduct. Only an aggrieved party may file a complaint, except that a complaint by an aggrieved minor must be filed by the minor's parent or guardian.
3. **Allegation:** A specific assertion of police misconduct by a complainant or the Commission.
4. **Board of Inquiry (BOI):** Three Commissioners impaneled to hear and render findings on complaints; a BOI Commissioner is required to sign a confidentiality and nondisclosure agreement.
5. **BOI Hearing Packet:** Evidence and information for the hearing, issued no later than 10 business days before the scheduled hearing.
6. **Commissioner:** A resident of Berkeley appointed by a City Council member or the Mayor to serve on the PRC.
7. **Complaint:** A declaration that alleges misconduct by a Berkeley Police Department (BPD) employee (including employees of the Public Safety Communications Center) while engaged in official duties.
8. **Complainant:** Any aggrieved party who files a complaint with the PRC.
9. **Duty Command Officer (DCO):** A sworn BPD officer designated by the BPD's Chief of Police to appear at a Board of Inquiry and answer procedural questions clarifying BPD policy.
10. **Findings Report:** Summary of the BOI's findings, provided to the City Manager and the Chief of Police.
11. **Mediation:** A process of reaching a mutually agreeable resolution to a complaint, which is facilitated by a local mediation agency.
12. **Policy Complaint:** A declaration alleging that a BPD policy, practice or procedure is improper or should be reviewed or revised.
13. **PRC Investigator:** A person employed by the City Manager and assigned to the PRC to investigate complaints.
14. **PRC Officer:** A person employed by the City Manager and assigned to the PRC as the office administrator and secretary to the Commission.
15. **Report of Investigation:** Report issued within 80 calendar days of the filing date of the complaint.

16. **Subject Officer:** A sworn BPD officer, or other BPD employee, against whom a complaint is filed.
17. **Summary Dismissal:** Dismissal of any or all of the allegations in a complaint prior to the start of a BOI hearing; requires a unanimous vote of the BOI Commissioners, and constitutes a judgment on the merits.
18. **Toll:** Stop the running of the clock/investigation timeline.
19. **Witness Officer:** A sworn BPD officer, or other BPD employee, who has personal knowledge of events described in a complaint, but is not the subject officer.

## **II. INITIATING THE PROCESS**

### **A. Filing a Complaint**

#### **1. Complaint Form**

Complaints and policy complaints must be filed on a form provided by the PRC and, except as provided in section 3, signed by the complainant. Non-policy complaint forms will include information about the difference between mediation and an investigation; and language advising a complainant who is the subject of, or has commenced, litigation relating to the incident that gave rise to the complaint to consult an attorney before filing a complaint. Non-policy complaint forms will conclude with the following: "I hereby certify that, to the best of my knowledge, the statements made herein are true. I also understand that my oral testimony before the Board of Inquiry shall be given under oath."

#### **2. Filing Period**

- a. To be considered timely, a complaint must be filed within 90 calendar days of the alleged misconduct, except that the 90-day period shall be tolled when a complainant is incapacitated or otherwise prevented from filing a complaint. Any complaint filed after 90 calendar days of the alleged misconduct shall be dismissed, unless accepted as a late-file. A complaint filed between 91 and 180 calendar days of the alleged misconduct must include a late-file form, and can be accepted as a late-file if at least 6 Commissioners find, by clear and convincing evidence, good cause for the complainant's failure to file in a timely fashion. The PRC staff will submit a late-file to the Commission for a vote in closed session at the next regularly scheduled meeting. Any complaint filed after 180 calendar days of the alleged misconduct will not be accepted.
- b. If a person is the subject of a criminal proceeding related to the subject matter of the complaint, the time for that person to file a complaint shall be tolled until the criminal matter has been adjudicated or dismissed.

#### **3. Unavailability of Complainant**

If there is no complainant able to initiate a complaint, and in any case where a sworn officer or other BPD employee is involved in a death, 5 Commissioners may vote to authorize an investigation or take such other action they deem appropriate.

**4. Sufficiency of Complaint**

- a. Complaints must allege facts that, if true, would establish that misconduct occurred. Complaints that do not allege prima facie misconduct, or are frivolous or retaliatory shall be referred by the PRC staff to the Commission for administrative closure at the next regularly scheduled meeting, provided there is sufficient time to give the complainant notice (see Sec. V.A.2.), and before the Notice of Allegations is issued. If a majority of the Commissioners agree, the case will be closed; if not, the Notice of Allegations will be issued within 10 calendar days after the date of the vote rejecting the PRC Officer's recommendation for closure, unless the complainant has elected mediation. This Section II.4.a. does not apply to complaints initiated by the Commission under Section II.A.3.
- b. Policy complaints will be brought to the Commission for discussion or action within 30 calendar days of filing or at the next regularly scheduled meeting of the PRC if the 30 days has expired. If a majority of the Commissioners feel that a policy review is warranted, they may take appropriate action, including, but not limited to, initiating a formal investigation or establishing a subcommittee; a subcommittee, if established, will seek BPD involvement in its review of a BPD policy. Upon completion of its review, the subcommittee will present its conclusions and recommendations to the full Board.

**5. Right to Representation**

Complainants and subject officers have the right to consult with, and be represented by, an attorney or other representative, but an attorney is not required. If PRC staff is notified that a complainant or subject officer is represented by an attorney, PRC staff shall thereafter send copies of any materials and notification provided to the complainant or the subject officer(s) to their representative.

**B. Mediation**

**1. Election**

- a. PRC staff shall provide the complainant with information about the option to select mediation. The complainant may elect to enter into mediation up until notice of the Board of Inquiry hearing has been issued. PRC staff shall make every effort to ensure complainants understand the mediation option.
- b. If the complainant elects mediation, the PRC staff shall provide the subject officer with a copy of the complaint, if not previously provided, and notify him or her of the complainant's election, within 5 business days.
- c. If the subject officer agrees to mediation, she or he shall notify PRC staff within 10 calendar days of being informed of the complainant's election. A subject officer who agrees to mediation must agree to toll the City's 120-day disciplinary deadline should the officer later withdraw from mediation before the start of the mediation session.
- d. If notice of a Board of Inquiry hearing has been issued, the hearing shall be cancelled upon both parties agreeing to mediation.



Section II.B.

- e. Once both parties agree to mediation, the complainant no longer has the option to proceed to a Board of Inquiry hearing unless the subject officer withdraws from mediation.
2. Notice of completion  
After receiving notice from the mediator that a mediation has concluded, PRC staff shall close the case and inform the Commission.

### **III. COMPLAINT INVESTIGATION**

#### **A. Priority of Investigations**

Recognizing that the Memorandum of Understanding between the City of Berkeley and the Berkeley Police Association places a 120-day limit on the imposition of officer discipline, it shall be the priority of staff in those cases where a BOI is convened, that the BOI findings be issued within 105 days of the filing of the complaint.

#### **B. Notice and Availability of Complaint**

##### **1. Notice of Allegations**

Within 20 business days of the date a timely-filed complaint is received at the PRC office, unless it is submitted to the Commission for administrative closure or the complainant elects mediation, PRC staff shall prepare a Notice of Allegations. The Notice of Allegations shall be sent in hard copy or electronically, to the complainant, the Chief of Police and/or BPD Internal Affairs, and, by delivery to the BPD, each identified subject officer. If the Notice of Allegations is not issued in the time required, PRC staff shall submit the case to the Commission for administrative closure at the next regularly scheduled meeting; the complaint shall be closed, unless the Commission determines that good cause exists for the delay.

##### **2. Availability of Complaint**

The complaint shall be available at the PRC office, and a copy shall be provided to the subject officer with the Notice of Allegations. PRC staff shall maintain a central register of all complaints filed.

#### **C. Investigation Process**

##### **1. Nature of Investigation**

The investigation of a complaint shall consist of conducting recorded interviews with the complainant, the subject officer(s), and any witnesses to the incident that gave rise to the complaint;<sup>1</sup> collecting relevant documentary evidence, including, but not limited to: police reports and records, photographs, and visual or audio records; and issuing a Notice of Allegations and Report of Investigation.

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<sup>1</sup> Recordings of interviews shall be kept for 100 days or until the Board of Inquiry's Findings Report has been provided to the City Manager, whichever is later.

Section III.C.

2. Time for Investigation

- a. PRC staff shall make every effort to complete the Report of Investigation within 80 days of filing.
- b. If the Report of Investigation is not completed within 80 days, PRC staff shall make an oral report to the full Commission in a closed session at its next regularly scheduled meeting.
- c. The investigation must be completed within one year, unless a Government Code Sec. 3304(d) exception applies.
- d. If the investigation is not completed within one year, the PRC Officer or Investigator shall submit the case to the Commission for administrative closure at the next regularly scheduled meeting; the case shall be closed, unless the Commission determines that a Government Code Sec. 3304(d) exception applies.
- e. If a Government Code Sec. 3304(d) exception to the one-year limitation period applies, the BOI Hearing Packet shall state the applicable exception.

3. Pending Criminal Action

If the complainant or the subject officer is the subject of criminal proceedings related to the matter of the complaint, the PRC shall not undertake an investigation until the criminal matter has been adjudicated or dismissed. All time limitations applicable to the processing of PRC complaints shall be tolled during the pendency of any such criminal proceedings. Within one week of the filing of the complaint, or as soon thereafter as possible, the PRC Officer shall determine the status and anticipated resolution of the criminal proceedings by communicating, in writing, directly with the District Attorney's Office.

D. Interviews

1. Conduct

Interviews should be conducted in a manner that will produce a minimum of inconvenience and embarrassment to all parties. BPD officer interviews must be conducted in compliance with the Peace Officers Procedural Bill of Rights, Government Code Section 3303. When possible, BPD employees should not be contacted at home, and others should not be contacted at their places of employment.

2. Notice

PRC staff shall notify subject and witness officers at least 9 calendar days before a scheduled interview date by providing a hard copy and, when feasible, an electronic mail notification. An officer who is unavailable for an interview shall contact the PRC Officer or the Investigator immediately to state the reason for his/her unavailability.

3. Exercise of Constitutional Rights

Subject officer testimony shall be required, in accordance with the City Manager's policy (see Exhibit A). While all BPD employees have a right to invoke the Fifth Amendment, they also have a duty to answer questions before the PRC regarding conduct and observations that arise in the course of their employment

and may be subject to discipline for failure to respond. The exercise of any or all constitutional rights shall not be considered by the Commission in its disposition of a complaint.

**E. BPD Reports**

1. The PRC should receive un-redacted police reports from BPD once the PRC Officer has established and implemented security and chain of custody procedures that satisfy the City Manager and the Chief of Police. Police reports will be redacted when distributed to BOI Commissioners, but un-redacted reports will be available at the PRC Office for BOI Commissioners to review.
2. Whenever a PRC investigation is tolled, the Chief of Police shall take appropriate steps to assure preservation of the following items of evidence:
  - a) The original Communications Center tapes relevant to the complaint.
  - b) All police reports, records, and documentation.
  - c) Names, addresses, telephone numbers, and statements of all witnesses.

**F. Report of Investigation**

1. PRC staff shall assemble all relevant information in a confidential Report of Investigation. The Report shall list the allegations, provide a summary of the complaint, provide the applicable BPD, state or local rules and regulations, and include a copy of the interview transcripts.
2. Upon completion, the Report of Investigation shall be provided to subject officers, and any known representatives, with a copy to the Chief of Police and the Duty Command Officer.

**IV. CONFIDENTIALITY OF PERSONNEL MATTERS**

**A. Responsibilities of PRC Commissioners**

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. Confidential information may be provided through witness testimony or through electronic or hard-copy transmission. Regardless of how the confidential information is communicated, no Commissioner shall disclose it to any unauthorized person or organization.

**B. Conduct**

1. It is the responsibility of each PRC Commissioner to protect confidential information from unauthorized disclosure.
2. At any proceeding in which confidential information was distributed to the Commissioners, each Commissioner shall return all confidential material to the PRC staff at the close of the proceeding or as soon thereafter as practicable.

## **V. PRE-HEARING COMPLAINT DISPOSITION**

### **A. Administrative Closure**

#### **1. Grounds**

The grounds upon which a complaint may be administratively closed include but are not limited to the following:

- a) Complaint does not allege prima facie misconduct or is frivolous or retaliatory.
- b) Request for closure by complainant.
- c) Unavailability of complainant where staff has attempted at least 3 telephone, electronic mail and/or regular mail contacts. Attempts to reach the complainant by telephone and/or mail shall be documented in the recommendation for Administrative Closure.
- d) Mootness of the complaint including but not limited to situations where the subject officer's employment has been terminated or where the complaint has been resolved by other means (e.g. mediation)
- e) Failure of the complainant to cooperate, including but not limited to: refusal to submit to an interview, to make available essential evidence, to attend a Board of Inquiry hearing, and similar action or inaction by a complainant that compromises the integrity of the investigation or has a significant prejudicial effect.
- f) Failure to timely issue the Notice of Allegations, as set forth in Section III.A.1.
- g) Failure to timely issue the Report of Investigation, as set forth in Section III.C.2.b.
- h) Failure to timely complete its investigation, as set forth in Section III.C.2.d.
- i) A policy complaint that has been considered by the Commission.

#### **2. Procedure**

A complaint may be administratively closed by a majority vote of Commissioners during closed session at a regularly scheduled meeting. The complainant shall be notified of the opportunity to address the commission during closed session at this meeting and such notice shall be sent no later than 5 calendar days prior to said meeting. Cases closed pursuant to this section shall be deemed "administratively closed" and the complainant, the subject officer, and the Chief of Police shall be notified by mail.

A policy complaint may be administratively closed by a majority vote of Commissioners during open session at a regularly scheduled meeting.

#### **3. Effect of Administrative Closure**

Administrative Closure does not constitute a judgment on the merits of the complaint.

Section V.

**B. No Contest Response**

A subject officer who accepts the allegations of the complaint as substantially true may enter a written response of "no contest" at any time before a hearing. Upon receipt of a "no contest" response, the PRC Officer or Investigator shall refer the file and the response to the City Manager and the Chief of Police for appropriate action.

**C. Waiver of Hearing**

Either the complainant or the subject officer may request that findings be rendered without a hearing. If both the complainant and the subject officer sign a written waiver of their right to a hearing, a Board of Inquiry may issue findings based on interview statements and documentary evidence.

**VI. BOARDS OF INQUIRY**

**A. Composition**

A Board of Inquiry (BOI) shall consist of 3 Commissioners, who shall designate one of them to be Chairperson. In cases involving the death of a person, and in such other cases as the Commission shall determine by a vote of 6 Commissioners, the Commission shall sit as a Board of the whole, with a minimum of 6 Commissioners.

**B. Designation**

**1. Obligation to Serve**

Commissioners will volunteer for dates upon which hearings have been scheduled, without knowledge of the factual dispute to be heard. PRC staff will keep a record of the number of cases heard by each Commissioner, who will be expected to hear an approximately equal number of cases over each three-month period. A BOI Commissioner is required to sign a confidentiality and nondisclosure agreement.

**2. Unavailability of BOI Member**

If any member of a Board of Inquiry becomes unavailable, s/he shall be replaced by another Commissioner. Notice of this substitution shall be made as soon as possible to the subject officer. If a Commissioner is substituted within 7 calendar days of a Board of Inquiry, the subject officer will retain the right to challenge said Commissioner for cause under Section VI.B.4.C. below. The notice of challenge of a substituted Commissioner must be made at least 3 business days prior to the convening of a Board of Inquiry and shall be deemed as just cause for a continuance of the hearing.

**3. Effect of Continuance**

If a hearing is rescheduled due to the unanticipated unavailability of the complainant(s), the subject officer(s) or the complainant's or subject officer's attorney, the case may be reassigned to another Board of Inquiry. The Board composition shall not change once a hearing has been convened, however.

**C. Challenge of BOI Commissioner**

**1. Basis for Challenge**

A Commissioner who has a personal interest, or the appearance thereof, in the outcome of a hearing shall not sit on the Board. Personal interest in the outcome of a hearing does not include political or social attitudes or beliefs. Examples of personal bias include, but are not limited to:

- a) a familial relationship or close friendship with the complainant or subject officer;
- b) witnessing events material to the inquiry;
- c) a financial interest in the outcome of the inquiry;
- d) a bias for or against the complainant or subject officer.

**2. Procedure**

- a. Within 7 calendar days from the date of mailing of the Board of Inquiry hearing packet, which includes the names of the Commissioners constituting that Board, the complainant or the subject officer(s) may file a written challenge for cause to any Commissioner. Such challenge must specify the nature of the conflict of interest.
- b. The PRC Officer or his/her designee shall contact the challenged Commissioner as soon as possible after receipt of the challenge.
- c. If the Commissioner agrees, PRC Officer or his/her designee shall ask another Commissioner to serve.
- d. If the Commissioner does not agree that the challenge is for good cause, PRC Officer or his/her designee shall poll the other members of the Board and, if both agree that the challenge is for good cause, shall inform the challenged Commissioner and ask another to serve.
- e. If a challenge to a Commissioner is rejected, and the Commissioner serves, the written challenge and the Commissioner's written response shall be part of the record of the complaint.

**3. Replacement of Commissioners**

Any Commissioner who is unable to serve for any reason shall be replaced by another Commissioner, except in cases involving a death.

**D. Responsibilities of BOI Commissioners**

**1. Confidentiality**

- a. Each Commissioner shall maintain the confidentiality of personnel matters as required under Section IV of these Regulations and by state law.
- b. Consistent with Section IV.B.2., each Commissioner shall return the confidential portions of the Hearing Packet and any other confidential documents to PRC staff at the close of the BOI.

Section VI.D.

2. Conduct

In accordance with the PRC enabling ordinance, which requires that complaint investigations be conducted in a fair and impartial manner, no member of a BOI shall: publicly state an opinion regarding policies that are directly related to the subject matter of a pending BOI complaint; publicly comment on any of the facts or analysis of a pending complaint; or pledge or promise to vote in any particular manner in a pending complaint.

3. Violation

- a. A violation of Sections VI.D.1. or VI.D.2. above, before or during a BOI shall automatically disqualify a Commissioner from a BOI.
- b. In addition, a Commissioner or PRC staff may agendize an alleged violation of Sections VI.D.1. or VI.D.2. for discussion and action at a regularly scheduled meeting. Any action adverse to a Commissioner requires a two-thirds vote of the Commissioners present. Such action may include: notice of the violation to the Commissioner's appointing City Councilmember; a communication to the City Council; or a prohibition from sitting on future BOIs for the remainder of the Commissioner's term.

E. Function

The BOI members shall review the confidential Hearing Packet and the evidence gathered in connection therewith, hear testimony in closed session, prepare findings, and advise the Chief of Police and the City Manager of its findings.

F. Subpoena Power

The Commission's subpoena power shall be used to the extent necessary to insure fairness to all parties.

## VII. HEARINGS

A. Scheduling and Notice

1. BPD Schedules

The Chief of Police, or his designee, shall provide PRC staff with a subject officer's schedule prior to the scheduling of a hearing. Hearings shall not be held on an officer's regular days off, scheduled vacation or any authorized leave of absence, except if subject officers in the same complaint do not share a common day on duty. In such cases, a hearing may be scheduled on an officer's regular day off, but not during a scheduled vacation or any authorized leave of absence. PRC staff shall determine the complainant's and the subject officer's availability before scheduling a hearing.

2. Notice

No later than 10 business days before the hearing date, the PRC Officer or the Investigator shall provide written notice of the date, time and location of the hearing, and the composition of the Board of Inquiry, to the complainant, the subject officer(s), any representatives, civilian witnesses, witness officers, the BOI members and the Chief of Police.

**B. Board of Inquiry Hearing Packet**

No later than 10 business days before the hearing date, PRC staff shall provide a Hearing Packet to the BOI members, the complainant, the subject officer(s), any representative(s), any witnesses, the DCO and the Chief of Police.

1. The BOI Hearing Packet distributed to the BOI members shall contain:
  - a) The Report of Investigation referenced in Section III.F.
  - b) Any supplemental evidence or analysis staff deems necessary.
  - c) A copy of the complaint, if not contained in the report of investigation.
  - d) Police reports and any other relevant documentary evidence, including evidence submitted by the complainant.
  - e) The PRC staff's recommendations, if any, concerning summary disposition or procedural matters.
2. The BOI Hearing Packet distributed to the subject officer(s), the officer's representative, the DCO, and the Chief of Police shall contain:
  - a) Any supplemental evidence or analysis staff deems necessary.
  - b) A copy of the complaint, if not included in the Report of Investigation.
  - c) Any evidence submitted by the complainant.
3. The BOI packet distributed to the complainant shall contain:
  - a) A copy of the complaint.
  - b) Police reports and any other non-confidential, relevant documentary evidence, including evidence submitted by the complainant.
  - c) A copy of the complainant's interview transcript.
4. Each witness shall receive a copy of his/her interview transcript.

**C. Pre-Hearing Motions**

**1. Newly Discovered Evidence and/or Witnesses**

The complainant and subject officer shall provide any newly discovered evidence or witnesses' names to the PRC Officer or Investigator no later than 10 business days before the scheduled hearing date, with an explanation as to why the evidence or witnesses could not have been discovered earlier and its significance. The PRC Officer or Investigator shall inform the BOI of the newly discovered evidence or witnesses as soon as possible.

The BOI shall decide whether or not to allow the evidence or witnesses no later than 4 business days before the scheduled hearing date, and the PRC Officer or Investigator shall notify both the complainant and the subject officer of the Board's decision.

**2. Procedural Issues**

The complainant and subject officer shall raise any procedural issues, by submitting them to the PRC Officer in writing, no later than 5 business days before the scheduled hearing date. Procedural issues can include, but are not



limited to, the expiration of the 1-year limitation period and/or whether an officer should testify.

**3. Summary Disposition**

**a. Summary Dismissal**

After reviewing the Hearing Packet, the BOI may summarily dismiss any or all of the allegations that it finds clearly without merit, by unanimous vote, on the recommendation of the PRC Officer or Investigator, its own motion, or that of the subject officer. Parties to the complaint shall be notified of the summary dismissal, and may appear to argue for or against summary disposition.

**b. Summary Affirmation**

After reviewing the Hearing Packet, the BOI may summarily sustain any or all of the allegations that it finds clearly meritorious, by unanimous vote, on the recommendation of the PRC Officer or Investigator, or its own motion. The subject officer shall be notified of the summary affirmation, and may appear to object to the summary affirmation, which shall not occur over the subject officer's objection.

**4. Continuances**

- a. A continuance may be granted by a majority of the BOI. In considering whether to grant such a continuance, the BOI members shall consider the reason for the request; the timeliness of the request; the prejudice to the other party; the date of the filing of the complaint; previous continuance requests; and other relevant information.
- b. A continuance request shall be presented to the BOI as soon as the cause for continuance arises. Whenever possible, requests for continuance shall be considered at a specially convened meeting of the BOI. Such a meeting shall be convened in accord with existing procedures and regulations.
- c. A continuance shall not be granted in the absence of good cause.
- d. A request for continuance made within 3 business days of the hearing date shall not be granted unless the requesting party is unable to attend due to a personal emergency, or can demonstrate substantial prejudice if a continuance is denied.
- e. A continuance granted at the request of the subject officer shall toll any BPD disciplinary time period.

**D. Procedure**

1. All BOI hearings shall be closed to the public. PRC staff may be present during the entirety of the closed hearing, and the DCO shall be present for all but the Commissioners' deliberations.
2. An attorney or other person acting on behalf of any complainant or subject officer may participate in the hearing. However, a representative is not required and the complainant and subject officer is each responsible for insuring his/her counsel's presence at the hearing.

Section VII.D.

3. If good cause is shown, the BOI may continue the hearing due to the unanticipated unavailability of a witness or a representative.
4. Absent good cause, if the complainant fails to appear within 30 minutes after the scheduled time for the hearing, the complaint will be dismissed. Absent good cause, if the subject officer fails to appear within 30 minutes after the scheduled time for the hearing, the hearing will proceed and the allegations may be sustained.
5. If a third Commissioner fails to appear within 30 minutes after the scheduled time for the hearing, the hearing will be continued until a third Commissioner is seated unless all the parties present agree to proceed with 2 Commissioners. If the hearing proceeds with 2 Commissioners, all findings must be unanimous.
6. The PRC Officer or Investigator will present the complaint, introduce witnesses, if any, and answer appropriate questions addressed to them.
7. The complainant and any civilian witnesses will be called into the hearing room to testify separately; the subject officer and the officer's representative may be present during the complainant's and the civilian witnesses' testimony. The complainant may make a statement or rely on the interview statements. Questioning will then proceed as follows: a) Commissioners may ask questions; b) the subject officer or his or her representative may ask questions; c) Commissioners may ask follow-up questions. After questioning is completed, the complainant will have up to 15 minutes to provide a summary of his/her case and/or closing statement.
8. The complainant and any civilian witnesses will each be excused from the hearing room after his/her testimony is completed.
9. The subject officers and any witness officers will be called into the hearing room to testify separately. Any subject officers' representative(s) will be allowed to remain in the hearing room through the duration of all testimony. Each subject officer may make a statement or choose to rely on the interview statements. The subject officer(s) will be questioned by his/her representative first, after which the officer may be questioned by 2 Board members, unless s/he waives this requirement. After questioning is completed, each subject officer will have up to 15 minutes to provide a summary of his/her case and/or closing statement. The subject officers and any witness officers will each be excused from the hearing room after his/her testimony is completed.
10. No person who is present at a BOI hearing shall become the subject of undue harassment, personal attack, or invective. If the Chairperson fails to maintain reasonable order, BPD employees may leave the hearing without prejudice. The burden shall be upon the BPD employee to establish to the City Manager's satisfaction that his/her reason for leaving was sufficient.

**E. Evidence**

The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.

1. Evidence shall be taken in accordance with the following provisions:
  - a) The complainant and subject officer(s) shall have the right to testify and refer to any relevant documentary evidence and exhibits. If the complainant or subject officer does not testify on his/her own behalf, he/she may be called and examined as if under cross-examination.
  - b) Oral evidence shall be taken only under oath.
  - c) The Chairperson shall exclude irrelevant and unduly repetitious evidence.
  - d) The Chairperson shall exclude unruly or disruptive persons from the hearing.
  - e) The Chairperson will conduct the hearing subject to being overruled by a majority of the BOI members. BOI members shall be primarily responsible for obtaining testimony. The PRC Officer or his/her designee will answer Commissioner's questions on the evidence, points of law, and procedure.
  - f) The City Attorney's opinion will be sought whenever the interpretation of City of Berkeley Ordinance is contested and pivotal in the case, or when a case raises substantial legal issues of first impression.
  - g) If the BOI needs additional evidence or an opinion from the City Attorney to reach its findings, it may continue the hearing to a future date.
  - h) If upon the petition of either party, the hearing is continued for consideration of motions or points of law, any applicable BPD disciplinary time limit shall be tolled for the period of such continuance.
2. Either party may present to the BOI evidence of the disposition of a related matter by any branch of the judiciary (including but not limited to superior court, traffic court, and small claims court), and the BOI shall accept those findings as true.

## **VIII. DELIBERATION AND FINDINGS**

### **A. Deliberation**

After the hearing has been concluded, the Board will deliberate outside of the presence of the complainant, the subject officer(s), and any witnesses or representatives. The Board shall not consider any information not received in the Hearing Packet or during the hearing.

### **B. Majority Vote**

All action by the Board under Section VIII of these regulations shall be by majority vote of those Commissioners present. Each dissenting member shall set forth the reasons for dissenting in writing, and such dissent shall be circulated in the same manner as the decision of the majority.

### **C. Standard of Proof**

No complaint shall be sustained unless it is proven by clear and convincing evidence presented at the hearing or otherwise contained in the record. "Clear and convincing" is more than a preponderance of the evidence, but less than beyond a reasonable doubt.

**D. Categories of Findings**

1. If the evidence shows that the alleged act did not occur, the finding shall be "Unfounded."
2. If the evidence fails to support the allegations, but the allegations cannot be shown as false, the finding shall be "Not Sustained."
3. If the evidence shows that the alleged act did occur, but was lawful, justified, and proper, the finding shall be "Exonerated."
4. If the evidence shows that the alleged act did occur and the action was not justified, the finding shall be "Sustained."

**E. Findings Report and Notification**

1. Within 7 calendar days of the hearing, the PRC office shall inform the complainant and subject officer, in writing, whether the allegation was sustained, not sustained, unfounded or exonerated, and about the right to petition for rehearing.
2. Within 15 calendar days of the hearing, the PRC office shall submit a Findings Report, together with the Hearing Packet, to the City Manager and the Chief of Police, except that for late-filed complaints, the Findings Report shall be filed within 30 calendar days of the hearing.

**F. Petition for Rehearing**

1. Within 15 calendar days of the mailing of the Board's findings, any party to the complaint may petition in writing for a rehearing. A rehearing may be granted only if the applicant establishes that: there is newly discovered, material evidence that, with reasonable diligence, could not have been discovered and produced at the hearing; or, that there was substantial procedural error likely to have affected the outcome.
2. After receipt of a petition for rehearing by either party, the Commission shall vote in closed session whether to grant or deny it at its next regularly scheduled meeting for which there is adequate time to meet Brown Act requirements. Both the complainant and the subject officer shall receive notice that the Commission will vote on the petition for rehearing. If, by a majority vote of the Commissioners, a rehearing is granted, it shall be held within 60 calendar days of the receipt of the petition. If the officer makes the request, the officer must agree to toll the 120-day disciplinary period and the requirement that the Commission's investigation be completed within one year, provided the request is granted; tolling reverts back to the date the request is submitted and continues until the hearing is concluded and the findings are issued. However, there shall be no tolling if the 120 days has already passed.
3. If a petition for rehearing is granted, the Board of Inquiry shall be composed of the same Commissioners who presided over the original hearing unless circumstances make such composition impossible.

**IX. AMENDMENT AND AVAILABILITY OF REGULATIONS**

- Amendments to the Regulations for Handling Complaints Against Members of the Police Department (Regulations) require a majority vote of the Commission.
- Amendments shall be distributed to Commissioners, the Berkeley Police Association, the City Manager, the City Attorney, and the Chief of Police.
- The PRC office shall maintain a complete set of the current Regulations.

**SUBJECT OFFICER TESTIMONY**

**MEMORANDUM**

July 20, 1990

To: Ronald D. Nelson, Chief of Police  
Police Review Commission  
Berkeley Police Association

From: Michael F. Brown, City Manager

Subject: SUBJECT OFFICER TESTIMONY

The purpose of this memorandum is to set forth my policy regarding testimony by accused officers at Police Review Commission (PRC) Boards of Inquiry.

Subject officer testimony has been required since July 1, 1983 based on agreements reached in negotiations between the PRC, the Berkeley Police Association (BPA), and the City Manager's Office (CMO) in the fall of 1982.

The requirement is as follows:

Each Subject Officer, each BPD Member Witness, the Duty Command Officer (DCO), the Complainant, and the Police Review Commission's Investigator shall be present at PRC Boards of Inquiry and shall testify unless otherwise directed by the City Manager.

If the DCO observes actions which in his/her opinion constitute a violation of PRC rules and Regulations, the DCO shall request of the Chairperson that the violation be corrected. If the violation is not corrected, the DCO may direct the Subject Officer to leave the hearing. Such a decision should only be reached under very extreme circumstances after all other means of resolving the situation have failed.

The requirement of the Subject Officer to testify shall not apply in cases where the complaint was filed during the 90-day filing extension period.

The requirements to testify before the PRC shall not apply to non-sworn employees of the Parking Division.

# 5 CORE FUNCTIONS OF SB1286

Under SB 1286

Under existing law

<p>When police kill someone, the investigation and any discipline imposed is secret.</p>	<p>Investigations, including any discipline or corrective action open to the public.</p>
<p>The public cannot find out if an officer has been disciplined for use of excessive force, or wrongful search or arrest.</p>	<p>When a department finds that an officer violated someone's rights or engaged in job-related dishonesty, the investigation and discipline would be public.</p>
<p>People who file complaints are only told whether the officer was found to have violated policy or not.</p> <ul style="list-style-type: none"> <li>If the complaint is rejected, the officer could sue.</li> <li>If the complaint is found valid, they may sue the officer and the department due to cover the problem.</li> </ul>	<p>People who file complaints would be given factual findings to explain the results as well as the discipline imposed.</p>
<p>Cities can have civilian complaint review boards to adjudicate complaints and boards to hear appeals from officers' discipline. But since a Supreme Court ruling in 2006, these hearings have been confidential and closed to the public.</p>	<p>Local jurisdictions that have civilian boards could choose to have public hearings on civilian complaints or appeal from officer discipline.</p>
<p>Confidentiality can limit access to officer personnel records in civilian oversight bodies outside the police department. Including independent auditors or even city council or boards of supervisors.</p>	<p>The law would allow local government entities charged with oversight to access personnel records starting 90 days after the individual's complaint.</p>







## SB 1286 (Leno)

### Enhance Community Oversight on Police Misconduct and Serious Uses of Force

When a police officer shoots a community member or are proven to violate someone's rights, the community deserves to know what happened. More importantly, we deserve to know how the department responded — whether police standards for use of force and officer misconduct match the communities' values and whether the system to hold officers accountable to those standards is working.

But California law keeps all investigations and discipline of police officers secret, even for deadly shootings or when an officer's own department finds they violated someone's rights. On information about police, California is one of the most secretive states in the nation. More than twenty-five states have greater public access to records, available whether or not the department finds misconduct occurred.

**Senate Bill 1286, introduced by Sen. Mark Leno, will help make police transparent and accountable to the communities they serve.** The legislation will make available critical information on how the police departments handle the most serious use of force incidents and confirmed cases of misconduct.

#### WHAT YOU SHOULD KNOW

##### SB 1286 will:

1. Allow public access to investigations, findings and discipline information on serious uses of force by police.
2. Allow public access to information on police misconduct.
3. Affirm that you have a right to be able to track your misconduct complaints and see what the police department is doing about it.
4. Allow local governments that choose to establish civilian review boards or appeal boards for officer discipline to have those boards hold open public hearings.
5. Give power back to civilian oversight bodies to effectively monitor police.

Keeping records of police misconduct secret hurts public trust in law enforcement, particularly within communities that suffer the most from police harassment and brutality. A recent Pew Research Center poll found that only 30% of Americans, and just 10% of African Americans, believe law enforcement agencies are doing a good or excellent job of holding officers accountable for misconduct. Separate polling data shows that nearly 80% of Californians believe the public should have access to the findings of police misconduct.



We've seen far too many people killed at the hands of law

**For more information about SB 1286, please contact:**  
Charlie Fredrick, Senior Organizer - [cfredrick@aclunc.org](mailto:cfredrick@aclunc.org)  
Chauncey Smith, Legislative Advocate - [csmith@acluca.org](mailto:csmith@acluca.org)



# Statewide Poll Finds a Majority of California Voters Want More Transparency with How Police Misconduct Cases are Handled

A July 2015 poll conducted by Tulchin Research found that likely California voters *overwhelmingly favor* making public the findings from investigations into police misconduct. Support for reform carries across ethnicities and party lines.

## A Lack of Transparency and Accountability

California laws are some of the most secretive in the country when it comes to police misconduct, placing statutory barriers around details of investigations into shootings, racial profiling, sexual assault, and other wrong-doing by police officers.

However, Tulchin Research's poll indicates that California voters are ready for major reforms, finding widespread support for lifting the veil of police secrecy.

<b>Support for Public Access to Police Misconduct Investigations</b>	
<i>In cases where police commit misconduct, do you think the public should have access to the findings and conclusions of investigations into these acts of misconduct?</i>	
	Yes
<b>All California Voters</b>	75%
<b>Ethnicity</b>	
Black	91%
Latino	81%
Asian	84%
White	76%
<b>Party</b>	
Democrats	87%
Republicans	67%
Independents	76%

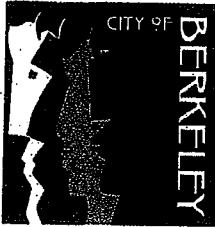
## SB 1286: A Sensible Solution

SB 1286 would increase transparency and accountability with the following changes to current law:

1. Allow the public to access records related to sustained charges of serious misconduct, including sexual assault, racial or identity profiling, illegal search or seizure, job-related dishonesty, or legal violation of the rights of a member of the public, among others.
2. Allow the public to access records relating to any use of force that causes or is likely to cause death or serious bodily injury.
3. Allow people who file complaints alleging misconduct to access basic information related to the complaint, including whether the complaint was sustained, the factual findings, and any discipline imposed or corrective actions taken.
4. Allow localities to determine if they would like to hold public hearings and administrative appeals based on allegations of peace officer misconduct.
5. Allow law enforcement records to be withheld if a court determines that a privacy interest outweighs the public's interest in disclosure, or if there is a showing of a significant danger to an officer or another person.

Read the full poll memo at [www.aclunc.org/transparency](http://www.aclunc.org/transparency)





Police Department

March 15, 2016

To: Katherine J. Lee, PRC Officer

From: Michael Meehan, Chief of Police *MM*

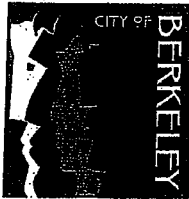
Re: Inventory of Less-than-lethal Weapons and Munitions

The Berkeley Police Department conducted an inventory of less-than-lethal weapons and munitions on February 19, 2016. The 37 mm launchers have smooth bores and are currently used for training purposes only. One 40 mm launcher is out of service while being repaired. An estimate of when it may be back in service is not available.

MAKE	MODEL	Caliber	Type	Year	Comments	#
CTS	4300	40 mm	Liquid Barricade/Training Rounds	2008		3
CTS	4300	40 mm	Liquid Barricade/Training Rounds	2010		17
CTS	4330	40 mm	Liquid CS Barricade Rounds	2008		31
CTS	4330	40 mm	Liquid CS Barricade Rounds	2010		8
CTS	3230	37 mm	Riot CS Smoke Projectile	2003	Training only	11
CTS	4230	40 mm	Riot CS Smoke Projectile	2010		6
CTS	3233	37 mm	Riot CS Smoke Multi-Projectile	2003	Training only	11
CTS	4210	40 mm	White Smoke Projectile	2008		24
CTS	4210	40 mm	White Smoke Projectile	2010		5
CTS	4630	40 mm	Riot CS Powder, Muzzle Blast	2010		16
CTS	4630	40 mm	Riot CS Powder, Muzzle Blast	2014		15
CTS	4557	40 mm	Foam Baton	2014/2015		191
CTS	T4557	40 mm	Training, reloadable Foam Baton	n/a		75
Fed Labs		37 mm	single round launcher		Training only	7
Penn Arms	GL1	40 mm	single round launcher			5
Penn Arms	PGL65	40 mm	multi-round launcher		*1 launcher out of service for repairs	2*
FN Herstal	FN-303	18 mm	multi-round launcher			2

cc: Firearm and Tactics Unit, Specialty Weapons Coordinator





Police Review Commission (PRC)

March 23, 2016

Dee Williams-Ridley  
City Manager  
2180 Milvia Street  
Berkeley, CA 94704

Re: Police Chief's consideration of PRC Board of Inquiry findings when imposing discipline

Dear Ms. Williams-Ridley,

Members of the Police Review Commission have had a series of discussions regarding their role in the imposition of discipline on police officers when allegations are sustained in a PRC Board of Inquiry. We were surprised to learn that following an investigation by the Internal Affairs Bureau, Chief Meehan does not wait for the PRC's findings before making a decision about whether and what type of discipline is imposed.

While the Chief said that he occasionally finds the PRC's BOI findings to be helpful, he does not feel it necessary to wait for result before issuing his decisions because he considers the process done when he has all the information from the IAB investigation.

Of course, the PRC is mindful of the 120-day deadline to impose discipline under the City's MOU with the Berkeley Police Association, and we do not expect the Chief to wait for the PRC when doing so will cause him to miss that deadline. Also, in the recent past, the PRC's BOIs were more often than not held after 120 days from the complaint filing date. Last year, however, PRC staff made great strides in improving timeliness, issuing findings in in less than 120 days in seven of nine BOIs it convened.

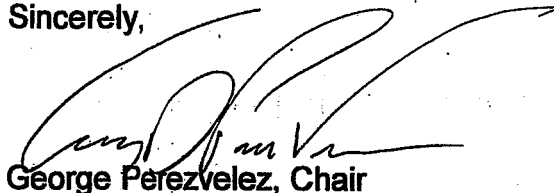
The PRC finds the Chief's reluctance to delay his discipline decisions, when he has time to do so, unacceptable. BOIs represent a substantial investment of time and resources. Furthermore, BOIs are essential to the PRC's fulfillment of its duties under the enabling ordinance to investigate complaints and make recommendations.

Therefore, the PRC requests that you direct the Chief of Police to wait, whenever possible, for the PRC's findings following a Board of Inquiry, before making a final decision whether to impose discipline on a police officer. If staff determines that provisions in the Regulations For Handling Complaints Against Members of the Police Department must be amended to speed up the process of investigating complaints and bringing them to a BOI hearing, and if such changes require a meet-and-confer with the BPA, the PRC requests that negotiations with the union be made a priority.

These requests were passed unanimously at the PRC's March 9, 2016 meeting.

The undersigned would be happy to meet with you to further discuss these requests if you wish.

Sincerely,



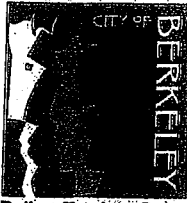
George Perezvelez, Chair  
Police Review Commission



Ayelet Waldman, Member  
Police Review Commission

cc: Michael Meehan, Chief of Police  
Zach Cowan, City Attorney  
Chris Stines, BPA President





Police Review Commission (PRC)

March 31, 2016

To: Michael Meehan, Chief of Police

From: Katherine J. Lee, PRC Officer *KJL*

Re: PRC Recommendation Regarding General Order on The Right to Watch

As you are aware, the Police Review Commission has spent several recent meetings discussing the BPD's General Order W-01, The Right to Watch. This policy has undergone intense scrutiny because the PRC considers it an important tool in holding police officers accountable. Even though BPD command staff told the PRC that the General Order issued on July 21, 2015 was not intended to narrow the public's right to observe and record, from what was allowed under Training & Information Bulletin No. 91, the PRC remained concerned.

Thus, the PRC carefully considered BPD's proposed revision to G.O. W-01. At the PRC's March 23, 2016 meeting, the Commission was presented with the San Francisco Police Department's General Order 5.07, Rights of Onlookers. After studying it, the Commission considered the following motion:

That the Police Review Commission recommend to the Berkeley Police Department that, in lieu of the draft General Order W-01, the BPD adopt the existing SFPD General Order 5.07, except that: 1) in Section I.B.2. of that order, the word "investigation" replace "interrogation"; and 2) references to jurisdiction-specific codes and orders be changed to reflect equivalent Berkeley policies.

This motion passed unanimously (with three Commissioners absent).

A copy of the SFPD's General Order 5.07 is attached for your convenience.

Please advise if you have questions or wish to further discuss this with the PRC.

Attachment

cc: Police Review Commissioners (w/o attachment)

### RIGHTS OF ONLOOKERS

This order establishes policies regarding when persons are permitted to remain as onlookers, their right to overhear conversations between the officer and suspect, and their right to act as a witness.

#### I. POLICY

A. **WITNESSING STOPS, DETENTIONS, ARRESTS.** It is the policy of this Department that persons not involved in an incident be allowed to remain in the immediate vicinity to witness stops, detentions and arrests of suspects occurring in public areas, except under the following circumstances:

1. When the safety of the officer or the suspect is jeopardized.
2. When persons interfere or violate law.
3. When persons threaten by words or action, or attempt to incite others to violate the law.

B. **OVERHEARING CONVERSATION.** If the conditions at the scene are peaceful and sufficiently quiet, and the officer has stabilized the situation, persons shall be allowed to approach close enough to overhear the conversation between the suspect and the officer, except when:

1. The suspect objects to persons overhearing the conversation.
2. There is a specific and articulable need for confidential conversation for the purpose of police interrogation.

#### C. INQUIRIES

1. Persons shall be permitted to make a short, direct inquiry as to the suspect's name and whether the officer or the suspect wishes a witness. The suspect shall be allowed to respond to the inquiry.
2. If a citizen is a witness to the activity for which the suspect was detained or arrested, the officer may request his/her name; however, the citizen is not compelled to disclose such information.

D. **BYSTANDER FILMING OF OFFICER-SUSPECT CONTACTS.** It is increasingly common for bystanders, who are not involved in any criminal

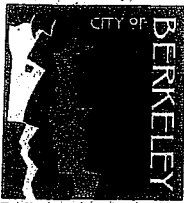
activity, to record contacts between officers and citizens, during which officers are detaining, citing or arresting a suspect or engaging in crowd control at a demonstration. Bystanders have the right to record police officer enforcement activities by camera, video recorder, or other means (except under certain narrow circumstances as set forth in Sections A and B above).

1. An officer shall not seize, compel or otherwise coerce production of these bystander recordings by any means without first obtaining a warrant. Without a warrant, an officer may only request, in a non-coercive manner, that a bystander voluntarily provide the film or other recording. These requests should be made only if the officer has probable cause to believe that a recording has captured evidence of a crime and that the evidence will be important to prosecution of that crime. If a bystander refuses to voluntarily provide the recording, an officer may request the person's identity as provided in Section C., 2., above.
2. If a bystander voluntarily provides his or her recording and/or equipment, the officer shall provide the bystander with a receipt (SFPD 315). The receipt shall contain a written statement verifying that the recording and/or equipment has been voluntarily provided to the Department and shall be signed by the bystander.

E. **VIOLATIONS/COMPLIANCE.** As an alternative to arresting an onlooker who is in violation of Penal Code Section 148 or other related offenses (e.g., 647 c P.C., 22 Municipal Police Code) officers may order onlookers to "move on"; however, the person shall not be ordered to move any farther distance than is necessary to end a violation (see DGO 5.03, Investigative Detentions and DGO 6.11, Obstruction of Streets and Sidewalks). Persons who believe that an officer did not comply with the provisions of this order shall be referred to an appropriate supervisor or to the Office of Citizen Complaints.

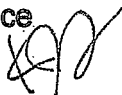
#### References

- DGO 5.03, Investigative Detentions
- DGO 6.02, Physical Evidence
- DGO 6.11, Obstruction of Streets and Sidewalks
- DGO 6.15, Property Processing



March 31, 2016

To: Michael Meehan, Chief of Police

From: Katherine J. Lee, PRC Officer 

Re: Status of post-incident review recommendations nos. 1, 14, 15, 31 and 32

This query pertains to several recommendations made by BPD in its "Response to Civil Unrest" post-December 2014 review: numbers 1, 14, 15, 31 and 32. The Police Review Commission would like to know what steps the BPD has taken, or plans to take, to carry out these recommendations. (None of them are part of the work of the General Orders on Crowd Control, etc. Subcommittee.) The Commission prefers a written response, if possible. Depending on the answers, the Commission might want to discuss them with you at a PRC meeting.

*Recommendation #1* - We recommend the Department get clarity on the availability of regional radio interoperability for common encrypted radio channels to improve communications with mutual aid partners during large scale events.

*Recommendation #14* - Explore technology that can improve the quality and timeliness of information available to decision makers.

*Recommendation #15* - Consider proposing changes to the City Council Resolution 51,408-N.S., to permit the use of helicopters in instances of significant civil unrest.

*Recommendation #31* - We recommend the Department invest in quality video cameras, live stream capability and video capture software to improve situational awareness.

*Recommendation #32* - The Department should investigate the use of body armor to be worn underneath a uniform of the day, to protect officers from projectiles while minimizing the projection of force to protestors.

This inquiry is made in accordance with the Commission's action at its March 23, 2016 meeting. Thank you.

cc: Police Review Commissioners



**Lee, Katherine**

---

**From:** PRC (Police Review Commission)  
**Sent:** Wednesday, March 23, 2016 8:58 AM  
**To:** Lee, Katherine  
**Cc:** Norris, Byron  
**Subject:** FW: Maria Moore will speak about Kayla Moore Case 3/28/16

---

**From:** Andrea Prichett [mailto:prichett@locrian.com]  
**Sent:** Tuesday, March 22, 2016 10:47 PM  
**To:** Nikki Jones <njones@berkeley.edu>; Ina Kelleher <inakelleher@berkeley.edu>; Marcel Jones <marceljones6@gmail.com>; Stephanie Maurer <Stephanie.maurer@gmail.com>; Sabrina Jacobs <fatalistsurvivor@gmail.com>; sabrina@kpfa.org; EMMA CATHERINE FOGEL <emmafogel@berkeley.edu>; Peyton Provenzano <peytonprovenzano@gmail.com>; max b <maxb.personal@gmail.com>; Charlotte <crivka@sonic.net>; Diana Bohn <nicca@igc.org>; vid3699-gmail.com <vid3699@gmail.com>; kareima <kikibaby67@yahoo.com>; Tianac48@gmail.com; Maria <marmore2k@yahoo.com>; J. George Lippman <george@igc.org>; PRC (Police Review Commission) <prcmailbox@ci.berkeley.ca.us>  
**Subject:** Maria Moore will speak about Kayla Moore Case 3/28/16

## **Militarization of Mental Health and the Berkeley Police**

### **Case Study of the Death of Kayla Moore presented by Maria Moore (Sister to Kayla)**

**247 Dwinelle Hall Monday March 28th at 5pm**  
**DeCal: Community Based Policing/ Berkeley Copwatch**

In February of 2013, BPD forcibly entered the home of Kayla Moore, an African American transgender woman with mental illness. In this all-too-familiar story, a friend called police for help at 11:30pm when he thought Kayla was having a mental health crisis. Once police arrived, they attempted to forcibly take Kayla Moore into custody. Face down on a futon with five cops on top of her, Kayla died and her case has amplified the calls for fundamental change in the way that we attend to the safety of our citizens who experience mental health crisis. Maria Moore will share her experience of what happened before and after Kayla's passing and the lessons and reflections from her family's struggle for justice and healing.

\*\*\* PLEASE SHARE WIDELY\*\*\*



## Twilite Basketball helps Berkeley youth, police connect

By Emilie Raguso

March 25, 2016 1:02 pm

After a long hiatus, Twilite Basketball returned this year to the Young Adult Project in South Berkeley. Friday night, local youth and Berkeley Police officers who have been coaching them are set to face each other on the court as the program winds down for the season.

The winning team will get bragging rights, as well as a large trophy to display until the next match up, slated for the summer.

Though the "Battle of Berkeley" — where officers and youth compete on the court — has happened in the past, this year will be the first time Berkeley Police Chief Michael Meehan plans to play.

Officers credit Ginsi Bryant, recreation coordinator at the Young Adult Project, or YAP, for bringing back the Twilite Basketball program in January. Though it began in Berkeley in the early 90s, participation dwindled in recent years and it was no longer active.

YAP itself was founded in 1972 in South Berkeley to help keep local youth off the streets and give them a safe, positive outlet for their energy. The organization, at 1730 Oregon St., offers a variety of programs including sports, arts and crafts, and leadership skills building.

**Don't miss our feature from January on YAP's popular boxing program.**

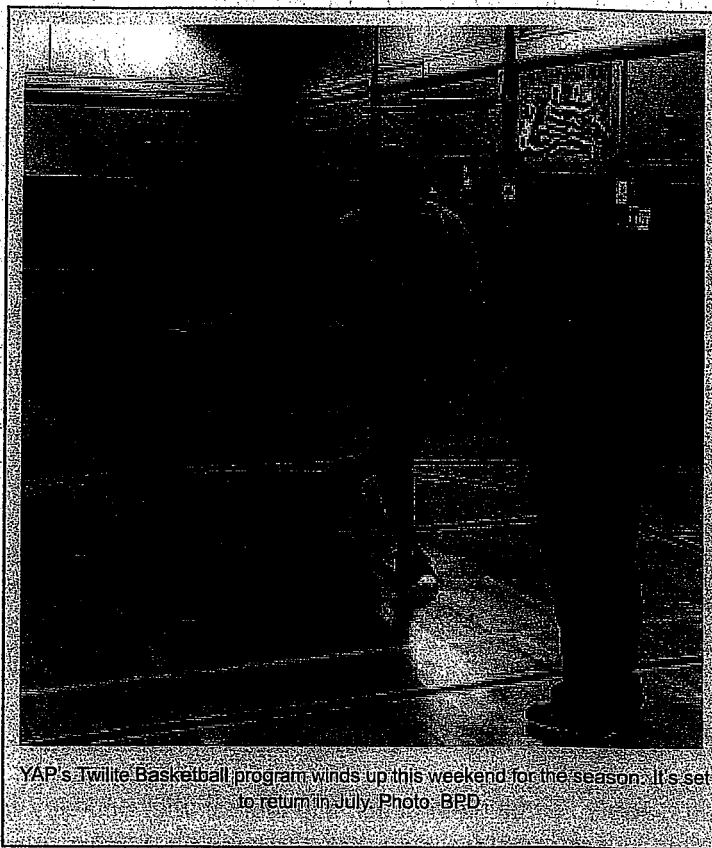
The 10-week Twilite Basketball program is aimed at pre-teens and teens. There are three practices a week, with games on Friday and Saturday nights. Bryant runs the program, which has about five coaches of its own. But Berkeley Police officers are also a key part of the equation.

That's because one goal of the program has been to help police and youth build relationships that can help them off the court.

"A potentially bad situation can turn the other way on a dime because you've spent time with these kids and their families," said Lt. Ed Spiller, who oversees the BPD side of the endeavor. "It's just building that trust. That's half the battle."

Bryant said the program is designed to reduce juvenile delinquency, get young people off the streets and equip them with life skills that will help them have better judgment when faced with challenging situations. About 80 youth, age 11 to 18, have participated this season, though the program has room for more as it grows.

When Bryant approached BPD about kickstarting the program in January, a handful of officers jumped in to volunteer. They show up at practices and games to help coach, and sometimes help run "rap sessions" before the



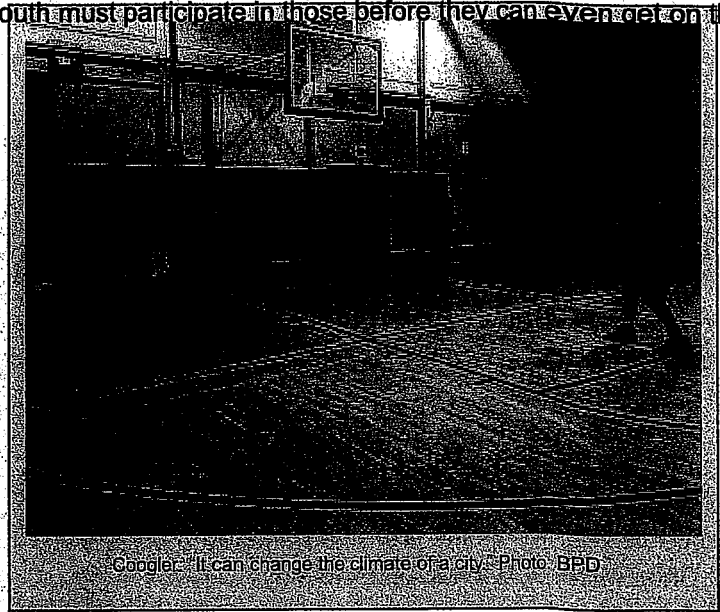
YAP's Twilite Basketball program winds up this weekend for the season. It's set to return in July. Photo: BPD

games about different topics Bryant thought could be valuable to discuss. They also provide what Bryant described as a "body presence," just being there to offer support and encouragement.

"The parents really enjoy seeing the officers there and interacting with the kids, and the kids enjoy it as well," she said.

Bryant said the "rap session" workshops are central. Youth must participate in those before they can even get on the court for games. Topics have run the gamut from cyberbullying and peer pressure to the perils of social media and the importance of education. They've talked about respecting authority, how to become better leaders, and how to achieve their dreams. Coaches, officers and other community members have led those sessions, which end with the kids filling out surveys to share what they learned and reflect on how the information could be helpful to their futures.

And participation is mandatory. One night, she said, the kids were acting rude and disrespectful during the rap session. She called off that night's games. The players were unhappy, but it was a reminder that they need to follow the rules, or there would be consequences.



"Here with the program, it's a family," she said. "We're all a family and everybody has to be a good role model."

### **Coach: "It can change the climate of a city"**

Keenan Coogler, a volunteer coach and mentor with Berkeley Twilite, described it as the kind of program that can have a big impact: "A place where kids can hang out, study, play, learn, exercise and even just get a hot meal. People talk a big game about combatting urban crime and youth street violence, but Berkeley Twilite is really our biggest weapon against it."

He said the program combines friendly competition with opportunities to learn from public speakers and interact with the police.

"You give kids in this environment an outlet with just the right amount of structure and it can change the climate of a city," he said.

Bryant recalled, when she ran the program from 2000 to 2007, how her boss encouraged her to bring officers into the mix.

"They need to be down here engaging with the kids," he told her. "You have that relationship, you have better policing and a better community."

If officers see kids causing trouble in the streets, but know their backgrounds, and know them through the program, it could potentially lead to different outcomes, said Bryant. Instead of an arrest, officers might say, "I know who you are. You play in Twilite. I'm going to tell Ginsi about this."

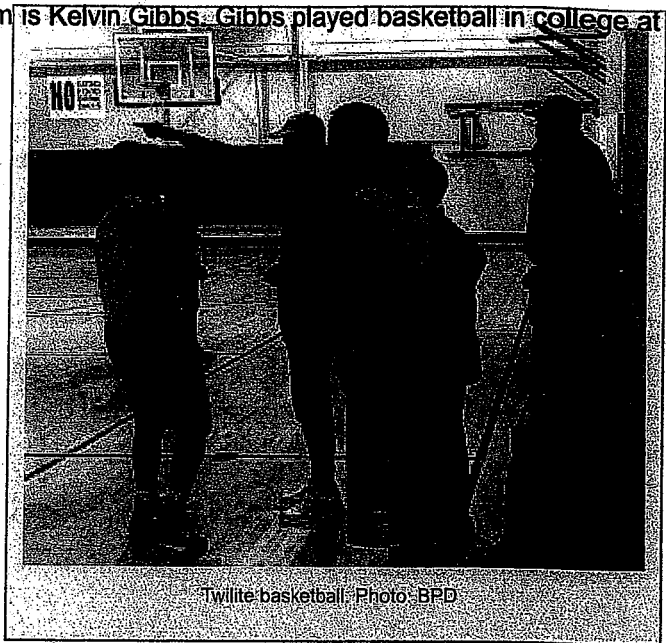
"I know that's what happened in the past," she said. "We're trying to reestablish that relationship again with the officers and the kids, a better relationship."



One of the officers who has been involved with the program is Kelvin Gibbs. Gibbs played basketball in college at Pepperdine, then went on to play professionally in Europe for nine years before becoming a Berkeley Police officer almost six years back.

One of the other officers involved played basketball as a student at Berkeley High, and another coaches a youth basketball team where he lives. Four or five officers have been most involved in Twilite, with others dropping in from time to time.

Much of the time the officers spend is after work; they show up in regular clothes and get out on the court with the kids, Gibbs said. But several of the officers work nightshifts on the weekends and — time allowing — they also go by in uniform during and after games to say hello and visit.



### **Bryant: "Here, you're a coach"**

When the program kicked off in January, some adjustments were required from everyone involved. Ginsi Bryant recalled the first day of the season. Four officers showed up in uniform to YAP. Not everyone was pleased:

"The kids kind of tensed up," she said. "We told them, 'These are coaches here. Calm down, relax.'"

She also recalled how the police introduced themselves with their rank, as "Officer So-and-So." YAP staff told them: "Here, you're a coach. You're COACH such-and-such."

Gibbs agreed it took some time to break the ice. The kids were used to seeing the cops in the streets, on car stops or during other enforcement operations. Not to mention the questions that have become a frequent part of the national conversation: disparities in policing, the high-profile fatalities involving officers in other places and, too often, young black men. Gibbs described the atmosphere, nationally, as "tough times."

"The first few weeks, it was kind of trying," Gibbs said. The kids had questions. "'They're here but are they really here to support us fully? I think now they realize that we are.'"

Gibbs said he actually knew some of the youth from prior contacts on the streets. Since volunteering with the basketball program, he said, the interaction — both at YAP and out in Berkeley — has totally changed.

"Now, it's more of them saying, 'What's up, how you doing, you gonna be at practice?' versus 'Oh, the police are coming. We better go over there,'" said Gibbs. "That alone makes it worth it."

The Twilite program is ending Sunday, but a summer basketball program is in the works, and officers said they hope to see Berkeley Twilite return next year and into the foreseeable future.

Said Spiller: "Anything we can do to improve the police-youth relationship is a bonus."

Bryant said, going forward, she also plans to rebuild the relationship with Berkeley High's basketball program, which in the past was a feeder into the Berkeley Twilite program.

Gibbs said nine Berkeley officers, including the chief, are set to face the youth team Friday night at 8:30. The teams will compete over who will get to display a large trophy, at least until the next match. Gibbs said he wasn't sure which youth would play, but understood it to be an "all star" team.

"It should be a good game," he said. "We got the older legs, they got the younger legs. We can't last as long as them but hopefully, with nine people, we'll have enough people subbing out to be able to do it."

Bryant said the game, traditionally, is just another way to build the relationship between the kids and the police. Seeing officers on the court, out of uniform and in regular basketball clothes, is part of that process.

"Kids can't judge an officer out there. They're one of them," she said. "People are just being people. Everybody is just out there having fun, running up and down the court."

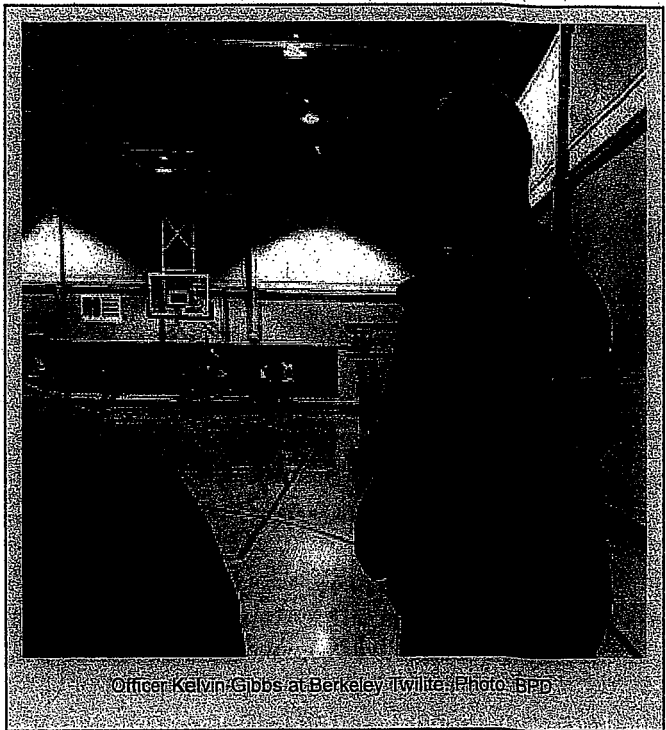
**Related:**

Berkeley Yellowjackets fall to Crespi in state final, 68-53 (03.25.16)

Berkeley boxing class puts 'community first' (01.04.16)

Berkeley High boys hoops win first NorCal title since 1921 (03.21.16)

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Officer Kelvin Gibbs at Berkeley Twilight. Photo: BPD

**Lee, Katherine**

**From:** Lee, Katherine  
**Sent:** Wednesday, March 30, 2016 9:26 AM  
**To:** Lee, Katherine  
**Subject:** FW: PRC meeting regarding Liberty City

Dear Commissioners,

This email string is forwarded FYI.

-Kathy

Katherine J. Lee  
Police Review Commission Officer  
City of Berkeley  
510.981.4960

*Our offices on the 3rd Floor of 1947 Center Street will be relocated to the 1st Floor as of April 4, 2016.*

---

**From:** Lee, Katherine  
**Sent:** Wednesday, March 30, 2016 9:20 AM  
**To:** 'Boona Cheema' <boonache@aol.com>; 'Mike Lee' <swapmeetkinglv@gmail.com>  
**Cc:** 'Genevieve Wilson' <genevieve.t.wilson@gmail.com>; 'Mike Zint' <mzint02@gmail.com>; 'ELLIOT R HALPERN' <e\_halpern@sbcglobal.net>; Ahmed, Eve <EAhmed@ci.berkeley.ca.us>; 'Paul Kealoha Blake' <vid3699@gmail.com>; 'geolippman.pjc@earthlink.net Lippman' <geolippman.pjc@earthlink.net>; 'Steve Martinot' <martinot4@gmail.com>  
**Subject:** RE: PRC meeting regarding Liberty City

All:

Unless the PRC decides, at its April 13 meeting, to do something different, the April 27 hearing regarding Liberty City will proceed as planned: Capt. Greenwood will make a presentation on behalf of the BPD, and another 20 minutes will be available for Liberty City organizers.

Genevieve, I will forward today's emails to the Commissioners.

-Kathy

Katherine J. Lee  
Police Review Commission Officer  
City of Berkeley  
510.981.4960

*Our offices on the 3rd Floor of 1947 Center Street will be relocated to the 1st Floor as of April 4, 2016.*

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**From:** Boona Cheema [<mailto:boonache@aol.com>]  
**Sent:** Wednesday, March 30, 2016 8:57 AM  
**To:** Mike Lee <swapmeetkinglv@gmail.com>  
**Cc:** Genevieve Wilson <genevieve.t.wilson@gmail.com>; Mike Zint <mzint02@gmail.com>; ELLIOT R HALPERN <e\_halpern@sbcglobal.net>; Lee, Katherine <KLee@ci.berkeley.ca.us>; Ahmed, Eve <EAhmed@ci.berkeley.ca.us>; Paul Kealoha Blake <vid3699@gmail.com>; geolippman.pjc@earthlink.net Lippman <geolippman.pjc@earthlink.net>; Steve Martinot <martinot4@gmail.com>  
**Subject:** Re: PRC meeting regarding Liberty City

I think it's really really important  
and Mike Lee I'm personally going to drive you there  
those of us who participated  
need to meet and strategise about this

Genevieve it's not that if Mike Lee wants to sit it out that liberty city can't appoint people to speak for them  
so let's not rush to forward anything to PRC staff because then they will  
only hear from the police

Mike Lee we are going to the hearing as it's very important  
Kathy there will be a presentation by liberty city

thanks

boona

On Mar 30, 2016, at 10:41 AM, Mike Lee <[swapmeetkinglv@gmail.com](mailto:swapmeetkinglv@gmail.com)> wrote:

Yes if I show up I'll make somebody eat a chair. Best if I stay on the sidewalk better use of my time

On Mar 30, 2016 8:06 AM, "Genevieve Wilson" <[genevieve.t.wilson@gmail.com](mailto:genevieve.t.wilson@gmail.com)> wrote:

Hi Mike,

Thanks for letting us know where you stand.

Kathy: Would you be willing to forward this on to the commission for their consideration?

Mike Zint: Do you still want to proceed with the hearing we have set with the PRC April 27th about Liberty City?

Thanks all,  
Genevieve

On Mar 30, 2016, at 7:58 AM, Mike Lee <[swapmeetkinglv@gmail.com](mailto:swapmeetkinglv@gmail.com)> wrote:

George and all

This is a formal notification that based on the BOI I hereby with hold any and all further cooperation from the PRC. I will also begin to publicly call for its restructuring. At my earliest convenience I will be meeting with members of the community to formulate this effort

I base this decision on the following points:

- 1.) The current PRC is focused on cooperating with BPD through action and deed. This results in the PRC's misconception it works with and for the BPD.
- 2.) Disrespectful conduct specifically on the part of the chair.

The PRC may not like me personally, my economic circumstances, or my opinions. None of these are justification to disrespect me. Like it or not as a citizen the PRC works for me. As such I deserve to be treated in a courteous, respectful manner. The continual interruption by the chair is unacceptable. As a person of color I find it inherently racist for a white man to interrupt me. The days of people of color kow towing to the white man are

over. As a publicly recognized homeless leader I deserve respect as long as I am respectful. As a candidate for Mayor I deserve and expect courteous, respectful, professional treatment to the level of Mr. Lee. As a recognized community advocate I expect fair respectful treatment and have earned it. Even those that have huge differences with me extend common courtesy.

I do not and will not accept racist, disrespectful treatment on the part of the PRC. I don't accept it on the streets, from the cops, from any government agents and I damn sure ain't going to accept it from a bunch of wanna be klowns. The PRC is supposed to protect the Citizens. My attitude now is the community would be safer with a brick in one hand and an Armalite in the other.

In the future I will resolve any issues:

- 1.) Directly with BPD
- 2.) Organizing a community response.

In closing, George I want to thank you for all your efforts. We may not see eye to eye on everything but we at least we speak from a platform of respect. I do appreciate everything you do for the community.

Our Day Will Come!

Mike Lee

[www.oldbumformayor.org](http://www.oldbumformayor.org)



Alameda County: Crisis Intervention Training (CIT)  
Oakland Police Department



Monday		Tuesday		Wednesday		Thursday	
4-Jan-16		5-Jan-16		6-Jan-16		7-Jan-16	
0700	Welcome & Introduction	0700	Re-cap / Housekeeping	0700	Re-cap / Housekeeping	0700	Re-cap / Housekeeping
0745		0730	Cultural Responsiveness Gigi Crowder - BHCS	0730	Combat to Community Swords to Plowshares Tim Jakob	0730	Excited Delirium
0800	Overview of Mental Illness Daryl Brandt Berkeley MH	0845	Older Adults	1130	Dr. D. Joseph Oakland Vet Center	0850	Officer A. Ledbetter: Alameda PD
1100	Writing Effective 5150's	1000	Officer Doria Neff	1145	Consumer and Family Perspective	0845	De-Escalation
1115			Police Wellness		Hosted Lunch Family Education & Resource Center	1200	Officer J. Shannon: Berkeley PD
1230	Stephanie Lewis: North County Crisis Officer Doria Neff	1200	Officer J. Shannon: Berkeley PD	1345	Annie Kim: Director	1200-1300	Lunch
1230-1330	Lunch	1300	Lunch	1400	Developmental Disabilities	1300	Role Play Scenarios PointAcross Info Network
1330	Patients Rights and LPS Investigations Francesca Tenenbaum	1300	Suicide Assessment Matt Crisis Support Services	1500	Esat Bay Regional Center	1545	
1515	Mental Health Association	1500	Janis Doughty: AFSP	1530	Site Visits John George Pavilion Cherry Hill Willow Rock	1600	Course De-Brief
1530	Psych Meds and Street Drugs	1500	Youth and Mental Health	1700		1630	
1700	Officer Doria Neff	1700	Cece Mendoza: Willow Rock	1700	Dismissal	1700	Dismissal
1700	Dismissal	1700	Dismissal	1700	Dismissal	1700	Dismissal







Berkeley Police Department

## Mental Health Training

March 24th 2016

0800-1800

### COURSE SCHEDULE

COURSE SCHEDULE		
0800-0900	Threat Assessment	Shannon
0900-1030	Consumer & Family Perspectives	FERC
1030-1230	BREAK	
1230-1330	Overview of Mental Illness	Berkeley Mobile Crisis
1330-1430	5150's	Berkeley Mobile Crisis
1430-1600	Mobile Crisis	Berkeley Mobile Crisis
1600-1700	Crisis De-escalation	Shannon
1700-1800	Excited Delirium	Shannon



# OVERVIEW OF MENTAL ILLNESS

CIT Training  
Berkeley Mobile Crisis Team



## TOPICS TO BE COVERED

- Overview of Mental Illness
- 5150 101
- Working with MH



## MENTAL ILLNESS CAN BE DEFINED AS:

“Mental illness is a collective term that refers to all the different types of mental conditions, including those that affect your mood, your thinking and your behavior. To be classified as a mental illness, a condition must cause distress in your life and reduce your ability to function in one or more areas of your life, such as at work, in relationships or in social situations.”

<http://www.mayoclinic.com/healthy/lifestyle/mental-illness/DS01104>



## FACTS FROM NAMI:

- 1 in 4 adults experience a mental disorder in a given year - approximately 57.7 million Americans - 1 in 17 adults and 1 in 10 children live with a serious mental illness
- 2.4 million or 1.1% of the population live with schizophrenia
- 5.7 million or 2.6% live with Bipolar disorder
- 14.8 million or 6.7% live with Major depression
- 40 million or 18.7% live with Anxiety disorders (including PTSD)
- One-half of all lifetime cases of mental illness begin by age 14 and three-quarters by age 24
- Racial and ethnic minorities have less access to and lower quality of care
- 24% of state prisoners and 21% of local jail prisoners have a recent history of a mental health disorder



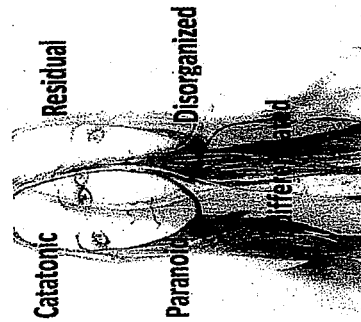
### 90% OF PEOPLE WHO KILL THEMSELVES HAVE A DIAGNOSABLE MENTAL ILLNESS...

- WHO reports that four of the 10 leading causes of disability in the US and other developed countries are mental disorders. By 2020, Major Depressive illness will be the leading cause of disability in the world for women and children
- The economic cost of untreated mental illness is more than 100 billion dollars a year in the US
- Early identification, access to treatment and reduction in stigma significantly accelerates the recovery process and reduces harm related to the course of the illness



### MOST COMMON DISORDERS YOU SEE

- Schizophrenia
- Bipolar disorder (manic episode)
- Depression
- Anxiety disorders
- Borderline Personality Disorder
- Substance Use



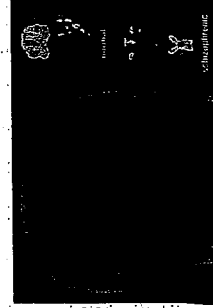
### SCHIZOPHRENIA

A group of mental disorders characterized by psychotic features, inability to trust others, disordered thought processes, and disrupted interpersonal relationships which create changes in affect, thinking and behavior.



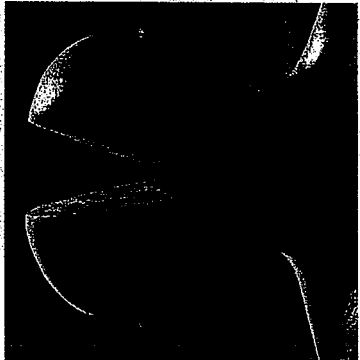
### SCHIZOPHRENIA SYMPTOMS: BEHAVIOR

- Poor hygiene
- Disheveled Appearance
- Unsteady gait
- Abnormal movement
- Hypervigilance



### SCHIZOPHRENIA SYMPTOMS: AFFECTIVE

- Fearfulness
- Depression
- Anxiety
- Irritability
- Flat affect



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### SCHIZOPHRENIA SYMPTOMS: COGNITIVE

- Disorganized speech
- Poor memory
- Unable to make decisions
- Perplexed or confused
- Delusions
- Hallucinations



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### SCHIZOPHRENIA MENTAL STATUS: WHAT ARE YOU SEEING?

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<http://www.youtube.com/watch?v=bVwFqw8XnPA>  
[http://www.youtube.com/watch?v=p8Mie7\\_UA](http://www.youtube.com/watch?v=p8Mie7_UA)

### MOOD DISORDERS AT A GLANCE

Major Depressive Disorder	Onset of symptoms is episodic
Bipolar I	Two or more episodes of major depressive disorder and at least one manic episode
Bipolar II	At least one major depressive episode and at least one hypomanic episode
Cyclothymic Disorder	Two or more episodes of major depressive disorder and at least two episodes of hypomania



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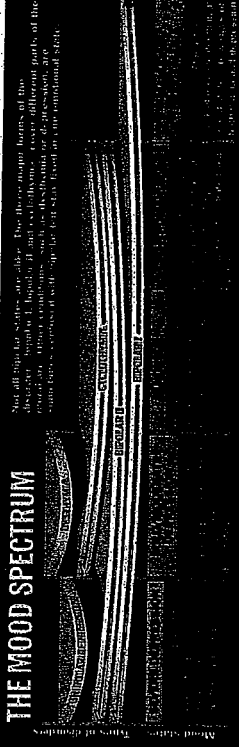


### BIPOLAR DISORDER MENTAL STATUS: WHAT ARE YOU SEEING?

- [http://www.youtube.com/watch?v=Jm0VZX2\\_Ir8](http://www.youtube.com/watch?v=Jm0VZX2_Ir8)
- <http://www.youtube.com/watch?v=Iicw93Sx10I>
- <http://www.youtube.com/watch?v=tCY9X-n3hAM>

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### THE MOOD SPECTRUM



Kluger, J. & Song, S. (Aug. 19, 2002). Young and bipolar. *Time*, 160(8), 38-47.

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### DEPRESSION MENTAL STATUS: WHAT ARE YOU SEEING?

<http://www.youtube.com/watch?v=c5WFHybkyw>

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### COMMON SYMPTOMS:

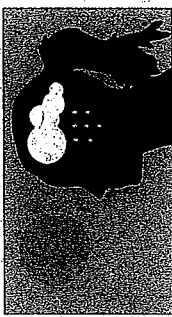
- Lack of energy
- Irritability or apathy
- Hyper or hypo somnolence
- Increase/decreased appetite
- Suicidal thoughts
- Physical complaints



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**COGNITIVE SYMPTOMS**

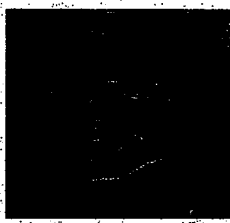
- Hopelessness
- Guilt
- Worthlessness
- Preoccupation with death
- Indecisiveness
- Lack of concentration
- General difficulty thinking



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**ANXIETY DISORDERS**

- Generalized Anxiety
- Obsessive Compulsive
- Acute Stress
- Posttraumatic Stress
- Substance Induced Anxiety



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**ANXIETY SYMPTOMS: BEHAVIOR**

- Physical Symptoms: Tightness or pain in chest, heart palpitations, tachycardia, dry mouth, feeling faint, hyperventilation, shortness of breath, muscle tension, nausea, stomach pain, vomiting and headache
- Avoidant
- Hypervigilance
- Startle response
- Inappropriate response to stressor
- Freezing

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**ANXIETY SYMPTOMS: AFFECTIVE**

- Changes in facial expressions
- Wide pupils
- Distorted thought process
- Misperception of reality
- Dread and apprehension

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### ANXIETY SYMPTOMS: COGNITIVE

- Worry
- Apprehension
- Thoughts concerned with emotional or bodily danger
- Catastrophizing
- Misinterpretation of internal (somatic) cues

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### PANIC ATTACK

- <http://www.youtube.com/watch?v=i0CW0Vnr9Yg>
- <http://www.youtube.com/watch?v=P2W3sFY7Dhw>

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## BORDERLINE PERSONALITY DISORDER

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<http://www.youtube.com/watch?v=1saGmAY-9FA>

### BORDERLINE PERSONALITY SYMPTOMS:

- Significant problems with emotional stability
- Pervasive pattern of relationship problems
- Impulsive behavior
- Suicidal gestures or self harm behaviors
- Emotions change rapidly and unpredictably
- Unstable self image
- Idealizing and devaluing tendencies

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**WRITING A 5150**

- Brief history of W&I 5150
- Criteria
- What to say

**HISTORY**

- California Mental Health Act (W&I code 5000-8000)  
 - Lanterman - Petris Short (LPS) Act
- Promote least restrictive, individualized treatment giving patients rights to appeal involuntary treatment.

**CRITERIA**

- Danger to self
- Danger to Others
- Gravely Disabled

**DANGER TO SELF**

- This term is not defined by statute or regulation, but can be manifested by threats or actions indicating the intent to commit suicide or inflict serious bodily harm on oneself, or actions which place the person in serious physical jeopardy, if these actions are \_\_\_\_\_

### **DANGER TO OTHERS**

• This term is not defined by statute or regulation, but can be manifested by words or actions indicating a serious intent to cause bodily harm to another person due to a mental disorder. If the dangerous to others finding is based on the person's threats rather than acts, the evaluator must believe it is likely that the person will carry out the threats.

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### **GRAVELY DISABLED**

• A condition in which a person, as a result of a mental disorder (rather than a chosen lifestyle or lack of funds) is unable to provide for his or her basic needs for food, clothing or shelter (WIC 5008). The threat to harm oneself may be through neglect or inability to care for oneself. Courts have ruled that if a person can survive safely in freedom with the help of willing and responsible family members, friends or third parties, then he or she is not considered gravely disabled.

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### **HISTORICAL INFORMATION**

• A) When determining if probably cause exists to take a person into custody, or cause a person to be taken into custody, pursuant (WIC) Section 5150, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder.

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### **WHO DOESN'T GET TO GO?**

- Involuntary substance abuse treatment
- Dementia
- Involuntary medical treatment
- Developmental Disability
- "Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder" (WIC 5685.25).

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**MENTAL STATUS EXAM: A PORTRAIT**


How does someone look, smell, feel

How does someone act

How does someone interact

How does someone react

Based on people you KNEW needed to go to the hospital, how does this person look?



**Speech**

Organized



odd or vague

unfocused or confused

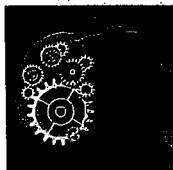
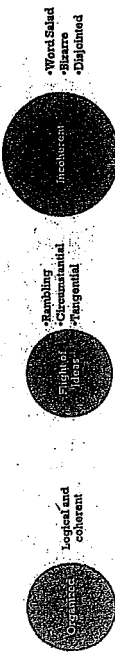

Out of context, fast or slow, wrong words

Rambling, circumstantial, tangential

incoherent: Not understandable due to lack of logical or meaningful connection between words, phrases, or sentences

**THOUGHT PROCESS**


**MOOD VS. AFFECT**

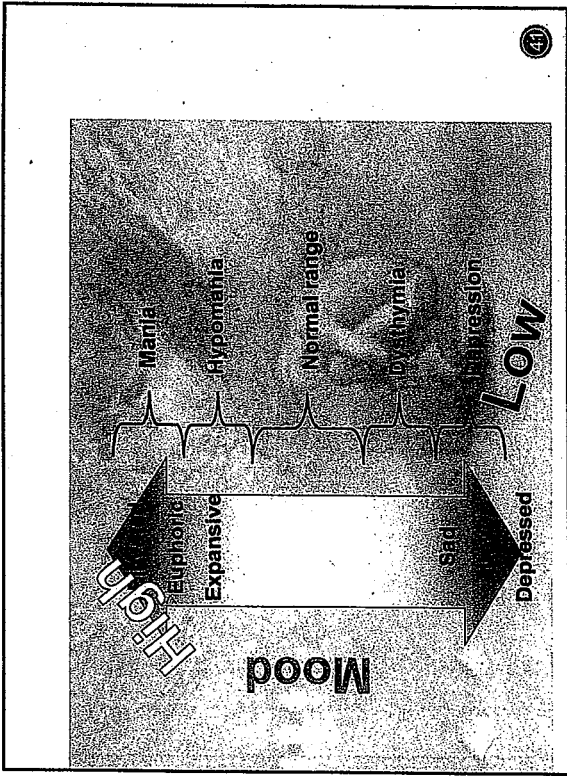
How you feel

vs

What you look like

Does how someone looks reflect how they feel?





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## DELUSIONS

Individual holds a false belief despite evidence to the contrary. It is not a culturally shared phenomenon.

Examples include:

- Persecution
- Paranoid
- Religious
- Thought insertion, broadcasting or thought control
- Jealous, guilty
- Grandiose

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## DON'T CHALLENGE DELUSIONS!

The more you reality test, the more the delusion is reinforced.

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## HALLUCINATIONS

An internally generated sensation that is not observable or detectable by others: Auditory, visual, gustatory, olfactory, tactile

<http://www.youtube.com/watch?v=0vvU-Ajwibok>

Voices loud in my head.

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**PUT IT ALL TOGETHER AND YOU GET A PICTURE OF ...**

**THE THREE MOST IMPORTANT ASPECTS OF A 5150 EVALUATION**

- INSIGHT
- IMPULSE CONTROL
- JUDGMENT



**SPEAK TO THE AMYGDALA**

Paul D. MacLean's Triune Brain

- Reptilian brain -- "the Lizard Brain" -- Basal Ganglia
- Paleomammalian -- "the Puppy Brain" -- Limbic
- Neomammalian -- "the Rational Brain" -- Neocortex

In the worst moments of someone's life you can only hope for agreement, not understanding.

Stay in the moment, as all else is unmanageable.



**PUTTING IT ALL TOGETHER**

- Mental illness is an illness like any other
- What are the most important things to observe in mental status and why?
- Which mental health diagnosis have the most problematic symptoms?
- Which symptoms of mental illness pose the greatest threat?



**BERKELEY MENTAL HEALTH: MOBILE CRISIS TEAM**

8 -hour CIT Training



## TOPICS TO BE COVERED

- Brief history of the Mobile Crisis Team
- MCT Basics
- Pros and cons of contacting MCT
- How can we help you?

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## BRIEF HISTORY OF THE MOBILE CRISIS TEAM

- 1970s: Many individuals with mental health challenges returned from institutionalization to community based care as part of the consumer and recovery movements.
- This led to increased police contact with those individuals in their communities, including Berkeley, CA.

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## BRIEF HISTORY OF THE MOBILE CRISIS TEAM

- 1979: "Berkeley Mental Health Police Project" pilot established.
- In the beginning, MH staff were paired with BPD on patrol.



- Eventually we got our own car!

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## BRIEF HISTORY OF THE MOBILE CRISIS TEAM

- Goals: Provide first response crisis intervention and on scene consultation to BPD and other regional police departments.
- Divert individuals with mental health disorders from the criminal justice system into treatment.

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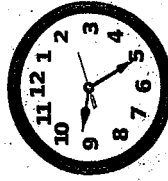
### BRIEF HISTORY OF THE MOBILE CRISIS TEAM

- Original target population: individuals with severe mental illness, and those in acute psychiatric crisis.
- Range of services has grown to include interventions with families, victims of crime and violence, schools, the academic community, the fire department, and hospital emergency personnel, among others.



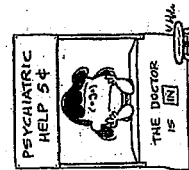
### MCT BASICS: HOURS

- Currently: 1130 – 2200 hrs seven days a week, 365 days a year.
- Planned pilot in 2016: expanded hours to 1 AM, with additional coverage during peak evening hours.



### MCT BASICS: STAFFING

- Field response is covered by three full time licensed clinicians who work alone during the day and partner with graduate student trainees during evening hours.
- The team is supervised by a Mental Health Program Supervisor who is based at the Adult Clinic.



### MCT BASICS: CONTACTING US

- MCT staff carry police radios. Each one of us has a unique MH number that dispatch uses to identify us on the air.
- We can also be contacted during business hours by telephone via the Adult Clinic at 981-5280.
- You can leave a message on our voicemail 24 hours a day, at 981-5254.
- The MH Supervisor can coordinate a response as needed, at 981-7641, or via cell phone at 684-3070





### **MCT BASICS: TYPES OF CALLS**

- 5150 Evaluations.
- Domestic disputes, including family problems involving children and teens.
- Crisis intervention for traumatized crime victims.
- Assistance to disoriented elderly persons.
- Consultation with officers and/or members of the public about mental health related situations, even if direct contact with the subject is either not warranted, or not advisable.

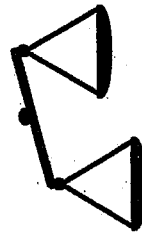
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### **MCT BASICS: TYPES OF CALLS, CONT.**

- We also respond to mass casualty events, and can assist first responders following a Critical Incident.

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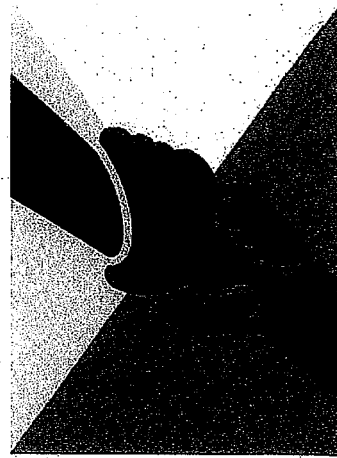
### **DISCUSSION: PROS & CONS OF CONTACTING MCT**



- What do you see as the pros of contacting the Mobile Crisis Team?
- What are the cons of contacting us?

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### **HELP US HELP YOU**



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