

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**Wednesday, June 8, 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 May 25, 2016

5. CHIEF OF POLICE'S REPORT

Crime, budget, staffing, training updates, and other items.

6. CHAIR'S REPORT

7. PRC OFFICER'S REPORT

Status of complaints; announcements.

8. OLD BUSINESS (discussion & action)

- a. Proposed new General Order: Body-Worn Cameras
From: Body-Worn Cameras Subcommittee

9. NEW BUSINESS (discussion & action)

- a. Follow-up on PRC's letter to City Manager regarding the standard of proof used in BOI hearings
From: Commissioner Bernstein
- b. Review of draft PRC Annual Report
From: PRC Officer *(to be delivered)*

**10. SUBCOMMITTEE ACTIVATION, REPORTS, AND RECOMMENDATIONS
(discussion & action)**

- a. Fair & Impartial Subcommittee
Schedule meeting date; update on topics to be considered
- b. General Orders C-64, etc. Subcommittee
Update; schedule next meeting date

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS
Attached.

12. 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.)

13. ADJOURNMENT

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PRC REGULAR MEETING ATTACHMENTS

June 8, 2016

MINUTES

May 25, 2016 Regular Meeting Page 5

AGENDA-RELATED

Item 8.a – Draft General Order on Body-worn Cameras with redlined changes made at May 25, 2016 meeting. Page 9

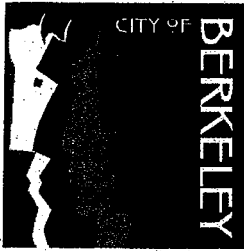
Item 8.a – Email from PRC Officer, dated June 1, 2016, forwarding link from Commissioner Lippman regarding SFPD Body Camera policy (and attaching linked article). Page 19

Item 8.a. – Email from Commissioner Yampolsky, dated June 1, 2016, with KQED article regarding SFPD Body Camera policy and attaching draft SFPD Body Worn Cameras Policy Page 23

COMMUNICATIONS

- Nixle alert from Berkeley Police Department, dated May 25, 2016: DUI Checkpoint results in 3 Arrests & 13 Citations. Page 33
- Article from Copwatch, dated May 24, 2016: Copwatch Witnesses Allege Racial Profiling at Berkeley Police DUI Checkpoint. Page 35
- News release dated September 29, 2015: Berkeley Police Department Data Reveals Stark Racial Disparities. Page 37
- Email dated May 27, 2016: SB1286 died in committee. Page 39
- Email dated May 24, 2016: Video regarding Startling number of mental patients behind bars in U.S. Page 41

KJL:mgm



Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING**

MINUTES

(unapproved)

**Wednesday, May 25, 2016
7:00 P.M.**

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

1. CALL TO ORDER & ROLL CALL BY CHAIR PEREZVELEZ AT 7:09 P.M.

Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner Alison Bernstein
Commissioner George Lippman
Commissioner Ayelet Waldman
Commissioner Ari Yampolsky (arrived 7:13 p.m.)
Commissioner Christina Murphy (*temporary appointment*)

Absent: Commissioners Jerry Javier, Michael Sherman, Kad Smith

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan (left 8:10 p.m.) Lt. Dan Montgomery, Lt. Dave
Reece, Sgt. Ben Cardoza, Sgt. Joseph Okies (left 9:30 p.m.), Sgt.
Sean Ross

2. APPROVAL OF AGENDA

The agenda was approved by general consent

3. PUBLIC COMMENT

There were six speakers.

4. APPROVAL OF MINUTES

**Motion to approve the regular meeting minutes of May 11, 2016
Moved/Seconded (Roberts/Bernstein)**

**Friendly amendment: Under item 6, before the sentence "No action taken"
add the sentence, "No Liberty City participants were present."**

Moved by Waldman; accepted by Roberts and Bernstein

Motion, as amended, Carried

Ayes: Bernstein, Lippman, Murphy, Perezvelez, Roberts, Waldman, and Yampolsky.

Noes: None

Abstain: None

Absent: Javier, Sherman, Smith

5. CHIEF OF POLICE'S REPORT

Chief Meehan did not have a regular report to give today; instead, responded to public remarks regarding a recent DUI checkpoint set up by BPD.

-- The Chief offered to make a presentation on how DUI checkpoints are done; they are based on state law.

-- Will direct officers to make sure that whenever traffic safety vests are worn (which go over the uniform) their badge is visible.

-- There was an error in the Nixle alert; not 3 impounds, as stated, but 3 tows, one of which was an impound. Policy allows tow/impound for "higher tier" offenses: 1) suspended or revoked license, or 2) someone who is required to have an interlock device doesn't have one. Other 2 tows were drunk driving. Lower tier; no impound.

-- A DMV study of a 23-year period showed unlicensed drivers in Calif. are 3 times more likely to cause a fatal crash; also vehicle impounds effective at reducing crashes among suspended or revoked drivers, so don't think the policy is based on anything arbitrary.

-- Everyone who wanted to get items from their car before it was towed was allowed to do so. One driver chose not to.

-- State law doesn't allow discretion re whom to pull over; there must be a system, e.g., every 5th car, or every car. At this particular checkpoint, every car pulled over. Quick assessment for signs of impairment and driver's license. Number pulled out of car and put on sidewalk: just 3 the arrests -- 2 for DUI and 1 for drug possession.

Questions/remarks:

-- Comm. Lippman: Divergent stories troubling; would like to agendize for policy review.

-- Comm. Bernstein: While we wait for the CPE report, can BPD do something to address the difference in outcomes bt. stops of African Americans and Caucasians? Chief: Question is, what can be done improve the "hit rate"? Cannot tell people to stop or not based on race. Don't really have the answers today. Can't look at just one causal factor; don't think it's that simple.

-- Comm. Lippman: How do you decide where to establish the checkpoint? Chief: Checkpoint sites are chosen based on where DUI arrests and collisions occur.

6. CHAIR'S REPORT

Temporary appointee Christina Murphy introduced herself.

7. PRC OFFICER'S REPORT

-- A complaint deadlines report was distributed.

-- The document showing PRC's prioritization of requests to BPD was updated following the May 11 meeting and is found in this week's packet.

8. NEW BUSINESS (discussion & action)

a. Proposed new General Order: Body-Worn Cameras

Discussion on the proposed draft began, and is continued to the next RPC meeting.

b. Scope of work of December 7 & 8 Investigation Subcommittee

Commission Bernstein handed out a draft letter and location map, and asked Commissioners to think about what suggested questions don't need to be asked.

c. Staffing of PRC table at Berkeley Juneteenth Celebration (June 19, 2016)

Commissioner Perezvelez volunteered to staff this table and Commissioner Lippman said he might be available. The PRC Officer will send an email reminder to everyone.

d. Formation of Mutual Aid Subcommittee

PRC Officer clarified that this subcommittee will review Mutual Aid Agreements. Chair asked Commissioners who are interested in serving to let the PRC Officer know.

9. SUBCOMMITTEE ACTIVATION, REPORTS, AND RECOMMENDATIONS (DISCUSSION & ACTION)

a. Fair & Impartial Subcommittee and Media Credentialing Subcommittee
Decide whether to schedule meetings for these subcommittees.

Commissioner Lippman will try to schedule a meeting of the Fair & Impartial Subcommittee.

b. General Orders C-64, etc. Subcommittee

*Commissioner Waldman resigned from the Subcommittee.
Next meeting scheduled for June 1, 2016 at 4:30 p.m.*

10. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

11. PUBLIC COMMENT

There was one speaker.

12. ADJOURNMENT

The meeting was adjourned by general consent at 10:00 p.m.

1 Proposed Berkeley Police Department General Order:

2 Body Worn Cameras

3 450.1 PURPOSE AND SCOPE

4 This policy provides guidelines for the use of portable audio/video recording devices, or Body Worn
5 Cameras (BWC) by members of this department while in the performance of their duties. This policy
6 covers all recording systems whether body-worn, hand-held or otherwise.

7 This policy does not apply to lawful surreptitious audio/video recording, interception of communications
8 for authorized investigative purposes. [Per Sgt. Okies: Original Lexipol policy included, at end of
9 sentence, "or to mobile audio/video recordings." Favors it because one could have mobile video
10 recordings, but they shouldn't be subject to the body-worn camera policy.]

11
12 450.2 POLICY

13 The Berkeley Police Department recognizes that video recording of contacts between Department
14 personnel and the public provides an objective record of these events, and that the use of a recording
15 system complements field personnel in the performance of their duties by providing a video record of
16 enforcement and investigative field contacts, which can enhance criminal prosecutions, limit civil
17 liability, increase transparency, and enhance professionalism in policing. A video recording of an event
18 or contact also enables the delivery of timely, relevant, and appropriate training to maximize safety for
19 both community members and BPD personnel and will improve the delivery of police services to the
20 community.

21 While recordings obtained from video recorders provide an objective record of events, it is understood
22 that video recordings do not necessarily capture all events, activities and information, or reflect the full
23 experience of the individual member(s) in a given incident. ~~Moreover, the recordings, especially video,~~
24 ~~have limitations and may depict events differently than the events recalled by the involved member.~~
25 Specifically, it is understood that the recording device will capture information that may not have been
26 heard and/ or observed by the involved member and that the involved member may see and hear
27 information that may not be captured on video.¹ [Sgt. Okies: the deleted language acknowledges that
28 there may be difference bt. what the brain perceives and what the video records; doesn't mean the
29 officer is lying]

30 450.2a Confidentiality and Proper Use of Recordings.

31 Body Worn Video use is limited to enforcement and investigative activities involving members of the
32 public. The recordings will capture video and audio evidence for use in criminal investigations,
33 administrative reviews, and other proceedings protected by confidentiality laws and Department policy.
34 ~~Officers shall comply with all applicable laws and policies regarding confidential information;~~
35 ~~Unauthorized improper use or release of BWC recordings may compromise ongoing criminal and~~
36 ~~administrative investigations or violate the privacy rights of those recorded and is prohibited.~~
37

¹ One commissioner felt the last two sentences of this paragraph were unnecessary.

38 Any unauthorized use or release of recordings or other violation of confidentiality laws or Department
39 policies are considered serious misconduct and subject to disciplinary action.

40
41 **450.2b Training Required.**

42 Officers who are assigned BWC's must complete department-approved training in the proper use and
43 maintenance of the devices before deploying to the field.

44 [As part of a continual improvement process, regular review should be conducted by BPD staff of the
45 training on this policy and the related use of BWC's under this policy. The department shall make an
46 annul report to the PRC regarding the outcome of this review.] ~~MOVE ELSEWHERE BPD shall develop a~~
47 ~~training curriculum that shall be reviewed by the PRC periodically.~~

48

49 **450.3 MEMBER PRIVACY EXPECTATION**

50 All recordings made by members acting in their official capacity shall remain the property of the
51 Department. Members shall have no expectation of privacy or ownership interest in the content of
52 these recordings.

53

54 **450.4 MEMBER RESPONSIBILITIES**

55 Prior to going into service, each member who is assigned to wear a BWC will be responsible for making
56 sure that he or she is equipped with a portable recorder issued by the Department, and that the
57 recorder is in good working order. If the recorder is not in working order or malfunctions at any time,
58 the member shall promptly report the failure to his/her supervisor and obtain a functioning device as
59 soon as practicable. Uniformed members should wear the recorder in a conspicuous manner or
60 otherwise notify persons that they are being recorded, whenever possible. Come back to this.

61 Officers are not required to obtain consent to record from members of the public when the officer is
62 lawfully at the location where the recording takes place.

63 Upon the approval of the police chief or his or her designee, non-uniformed members may use an
64 approved portable recorder. Unless conducting a lawful recording in an authorized undercover capacity,
65 non-uniformed members should wear the recorder in a conspicuous manner when in use and notify
66 persons that they are being recorded, whenever possible.

67 When using a portable recorder, the assigned member shall record his or her name, BPD identification
68 number and the current date and time at the beginning and the end of the shift or other period of use,
69 regardless of whether any activity was recorded. This procedure is not required if the recording device
70 and related software captures the user's unique identification and the date and time of each recording.

71 Members are required to document the existence of a recording in any report or other official record of
72 the contact, including any instance where the recorder malfunctioned or the member deactivated the

² Question: Sgt. Okies asked if there are other training curricula that are shared with the PRC as required by policy.

73 recording. In the event activity outlined in section 450.5 is not captured in whole or in part the member
74 will need to document this and the reason the footage was not captured.

75 **450.4.1 SUPERVISOR RESPONSIBILITIES**

76
77 Supervisors shall take immediate physical custody of a BWC when the device may have captured an
78 incident involving a use of force, an officer-involved shooting or death or other serious incident, and
79 shall ensure the data is uploaded in a timely manner as prescribed by BPD policy. (Penal Code § 832.18).
80

81 Supervisors shall also review relevant BWC recordings prior to submitting any administrative reports.
82

83 **450.5 ACTIVATION OF THE BWC**

84
85 This policy is not intended to describe every possible situation in which the BWC should be used.
86 Members shall activate the recorder as required by this policy or at any time the member believes it
87 would be appropriate or valuable to record an incident within the limits of privacy described herein.
88

89 The BWC shall be activated in any of the following situations:

- 90
91 (a) All enforcement and investigative contacts including stops and field interview (FI) situations.
92
93 (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all
94 crime interdiction stops.
95
96 (c) Self-initiated activity in which a member would normally notify the Communications Center.
97
98 (d) Probation or parole searches.
99
100 (e) Service of a search or arrest warrant.
101
102 (f) Any other contact that becomes adversarial after the initial contact in a situation that would not
103 otherwise require recording.
104
105 (g) Transporting any detained or arrested person, with the member in close physical proximity to the
106 civilian. Any time hands on. Return to this.
107
108 (h) ~~As directed by the police chief or his/her designee.~~
109
110

111 **450.5.1 ACTIVATION IN CROWD CONTROL SITUATIONS start here next time.**

112
113 During crowd control, protest or mass arrest incidents members shall use their BWC's consistent with
114 this policy, and when directed by the Incident Commander. The Incident Commander shall document
115 their orders in an appropriate report (e.g. Operations Plan or After Action Report) and provide the
116 orders to all personnel.

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BPD General Order C-1, Intelligence Procedures for First Amendment Activities, prohibits intelligence gathering on “political, religious, or social views or activities of individuals or groups, unless such views or activities directly relate to criminal conduct,” and applies to the use of BWC’s and other recording devices.

450.5.2 DISCRETIONARY ACTIVATION

Recording is permitted but not required under certain circumstances, including but not limited to the following:³

1. Members taking a report when the information available to them indicates the suspect is not on the scene.
2. During a preliminary investigation with a child abuse victim or a victim of a sexual assault.
3. Members meeting with a Confidential Informant.
4. Members on guard assignment on police, medical, psychiatric, jail or detention facility. Members shall assess the circumstances (e.g., suspect’s demeanor/actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to activate or de-activate their recorder.

Members are authorized to use the BWC’s to record statements in lieu of taking a written statement. Members shall advise or obtain consent from victims or witnesses when taking a recorded statement. Members shall advise and obtain consent from child abuse or sexual assault victims or their guardians before taking a recorded statement.

Members shall remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

Informal community interactions differ from “consensual encounters” in which officers make in an effort to develop reasonable suspicion to detain or probable cause to arrest. To strengthen relationships between police and citizens, officers may use discretion regarding the recording of informal, non-enforcement related interactions with members of the community, but in no case will recordings be made that are in conflict with the provisions of this policy.

At no time is a member expected to jeopardize his or her safety in order to activate a BWC or change the recording media. However, the BWC should be activated in situations described above as soon as practicable.

³ NOTE: This list was adapted from the OPD policy. Sgt. Okies expressed the perspective that Lexipol’s more general language, rather than the itemized list, better expressed the intent of the policy. Officers use discretion regularly and a general direction to use discretion would be more helpful.

158 **450.5.3 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

159
160 Members of the Department may surreptitiously record any conversation during the course of a criminal
161 investigation in which the member reasonably believes that such a recording will be lawful and
162 beneficial to the investigation.⁴

163
164 Members shall not surreptitiously record another department member without a court order unless
165 lawfully authorized by the Chief of Police or the authorized designee.

166
167
168 **450.5.4 CESSATION OF RECORDING**

169
170 Once activated, the BWC should remain on continuously until the member's direct participation in the
171 incident is complete or the situation no longer fits the criteria required herein for activation. Recording
172 may be stopped during significant periods of inactivity such as report writing or other breaks from direct
173 participation in the incident.

174
175 Members shall cease audio/video recording whenever necessary to ensure conversations are not
176 recorded between a person in custody and the person's attorney, religious advisor or physician, unless
177 there is explicit consent from all parties to the conversation.⁵

178
179 **450.6 PROHIBITED USE OF PORTABLE RECORDERS**

180 Members are prohibited from using department-issued portable recorders and recording media for
181 personal use and are prohibited from making personal copies of recordings created while on duty or
182 while acting in their official capacity.

183 Members are also prohibited from retaining recordings of activities or information obtained while on
184 duty. Members shall not duplicate or distribute such recordings, except for authorized legitimate
185 department business purposes. All such recordings shall be retained at the Department.

186 Members are prohibited from using personally owned devices for video recording while on duty.⁶
187 Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

188
189 **450.7 PROCESSING AND HANDLING OF RECORDINGS**

190 Any time a member records any portion of a contact that the member reasonably believes constitutes
191 evidence in a criminal case, the member shall record the related case number and transfer the file in

⁴ Penal Code § 633

⁵ Penal Code § 636

⁶ Note: Sgt. Okies expressed concern about not allowing exceptions for personal devices if there is no other way to get the evidence. Other agencies allow such exceptions with watch commander approval.

192 accordance with current procedure for storing digital files and document the existence of the recording
193 in the related case report. Transfers must occur at the end of the member's shift, or any time the
194 storage capacity of the recorder is nearing its limit. In circumstances when the officer cannot complete
195 this task, the officer's supervisor shall immediately take custody of the portable recorder and be
196 responsible for uploading the data. Officers must properly categorize and tag video recordings any time
197 they are uploaded.

198 Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter
199 (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the
200 recording and document the contact appropriately.

201 Members are prohibited from intentionally erasing, altering, reusing, modifying, or tampering with
202 audio video recordings.—Findings that a member intentionally or repeatedly destroyed or did not
203 capture required video recordings will result in disciplinary action.

204

205 450.7.1 RETENTION REQUIREMENTS

206 This policy requires that all video and audio recordings from BPD body cameras be retained for two
207 years and one month (twenty-five months), prior to being erased, deleted, destroyed, or recycled with
208 the following exceptions:

- 209 a) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by
210 a body-worn camera under this section, BPD shall retain the recording in the same manner as is
211 required by law for other evidence that may be relevant to a criminal prosecution.
212 b) Recording caused by either testing or accidental activation may be deleted after 60 days.
213

214 450.7.2 REVIEW OF RECORDINGS BY A MEMBER

215 When preparing written reports, members should review their recordings as a resource, except as
216 stated in subsections A, B, and C below. However, members shall not retain personal copies of
217 recordings. Members shall not use the fact that a recording was made as a reason to write a less
218 detailed report.

219 A. Incidents that involve use of force.

220 A member involved in a use of force shall not review or receive an accounting of any related
221 body camera video footage prior to completing any required initial reports and statements
222 regarding the recorded event. An involved member will be given the opportunity to supplement
223 his or her statement in a separate document, a separate section of the report, or in a separate
224 version of the same document if the earlier document(s) can be easily accessed. In no case shall
225 a member alter a report made prior to reviewing the recording.⁸

⁷ California law section 832.18 gives basic retention requirements for video and audio recordings from body worn cameras used by police officers in the line of duty.

⁸ Note: Sgt. Okies advocated that prohibition of review prior to writing the initial police report should be limited to officer-involved shootings, in-custody death, and use of force consistent with what some agencies refer to as Level 1 or categorical use of force. This perspective mirrors policies reviewed by the subcommittee including Los Angeles, Oakland, BART and Richmond.

226 B. Incidents that result in grave bodily injury.

- 227 1. In the event of an officer-involved incident that results in grave bodily injury, including an
228 officer-involved shooting or an in-custody death, the BWC of the involved member(s) shall be
229 taken from him or her and secured by a supervisor, commander, or appropriate investigator, as
230 necessary. Involved members are not to access or obtain their footage of the incident. It will be
231 the responsibility of the investigation team's supervisor to coordinate with the involved
232 member's supervisor to obtain footage of the incident.
- 233 2. Personnel uploading secured BWC video files shall not view the files unless authorized.
- 234 3. No member involved in the incident may view any video recordings prior to being interviewed
235 by the appropriate investigative unit and receiving command approval.
- 236 4. Once a member's report(s) has been submitted and approved and the member has been
237 interviewed by the appropriate investigator, the involved member will have an opportunity to
238 review the recordings prior to the conclusion of the interview process and to provide additional
239 information to supplement his or her statement in a separate document or separate section of
240 the report. In no case shall a member alter a report made prior to reviewing the recording.

241 C. Access by a Member under Investigation

- 242 1. Criminal - Personnel who are the subject of a criminal investigation may not view any
243 audio/video recordings related to the incident except upon approval, as specified below, by the
244 lead investigator or IAB.
- 245 2. Administrative - In instances where a complaint has been filed and administrative
246 investigations are undertaken and video recordings of the incident exist, the initial interview of
247 the member shall occur before the member has reviewed the recordings. An involved officer will
248 have an opportunity to review recordings after the initial statement has been taken, and he or
249 she can be re-interviewed if either the officer or the investigators believe it necessary.
- 250 3. Subject or witness personnel wanting to view any of the audio/video recordings related to the
251 incident shall make a request to do so, in writing or via email, to the IAD Commander, as
252 appropriate.
- 253 4. The IAD Commander receiving the above request shall notify the member, in writing or via
254 email, of the approval or denial to view the recordings. The IAD Commander shall document the
255 approval or denial in the case file notes/log or include a copy of the approval or denial
256 correspondence in the case file. Approval to view the audio/video recordings may be made by
257 the IAD Commander as long as he or she has determined that allowing the recordings to be
258 viewed will not be detrimental to the investigation.

259 D. Investigatory Review

- 260 Supervisors are authorized to review relevant recordings any time they are investigating alleged
261 misconduct or reports of meritorious conduct or whenever such recordings would be beneficial
262 in reviewing the member's performance.

263

One commissioner supported also applying the rule in Schedule A to arrests.

264 Recorded files may also be reviewed:

265 (a) Upon approval by a supervisor, by any member of the Department who is participating in an
266 official investigation, such as a personnel complaint, administrative investigation or criminal
267 investigation.

268 (b) Pursuant to lawful process or by court or District Attorney personnel who are otherwise
269 authorized to review evidence in a related case.

270 Personnel assigned to investigatory units are authorized to view any BWC video file associated
271 to their active investigations, unless otherwise prohibited by policy.

272 Investigators conducting criminal or internal investigations shall:

273 a. Advise the coordinator to restrict public disclosure of the BWC file in criminal or
274 internal investigations, as necessary.

275 b. Review the file to determine whether the BWC file is of evidentiary value and process
276 it in accordance with established protocols.

277 c. Notify the coordinator to remove the access restriction when the criminal/internal
278 investigation is closed.

279 E. Recorded files may also be reviewed by training staff regarding incidents that may serve as a learning
280 or teaching tool.

281

282 450.8 RELEASE OF RECORDINGS

283 Recorded files will be released:

284 (a) To the Police Review Commission in conjunction with the PRC's investigation of a civilian complaint.

285 (b) In compliance with a public records request, as permitted under General Order R-23 (RELEASE OF
286 PUBLIC RECORDS AND INFORMATION), R-23 does not authorize release of documents that would
287 constitute an unwarranted invasion of privacy. Circumstances where this might arise in video include
288 footage taken inside a home, a medical facility, the scene of a medical emergency, or where an
289 individual recorded has a "reasonable expectation of privacy." However, all subjects of any footage or
290 their next of kin may authorize its release unless prevented by other city policy, law or the courts.

291 (c) To media personnel or the general public with permission of the Chief of Police or authorized
292 designee, subject to privacy protections indicated in this policy.

293 All recordings should be reviewed by the Custodian of Records prior to public release (see the Records
294 Maintenance and Release Policy).

295 BPD may share video footage with law enforcement, national security, military, or other government
296 agencies outside of Berkeley, when there is reasonable suspicion that criminal activity has occurred or is
297 about to occur.⁹

298 **450.9 COORDINATOR**

299 The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate
300 the use and maintenance of portable audio/video recording devices and the storage of recordings,
301 including (Penal Code § 832.18):

302 (a) Establishing a system for uploading, storing and security of recordings.

303 (b) Designating persons responsible for uploading recorded data.

304 (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording
305 devices.

306 (d) Establishing a system for tagging and categorizing data according to the type of incident captured.

307 (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of
308 custody integrity.

309 (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and
310 associated documentation.

311 (g) Maintaining logs of access and deletions of recordings.

312

313 **450.10 SURVEILLANCE**

314

315 The use of facial recognition and other biometric technologies in conjunction with body camera images
316 is prohibited until a BPD policy is adopted addressing the uses of such technologies.

⁹ Refer to General order N-17 "Suspicious Activity Reporting": "The standard by which the determination as to whether information may be used to create a SAR is made in circumstances involving a named or identified individual or group. It means that there exists a "reasonable suspicion" based on the analysis of legally obtained information that the subject of the information is or may be involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct. For the purposes of this order, infraction violations will not be considered sufficient to establish a criminal predicate. The underlying offense must amount to a misdemeanor or felony.... Non-violent civil disobedience is specifically exempted from SARs reporting, and such activities shall not be reported as SARs.... Race, ethnicity, national origin, or religious affiliation should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions)." http://www.ci.berkeley.ca.us/uploadedFiles/Police/Level_3_-_General/GO%20N-17_18Sept12.pdf

Lee, Katherine

From: Lee, Katherine
Sent: Wednesday, June 01, 2016 12:08 PM
To: Lee, Katherine
Subject: SFPD Body Camera policy

Categories: For Agenda

Dear Commissioners,

You may have heard about what's going on with the SFPD Body-Worn Camera policy. Commissioner Lippman has provided a link to an article below. And I will next forward some info on the same from Commissioner Yampolsky.

-Kathy

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

From: george@igc.org [mailto:george@igc.org]
Sent: Wednesday, June 01, 2016 10:38 AM
To: Lee, Katherine <KLee@ci.berkeley.ca.us>
Cc: Norris, Byron <BNorris@ci.berkeley.ca.us>
Subject: RE: Agenda item re stop data

Kathy,

Also: can you please share this article with the commissioners?
<http://www.techwire.net/local/sf-cops-could-have-body-cameras-by-august-after-union-vote.html>

It's interesting, this compromise is essentially what we came up with in the subcommittee: write your report, then review the tape, then write a separate amendment. The difference is that Joe Okies is trying to restrict the type of events in which this rule applies to a bare minimum, whereas in SF I don't any restriction.

George L.

||

S.F. Cops Could Have Body Cameras by August After Union Vote

BY TRIBUNE NEWS SERVICE | JUNE 01, 2016

Photo courtesy of Flickr/Jorge Dalmau.

By Vivian Ho, *San Francisco Chronicle*

San Francisco police officers could be wearing cameras as early as Aug. 1 after their union voted unanimously Tuesday to support a set of rules for using the devices that seeks a middle path on whether officers should be allowed to view footage before filing reports on critical incidents such as shootings.

The Police Officers Association agreed on a policy requiring officers to provide an initial statement of facts before screening body-camera footage following in-custody deaths as well as officer-involved shootings like those that have stirred outrage, a federal review and the recent resignation of the police chief in San Francisco.

Union officials had previously fought to allow officers to view the videos before issuing any statement, saying stressful situations can affect memory and that not allowing officers to view footage set them up for “gotcha” moments if their memory did not perfectly match what was captured.

Law enforcement watchdogs, however, argued that officers allowed to watch video of an incident could adjust their statements, limiting the power of body cameras — which have been adopted by police around the Bay Area and the country — to increase transparency and accountability.

Under the union’s proposal, officers will be allowed to view the footage after providing an initial statement.

“This is originally what the ACLU wanted when we were in working groups,” said union President Martin Halloran. “The Office of Citizen Complaints agreed with them, along with the public defender’s office and the San Francisco Bar Association. They wanted a state-of-mind statement prior to the members viewing the video. I wasn’t completely sold on that, but since that time, we have spoken to experts in the field and we decided that this will be more transparent and will allow officers to view these videos before they’re in a full-blown interview.”

Policy a Compromise

“This is a compromise that we worked out and we believe it will be acceptable to both the Police Commission and to those stakeholders.”

With Tuesday’s vote, the final policy will go before the city Police Commission on Wednesday for discussion and possible action, bringing an end to more than a year of debate. Mayor Ed Lee said he hoped that body cameras would be rolled out within 60 days of a final vote.

“This is a big shift, a big movement for our public safety, and I’m very, very happy to see that the POA has endorsed this and embraced this,” Lee said Tuesday. “This is the first of a lot of reforms we have to do. This is a game-changer. This is really going to change what happens out there.”

Lee announced in May 2015 that he was setting aside more than \$3 million in the city budget to equip 1,800 officers with body cameras. The announcement came as protests swept the nation following several highly publicized police killings of unarmed black men, and in San Francisco, racist and homophobic text messages, exchanged among several officers, emerged out of a federal corruption case against a former police sergeant.

In the months that followed, the calls for transparency and accountability only increased in San Francisco, with five more fatal officer-involved shootings of people of color and another scandal involving officers allegedly sending racist and homophobic text messages.

The Dec. 2 fatal shooting of Mario Woods in the Bayview, which was captured on videos taken by bystanders, incensed community members and prompted a U.S. Department of Justice community policing review. The Police Commission also reopened the department's use-of-force policy. After the May 19 shooting of Jessica Williams, Lee asked Police Chief Greg Suhr to resign.

'Urgency' for Reform

Lee acknowledged that there was "an urgency" for reform and transparency with the events of the past months, but Police Commission President Suzy Loftus refused to roll out body cameras without proper policies developed by people who would be most affected by the technology.

A working group included the police union, the public defender's office, the San Francisco Bar Association and alliances within the police force, such as the black officers' group Officers for Justice. They discussed the policy for several months, often diverging on when officers should view footage.

In December, the Police Commission voted on a policy that allowed officers to view videos at the discretion of the chief, sending the proposal to the police union for negotiation — as must be done under department policy.

"I think the point of having body cameras, it helps determine the truth," Loftus said. "Any investigation is ultimately a search for the truth, and I think that the question of viewing has to do with if there is a way to set it up while also preserving an officer's immediate recollection of what happened."

The union's agreement, she said, "appears to be consistent with the overall goal of additional transparency and making sure these cameras get to the truth of what actually happened."

The version the union sent back to the Police Commission — allowing officers to view footage after they issue an initial statement — was a compromise, but one that civil rights activists say needs to be clear in the written policy.

"The devil is very much in the details," said Catherine Wagner, a staff attorney for the ACLU of Southern California. "What does that initial statement include? I think what you would want is to essentially take an officer's statement, a full statement, about what they remember of the incident, and then watching the body camera footage and providing additional commentary should be extra.

"The initial statement shouldn't be so bare-bones," she said, "that they're waiting to watch the footage to flesh out information that should be in their memory."

Deputy San Francisco Public Defender Rebecca Young, who helped draft the policy and was against allowing officers to view the footage, pointed to a recent incident in which a city officer was caught allegedly perjuring himself in federal court after video was released.

Acting Chief Weighs In

“We’ve seen from the most recent incident ... how important it is for officers to not be allowed to shape their testimony according to a video, but according to the actions that they took based upon what they were seeing,” Young said. “I don’t understand why it’d be a problem if the officers are telling the truth.”

Acting Police Chief Toney Chaplin, who highlighted the body cameras as one of his top priorities when he took over the position May 19 from Greg Suhr, said the coming rollout “moves us firmly into 21st-century policing.”

“We welcome this agreement with the Police Officers Association,” he said. “We look forward to the deployment of the cameras in the near future.”

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Lee, Katherine

From: Ari Yampolsky <ari.yampolsky@gmail.com>
Sent: Wednesday, June 01, 2016 11:15 AM
To: Lee, Katherine
Subject: SF body-camera agreement and "pre-statement review"

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: For Agenda

Kathy:

Please circulate this article, pasted and linked below, to the Commission members. Among other things, it concerns the agreement San Francisco reached yesterday with its police union regarding the issue of "pre-statement review," i.e., whether officers involved in a critical incident can view video footage of the incident before writing a report about the incident. The policy is also linked below.

KQED STORY: <http://ww2.kqed.org/news/2016/05/31/san-francisco-reaches-agreement-with-police-union-on-body-cameras>

POLICY

DRAFT: <http://sanfranciscopolice.org/sites/default/files/Documents/PoliceCommission/PoliceCommission060116-RevisedDraftBWCPolicy052716.pdf>

Thanks,
Ari

San Francisco Reaches Agreement With Police Union on Body Cameras

By Alex Emslie
MAY 31, 2016

San Francisco's long languishing effort to pin cameras on its police officers appeared close to completion Tuesday evening, with statements from the city's mayor and head of the police officers' union announcing a compromise.

If the city Police Commission approves the new policy emerging from negotiations that for months appeared to be stalled, the first deployment of cameras could hit the streets by Aug. 1, according to the mayor's office.

"We are making critical investments in funding police department reform, rebuilding community trust, and bringing a culture change in how we handle conflicts on our City streets," Mayor Ed Lee said in a written statement announcing the agreement, noting that he's budgeted over \$6 million to fund the roll out of some 1,800 body cameras over the next two years.

Language in the final draft headed before the Police Commission Wednesday reflects a compromise on one of the stickiest points in the policy: When should officers involved in a critical incident, such as a shooting, be allowed to view video footage of the incident?

When police commissioners initially grappled with that question last year they left any such “pre-statement review” to the chief’s discretion.

The May 19 resignation of former Chief Greg Suhr threw that compromise into question. But, the jointly submitted final draft body camera policy from the mayor’s office and the POA ends those concerns.

On pre-statement review, the final draft appears closer to what accountability advocates wanted than the union’s previous position to generally allow officers to view their camera footage, even in shooting cases, and even before being interviewed.

Here’s the draft language laying out circumstances in which SFPD officers would not be allowed to view body camera, or any footage:

Following any (1) officer-involved shooting, (2) in-custody death, or (3) criminal matter, any subject officer shall be required to provide an initial statement before he or she reviews any audio or video recording.

The initial statement by the subject officer shall briefly summarize the actions that the officer was engaged in, the actions that required the use of force, and the officer’s response. The statement shall be distinct from the “public safety statement.”

After providing an initial statement, the subject shall have an opportunity to review any audio or video recordings depicting the incident with his or her representative or attorney prior to being subject to an interview.

This new, distinct “initial statement” may preserve officers’ perspective of an incident unaltered by reviewing footage. It’s an officers’ state of mind, regardless of what video later reveals, that helps define the legal standard for justified uses of force.

The “public safety statement” is a set of mandatory questions an officer involved in a critical incident must answer at the scene if ordered by a supervisor. The questions seek information on any threat that may still exist but avoid seeking officers’ reasons for using force.

“Rank-and-file police officers value transparency, and we welcome body cameras as an effective tool to improve public safety and strengthen accountability,” Halloran wrote in a statement issued Tuesday. “Body cameras are not a panacea, but they provide a key record of events for use in investigations — and are a clear signal to our community that police officers hold ourselves to the highest standards.”

Body camera deployment was one of several major changes to the SFPD initiated by former Chief Greg Suhr that have landed before interim Chief Toney Chaplin, who said the cameras would be a major focus for him upon taking over the position.

“This is a game changer for the San Francisco Police Department and moves us firmly into 21st Century Policing,” Chaplin said in a written statement. “We welcome this agreement with the San Francisco Police Officers Association and we look forward to the deployment of the cameras as soon as possible.”

—
Ari Yampolsky
(213) 700-2929

BODY WORN CAMERAS POLICY

Rev. 12/02/1505/27/16

I. Purpose:

The use of Body Worn Cameras (BWC) is an effective tool a law enforcement agency can use to demonstrate its commitment to transparency, ensure the accountability of its members, increase the public's trust in officers, and protect its members from unjustified complaints of misconduct. As such, the San Francisco Police Department is committed to establishing a BWC program that reinforces its responsibility for protecting public and officer safety. The purpose of this Department General Order is to establish the policies and procedures governing the Department's BWC program and to ensure members' effective and rigorous use of BWC and adherence to the program.

The BWC is a small audio-video recorder with the singular purpose of recording audio/visual files, specifically designed to be mounted on a person. The BWC is designed to record audio and video activity to preserve evidence for use in criminal and administrative investigations (including disciplinary cases), civil litigation, officer performance evaluations, and to review police procedures and tactics, as appropriate.

II. Policy:

- A. ~~USE OF EQUIPMENT.~~ Use of Equipment. The Department-issued BWC is authorized for use in the course and scope of official police duties as set forth in this Order. Only members authorized by the Chief of Police and trained in the use of BWCs are allowed to wear Department-issued BWCs. The BWC and all recorded data from the BWC are the property of the Department. The use of non-Department issued BWCs while on-duty is prohibited.
- B. ~~TRAINING.~~ Training. ~~The Department will train all members assigned BWCs prior to deployment. Members assigned BWCs shall use the devices in accordance with their training and the provisions outlined in this order. Prior to the issuance of BWCs, officers will be trained on the operation and care of the BWCs. This training will include mandatory, permissible and prohibited uses, significant legal developments, and use of BWCs in medical facilities.~~
- C. ~~PROGRAM ADMINISTRATOR.~~ Program Administrator. The Risk Management Office (RMO) is the BWC's program administrator. The duties of the RMO include, but are not limited to:
1. Tracking and maintaining BWC inventory
 2. Issuing and replacing BWCs to authorized members
 3. Granting security access to the computer server
 4. Monitoring retention timeframes as required by policy and law
 5. Complying with Public Record Act (PRA) requests and all court record requests
 6. Conducting periodic and random audits of BWC equipment and the computer server
 7. Conducting periodic and random audits of BWC recordings for members' compliance with the policy

III. Procedures:

A. Set Up and Maintenance.

Members shall be responsible for the proper care and use of their assigned BWC and associated equipment.

1. Members shall test the equipment at the beginning of their shift and prior to deploying the BWC equipment to ensure it is working properly and is fully charged.
2. If the member discovers a defect or that the equipment is malfunctioning, the member shall cease its use and shall promptly report the problem to his/her Platoon Commander or Officer in Charge.
3. If the member discovers that the BWC is lost or stolen, the member shall submit a memorandum through the chain of command memorializing the circumstances, in accordance with Department General Order 2.01, Rule 24, Loss or Damage to Department Property.
4. If the member's BWC is damaged, defective, lost or stolen, the member's supervisor shall facilitate a replacement BWC as soon as practical.
5. Members shall attach the BWC in such a way to provide an unobstructed view of officer/citizen contacts. The BWCs shall be considered mounted correctly if it is mounted in one of the Department-approved mounting positions.

B. Notification and Consent.

When feasible, members should inform individuals that they are being recorded.

However, state law allows members to record communications that he or she could lawfully hear or record. Penal Code § 633 *see also People v. Lucero 190 Cal. App. 3d 1065, 1069*. Members are not required to obtain consent from members of the public prior to recording when the member is lawfully in the area where the recording takes place.

Members are not required to activate or deactivate a BWC upon the request of a citizen. In addition, members are not required to play back BWC recordings to allow members of the public to review the video footage.

C. Authorized Use.

All on-scene members equipped with a BWC shall activate their BWC equipment to record in the following circumstances:

1. Detentions and arrests
2. Consensual encounters where the member suspects that the citizen may have knowledge of criminal activity as a suspect, witness, or victim, except as noted in Section III, D.
3. 5150 evaluations
4. Traffic and pedestrian stops

5. Vehicle pursuits
6. Foot pursuits
7. Uses of force
8. When serving a search or arrest warrant
9. Conducting any of the following searches on one's person and/or property:
 - a. Incident to an arrest
 - b. Cursory
 - c. Probable cause
 - d. Probation/parole
 - e. Consent
 - f. Vehicles
10. Transportation of arrestees and detainees
11. During any citizen encounter that becomes hostile
12. In any situation when the recording would be valuable for evidentiary purposes
13. Only in situations that serve a law enforcement purpose

D. Prohibited Recordings.

Members shall not activate the BWC when encountering:

1. Sexual assault and child abuse victims during a preliminary investigation
2. Situations that could compromise the identity of confidential informants and undercover operatives
3. Strip searches

However, a member may record in these circumstances if the member can articulate an exigent circumstance that required deviation from the normal rule in these situations.

Members shall not activate the BWC in a manner that is specifically prohibited by DGO 2.01, General Rules of Conduct, Rule 56 – Surreptitious Recordings – and DGO 8.10, Guidelines for First Amendment Activities.

E. Terminations of Recordings.

Once the BWC has been activated, members shall continue using the BWC until their involvement in the event has concluded to ensure the integrity of the recording, unless the contact moves into an area restricted by this policy. Members shall deactivate the BWC in the following circumstances:

1. When discussing sensitive tactical or law enforcement information away from the citizen
2. After receiving an order from a higher ranking member
3. When recording at a hospital would compromise patient confidentiality
4. When gathering information from witnesses or community members, and the officer has a reasonable and articulable concern that a BWC would inhibit information gathering efforts

In cases when a member deactivates a BWC, the member shall document the reason(s) for deactivation as outlined in Section III, G, DOCUMENTATION.

F. Viewing BWC Recordings.

~~1.~~ 1. A member may review a BWC recording on his/her assigned device or on an authorized computer for any legitimate investigatory purpose, including but not limited to, preparing an incident report, preparing statements, conducting a follow-up investigation, or providing testimony, except when the member is the subject of the investigation in any of the following circumstances that were captured by the BWC: Following any (1) officer-involved shooting, (2) in-custody death, or (3) criminal matter, any subject officer shall be required to provide an initial statement before he or she reviews any audio or video recording.

The initial statement by the subject officer shall briefly summarize the actions that the officer was engaged in, the actions that required the use of force, and the officer's response. The statement shall be distinct from the "public safety statement."

After providing an initial statement, the subject shall have an opportunity to review any audio or video recordings depicting the incident with his or her representative or attorney prior to being subject to an interview.

2. Members shall not access or view a BWC unless doing so involves a legitimate law enforcement purpose.

G. Documentation.

Members submitting an incident report or completing a written statement shall indicate whether the BWC was activated and whether it captured footage related to the incident.

If a member deactivates a BWC recording prior to the conclusion of an event, the member shall document the reason(s) for terminating the recording in CAD, an incident report, a written statement or a memorandum.

If a higher ranking member orders a subordinate member to deactivate the BWC, the higher ranking officer shall document the reason(s) for the order in CAD, an incident report, a written statement or a memorandum.

If a member reactivates the BWC after turning the equipment off, the member shall document the reason(s) for restarting the recording in CAD, an incident report, a written statement or a memorandum.

If a member determines that officer or public safety would be compromised if a BWC were activated during an incident requiring its use, the member shall document in CAD,

an incident report, a written statement or a memorandum the reason(s) for not using the BWC.

H. Storage and Use of Recordings.

1. A member who has recorded an event shall upload the footage prior to the end of his/her watch unless instructed to do so sooner by an assigned investigator or a superior officer. If the member is 1) the subject of the investigation in an officer-involved shooting or in-custody death; 2) the subject of a criminal investigation; or 3) at the discretion of the Chief of Police or his/her designee, the senior ranking on-scene supervisor ~~commanding officer~~ shall take immediate physical custody of the camera and take responsibility for uploading the data.
2. When uploading recordings to the computer server, members shall identify each BWC recording with the incident report number, CAD number or citation number and the appropriate incident category title to ensure the recording is accurately retained and to comply with local, state and federal laws.
3. Members are prohibited from tampering with BWC recordings, accessing BWC recordings for personal use, and from uploading BWC recordings onto public or social media Internet Web sites without written approval from the commanding officer of the RMO.

I. Duplication and Distribution.

The San Francisco Police Department's goal is to release BWC recordings to the greatest extent possible unless disclosure would:

- endanger the safety of a witness or another person involved in the investigation,
- jeopardize the successful completion of an investigation, or
- violate local, state and/or federal laws, including but not limited to, the right of privacy.

1. Departmental Requests:

- a. The officer-in-charge or commanding officer of the investigative unit assigned the incident recorded by the BWC, or the commanding officer of the RMO shall have the authority to permit the duplication and distribution of the BWC files.
- b. Any member requesting to duplicate or distribute a BWC recording shall obtain prior written approval from the officer-in-charge or the commanding officer of the unit assigned the investigation, or the commanding officer of the RMO.
- c. Duplication and distribution of BWC recordings are limited to those who have a "need to know" and a "right to know" and are for law enforcement purposes only. The Department shall maintain a log of access, duplication and distribution.

- d. When releasing BWC recordings, members shall comply with federal, state and local statutes and Department policy.

2. Non-Departmental Requests:

- a. The Department shall accept and process PRA requests in accordance with the provisions of federal, state and local statutes and Department policy.
- b. Members shall provide discovery requests related to the rebooking process or other court proceedings by transferring the BWC recording to the requesting agency by using the computer server where the BWC recording is stored.
- c. When requested by the OCC, members of the Legal Division shall provide the BWC recordings consistent with the Police Commission's document protocol policy on OCC routine requests.

J. Retention.

1. Consistent with state law, the Department shall retain all BWC recordings for a minimum of sixty (60) days, after which recordings may be erased, destroyed or recycled.

Notwithstanding any other provision of this policy, the Department shall retain BWC recordings for a minimum of two (2) years if:

- a. The recording is of an incident involving a member's use of force or officer-involved shooting; or
- b. The recording is of an incident that leads to the detention or arrest of an individual; or
- c. The recording is relevant to a formal or informal complaint against a member or the Department.

2. Notwithstanding any other provision of this policy, a BWC recording may be saved for a longer or indefinite period of time as part of a specific case if deemed relevant to a criminal, civil or administrative matter.
3. A member may not delete any BWC recording without prior authorization. The member seeking to delete a recording shall submit a memorandum to his/her Commanding Officer requesting to delete footage from a BWC file and shall make an entry of the request in the appropriate case file, if applicable. The Commanding Officer shall then forward the memorandum to the Commanding Officer of the RMO for evaluation and appropriate action.
4. Subject to the above limitations, members of the RMO are authorized to delete BWC recordings in accordance with the Department's established retention policies on BWC recordings or when directed by the Commanding Officer of the RMO.

5. The Department shall retain permanently all records of logs of access as set forth in I.1.3 and deletion of data including memorandums as set forth in J.3 and J.4 from the BWC.

K. Accidental or Unintentional Recordings.

If a BWC accidentally or inadvertently captures an unintended recording, the member may submit a memorandum through the chain of command specifying the date, time, location and a summary of the unintentionally recorded event. This memorandum shall be forwarded to the Commanding Officer of the RMO for evaluation and appropriate action.

L. Discovery of Potential Misconduct during Authorized Review.

Members reviewing recordings should remain focused on the incident captured in the BWC and should review only those recordings relevant to the investigative scope. If a member discovers potential misconduct during any review of the BWC, the member shall report the potential misconduct to a superior officer. The superior officer shall adhere to the provisions of Department General Order 1.06, Duties of Superior Officers, Section I.A.4. Nothing in this procedure prohibits addressing Department policy violations.

M. Targeting Prohibited.

Department supervisors may access BWC footage for purposes consistent with the policy. Supervisors may not review an officer's BWC footage to search for violations of Department policy without cause.

References:

DGO 1.06, Duties of Superior Officers

DGO 2.01, Rules 23 and 24, Use of Department Property and Loss or Damage to Department Property

DGO 2.01, Rule 56, Surreptitious Recordings

DGO 8.10, Guidelines for First Amendment Activities

Los Angeles Police Department's Body Camera Policy

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Full Notification



Berkeley Police Department

Wednesday May 25th, 2016 :: 02:38 p.m. PDT

 Forward

 +

English

Spanish

Community **DUI Checkpoint results in 3 Arrests & 13 Citations**

On May 20th, 2016, the Berkeley Police Department Traffic Bureau hosted a Sobriety Checkpoint at Telegraph Avenue and Stuart Street. Funded by through a grant from the California Office of Traffic Safety, Berkeley Police officers worked alongside California Highway Patrol officers to operate the checkpoint, detect impaired drivers, and enforce laws related to vehicle safety.

A completely preventable crime, impaired driving in Berkeley has resulted in loss of life and serious injury, incidents all too-well known to our community and to BPD officers. Since January 2012, alcohol-involved crashes have claimed four lives in the City of Berkeley. In 2014 alone, nineteen people were injured in DUI crashes.

During the 5 1/2 hour operation, the drivers of all 760 vehicles which drove through the checkpoint were contacted. Of those vehicles, officers conducted 22 Field Sobriety Tests, made 3 arrests, issued 13 citations, and impounded 3 vehicles after their drivers were arrested.

When we conduct a checkpoint, our goals are to conduct the checkpoint in the safest and most efficient manner, promote public safety, increase public awareness of the dangers associated with impaired driving, and serve as a deterrent to potentially impaired drivers.

Community members may wonder how DUI Checkpoints are operated. DUI Checkpoints are required by law to adhere to a number of standards. For example, motorists are selected to stop by a neutral criteria (e.g., every car is stopped, or every 5th car is stopped, etc). Checkpoints are publicized in advance, and are designed to be very visible to approaching traffic. They must be reasonably located, well-planned, and employ adequate safety precautions. Checkpoints are well lit, with large additional lighting equipment deployed and set to illuminate the checkpoint.

During the checkpoint, officers briefly contact motorists to look for signs of alcohol and/or drug impairment, and check drivers for proper licensing. When possible, specially trained officers will evaluate those suspected of drug-impaired driving—drug-impaired driving now accounts for a growing number of impaired driving crashes, including a major injury collision involving a cyclist in February this year in Berkeley.

BPD's work with the CHP on DUI checkpoints is only one element of our work to make the streets safer for our community. Patrol officers often make DUI arrests, especially at night. In fact, Mothers Against Drunk Driving (MADD) recently honored several BPD officers for their DUI enforcement work in 2015—Officers Andres Bejarano, Megan Schaefer, Darren Kacalek, and Devin Hogan combined to make over 110 impaired driving arrests.

We are emphasizing the preventable nature of drunk and drug-impaired driving in order to remind our community members that all it takes, to avoid impaired driving—and potential disaster—is a little planning ahead. Designate a sober driver, call a cab, or use a ride-sharing service... but whatever you do, don't drink and drive.

More Messages

[See more messages from Berkeley, California »](#)

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

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

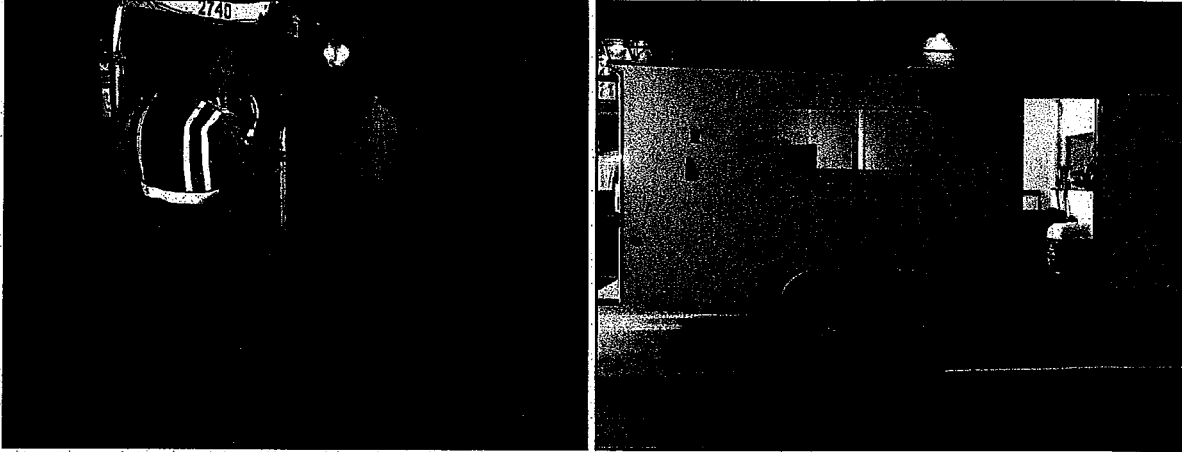
For help, reply **HELP** to 888777. To cancel, reply **STOP** to 888777. No charge but Message & Data rates may apply. Message frequency varies.
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For Immediate Release
May 24, 2016

Copwatch Witnesses Allege Racial Profiling at Berkeley Police DUI Checkpoint



A publicized police sobriety checkpoint on Friday May 20, 2016 has raised concerns about the intrusive quality of these DUI checkpoints, as well as police procedure during these stops.

Volunteers from Berkeley Copwatch monitored stops at the checkpoint for several hours. Findings centered around the detention of people of color, and African Americans in particular:

Findings include:

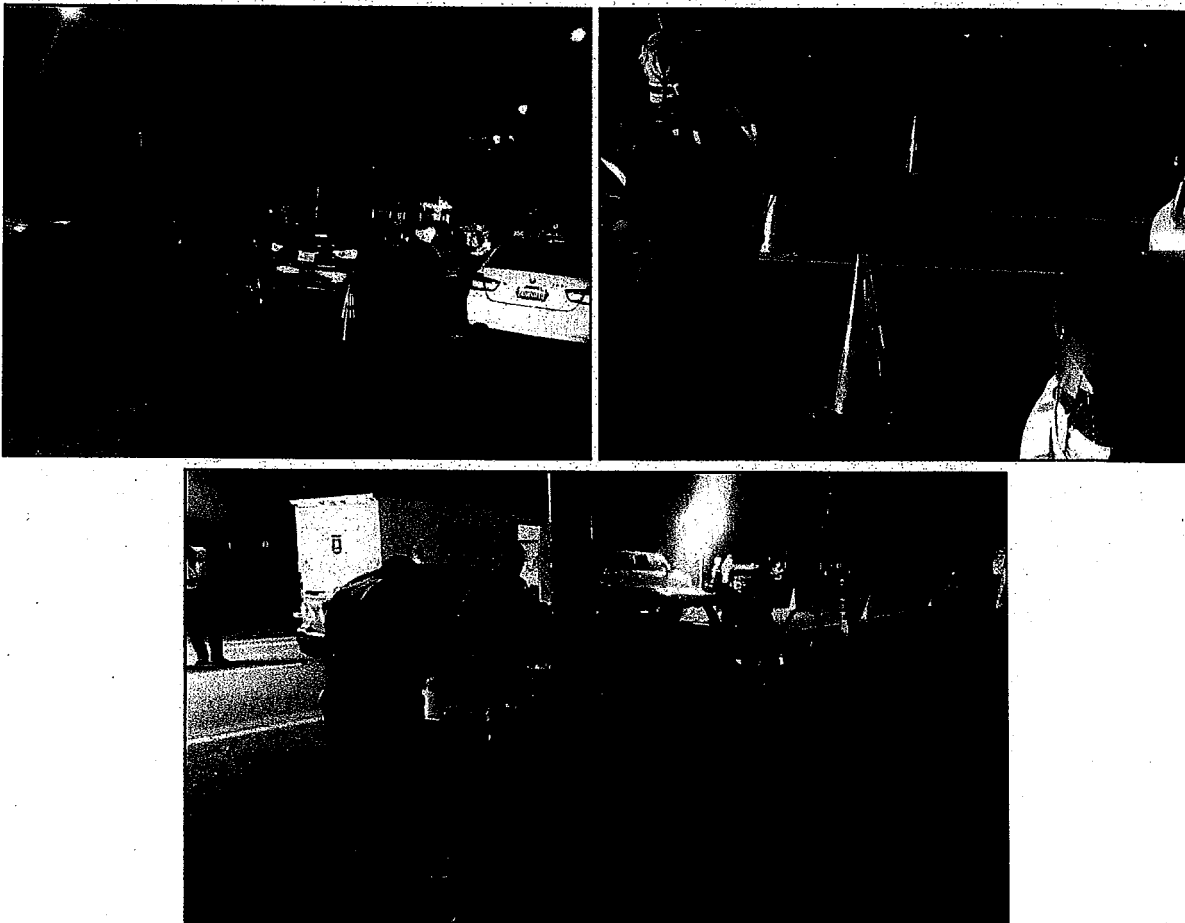
- Copwatchers witnessed a high relative count of detentions of African Americans. This finding is especially worrisome given that African Americans only make up 8% of the Berkeley population according to the Adeline Corridor Project "Existing Conditions Report." Copwatch would like to know how BPD is tracking racial statistics for people detained and searched during checkpoint stops. Do the stops not resulting in citations get counted in their data collection?
- Berkeley police officers did not have badge numbers and officer names visible in accordance with California Penal Code 830.10. Copwatchers have noticed that California Highway Patrol officers put their badges on their safety vests to ensure visibility. Why couldn't BPD do that?
- Officers towed a vehicle because the driver had a suspended license, even though a licensed driver was in the car. BPD has maintained a policy since 2010 to allow a licensed driver to drive the car rather than impound it for a month.
- Officers did not let the driver and passengers of the car retrieve their things before towing, including one driver's work uniform.
- Officers did not provide information about how to get the car back or where it would be stored.

- In one instance that copwatchers saw, a car was towed before the driver was allowed to get proof of insurance and registration out of the car. Now the driver has no access to his paperwork.
- Officers forced passengers to sit on the curb, even when there was no crime, no suspects and no reasonable suspicion to believe that a crime did occur.

On the scene, officers explained to copwatchers that the point of the checkpoint was to 1) get drunk drivers off the road and 2) do educational outreach to the people. However, a majority of stops were not related to drunk driving, and towing the car of a young African American man due to a suspended license is more punitive than educational. BPD demonstrated that it still has not successfully dealt with the problem of bias and racial profiling.

Copwatch will take these concerns to the Police Review Commission, which is meeting this Wednesday at 7 pm at the South Berkeley Senior Center, 2939 Ellis Street (near Ashby).

For more information contact:
(510) 548-0425 or (510) 229-0527
berkeleycopwatch@yahoo.com



Photographs: Paul Kealoha-Blake and Andrea Prichett

*****ATTENTION NEWS EDITOR*****
FOR IMMEDIATE RELEASE:
Tuesday, September 29, 2015

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Marcel Jones: marceljones6@gmail.com (562) 229-4311

Berkeley Police Department Data Reveals Stark Racial Disparities

Newly released data on police stops confirms local activists and communities of color charges of racial profiling in Berkeley. Data on police stops in Berkeley from January 18, 2015 to August 12, 2015, collected by the Berkeley Police Department and disclosed in response to a Public Records Act request, reveals a pattern of discriminatory conduct against African American and Latino civilians.

SUMMARY OF DATA:

Stops: Of 4658 civilians stopped by Berkeley police from January 26 through August 12 of this year for whom demographic statistics are available, 1710 were described as White, 1423 as African American, 543 as Hispanic/Latino. Though Black people constitute less than 8% of Berkeley's population, they were 30.5% of those stopped by police; whites, comprising 60% of Berkeley, were 36.7% of those stopped.

Disposition: 38.1% of White people stopped by Berkeley police were eventually released without being either arrested or cited. However, 66.2% of African Americans were released without an arrest or citation, with Hispanics/Latinos close behind at 56.4%.

Searches: Out of all African Americans who were stopped, 19.1% were subjected to a search, but only 4% of Whites who were stopped were also searched. Of Latinos who were stopped, 13.4% were searched.

Unfortunately, the stop data does NOT include pedestrian stops as mandated under city policy. The BPD needs to quickly clarify whether/how pedestrian stops are being reported. This information is not available in the information the BPD provided publicly in response to a public records act request, but is required by the General Order B-4.

This data supports the following conclusions:

- When White civilians are stopped, it is far more often for a legitimate reason.
- When African Americans and Latinos are stopped, very often it is for no reason.
- Black people are stopped almost twice as much as White people.

- Both African Americans and Latinos who are stopped are searched at a shockingly higher rate as compared to White civilians in Berkeley.

BACKGROUND: In June 2014, the Berkeley City Council directed the Berkeley Police Department to adopt a Fair and Impartial Policing policy (B-4). The policy requires police to collect and report data on the subjects of all street encounters, whether traffic or pedestrian stops. There were numerous delays in collecting the information related to technical problems. Eventually, BPD reported that all officers were trained, procedures were agreed upon and officers began entering data in January 2015. The enclosed statistical data was only produced after an official PRA was filed.

African Americans in particular have long complained of over-policing in South Berkeley, including random stops, regular searches, routine handcuffing and repeated harassment, however, data has never been collected on this scale. The data gathered affirms the perception that African Americans and Latinos are being profiled in Berkeley.

"This data substantiates the concerns expressed by numerous African Americans about BPD over-policing of the Black community in Berkeley," said Mansour Id-Deen, a longtime community activist and President of the Berkeley NAACP.

"This disproportionate stopping and searching of innocent African Americans for no reason comes at a time when Berkeley's crime rate is up 23% over last year. While the Berkeley police waste time stopping African Americans who have done nothing to justify their detention, BPD's ability to keep Berkeley citizens safe from crime is further diminished," said Marcel Jones, student activist.

THE COALITION IS DEMANDING:

- **BPD reporting requirements must be to report on its progress in eliminating bias through quarterly reporting; the report must include Pedestrian Stops information and total compliance with B-4.**
- **Identify squads and teams that are stopping people with insufficient yield and mandate that they be retrained and/or squads be broken up or disciplined**
- **Establish a Citywide Department of Race and Equity**
- **Crisis Intervention Training (CIT) for ALL BPD Officers.**
- **Require that police be equipped with body cameras and that a comprehensive policy for providing both privacy protection and public access be established.**

ENDORSERS:

- * Berkeley NAACP
- * Berkeley Copwatch
- * ACLU (American Civil Liberties Union)
- * NLG (National Lawyers Guild)
- * UCB Black Student Union

Lee, Katherine

From: Jayson Wechter <jayson@well.com>
Sent: Friday, May 27, 2016 12:35 PM
To: Norris, Byron; Lee, Katherine; Anthony Finnell; Russell Bloom
Subject: Fwd: SB1286 died in committee

Dear oversight colleagues,

If you haven't already heard the bad news.

Jayson Wechter
[Jayson@well.com](mailto:jayson@well.com)
415-519-9684

Begin forwarded message:

From: Daisy Vieyra <dvieyra@acluca.org>
Date: May 27, 2016 at 12:18:52 PM PDT
To: "sb1286-outreach-and-mobilization-team@googlegroups.com" <sb1286-outreach-and-mobilization-team@googlegroups.com>
Subject: SB1286 died in committee

Hi all,

The bill was held in the Senate Appropriations Committee today. Please tweet the sad news out using #SB1286, #CAleg, #policebrutality. **Emphasize that the law enforcement lobby won over the will of California constituents.**

I have a press release drafted and am waiting for the green light from Leno's office. Will share with the group once it's finalized.

Daisy A. Vieyra
Sr. Communications Strategist
Center for Advocacy & Policy
American Civil Liberties Union of California
dvieyra@acluca.org | (916) 442-1036 x313

This email has been scanned for email related threats and delivered safely by Mimecast.
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You received this message because you are subscribed to the Google Groups "SB1286 Outreach and mobilization team" group.
To unsubscribe from this group and stop receiving emails from it, send an email to sb1286-outreach-and-mobilization-team+unsubscribe@googlegroups.com.
To post to this group, send email to sb1286-outreach-and-mobilization-team@googlegroups.com.
To view this discussion on the web visit <https://groups.google.com/d/msgid/sb1286-outreach-and-mobilization->

[team/3dd9dfaceea6407fb37bc0627ade0db7%40VSFOEX01.aclunc.org](https://groups.google.com/d/optout).
For more options, visit <https://groups.google.com/d/optout>.

Lee, Katherine

From: shrmmi <shrmmi@aol.com>
Sent: Tuesday, May 24, 2016 3:52 PM
To: Lee, Katherine
Subject: Fwd: Video 3:15 Startling number of mental patients behind bars in US
Categories: For Agenda

Kathy Could you please forward this video to the other Comms.?

Thanks Peace

Video 3:15
Startling number of mental patients behind bars in US

- 20 May 2016
- From the section US & Canada
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