

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION  
REGULAR MEETING  
AGENDA**

**Wednesday, February 22, 2017  
7:00 P.M.**

North Berkeley Senior Center  
1901 Hearst Avenue, Berkeley

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**  
*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers. They may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)*
- 4. APPROVAL OF MINUTES**
  - a. Special Meeting of February 1, 2017
  - b. Regular Meeting of February 8, 2017
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**  
Status of complaints; change to standing rules; other items.
- 7. CHIEF OF POLICE'S REPORT**  
Crime, budget, staffing, training updates, and other items.
- 8. SUBCOMMITTEE REPORTS (discussion & action)**  
Report of activities and meeting scheduling for the following Subcommittees:
  - a. Fair & Impartial Policing Subcommittee
  - b. Media Credentialing Subcommittee
  - c. Surveillance and Community Safety Ordinance Subcommittee
  - d. General Orders C-64, etc. Subcommittee

- e. Outreach Subcommittee
- f. Homeless Encampment Subcommittee

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

- a. Mutual Aid Pacts: Consider whether to approve agreement with Northern California Regional Intelligence Center (NCRIC), following report back from BPD as to whether information from NCRIC is retrieved for use in BPD investigations.  
From: Commission
- b. Consider language that the PRC Officer and Chief of Police negotiate with BPD regarding these aspects of Body-Worn Camera policy: Use of personal recording devices; Release of recordings to the PRC. *(To be delivered.)*  
From: PRC Officer
- c. Request that the BPD release to the PRC the following data that BPD sent to the Center for Policing Equity: 1) use of force data; 2) any stop data information beyond what is published on the City's Open Data Portal; 3) climate survey questions and answers.  
From: Commissioner Lippman
- d. Decide process for policy review of General Order W-1, Public Recording of Law Enforcement Activity (Right to Watch), to evaluate the current policy and its implementation. Process may include establishment of subcommittee or consideration by full Commission. Begin review, if by full Commission.  
From: Commissioner Prichett
- e. Continue discussion of process for providing PRC review of Lexipol policies.  
From: Commissioner Bernstein

**10. NEW BUSINESS (discussion & action)**

- a. Commendations of BPD personnel
  - i. Amend standing rules to formalize practice of considering commendations.
  - ii. Consider commendations for the period June through December 2017.  
From: Commissioner Bernstein; PRC Officer
- b. Consider closure of Policy Complaint #2377, regarding BPD awareness of change to non-smoking ordinance.  
From: Commission
- c. Report of research into Policy Complaint #2406, regarding searches of persons and vehicles based on smell of marijuana.  
From: PRC Officer

**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

### **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, 1st 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

## February 22, 2017

### MINUTES

February 1, 2017 <i>Special</i> Meeting Minutes	Page	7
February 8, 2017 <i>Regular</i> Meeting Minutes	Page	11

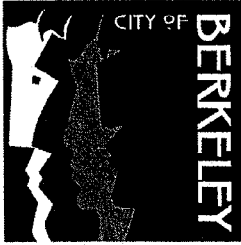
### AGENDA-RELATED

<b>Item 6</b> – Addition to Standing Rules.	Page	15
<b>Item 9.a</b> – Email from BPD Chief dated 2-7-17: NCRIC update.	Page	17
<b>Item 9.a</b> – General Order N-17, NCRIC.	Page	19
<b>Item 9.d</b> – BPD General Order W-1: Public Recording of Law Enforcement Activity.	Page	25
<b>Item 9.d</b> – San Francisco PD General Order: Rights of Onlookers.	Page	29
<b>Item 9.e</b> – List of Lexipol policies, Parts 1 – 4.	Page	31
<b>Item 10.a</b> – Commendations of BPD personnel.	Page	35
<b>Item 10.b</b> – Policy complaint #2377.	Page	91
<b>Item 10.b</b> – Memo dated August 7, 2015 from PRC Officer to Chief of Police re PRC Concerns Regarding BPD Knowledge of City Non-Smoking Law.	Page	94
<b>Item 10.c</b> – Memo from PRC Officer dated February 15, 2017: Report regarding Policy Complaint #2406: Searches of vehicles based on smell of marijuana when driver produces medical marijuana ID card.	Page	95
<b>Item 10.c</b> – Policy Complaint #2406.	Page	97

### COMMUNICATION(S)

- Memo from the PRC Officer dated February 6, 2017 re Commendation of BPD employees January – June 2016. Page 101
- Memo dated February 7, 2017 from the PRC Chair to the Mayor and Councilmembers re Seizure of Property from Homeless Encampments. Page 103

- Memo dated February 15, 2017 from the City Attorney re Disclosure of Informal Complaints to the Police Review Commission.



Police Review Commission (PRC)

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

**Wednesday, February 1, 2017**  
**7:00 P.M.**

North Berkeley Senior Center  
1901 Hearst Avenue, Berkeley

**1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:20 P.M.**

Present: Commissioner Alison Bernstein (Chair)  
Commissioner Kimberly DaSilva (Vice Chair)  
Commissioner George Lippman  
Commissioner George Perezvelez  
Commissioner Andrea Prichett  
Commissioner Bulmaro Vicente (arrived 7:30 p.m.)

Absent: Commissioners Terry Roberts, Ari Yampolsky

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: None

**2. APPROVAL OF AGENDA**

**By general consent, the agenda was approved with these changes: postpone Item #7.a. due to the Chief's absence, and move Item #8, Subcommittee Appointments, Reports, and Recommendations, after Item #6.**

**3. PUBLIC COMMENT**

There were no speakers.

**4. CHAIR'S REPORT**

No report.

**5. PRC OFFICER'S REPORT**

A complaint deadline report was distributed.

**6. CHIEF OF POLICE'S REPORT**

None.

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

a. Continue discussion of process for providing PRC review of Lexipol policies.  
*(Postponed to the next meeting.)*

b. Commissioner questions about case law and statutes affecting the Board of Inquiry hearing process.

*Discussed without action taken.*

c. Open a policy investigation into police enforcement action on homeless encampments, to include an inquiry that identifies who is issuing the directive to conduct enforcement; who are the parties involved in deciding to issue such a directive; what costs (personnel, equipment, and other) has the BPD incurred to undertake the enforcement actions; and whether the BPD's enforcement actions were lawful and appropriate, including, but not limited to, the following areas: BPD involvement in seizure of property (or supervising such seizure); BPD compliance with and accommodations made for the Americans with Disabilities Act (ADA); allowing the public the Right to Watch under General Order W-1, compliance with First Amendment protections of free speech during extended protests. Determine next steps for investigation, including possible formation of a subcommittee

**Motion to open a policy investigation that will include but not be limited to an inquiry that identifies who is issuing the directive to conduct enforcement; who are the parties involved in deciding to issue such a directive; what costs (personnel, equipment, and other) has the BPD incurred to undertake the enforcement actions; and whether the BPD's enforcement actions were lawful and appropriate, including, but not limited to, the following areas: BPD involvement in seizure of property (or supervising such seizure); BPD compliance with and accommodations made for the Americans with Disabilities Act (ADA); allowing the public the Right to Watch under General Order W-1, compliance with First Amendment protections of free speech during extended protests.**

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

Ayes: Bernstein, DaSilva, Lippman, Prichett, and Vicente.

Noes: Perezvelez      Abstain: None      Absent: Roberts, Yampolsky

**Motion to create a subcommittee for the purposes of conducting the policy investigation.**

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

Ayes: Bernstein, DaSilva, Lippman, Prichett, and Vicente.

Noes: Perezvelez      Abstain: None      Absent: Roberts, Yampolsky



*Chair Bernstein appointed Commissioners Prichett, Yampolsky, and herself to the newly-formed subcommittee; Chair Bernstein removed herself from the Fair & Impartial Policing Subcommittee.*

- d. Request for a moratorium on police enforcement actions on homeless encampments.

**Motion to have PRC officer draft letter to the City Council and City Manager that states the following: We encourage the City to develop a clear policy that protects the rights of people to be secure in their belongings. The PRC has received consistent reports that property that is not abandoned is being seized by the Department of Public Works and BPD members are acting as support during these events, most of which have been identified as enforcement actions at homeless encampments. This is creating tension between the BPD and the community.**

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

Ayes: Bernstein, DaSilva, Lippman, Perezvelez, Prichett, and Vicente.

Noes: None Abstain: None Absent: Roberts, Yampolsky

- e. Initiate a review of policies and practices that impact the Right to Watch and First Amendment protections of this activity specifically regarding General Order W-1.

**Motion to open a policy review of General Order W-01, to evaluate the current policy and its implementation.**

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

Ayes: DaSilva, Lippman, Perezvelez, Prichett, and Vicente.

Noes: None Abstain: Bernstein Absent: Roberts, Yampolsky

- f. Prioritization of PRC tasks and requests to BPD.

**By general consent, the Commission removed the following items from the PRC Task List: Information about ABC enforcement action by BPD and others in South Campus Fall 2016; How BPD conducts police officer recruitment; Review of BOI procedures and underlying authority.**

*(The Commission also voted to close the policy complaint regarding citation of bicyclists who run red lights/stop signs, but the PRC Officer determined that such action must be specifically agendized and the complainant given advance notice.)*

## **8. SUBCOMMITTEE APPOINTMENTS, REPORTS, AND RECOMMENDATIONS (discussion & action)**

*(Heard following item #6.)*

- a. Fair & Impartial Policing Subcommittee

Report given. Next meeting scheduled for Feb. 20, 2017, 6 – 8 p.m.

- b. Mutual Aid Pacts Subcommittee  
**By general consent, this subcommittee was dissolved.**
- c. Media Credentialing Subcommittee  
**Motion that the Media Credentialing Subcommittee be dissolved because it goes beyond the scope of what the Police Review Commission and Berkeley Police Department should be doing.**  
Moved (Prichett) – Motion failed for lack of a second.  
PRC officer to schedule meeting.
- d. Surveillance and Community Safety Ordinance Subcommittee  
Work paused pending review by Disaster & Fire Safety Commission.
- e. General Orders C-64, etc. Subcommittee  
Work suspended pending settlement of lawsuit against City finalized.
- f. Body-Worn Cameras Subcommittee  
**By general consent, this subcommittee was dissolved.**
- g. Outreach Subcommittee  
PRC Officer to schedule meeting.

**9. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS**

None.

**10. PUBLIC COMMENT**

There was 1 speaker.

*Closed Session*

**11. MEMORANDUM FROM CITY MANAGER REGARDING EXCUSING OFFICERS FROM BOARDS OF INQUIRY**

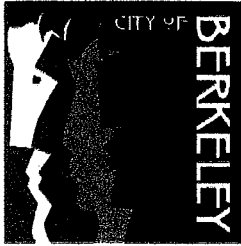
*End of Closed Session*

**12. REPORT OF ACTIONS TAKEN IN CLOSED SESSION**

The Commission voted by general consent to write a letter to the City Council regarding the City Manager's excusing subject officers from attending Boards of Inquiry.

**13. ADJOURNMENT**

**By general consent, the meeting was adjourned at 9:40 p.m.**



Police Review Commission (PRC)

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

**Wednesday, February 8, 2017  
7:00 P.M.**

North Berkeley Senior Center  
2939 Ellis Street, Berkeley

**1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:10 P.M.**

Present: Commissioner Alison Bernstein (Chair)  
Commissioner Kimberly DaSilva (Vice Chair)  
Commissioner George Perezvelez  
Commissioner Andrea Prichett  
Commissioner Terry Roberts  
Commissioner Bulmaro Vicente  
Commissioner Ari Yampolsky (arrived 7:20 p.m.)

Absent: Commissioners George Lippman, George Perezvelez

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Lt. Angela Hawk; Sgt. Ben Cardoza

**2. APPROVAL OF AGENDA**

**By general consent, the agenda was approved with the following changes: postpone Item #s 9.a. 9.b., and 10.b.; correct the second Item #10.d. to read #10.e.**

**3. PUBLIC COMMENT**

There was 1 speaker.

**4. APPROVAL OF MINUTES**

**By general consent, the Regular Meeting Minutes of January 25, 2017, were approved, with one correction: on page 2, last matter under Item #7 should read, "... unanticipated negative consequences with 14 beats," (not 16).**

**5. CHAIR'S REPORT**

None.

## **6. PRC OFFICER'S REPORT**

- No new individual complaints filed since the last meeting. A policy complaint concerning police activity during Feb. 1 protests was submitted, but clarification being sought whether UCPD or BPD action complained of.
- Received clarification from City Attorney's office that ALJ decisions in Caloca appeals may be distributed in the same manner as confidential BOI materials (mailed ahead of time and collected at the meeting).
- City holiday on Feb. 13; please have agenda items for next meeting in by Feb. 14; PRC Officer vacation Feb. 16 – 21.
- Note p. 33 of packet, City Manager's request to Commissioners to provide input regarding City's strategic plan.

## **7. CHIEF OF POLICE'S REPORT**

- PRC Officer reported from Chief's email to her:
- Only information BPD accesses from NCRIC database is license plate reader data. No database used to run a check on people.
  - BPD's annual item to Council on Mutual Aid Pacts/MOUs will be on their March 14 agenda, same day as crime report. (PRC's recommendations on these agreements will be submitted to Council as a supplemental communication.)
  - Suggest suspending discussion of Dec. 2014 protest items until after lawsuit settlement is approved.
  - Anticipate providing PRC with Lexipol policies once he (Chief) has signed off on them in BPD's process.

## **8. SUBCOMMITTEE REPORTS (discussion & action)**

- a. Fair & Impartial Subcommittee  
Haven't met since last meeting; next meeting Feb. 20. [Now Feb. 27]
- b. Media Credentialing Subcommittee  
Meeting to be scheduled.
- c. Surveillance and Community Safety Ordinance Subcommittee  
On hiatus until Disaster & Fire Safety Commission considers. PRC Officer said, per Fire Chief, that that Commission met January 25 but did not get to the ordinance, and will consider at its February 22 meeting.
- d. General Orders C-64, etc. Subcommittee  
Waiting for lawsuit settlement to be finalized before proceeding.
- e. Outreach Subcommittee  
Meeting to be scheduled.
- f. Homeless Encampment Subcommittee  
Meeting to be scheduled.

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

- a. Mutual Aid Pacts: Consider whether to approve agreement with Northern California Regional Intelligence Center (NCRIC), following report back from BPD as to whether information from NCRIC is retrieved for use in BPD investigations. *(Postponed to the next meeting.)*

- b. Consider language that the PRC Officer and Chief of Police negotiate with BPD regarding these aspects of Body-Worn Camera policy: Use of personal recording devices; Release of recordings to the PRC.  
*(Postponed to the next meeting.)*
- c. Assessment and prioritization of PRC tasks; prioritization of requests to BPD.  
*Discussed; no action taken.*

**10. NEW BUSINESS (discussion & action)**

- a. Recommendation for administrative closure of Policy Complaint #2384, regarding enforcement of traffic regulations as to bicyclists.

**Motion to administratively close Policy Complaint #2384**

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

Ayes: Bernstein, DaSilva, Roberts, Vicente and Yampolsky.

Noes: None                      Abstain: Prichett      Absent: Lippman, Perezvelez

- b. Request that the BPD release to the PRC the following data that BPD sent to the Center for Policing Equity: 1) use of force data; 2) any stop data information beyond what is published on the City's Open Data Portal; 3) climate survey questions and answers.  
*(Postponed to the next meeting.)*
- c. Inquiry into the process for hiring a permanent Chief of Police, and ensuring that it includes soliciting input from PRC and options for public participation.

**Motion that the PRC Officer write a letter to the City Manager inquiring as to her process for the hiring of a permanent chief of police, and how the commission might provide input into the hiring process; and to express that the PRC also believes it is important for the community to have input into this decision.**

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

Ayes: Bernstein, DaSilva, Prichett, Roberts, Vicente, and Yampolsky.

Noes: None                      Abstain: None              Absent: Lippman, Perezvelez

- d. Commission process issues:

- i) Limit the number of items on an agenda.  
Discussion; no action taken.

- ii) Use some type of freeware to schedule subcommittee meetings.

**By general consent, the Commission agreed to use Doodle for scheduling subcommittee meetings.**

Chair Bernstein assigned Commissioners to schedule subcommittee meetings as follows:

DaSilva -- Media credentialing; Vicente -- Outreach; Homeless Encampments -- Prichett ; Yampolsky -- Surveillance (when subcommittee resumes activity).

- iii) Amend standing rules to require that subcommittees produce and publish minutes or meeting notes.

**By general consent, the Commission agreed that a member of each subcommittee should take written notes of each meeting, which that commissioner will submit to the PRC Officer for posting on the PRC website.**

- e. Status of, and how to proceed on, remaining Council referrals related to December 2014 protests.

**By general consent, the Commission determined that it was done considering these Recommendations from the December 2014 post-incident review: #15 (consider change in policy on helicopter use); #28 (BPD document on website about safe and legal protests, which has been completed); #31 (BPD invest in video cameras, live stream capability and video capture software); and #23 (BPD to investigate use of body armor). This leaves #1 (common encrypted radio channels) and #14 (explore technology to improve quality, timeliness of information available to decision makers -- which will be addressed by the draft Surveillance & Community Safety Ordinance being considered already).**

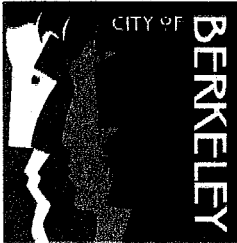
#### **11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS**

#### **12. PUBLIC COMMENT**

There was 1 speaker.


#### **13. ADJOURNMENT**

**By general consent, the meeting was adjourned at 9:12 p.m.**



Police Review Commission (PRC)

February 15, 2017

To: Police Review Commission  
From: Katherine J. Lee, PRC Officer   
Re: Addition to Standing Rules: Subcommittee Meeting Notes

At the February 8, 2017 Commission meeting, you voted, by general consent, to require subcommittees to produce notes of the meeting, which a committee member would then forward to me, for posting on the PRC website. The item was agendized as "Amend standing rules to require that subcommittees produce and publish minutes or meeting notes," but the motion did not include specific language.

Therefore, I will incorporate the substance of your motion into the standing rules by adding the following paragraph:

*SUBCOMMITTEE MINUTES*

Each PRC subcommittee must produce written notes of what occurred at each subcommittee meeting. These notes must be forwarded to the PRC Officer, who will post the notes to the PRC's website





**Lee, Katherine**

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**From:** Greenwood, Andrew  
**Sent:** Tuesday, February 07, 2017 8:02 PM  
**To:** Lee, Katherine  
**Subject:** Update

Kathy,

I've confirmed that the only NCRIC database that we access is License Plate reader data. While we have access, the City of Berkeley does not contribute to this database. We do not have a NCRIC database where we run people. If we were to seek info from NCRIC, we would call them. NCRIC.org has a lot of information.

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Best regards,

Andrew Greenwood  
Int. Chief of Police  
Berkeley Police Department  
(510) 981-5700

# CITY COUNCIL REVIEW/APPROVAL BINDER

## BERKELEY POLICE DEPARTMENT AGREEMENTS, LETTERS AND UNDERSTANDINGS RE MUTUAL AID, INFORMATION SHARING AND COOPERATION WITH OTHER LAW ENFORCEMENT, MILITARY ENTITIES, AND PRIVATE SECURITY ORGANIZATIONS (Berkeley Municipal Code §2.04)

<b>Item #</b>	<b>3.12</b>
<b>Title:</b>	<b>FEDERAL: NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER (NCRIC)</b>
<b>Type:</b>	Written Policy – General Order N-17
<b>Approvals:</b>	Initial: April 10, 2010 / Current: October 15, 2013
<b>Summary:</b>	<p>The NCRIC, a partnership between federal, state and local public safety agencies, and coordinated with the FBI's Bay Area Joint Terrorism Task Force, facilitates the legal sharing of terrorism and criminal-oriented information. In this effort, NCRIC:</p> <p>produces/disseminates intelligence; conducts training; and, provides investigative and analytical case support to federal, state and local law enforcement agencies. The NCRIC strives to ensure the protection of privacy and civil liberties of citizens in its assistance to local, state and federal agencies with their mission of protecting the communities they serve from the threats and dangers of terrorist, gang, narcotics and organized criminal activities. Local Terrorism Liaison Officers (TLOs) facilitate information sharing and investigative collaboration.</p> <p>The Police Department may receive and share confidential or 'law enforcement sensitive' public safety-oriented information with NCRIC to facilitate criminal investigation or to promote the safety of the community and/or law enforcement. The Police Department has designated TLO as a specialized duty assignment, and has appointed three sworn employees to TLO service collateral to their normal assigned duties.</p>
<b>Rationale:</b>	Police Department cooperation and information exchange with this Federally-coordinated partnership promotes public safety and serves the law enforcement mission.
<b>Cost:</b>	<p><i>If Approved:</i> Cost will be neutral. Approval will continue to support current law enforcement activity, funded in existing budget.</p> <p><i>If Not Approved:</i> Effect on cost cannot be calculated. Absence of or reduced interaction would inhibit investigations and impact successful prosecution. Public and employee safety would be adversely affected. Increased local enforcement responsibility would increase local costs.</p>
<b>Recommendation:</b>	Continued Approval
<b>Implementation:</b>	The Police Department will continue to operate in accordance with all City Council and Department general orders and policies as applicable.

## BERKELEY POLICE DEPARTMENT

ISSUE DATE: November 9, 2016

GENERAL ORDER N-17

**SUBJECT: SUSPICIOUS ACTIVITY REPORTING AND RELATIONSHIP WITH THE  
NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER**

### PURPOSE

- 1 - The terrorist attacks of September 11, 2001, and subsequent attacks throughout the world have demonstrated the necessity of an organized and integrated information sharing system at all levels of law enforcement. In order to prevent, prepare for, respond to, and investigate potential acts of terrorism and other violent criminal threats, it is necessary to establish an efficient system of communication whereby critical information can be quickly disseminated within the Berkeley Police Department (BPD) and to various local, state and federal law enforcement agencies.
- 2 - National guidelines have been developed and implemented throughout the United States through the National Criminal Intelligence Sharing Plan, the Findings and Recommendations of the Suspicious Activity Report Support and Implementation Project and the Nationwide Suspicious Activity Reporting Initiative (NSI) to establish a means for the sharing of information, known as Suspicious Activity Reporting (SAR). The information sharing plan was developed by law enforcement agencies to establish an all-crimes approach to gathering, processing, reporting, analyzing, and sharing of suspicious activity related to potential terrorism and crime. By maximizing information from citizens, law enforcement, and public safety officials, criminal acts can be detected and disrupted and incidents that have occurred can be properly investigated.
- 3 - The Berkeley Police Department will continue to attempt to detect crime before it occurs, including terrorism, through various means such as Suspicious Activity Reporting (SAR). The SAR program will provide a format for the Department to accurately and appropriately gather record, analyze and share suspicious activity or, in cases of named or identified individuals or groups, information that gives rise to a reasonable suspicion of criminal activity, including those activities related to foreign or domestic terrorism.

### LIMITATIONS

- 4 - If the information gathered is developed into criminal intelligence, the Department will ensure that the information privacy and legal rights of all persons will be recorded and maintained in strict compliance with existing federal, state and Department guidelines regarding criminal intelligence systems as defined in (28 Code of Federal Regulations (CFR), Part 23 including subsections 23.20 (a) and 23.20(b)), the California Constitution and the California Attorney General's Model Standards and Procedures for Maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities and the California State Threat Assessment System Concept of Operations.

## BERKELEY POLICE DEPARTMENT

ISSUE DATE: November 9, 2016

GENERAL ORDER N-17

- (a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.
  - (b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.
- 5 - Non-violent civil disobedience is specifically exempted from SARs reporting, and such activities shall not be reported as SARs.
  - 6 - SARs must not be submitted based on ideology, social or political opinion or advocacy of religious beliefs or association with a particular group. Criminal activity that would not ordinarily result in a SAR does not become worthy of a SAR when the subject's speech or expression indicates a particular ideological viewpoint or association.

### POLICY

- 7 - Effective immediately, all sworn BPD personnel will document incidents with an actual or potential terrorism nexus or other suspected criminal activity and submit those proposed Suspicious Activity Reports as outlined in this policy. All Department members will adhere to the procedures and responsibilities described in this policy whenever potential terrorism related activity is encountered, observed or reported.

### DEFINITIONS

- 8 - Suspicious Activity: Behavior that may be indicative of intelligence gathering or pre-operational planning related to terrorism, or criminal activity. Suspicious behavior must have a criminal predicate (defined below), and must rise to the level of reasonable suspicion (defined below) in order to be reportable as a SAR in circumstances involving a named or identified individual or group.
- 9 - Criminal Predicate: 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

**BERKELEY POLICE DEPARTMENT**

**ISSUE DATE: November 9, 2016**

**GENERAL ORDER N-17**

to a misdemeanor or felony.

- 10 - **Reasonable Suspicion:** Information which, when viewed in its totality, leads a person with appropriate training, specialized knowledge, and/or experience to conclude that a person, association of persons, or organization is involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct.

**PROCEDURES**

- 11 - Examples of behaviors that could be reported as a SAR are as follows (all of these behaviors have been verified as behaviors which have preceded and been linked to actual terrorist incidents as well as common criminal acts):

<b>DEFINED CRIMINAL ACTIVITY AND POTENTIAL TERRORISM NEXUS ACTIVITY</b>	
<b>ISE-SAR CRITERIA GUIDANCE Category Description</b>	
Breach/Attempted Intrusion	Unauthorized personnel attempting to or actually entering a restricted area or protected site. Impersonation of authorized personnel (e.g. police/security, janitor).
Misrepresentation	Presenting false or misusing insignia, documents, and/or identification, to misrepresent one's affiliation to cover possible illicit activity.
Theft/Loss/Diversion	Stealing or diverting something associated with a facility/infrastructure (e.g., badges, uniforms, identification, emergency vehicles, technology or documents {classified or unclassified}, which are proprietary to the facility).
Sabotage/Tampering/ Vandalism	Damaging, manipulating, or defacing part of a facility/infrastructure or protected site.
Cyber Attack	Compromising, or attempting to compromise or disrupt an organization's information technology infrastructure.
Expressed or Implied Threat	Communicating a spoken or written threat to damage or compromise a facility/infrastructure.
Aviation Activity	Operation of an aircraft in a manner that reasonably may be interpreted as suspicious, or posing a threat to people or property. Such operation may or may not be a violation of Federal Aviation Regulations.

**BERKELEY POLICE DEPARTMENT**

**ISSUE DATE: November 9, 2016**

**GENERAL ORDER N-17**

<b>POTENTIAL CRIMINAL OR NON-CRIMINAL ACTIVITY REQUIRING ADDITIONAL FACT INFORMATION DURING INVESTIGATION<sup>1</sup></b>	
Eliciting Information	Questioning individuals at a level beyond mere curiosity about particular facets of a facility's or building's purpose, operations, security procedures, etc., that would arouse suspicion in a reasonable person.
Testing or Probing of Security	Deliberate interactions with, or challenges to, installations, personnel, or systems that reveal physical, personnel or cyber security capabilities.

- 12 - **Examples of behavior which cannot be reported as a SAR unless:** 1) the activity rises to the level of criminal conduct, or 2) the person taking part in the activity is not identified, and therefore, not subject to possible investigation by state and federal investigative agencies:

Recruiting	Building of criminal operations teams and contacts, personnel data, banking data or travel data
Photography	Taking pictures or video of facilities, buildings, or infrastructure in a manner that would arouse suspicion in a reasonable person. Examples include taking pictures or video of infrequently used access points, personnel performing security functions (patrols, badge/vehicle checking), security-related equipment (perimeter fencing, security cameras), etc.

- 13 - **Employee's Responsibilities:** All personnel are reminded that Constitutional rights will be honored at all times and nothing in this policy diminishes Constitutional protections. Personnel are specifically reminded of Fourth Amendment protections and that persons cannot be arrested without probable cause, detained without reasonable suspicion, and that evidence cannot be seized except pursuant to a warrant or an existing recognized exception to the warrant requirement. Any BPD employee receiving any information regarding suspicious activity potentially related to terrorism shall:

- (a) Notify their direct supervisor.

<sup>1</sup> Note: These activities may be considered First Amendment-protected activities and should not be reported in a SAR or ISE-SAR absent articulable facts and circumstances that support the source agency's suspicion that the behavior observed is not innocent, but rather reasonably indicative of criminal activity associated with terrorism, including evidence of pre-operational planning related to terrorism. 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).

## BERKELEY POLICE DEPARTMENT

ISSUE DATE: November 9, 2016

GENERAL ORDER N-17

- (b) Notify a department Terrorism Liaison Officer (TLO)
  - (c) Document the incident as described in this policy.
- 14 - Responsibilities of Supervisors: Upon notification that personnel have received information regarding a potential SAR, the BPD Supervisor shall:
  - (a) Determine if any further law enforcement response is needed, will consult with a BPD (TLO) if available and determine if immediate notifications to the Chief of Police, and/or the City Manager or his/her designee is required.
  - (b) Provide the information in written form to the TLO for consideration of SAR submittal.
  - (c) Review the reports and ensure the proper reporting has been completed.
- 15 - Responsibilities of the TLO and TLO Coordinator (TLOC): Terrorism Liaison Officers (TLOs) have received training in the identification, handling and reporting of potential terrorism related incidents. TLOs will be available as a resource for SAR related incidents.
  - (a) TLOs will review proposed SARs from officers, and supervisors, and forward them to the TLO Coordinator (TLOC) for further review. If the report meets sufficient criteria for submission as a SAR, the TLOC will submit it to the Operations Division Commander or his designee for submission approval.
  - (b) The TLOC shall maintain a written log of all SARs submitted, and prepare an annual report to be provided to City Council.
- 16 - Responsibilities of the Operations Division Commander:
  - (a) Review of proposed SARs, and approval/rejection as appropriate.
  - (b) Forward all SARs to the City Manager and Chief for review
  - (c) Ensure that a written log is maintained and an annual report prepared by the TLOC.
- 17 - Responsibilities of the NCRIC: It is the policy of the NCRIC to make every effort to accurately and appropriately gather, record, analyze, and disseminate information that could indicate activity or intentions related to threats to homeland

## BERKELEY POLICE DEPARTMENT

ISSUE DATE: November 9, 2016

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security and submit such information to the Federal Bureau of Investigation – Joint Terrorism Task Force (FBI-JTTF) and the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) in the form of an NSI suspicious activity report. These efforts shall be carried out in a manner that protects the information and the privacy, civil rights, and civil liberties of individuals. Suspicious activity information shall be recorded and maintained in strict compliance with existing federal and state guidelines.

- 18 - The NSI has established a unified process for reporting, tracking, and assessing terrorism-related SARs throughout the nation. The NSI adheres to the guidelines established by the Intelligence Reform and Terrorism Prevention Act and the Information Sharing Environment Suspicious Activity Reporting (ISE-SAR) Functional Standard. These guidelines call for all terrorism-related suspicious activity reporting to be routed through designated fusion centers for appropriate vetting and review before the information can be shared within the nationwide system. The NCRIC as a component of California's State Threat Assessment System has been designated as the review agents for all terrorism-related suspicious activity reporting in the region.
- 19 - The NCRIC will then make the decision to share the SAR information with the NSI based on the standards established by the NSI. The NCRIC is also responsible for ensuring that all TLOs, line officers and other first responders in the region have received appropriate training in the collection and reporting of terrorism-related suspicious activities and the responsibilities related to protection of privacy, civil rights and civil liberties of individuals. The NCRIC also works closely with the NSI Program Management Office to ensure a statewide implementation of suspicious activity reporting.
- 20 - Reporting a SAR: All Suspicious Activity Reports (SARs) will be submitted through the [www.ncric.org](http://www.ncric.org) website. When the SAR involves a criminal act or attempted criminal act, a written BPD police report shall be submitted (and BPD case number created) identifying the suspected criminal behavior and referencing the systems and personnel notified of the SAR.



## BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 10, 2016

GENERAL ORDER W-1

**SUBJECT: PUBLIC RECORDING OF LAW ENFORCEMENT ACTIVITY**

### PURPOSE AND SCOPE

- 1- This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### POLICY

- 2- The Berkeley Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.
- 3- Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### RECORDING LAW ENFORCEMENT ACTIVITY

- 4- Members of the public who wish to observe and / or record law enforcement activities are limited only in certain aspects.
  - (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
  - (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
    1. Tampering with a witness or suspect.
    2. Inciting others to violate the law.
    3. Being so close to the activity as to present a clear safety hazard to the officers.
    4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
  - (c) The individual may not present an undue safety risk to the officers, him/herself or others.

## BERKELEY POLICE DEPARTMENT

DATE ISSUED: November 10, 2016

GENERAL ORDER W-1

### OFFICER RESPONSE

- 5- Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.
- 6- Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.
- 7- If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### SUPERVISOR RESPONSIBILITIES

- 8- A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior. The supervisor should review the situation with the officer and:
  - (a) Request any additional assistance as needed to ensure a safe environment.
  - (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
  - (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
  - (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
  - (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

### SEIZING RECORDINGS AS EVIDENCE

- 9- Officers should not seize recording devices or media unless (42 USC § 2000aa):
  - (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably

**BERKELEY POLICE DEPARTMENT**

**DATE ISSUED: November 10, 2016**

**GENERAL ORDER W-1**

necessary for prosecution of the person.

1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
  2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.



### **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



The Lexipol Primary Working Group (PWG) consists of the following members:

1. Lt. Dave Reece
2. Lt. Dan Montgomery
3. Lt. Mike Durbin
4. Sgt. Emily Murphy
5. Sgt. Spencer Fomby
6. Sgt. Joe Okies
7. Sgt. Peter Hong
8. Sgt. Dave Lindenau
9. Sgt. Sam Speelman

		Lexipol Policy	Expert Consulted	Edits? Y/N
1.	100	Law Enforcement Authority		
2.	101	Chief Executive Officer		
3.	102	Oath of Office		
4.	204	Electronic Mail		
5.	309	Officer Response to Calls		
6.	313	Adult Abuse	Peter Hong	
7.	318	Victim and Witness Assistance	Amber Phillips	
8.	319	Hate Crimes		
9.	320	Department Use of Social Media		
10.	323	Report Preparation		
11.	329	Major Incident Notification		
12.	330	Death Investigation	Peter Hong	
13.	333	Private Persons Arrest		
14.	401	Racial or Bias-Based Profiling		
15.	402	Briefing Training		
16.	408	Response to Bomb Calls	Brandon Smith	
17.	411	Cite and Release Policy		
18.	423	Watch Commanders		
19.	424	Mobile Data Terminal Use		
20.	426	Public Recording of Law Enforcement Activity		
21.	429	Foot Pursuit		
22.	504	Impaired Driving and Evidence Collection	Jen Tate	
23.	508	Crossing Guard		
24.	602	Asset Forfeiture	Scott Salas	
25.	800	Crime Analysis	Ryan Andersen	

The PWG has vetted the policies listed above. Please review and make any suggested edits on the actual document. Please return the binder to me by Friday 10/21/16. If no binder is received, it will be presumed that you agree with the policy. Please email or call with any questions!

Thanks!

Sgt. Sam Speelman

## Lexipol Policies for Review (Part 2)

The Primary Working Group has vetted the policies listed below. Please review and make any suggested edits on the actual document. Please return the binder to me before **Friday 11/25/16**. If no binder is received, it will be presumed that you agree with the policy. Please email or call with any questions!

Thanks!

Sgt. Sam Speelman

		Lexipol Policy Name	Expert / Notes	Edits? Y/N
1	312	Temporary Custody of Juveniles	Sam Speelman	
2	331	Identity Theft		
3	337	Biological Samples		
4	344	Off Duty Law Enforcement Action		
5	346	Honor Guard	2014 Policy	
6	400	Patrol Function		
7	414	Reporting Policy Activity Outside of Jurisdiction		
8	417	Aircraft Accidents		
9	419	Obtaining Air Support	Andrew Rateaver	
10	420	Detentions and Photographing Detainees		
11	432	Civil Disputes		
12	604	Eyewitness Identification		
13	808	Animal Control		
14	1000	Recruitment and Selection	Rico Rolleri	
15	1009	Smoking and Tobacco Use		

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3. Lt. Mike Durbin
4. Sgt. Emily Murphy
5. Sgt. Spencer Fomby
6. Sgt. Joe Okies
7. Sgt. Peter Hong
8. Sgt. Dave Lindenau
9. Sgt. Sam Speelman



## Lexipol Policies for Review (Part 3)

The Primary Working Group has vetted the policies listed below. Please review and make any suggested edits on the actual document. Please return the binder to me before Friday 1/13/17. If no binder is received, it will be presumed that you agree with the policy. Please email or call with any questions!

Thanks!

Sgt. Sam Speelman

	Lexipol	BPD GO	Lexipol Policy Name	Notes	Expert
1	103	P-18	Policy Manual		Montgomery
2	207	R-37	Retiree Concealed Firearms		
3	208	C-03, c-00	License to Carry a Firearm		
4	315	C-08	Child Abuse		Speelman
5	406	T-16	Hazardous Material Response		Rateaver
6	426	W-01	Public Recording of Law Enforcement Activity	PRC had small edits	
7	435		Medical Aid and Response		McDougall
8	700	C-17, E-07	Department Owned and Personal Property		
9	702		Vehicle Maintenance		
10	703	V-01	Vehicle Use		
11	903	T-02	Transportation of Prisoners	All BPD Content	Dave White
12	1011		Seat Belts		
13	1015	P-21	Employee Commendations		
14	1018		Lactation Break Policy	has note within doc to discuss re-make of room on first floor	
15	1023		Personal Appearance Standards		

The Lexipol Primary Working Group (PWG) consists of the following members:

1. Lt. Dave Reece
2. Lt. Dan Montgomery
3. Lt. Mike Durbin
4. Sgt. Emily Murphy
5. Sgt. Spencer Fomby
6. Sgt. Joe Okies
7. Sgt. Peter Hong
8. Sgt. Dave Lindenau
9. Sgt. Sam Speelman

## Lexipol Policies for Review (Part 4)

The Primary Working Group has vetted the policies listed below. Please review and make any suggested edits on the actual document. Please return the binder to me before Friday 2/17/17. If no binder is received, it will be presumed that you agree with the policy. Please email or call with any questions!

Thanks!

Sgt. Sam Speelman

	Lexipol	GO	Title
1	102		Oath of Office
2	312	I-15, J-18	Temporary Custody of Juveniles
3	318	A-60	Victim and Witness Assistance
4	348	J-18	Youth Services
5	501	E-03	Traffic Collision Reporting
6	502	V-02	Vehicle towing and Release
7	506	T-18	Disabled Vehicles
8	601		Sexual Assault Investigations
9	603	D-04, S-8	Informants
10	605		Brady Material Disclosure
11	808	A-32	Animal Control
12	810	P-33	Computer Voice Stress Examinations
13	1003	G-02	Grievance Procedure
14	1004		Anti-Retaliation
15	1005		Reporting of Employee Convictions
16	1006	D-19	Drug and Alcohol Free Workplace
17	1017		Meal Periods and Breaks
16	1019		Payroll Record Procedures
19	1020	D-15	Overtime Compensation Requests
20	1034	P-15	Special and Temporary Duty Assignments, Application and Selection Procedures

The Lexipol Primary Working Group (PWG) consists of the following members:

1. Lt. Dave Reece
2. Lt. Dan Montgomery
3. Lt. Mike Durbin
4. Lt. Joe Okies
5. Sgt. Emily Murphy
6. Sgt. Spencer Fomby
7. Sgt. Peter Hong
8. Sgt. Dave Lindenau
9. Sgt. Sam Speelman

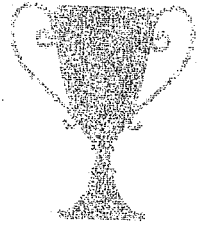
Sgt. Katherine Smith

YOU DESERVE AN AWARD  
FOR ALL THE GREAT THINGS YOU DO—  
AND THIS ONE COMES WITH  
A LIFETIME SUPPLY OF GRATITUDE.

**THANK YOU!**

P.S. Thank you for helping me get  
help from the victim/witness organization!  
You are the best cop in the world!

Katrina Bauer



6/2016

Dear Detective Kelly and  
Officer Scott,

The Japanese character on the  
front of the card is "Samurai".  
Most know it means "Japanese  
warrior". What most people don't  
know is that the character  
originally meant "to serve".

Thank you for protecting and  
serving us every day in Berkeley,  
and for donating your time  
and expertise to our National  
Law Enforcement Today Day.

# 侍



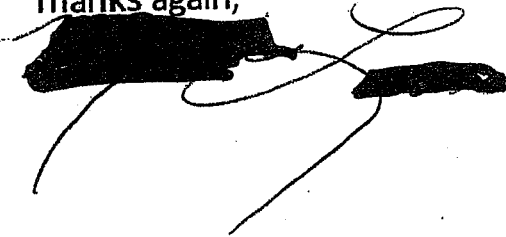
P.S. |

Delma and Berkeley Police Officers:

VILMA  
GARCIA

Police Officers for your help, it was appreciated. I know at  
but you never got upset or was rude. Finally, my daughter,  
n now resume her career goals.

Thanks again,



This is for Vilma Garcia

Katarge

I am entirely grate-  
ful not only for your  
rescue, but also for  
the humane and in-  
telligent manner in  
which you did so.

I consider you to  
be an exemplary  
public servant and a  
very good human being.

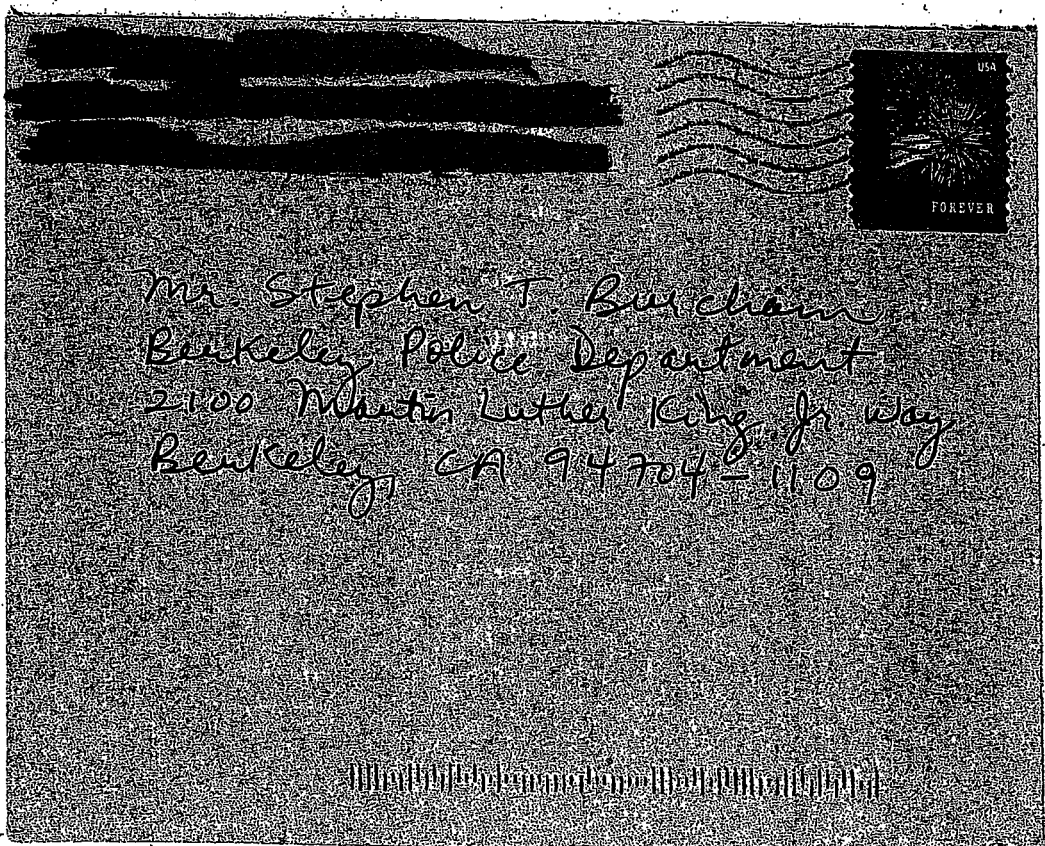
I was never so happy  
to see a policeman  
in my entire life, and  
without syrupy sentiment  
I can unashamedly call  
you "My Hero". Sincerely,  
[REDACTED]

June 4, 2016

Dear Mr. Burcham,

Thank you for your  
timely professional in-  
tervention on May 4th  
on Bowcroft Ave. in  
Berkeley when I was  
attempting to fend off  
a possible attack by  
[REDACTED]

I don't mind telling  
you that I was completely  
terrified and unsure  
of my ability to protect  
myself.



BPD CASE  
[REDACTED]

**Greenwood, Andrew**

---

**From:** [REDACTED]  
**Sent:** Thursday, June 16, 2016 8:22 AM  
**To:** Greenwood, Andrew  
**Subject:** Thanks

Andy,

I wanted to send my thanks to you guys for helping us out on Monday night. We [REDACTED] and needed help processing the scene. Our supervisor contacted you guys and you were nice enough to send out two crime scene techs. My Sgt. on scene said the techs were very helpful and he really appreciated the work they did for us. I apologize my officers did not get the name of the two techs who came out, but it sounds like one of techs was on FTO.

I am sorry for the late thank you, but I am currently wearing two hats since my chief is out of town.

Thanks again for always being willing to help us out.

[REDACTED]



## Gonzalez, Manuel

---

**From:** Gonzalez, Manuel  
**Sent:** Monday, June 20, 2016 10:27 AM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Officer Tu

**From:** [REDACTED] [mailto:[REDACTED]]  
**Sent:** Monday, June 13, 2016 3:25 PM  
**To:** Meehan, Michael <MMeehan@ci.berkeley.ca.us>  
**Cc:** Tu, Kenneth <KTu@ci.berkeley.ca.us>  
**Subject:** Officer Tu

Chief Meehan,

I wanted to take a minute and send a letter of thanks (and praise) for Officer Tu. I called the Berkeley police department on Saturday, from my home in NJ, worried about my brother who is a Berkeley resident, law student, and veteran. The first officer I was put in touch with, who did the welfare check, seemed to think I was overreacting - and that my brother was fine.

In the morning, after conferring with my family, I reached out again, I got Officer Tu. And thank goodness for that. He was as empathetic and understanding as you could ask. He reiterated that we knew my brother the best, and would know what the warning signs were of him being at risk. He kept us going on Sunday - especially after entering his apartment and finding it in disarray - encouraging us to follow leads on our own. We eventually found him today - he was having a mental health crisis and sought treatment at a San Francisco hospital last week, and was transferred to the VA (outpatient - which is why they were saying he "wasn't in the hospital.)

I'm sure you hear your share of complaints about your department - so I thought it was worth taking a minute to send some praise, and gratitude, from across the country.

Thanks officer, Tu! The panic on our end would have been a lot worse had we not had you there, on the ground.

[REDACTED]

## Macapagal, Jessee

---

**From:** Macapagal, Jessee  
**Sent:** Tuesday, June 21, 2016 3:07 PM  
**To:** Macapagal, Jessee  
**Subject:** FW: Good Police Work

-----Original Message-----

**From:** [REDACTED] [mailto:[REDACTED]@REDACTED]  
**Sent:** Tuesday, June 07, 2016 11:16 AM  
**To:** Smith, Brandon C. <[BCSmith@ci.berkeley.ca.us](mailto:BCSmith@ci.berkeley.ca.us)>  
**Subject:** Good Police Work

Hi Brandon,

Great to meet you last night at the Safety meeting. I forgot to mention that Officer Hammonds did an outstanding job when she came on April 9 to respond to the hit and run driver who smashed into my car the previous night. We had camera footage of the accident itself and [REDACTED] identified the car as a Fiat. He then got the license plate from his camera, as she had driven past his house on her way down the hill. Officer Hammonds appeared quickly and by that afternoon had identified the suspect, who admitted to hitting my car after first claiming she did not realize she had hit anyone (!). Officer Hammonds got the insurance info, and the driver had the same company as I do. This spared me the deductible and lots more trouble.

So, she was terrific. Good feedback for her personnel file.

[REDACTED]

## Gonzalez, Manuel

---

**From:** Gonzalez, Manuel  
**Sent:** Tuesday, June 28, 2016 8:27 AM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Commendation

**From:** [REDACTED]  
**Sent:** Friday, June 24, 2016 11:38 AM  
**To:** Frankel, David A. <DFrankel@ci.berkeley.ca.us>  
**Cc:** Greenwood, Andrew <AGreenwood@ci.berkeley.ca.us>  
**Subject:** Commendation

Capt. Frankel,

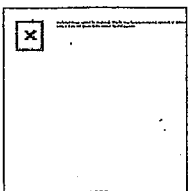
I want to drop a note of appreciation for Officer Murray.

Last Sunday, Officer R. Murray was riding his motorcycle north on Shattuck Avenue when he saw a young girl on her bicycle waiting to cross Shattuck at Russell Street. To his eyes, no one seemed near her. He immediately made a left turn, pulled up next to her to make sure she was okay, and, thinking she wanted to cross Shattuck, offered to escort her across the street. I saw it all because the child was my daughter, and she had been waiting patiently for me. I was close by the time he started talking to her.

It was a simple act, but it was deeply meaningful as a member of the Berkeley community: Officer Murray was aware of his surroundings, he knew the risk of her crossing the street alone, and he took time out to help. He thought no one was watching. Afterward, he handed out stickers to the kids – which they then touted all day!

Please pass along my thanks and gratitude.

[REDACTED]



[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] | [REDACTED]  
[REDACTED] | news

June 30, 2016

Chief of Police, Michael Meehan

Berkeley California Police Department

2100 Martin Luther King Blvd

Berkeley, Calif. 94704

RECEIVED

JUL 06 2016

OFFICE OF THE CHIEF

[REDACTED]

Dear Chief Meehan,

I am writing to acknowledge the performance of one of your officer's, Vic Li. I was driving with a female friend home to San Rafael from the Oakland Coliseum on Wednesday, June 29, 2016 after watching the A's beat the Giants.

We were in my Infiniti G35 driving along Hwy 80 when my tire blew out. I was able to safely exit the freeway at University Av, Berkeley. I drove a few blocks under the freeway and at some time around 10:00pm ended up in a dark deserted area. To say we were scared is putting it mildly.

I have a cell phone and am a member of AAA, but my major concern was Location. I really did not know where I was and worried how to give instructions to AAA.

Within a few minutes, while collecting our thoughts, a Berkeley Police Patrol car pulled up behind me. It was your officer, Vic Li. Turns out he patrols that area, 2nd and Addison under the University Av freeway exit overpass, and saw a car in distress. I cannot tell you how pleased we were to see him.

What I want you to know is how efficient, professional, appropriate, and kind he was. He contacted AAA for me and WAITED with us till the tow truck arrived. He sat in his patrol car behind us while my friend and I stayed in my car calming down and talking about how lucky we were that he came along and how we figured this ugly situation would be okay.

Officer Li only left us after the tow truck arrived and he was assured we would be alright. That driver was able to put my spare tire on the car which allowed me to drive home. We did so and reached San Rafael with no further incident. Hallelujah!

In today's world, too often police officers are shown in a negative light. I felt you needed to know that Officer Li is a credit to your department. If one of your goals is to protect and serve, he did just that in an exceptional manner; all the while acting as if he was just doing his job.

I do not want to think of what might have happened had he not come along. Thank him for us and thank you Berkeley Police Department.

[REDACTED]

July 12, 2016

Dear Chief Meehan:

You have in your department a wonderful person, Officer Dozier—I did not catch his first name during the conversations we had Sunday July 3<sup>rd</sup>. I imagine you know who this gentleman is.

Briefly, I live in [REDACTED] and was in Berkeley to attend a wedding over the recent holiday weekend. Midday Sunday, we had our bags packed and were planning to make our way to the Oakland airport for an overnight flight to Boston. We checked out of the Hotel Shattuck on Allston Way and put our things into our rental car parked on the second floor of the garage across the street. We went to lunch up the hill toward the college, returning to the car only to find that a window had been smashed and two backpacks taken that contained electronics and important personal items.

About half an hour later, as we tried to figure out what to do next, the concierge let me know that a police officer was there. I went over to meet him and was elated to see he had one of the backpacks in hand. A good Samaritan had found it somewhere around the YMCA building next to the garage and, having noticed the paperwork from the hotel checkout, the officer made the connection and brought it back to us—the only thing missing was my camera. The other backpack that was stolen was my daughter's, and she was understandably upset because of some medication she needed and other items that were hard to replace. The officer walked us up to the vandalized car and around the Y building to see if the other pack might appear. He was so patient and concerned about us, even though I'm sure in the scheme of things you guys deal with, this was a minor issue.

We started making plans as to how to use the rest of the afternoon (we couldn't secure the car so were sort of stuck at the Shattuck hotel). About 2 hours had gone by since the officer came with the first backpack. My daughter and I decided to walk around the block to get some air and maybe on the off chance that we might see the other backpack. As we rounded the corner past the YMCA, I saw one of your cruisers—my daughter asked if it was "our" officer but he wasn't in the car at that moment—but as we looked further down the block, there he was down on one knee—we realized he had her backpack! I will never forget the look on her face when she realized it. Apparently he was doing a security check and found it. The only thing missing was her electronic reader—again a replaceable thing—everything else we got back, including the keys to the car we had parked back at Logan airport—so that averted a huge inconvenience.

Once we had all of our stuff I thanked the officer—again—and we checked our bags into the hotel secure storage area. We went out on Shattuck to have dinner and there was the officer again, this time crouching down and talking to a small group of homeless men—they were smiling as was he—I could tell he was trying to help them and that they appreciated it. We again expressed our appreciation and moved on. We got to the airport and back to Boston with no more problems.

I'd be remiss not letting you know you have a gem in your midst. With everything going on in the world, including events since we've been home, people like Officer Dozier need to be recognized and rewarded.

Thanks again to him and to your department.

Sincerely,  
[REDACTED]

RECEIVED  
JUL 19 2016  
OFFICE OF THE CHIEF

July 18, 2016

Dear Chief Meehan,

I should like you to know how much I appreciate the way Officers Shan Johnson and G. Brown helped me cope with an accident in which I crashed my car. There were no injuries or property damage, thank God, but the car was badly damaged and I was in shock so some bystanders notified the Berkeley police. Officer Brown questioned me about what happened in a calm and supportive way which helped greatly in easing my guilt feelings and both she and Officer Johnson guided me through the process of pulling together all relevant documents (I am 88 years old and was thoroughly dazed at the time).. They also were instrumental in arranging where AAA was to tow my car as well as in answering all their questions. And in the last and most generous gesture, Officer Johnson helped me and my dog into his car and drove me home.

I shall never forget these Officers' kindness and will always remain grateful to your department.

Sincerely,

A large, dark, irregular redacted area covering the signature of the sender.

RECEIVED  
JUL 20 2016  
OFFICE OF THE CHIEF

**Gonzalez, Manuel**

---

**From:** Gonzalez, Manuel  
**Sent:** Tuesday, July 19, 2016 10:21 AM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Ofc S. Ramey # 128

**From:** [REDACTED]  
**Sent:** Wednesday, July 06, 2016 6:37 PM  
**To:** BPD Webmail <[bpdwebmail@ci.berkeley.ca.us](mailto:bpdwebmail@ci.berkeley.ca.us)>  
**Subject:** Ofc S. Ramey # 128

Chief –

A note of thanks towards Ofc Ramey #128 for assisting me in arresting a subject wanted for 1332 PC, issued by the Superior Court of Alameda County on July 6, 2016.

Ofc Ramey was of great help in the arrest, search, transportation, and booking of the subject named in the warrant. I appreciated her professionalism, candor, patience and knowledge while working with me during this incident. Being a former BPD officer, it is good to see the care, tradition, spirit and professionalism is carried forward by such a fine officer.

Much thanks!

[REDACTED]





*Police Department*

2000 Stevenson Boulevard | P.O. Box 5007, Fremont, CA 94537-5007

510 790-6800 *ph* | 510 790-6801 *fax* | [www.fremontpolice.org](http://www.fremontpolice.org)

July 20, 2016

Chief Michael Meehan <sup>Mi/kr</sup>  
Berkeley Police Department  
2100 Martin Luther King Way  
Berkeley, California 94704

Dear Chief Meehan:

On June 1, 2016, our department was involved in a major confrontation with an extremely dangerous and violent offender. During the middle of the afternoon in the Irvington District of our city, an officer attempted to make a traffic stop on a truck we would later learn was stolen. The driver of the truck drove into a parking lot behind a business and then made an abrupt U-turn before accelerating and ramming the patrol car in a head-on collision. In the moments that followed, an officer involved shooting took place in which the officer and the driver of the stolen vehicle exchanged gunfire. Our officer was severely wounded. We believe the suspect was also injured. The suspect ran from the parking lot. Responding officers chased the suspect through a nearby store and into a residential neighborhood.

Officers located the suspect in the backyard of a residence. The suspect shot at one of the officers and then fired additional shots as they began to advance on him. The officers returned fire as the suspect continued to try and escape into the neighborhood. A second officer was wounded during this shooting. At that time, a large perimeter began being established and a mutual aid request was initiated.

Lieutenant Louis, Lieutenant Reece, Sergeant Durbin, Sergeant Okies, Sergeant Fomby, Sergeant Frankel, Sergeant Ross, Sergeant Stines, Sergeant Cummings, Sergeant K. Reece, Officer Tillberg, Officer Yu, Officer Radey, Officer Kleppe, Officer Castle, Officer Valle, Officer Rodrigues, Officer Bejarno, Officer Hunt, Officer Bold, Officer Neff, Officer Murray, Officer Cerletti, Officer McDougall, Officer Smith, Officer Mathis, Officer Andersen, and Officer J. Jones answered the mutual aid request and assisted in a tactical capacity.

This incident was resolved without any further injury to members of the community, law enforcement, or any other emergency responders. The actions of your personnel were undoubtedly a significant aspect of why this result was achieved.

On behalf of the Fremont Police Department and the members of our community, we would like to express to you and your agency our most profound and sincere gratitude for the actions they took that day. We are equally grateful to have you as trusted colleagues.

Thank you,

Richard Lucero  
Chief of Police  
Fremont Police Department

RL/bdh

RECEIVED

JUL 26 2016

OFFICE OF THE CHIEF



## Greenwood, Andrew

---

**From:** Rateaver, Andrew  
**Sent:** Saturday, July 23, 2016 11:18 AM  
**To:** Greenwood, Andrew  
**Cc:** Stines, Christian O.  
**Subject:** FW: Outstanding Response

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Captain:

As we discussed, this was an absolute heroic effort on the part of our officers.

In a day and age where we seem only to get the attention to the negative aspects of our job, here certainly is a positive one.

**From:** Rittenhouse, Robert B.  
**Sent:** Friday, July 08, 2016 2:26 PM  
**To:** Rateaver, Andrew <ARateaver@ci.berkeley.ca.us>  
**Subject:** Outstanding Response

  
Lieutenant,

I wanted to direct your attention to the outstanding work today of Officers Tu, Flores, Valle, and De Bruin. As you'll read in the summary below these officers gave their absolute best to save the life of a 4 month old infant. Because of their outstanding effort, the child is currently in stable condition.

On 7/8/16 at approximately 0931 hours, officers responded to a report of a 4 month old not breathing. Officers Tu, Flores, De Bruin and Valle responded CODE 3. Upon arrival, officers attempted to make contact at the front door but received no answer. Officer Tu jumped a side fence, ran to the back door and located the reporting party (child's grandmother). The grandmother directed officer Tu to the bed where the baby laid motionless. Officer Tu directed the grandmother to unlock the front door for responding medical. Ofc. Tu found a 4 month old male child motionless in the bed with pale skin and blue lips. Officer Tu was unable to find a pulse on the child who was not breathing. Officer Tu immediately began CPR. Officer Tu again checked for a pulse and found one. Officer Tu was then relieved of his CPR efforts by Officer Flores. At this point the baby began to take short inconsistent breaths and remained unresponsive. Officer Flores began rescue breathing. BFD Engine 1 and Medic 1 arrived on scene and took over rescue efforts. The child was transported by BFD to Children's Hospital and is currently in stable condition. While it is unknown what long term effects the child may sustain, the quick, professional and caring response of our officers have given him the best possible chances of survival.

**Sgt. R. Rittenhouse S-9**  
*Berkeley Police Department*  
wk 510.981.5900

+

LAW OFFICES OF [REDACTED]

**FACSIMILE  
TRANSMITTAL COVER SHEET**

TO: <u>Berkeley Police, Records</u>	FROM: <u>Steven Rood, Esq.</u>
COMPANY:	DATE: <u>7/25/16</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
RE:	YOUR REFERENCE NUMBER:

<input type="checkbox"/> URGENT	<input type="checkbox"/> FOR REVIEW	<input type="checkbox"/> PLEASE COMMENT	<input type="checkbox"/> PLEASE REPLY	<input type="checkbox"/> PLEASE RECYCLE
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**NOTES/COMMENTS:**

My wife, [REDACTED] fell and was injured on 6/13/16. Officer Kevin Neff # 155 took the ~~ps~~ report: [REDACTED]. We'd like a copy of the report. Enclosed is a check for \$1.00. Please pass on to Officer Neff that my wife was greatly comforted by him and she is grateful for his kindness. She is healing. ~~#~~ Thanks [REDACTED]

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE PERSON RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, DO NOT USE OR DISCLOSE THIS FACSIMILE. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL TO STEVEN ROOD VIA THE U.S. POSTAL SERVICE. THANK YOU.

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT [REDACTED] FOR HIS ASSISTANT AT THE NUMBER ABOVE.

[REDACTED] → 7/25/16

[REDACTED]  
[REDACTED]  
[REDACTED]

29 July 29, 2016

City of Berkeley Fire Department  
POBox 11914  
Berkeley, CA 94712

AND

City of Berkeley Police Department  
2100 Martin Luther King Jr. Way  
Berkeley, CA 94704

Re: Emergency Services, [REDACTED]

Dear City of Berkeley Fire and Police,

My Father, [REDACTED], died at home [REDACTED] on March 20<sup>th</sup>, 2016. He was 97 years old and had been sick for a few months. We provided intense medical care for him at home (oxygen, nebulizers, hospital bed, bedside commode, 24 hour/day family and hired bedside care assistance, insulin therapy, etc.). I am a doctor, having worked 20 years in emergency medicine, and inpatient hospitalist care; I currently work as a clinical and teaching attending physician at [REDACTED] in San Francisco. My Father's doctor had suggested hospice care for my Dad, and we contacted hospice who visited our home. It turned out the hospice organization had no physician director at that moment; two of the nurses working for the hospice asked if I would be willing to work for them in that position. Naturally, I declined, but I was with my Father most of the time the last month. I coordinated care with his primary physician, who prescribed him controlled substances.

About one hour after my Father passed away, we called the county coroner, who instructed us to call the police. Shortly thereafter, numerous police arrived, as did an ambulance.

The ambulance crew included a female with numerous tattoos. She aggressively insisted my Father had received inappropriate care; she encouraged the police to conduct a criminal investigation. She informed the police that I was not actually a practicing physician, which was false, and she informed them that the dosing of my Father's pain medicine was inappropriate, which was also false. Having just lost our beloved Parent and Grandparent, this caused significant stress for the family (my wife, my sister, and our daughter were all present).

Police disputed between themselves who was "in charge"; eventually a female officer took control. She had the officers guard the rooms and questioned me at length; much of the questioning illustrated her lack of knowledge regarding the legal situation

regarding end-of-life-care, Power-of-Attorney for health decisions, and the legal and formal issues surrounding DNR orders. She called in a crime photographer. I tried to cooperate with her; I understood the police officers themselves were trying to deal with an unclear situation including a very aggressive medical employee of the Fire Department. I have fair expertise in these areas and felt the best approach was simply to try and respond to the inquiries without being overly defensive. After about three hours, the police, in conjunction with the coroner's office, decided to not pursue the matter further, and they left.

After they left, Officer N. Hom, Badge #89, returned briefly, and expressed his sympathies for the loss of our beloved family member, and he noted with regret that the uniformed officers' approach to the situation had not been very supportive. HE WAS THE ONLY PERSON FROM EITHER DEPARTMENT WHO PROVIDED ANY COMFORTING WORDS WHATSOEVER DURING THE ENTIRE EXPERIENCE. Please let him know this effort on his part, dwarfed as it was by the actions of the others, was nonetheless noted and appreciated.

My Father has received a bill for \$1,895, for ambulance services. He is not going to pay it, nor do I think it should be paid for by his estate. I have not written this letter earlier because of the deep negative emotions which I experience when re-living the events of that day.

I would appreciate confirmation from both the Police and Fire Departments that this letter was received, that Officer Hom has been thanked, and that notice has been taken of the inappropriate attitude of the lady Ambulance medical worker whose name I do not know.

Sincerely,

[Redacted signature]

[Redacted address block]



**Gonzalez, Manuel**

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 02, 2016 9:29 AM  
**To:** Gonzalez, Manuel  
**Subject:** FW: DoubleTree Berkeley - Thank You!

**From:** [REDACTED]  
**Sent:** Thursday, July 21, 2016 2:09 PM  
**To:** Meehan, Michael <MMeehan@ci.berkeley.ca.us>  
**Cc:** Fomby II, Spencer <SFomby@ci.berkeley.ca.us>  
**Subject:** [REDACTED]

Dear Chief Meehan,

A belated thank you and congratulations for another safe, successful and enjoyable Independence Day event at the Marina!

Sergeant Fomby and the Berkeley Police detail made sure that the day went smoothly and safely. Plans were implemented without any issues and our hotel guests and employees remarked about how assistive and professional your Officers were during the sometimes hectic day/night.

Sergeant Fomby was, as always, extremely responsive on questions prior to, and during, the event and assisted the hotel in making it a great day for our hotel guests/event attendees.

Thank you SO much and congratulations on another outstanding 4<sup>th</sup> here at the Marina. Regards,

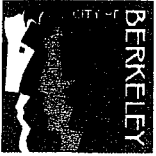
[REDACTED]  
[REDACTED]  
*General Manager and Area Managing Director*  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**TAKE A BREAK FROM YOUR TO-DO LIST  
AND LET US HELP WITH THE DETAILS.**

From a gathering of the inner circle or a group planning session, we want to make your next meeting simply a success. At [REDACTED], we believe that small is big! It starts with a cookie. And then the sweetness just keeps coming.



**BERKELEY POLICE DEPARTMENT MEMORANDUM**



August 14, 2016

To: Chief Michael Meehan  
Via Captain Andrew Greenwood *AMG*  
Via Lieutenant Alyson Hart *AH*

From: Sergeant Jennifer Wilson *JW*

Re: **Commendation for Officer Zackery Nash and Officer Daniel Breaux**

On August 6, 2016 at 1930 hours, Officer Nash, Officer Breaux and others did a security check of the encampment at the Gilman underpass. This area has been a location of increasing concern by neighboring business, residents and city staff.

During the security check, officers located a makeshift tarp structure occupied by several subjects, one who was on probation. Officer Nash and Officer Breaux observed a significant amount of marijuana under the tarp. They detained the subjects and conducted a search.

Officer Nash and Officer Breaux located 18 pounds of marijuana under the tarp. Additionally they located 24 cans of butane oil, a stove, a scale and a PVC pipe filtration tube used to produce hash oil. They found cookware covered in hash oil residue. Further, the officers recovered money, packaging material, a pellet gun and a switchblade.

One of the subjects claimed the property as his own. The officers learned this subject had 17 prior drug arrests related to cultivation of marijuana and/or possession of marijuana for sale. Officer Nash and Officer Breaux arrested the suspect for manufacturing hash oil, cultivating marijuana and possession of marijuana for sales. The district attorney filed all three felony charges and the suspect remains in custody awaiting his court date.

This case garnered praise by the Community Services Bureau and was highlighted in a departmental press release, as the investigation demonstrated the criminal element and public safety danger lurking within the encampment. This case is also a testament to Officer Nash and Officer Breaux's drive, self-initiating arrests and investigations that have a tangible positive impact for the community.

**Gonzalez, Manuel**

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 16, 2016 1:15 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Commendation

**From:** [REDACTED]  
**Date:** August 2, 2016 at 1:03:50 AM PDT  
**To:** <[bmathis@cityofberkeley.info](mailto:bmathis@cityofberkeley.info)>  
**Subject:** Thank you so much!

Hi Officer Mathis,

I just wanted to say thank you so much for being so helpful and friendly as you assisted me after I was robbed tonight. I know the case isn't over, and it just happened so recently, but I felt like I had to say something before it was too late. Both you and the other officer who helped me (I can't recall his name) were very helpful and accommodating in your workings with me. I know you were just doing your job, but you did it very well, and made me feel very comfortable, and for that I thank you. I don't know if it's possible to give commendations over email, or if this is even going to the right place, but if so, I would like to make that happen. Please forward this to your superiors or whatever's necessary to let them know how grateful I am.

Thank you so much, and good luck with whatever case(s) you're working on.

[REDACTED]  
[REDACTED]  
[REDACTED]



**Gonzalez, Manuel**

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 23, 2016 1:12 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Thank You for Officer Chris Scott

**From:** [REDACTED]  
**Sent:** Friday, August 19, 2016 4:24 PM  
**To:** Meehan, Michael <MMeehan@ci.berkeley.ca.us>  
**Subject:** Thank You for Officer Chris Scott

Dear Chief Meehan,

On behalf of the [REDACTED] of [REDACTED]  
[REDACTED] we thank you for sending Officer Scott. He gave a great presentation on crime prevention for seniors.

Our prayers are with the Police Dept of Berkeley. You have always been a highly trained and well educated Police Force.

Again thank you for providing this great Community Service.

Sincerely,

[REDACTED]

## Gonzalez, Manuel

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 23, 2016 1:10 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Commendation

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 16, 2016 1:15 PM  
**To:** Gonzalez, Manuel [REDACTED]  
**Subject:** FW: Commendation

I came across a solo vehicle collision where the driver had fallen asleep, and then crashed into a gore point guard rail of an exit ramp, and spun back into the roadway, blocking traffic, in darkness. The driver couldn't immediately get out of the vehicle, and because his car was now turned sideways, other cars exiting SR 24 to SB SR13, were driving at speed onto the ramp, not knowing or seeing the extensive debris field or the vehicle now in the roadway and the dazed man trapped inside.

My report over the BPD radio was answered by the Team 7 beat 6 bravo car.

Within moments, I had one of my own black and whites, pulling up, and lights flashing. This was absolutely key in order to ward off traffic trying to exit onto the ramp.

Two young troopers, who I actually recognized, Haney and Loeliger, soon were with me asking what they could do. I gave them the run down, and they just plugged right in to the scene! Haney got into the damaged vehicle and started medical care.... like she had been doing it for years. I later told her I was impressed, and she replied, it was like her first time doing "C-Spine"! Loeliger started checking the vehicle, looking for ID's, gathering information... getting ready to transition the scene to CHP: cool, calm and thorough.

Now I know it is their job to respond to these scenes. Heck, when it comes down to it, it is my job, too. But I was impressed with Haney and Loeliger. They were: professional, responsive and engaging. We as a department are lucky to have such quality, fine young officers.

**Gonzalez, Manuel**

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 23, 2016 1:10 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: THANK YOU!!

**From:** [REDACTED]  
**Date:** August 18, 2016 at 9:29:21 AM PDT

Good Morning Everyone

This is quick note to thank each you for working with Justin, Jim, Leona and I to make last night's meeting a success. Thanks to everyone who participated in the panel or took questions on the steps the City and Cal take to ensure the needs of local neighborhoods are accounted for during our home football game. Thanks to other partners who joined the meeting to hear the community feedback. I know that everyone will do their utmost best to account for the issues raised. We will get notes out to this team soon, to account for any outstanding "To Dos" ; then send these to the neighbors with a thank you as well.

A testament to the quality of the team's work last night is the email Jim Hynes I got last night from Janice Thomas, PHA's liaison to UC Berkeley. She wrote to praise the UC and City representatives for the manner in which everyone engaged with the residents.

I think it was a most excellent meeting tonight. As a UC neighbor, and a Berkeley resident, I can honestly say it was a privilege to have so many quality people in the room, putting their heads together, striving to improve public safety, etc. on game days/nights. Hearing "Dave" (Lt. Reece), for example, speak so honestly about the resources he works with and the problems he and his folks encounter was an example of how some of you humanized the meeting and improved the contact between public sector and private sector, which I know can be rough for both sides.

So much progress has been made over the years. And this is to acknowledge such. Truly. Thank you.

Janice

Thanks again everyone. Please continue to count on our office to support your efforts.

[REDACTED]

[REDACTED]

## Gonzalez, Manuel

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**From:** Gonzalez, Manuel  
**Sent:** Tuesday, August 30, 2016 2:39 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Commendation

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**From:** Frankel, Andrew J.  
**Sent:** Tuesday, August 09, 2016 3:20 PM  
**To:** Phillips, Amber <APhillips@ci.berkeley.ca.us>  
**Subject:** Commendation

Sgt Phillips,

This is to commend the actions of Officer Matt McGee who represented the department exceedingly well at last night's BSNC/BUSD Meeting. Officer McGee's presentation was professional and highlighted the exceptional quality of the Officers our Department employs. He received many accolades from attendees on his knowledge and experience in communicating with young adults. Doctor Susan Craig, District Director of Student Services, acknowledged Officer McGee's ongoing outstanding efforts to reach her students in his role as the School Resource Officer.

Matt did our agency proud and his contributions should be commended.

Please forward this up your chain as appropriate.

V/R,

Sgt F

ANDREW J. FRANKEL, Sergeant, S-29  
Public Information Officer  
City of Berkeley Police Department  
Office: (510) 981-5780  
Cell: (510) 812-4082  
Email: [afrankel@ci.berkeley.ca.us](mailto:afrankel@ci.berkeley.ca.us)

Case # [REDACTED]

RE: [REDACTED]

September 8<sup>th</sup>  
2016

Dear Sgt. Cardoza,

I'm writing on behalf of  
Detective Comabong, whose attentiveness  
+ thoroughness in representing our  
family has been exemplary - which we  
are exceedingly grateful for.

My mother, [REDACTED]

nearly lost her life to the calculating  
+ deliberate schemes of a hired care-  
giver, [REDACTED], the summer of  
2014.

My mother was drugged into a  
coma-like state while [REDACTED] endeavored  
to have herself appointed conservator

of the estate.

(1)

Case# [REDACTED]  
[REDACTED]  
[REDACTED]

Needless to say our family suffered a nightmarish trauma which my mother miraculously survived... [REDACTED] deliberately deceived the hospice doctors + staff with the objective of inheriting the estate after orchestrating my mother's death.

Detective Combong has been thoughtful + an excellent resource from the time he has been assigned to our case. [REDACTED]

Please feel free to contact [REDACTED] [REDACTED] me at [REDACTED]

if any clarification needs to be addressed with regard to Detective Combong's role in this investigation

Thankyou, [REDACTED] [REDACTED]



September 6, 2016

Berkeley Police Department  
Attn: Chief Mike Meehan  
2100 Martin Luther King, Jr. Way  
Berkeley, CA 94704

Letter of Appreciation

Dear Chief Meehan, *Mike*

I would like to thank you and specifically Communications Supervisor, Rayna Johnson, for assisting us as an oral board panelist while we conducted interviews for the position of Dispatcher/Community Service Officer on August 22<sup>nd</sup> & 23<sup>rd</sup>, 2016.

We are very grateful for Rayna's help as a panelist with her extensive knowledge of both Police & Fire Dispatching. Her input and experience of working with our Department was a welcome addition to the panel and very helpful in selecting qualified applicants.

Please extend my appreciation to Ms. Johnson as we wouldn't have been able to establish a pool of qualified Dispatch candidates without her input.

If we can be of similar assistance in the future please do not hesitate to contact us.

Sincerely,

Chief of Police

*Thank you Rayna  
Chief Mike Meehan*

RECEIVED  
SEP 14 2016  
OFFICE OF THE CHIEF

Board of Directors

Doug Siden President Ward 4	Beverly Lané Vice-President Ward 6	Dennis Waespi Treasurer Ward 3	Diane Burgis Secretary Ward 7	Whitney Dotson Ward 1	John Sutter Ward 2	Ayn Wieskamp Ward 5	Robert E. Doyle General Manager
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September 15, 2016

Officer Jonathan Loeliger:

On September 6<sup>th</sup> I was at lunch with a friend at Skates Rest. In Berkeley when I realized I had left my phone in the car. We rushed out to the parking lot to find a police vehicle near my car. You identified yourself and asked if the Murano was my vehicle. Unfortunately, it had a smashed window and the phone was gone. However, that incident and the professional and caring way you responded has given me an opportunity to thank you. My experience with you as a representative of the Berkeley Police Department and law enforcement in general only reinforced my life long respect and support of Police Officers. Your suggestions on contacting my insurance and even offering me your gloves as I cleaned up the broken glass was much appreciated.

Police Officers have a challenging and very dangerous job to keep the public safe. Unfortunately, we have in our society individuals that either lack the intellect or just don't want to obey laws or respect for property of others. Their disruptive behavior warrants punishment not excuses.

I thank you Officer Loeliger and law enforcement for the job you all do on a daily basis to help maintain the "RULE OF LAW" in our communities.

Kind personal regards,

A black rectangular redaction box covering the signature of the sender.



[REDACTED]  
[REDACTED]  
[REDACTED]

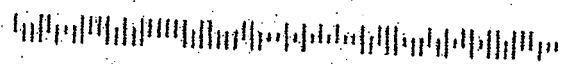
SACRAMENTO CA 957

23 SEP 2016 PM 5 L



Berkeley Police Dept.  
Attn: Officer Nathan Patrick  
2100 M.L.K. Jr. Way  
Berkeley, CA 94704

-110900



Officer Patrick,

Sept. 21, 2016

Thank you so much for all of your help this past weekend in resolving my license plate dilemma. I was so impressed by your patience with me and your dedication to my menial car issues. You will be happy to know I only spent three hours in the DMV, and they replaced my license plate and registration stickers free of charge! In summary, I appreciate you towing my car, and I promise to pay more attention to where I park from now on.

Yours Truly, [REDACTED]



# Berkeley Police & Fire Department



October 3, 2016

To: Andrew Greenwood, Chief of Police, via Chain of Command  
From: Monique Frost, Communications Manager  
Subject: COMMENDATION FOR COMMUNICATIONS CENTER TEAM

On Friday, September 30, the Communications Center received numerous calls of a fire on the roof of First Congregational Church at 2345 Channing Way. The fire was significant and resulted in a 3<sup>rd</sup> alarm response and required us to request assistance from Alameda County, El Cerrito, Moraga/Orinda and Alameda Fire departments.

I would like to recognize the amazing team of dispatchers on duty at the time of this very critical incident.

Trainee PSD Dawn Lockhart successfully dispatched, monitored and documented the entire event until the fire was deemed contained almost 3 hours later. She also handled a "mayday" call from a firefighter. The ability to remain calm, attentive, accurate and professional during an event of this magnitude and duration is challenging even for the most seasoned of dispatchers: However, accomplishing this task as a trainee is nothing short of commendable.

Known for his extensive knowledge and skill in fire desk operations, PSD Lockhart's trainer PSD Kevin Houston provided support and oversight to PSD Lockhart during the entire incident. Based on PSD Lockhart's performance during this incident, it is clear that PSD Houston also provided PSD Lockhart with excellent training and confidence, as well.

Major incidents such as this one can severely tax the workload, staffing levels and resources of the Communications Center. In the spirit of teamwork, Acting Supervisor PSD Kathy Saechao assumed fire channel 1 in order to dispatch subsequent fire calls for service while PSD Carmen Calhoun PSD Steven Parker, PSD Shannon Smith, PSD Erin Netz and PSD Myriam Salem made the necessary notifications, received and processed the many, many incoming calls and handled all police radio traffic. They became the glue that held everything together; the oil that allowed the City to continue to run smoothly.

The collaboration, cohesion and teamwork demonstrated by the Communications Center staff is nothing short of exemplary and without a doubt, deserves to be commended.

**Bartalini, David C.**

---

**From:**

**Sent:**

**To:**

**Subject:**

[REDACTED]  
Monday, October 03, 2016 6:22 PM

Bartalini, David C.

Thanks for the tire help!

Dear Officer Bartalini,

Thank you for your insight and suggestion of how to deal with UPS after they blew out the left front tire on my Nissan Maxima. We followed your advice of taking a measured approach, with my letter plus two testimonials from witnesses to support my case. I also included a separate note to explain that my claim for the cost of two tires *plus* the front-end alignment was justified.

UPS's insurance company contacted me and I received a check for the full amount in the mail today. Your approach worked perfectly.

Thank you,  
[REDACTED]

**Gonzalez, Manuel**

---

**From:** Gonzalez, Manuel  
**Sent:** Tuesday, October 11, 2016 2:08 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Thank you very much!

**From:** [REDACTED]  
**Date:** September 19, 2016 at 01:14:33 PDT  
**To:** "jloeliger@ci.berkeley.ca.us" <jloeliger@ci.berkeley.ca.us>, "Rashawn D. Cummings" <rcummings@ci.berkeley.ca.us>, Andrew Greenwood <agreenwood@ci.berkeley.ca.us>, "vcrews@ci.berkeley.ca.us" <vcrews@ci.berkeley.ca.us>  
**Subject:** Thank you very much!  
**Reply-To:** [REDACTED]

I really appreciate your help with my car break in today. Thank you for being so kind and supportive on the phone. I want your bosses to know that you are a great member of the Berkeley PD. I appreciate your kind attention a lot! This is a commendation!

I am a long-time Berkeley resident, having gone to [REDACTED] it does not exist any more, [REDACTED] [REDACTED] the last the year they had students there for only 9th grade, and [REDACTED] (Andy, we were there together!). That's proof, right?

It was a horrible day today to see all my personal information spread all over the sidewalk. Officer Crews (I am hoping I am spelling her last name correctly.... Officer Victoria....) kindly helped me through the initial paperwork of identity theft with the crazy guy in the lobby at BPD. When I saw my name on the papers on the sidewalk, my knees just buckled to think I was going through all this pain again!!

[REDACTED]

**Gonzalez, Manuel**

---

**From:** Gonzalez, Manuel  
**Sent:** Tuesday, October 11, 2016 2:10 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Commendation for Officers Muniz, Yu and Diaz  
**Attachments:** Scan Sep 25, 2016, 5.39 PM.PDF

---

**From:** [REDACTED]  
**Sent:** Sunday, September 25, 2016 5:44 PM  
**To:** Chan, Gina [REDACTED]  
**Cc:** Schofield, Kevin M. <[REDACTED]> Hart, Alyson L. [REDACTED]  
**Subject:** Commendation for Officers Muniz, Yu and Diaz

On Friday 9-23-16 Officer Muniz on-viewed a 5150 standing in traffic at Shattuck and Ashby. Officer Muniz detained him for evaluation, Officers Yu and Diaz provided cover. During the evaluation several totally unrelated and hostile bystanders stopped to "observe" while the officers and MH conducted their evaluation. The subject was deemed 5150 and Paramedics Plus was summoned. P Plus was delayed and the officers waited for over 45 minutes trying to keep their 5150 calm while the observers "chipped" away at them and created a scene. The Officers decided it was in everyone's best interest to wait for P Plus at the station. When they returned to their vehicles to head 10-19 they found the attached note. Someone in the crowd was clearly watching and appreciated not only the difficult situation our officers were in but also their restraint. Please process the attached note as a commendation for Officer Muniz, Officer Diaz and Officer Yu.

(not attached to  
commendations  
sent to PRC)

[REDACTED]

**Gonzalez, Manuel**

---

**From:** Gonzalez, Manuel  
**Sent:** Monday, October 17, 2016 11:18 AM  
**To:** Gonzalez, Manuel  
**Subject:** FW: Officer MJ Valle

From: Maggie Sokolik [mailto:sokolik@berkeley.edu]  
Sent: Thursday, October 06, 2016 1:52 PM  
To: BPD Webmail <bpdwebmail@ci.berkeley.ca.us>  
Subject: Office MJ Valle

I want to express my sincere thanks for the assistance of Officer MJ Valle during a fender bender this morning in Berkeley. He was kind, helpful, and pleasant, and dealt with the situation effectively, including helping follow up on getting a tow truck. He made a bad morning tolerable. Thanks to him, and to Berkeley Police.

--  
Best,  
Maggie Sokolik, Ph.D.  
Director, College Writing Programs  
UC Berkeley  
510-642-9491

# Commendation

**To:** Andrew Greenwood, Interim Chief of Police, via the chain of command  
**From:** Sergeant Craig Lindenau #S-22  
**Date:** 10/25/2016  
**Re:** Commendatory work by Officer Gibbs #140, Officer Collier #75, Officer Breaux #15, Officer Driscoll #71, Officer Coria #87, Officer Hogan #84, and Det. P. Lee #24

On 10/6/16 just prior to 2330 hours, [REDACTED] was robbed at gunpoint by a black male at Arch and Hilgard. The suspect approached [REDACTED] from behind, pointed a gun at her face and threatened to kill her if she didn't give him her backpack. The victim was fearful of her life and obeyed.

On 10/6/2016 just prior to 2359 hours, [REDACTED] had just parked her car IFO 3112 Deakin. [REDACTED] was approached by three black males who pointed a gun at her and told her to get back in her car. The victim dropped her purse, cell phone, car keys and ran. The suspects stole her vehicle, cell phone and purse. Ten minutes later, Officer Gibbs and Collier (Bravo unit) located [REDACTED]'s carjacked vehicle driving at Shattuck and Carleton.

They attempted to stop [REDACTED]'s carjacked vehicle, but it took off failing to yield to their lights and siren. The suspects drove eastbound Carleton and made a southbound turn onto Telegraph. The suspects turned westbound Prince as Officer Breaux was driving eastbound Prince approaching Halcyon Court. The suspects turned northbound onto Halcyon Court to avoid Officer Breaux who was approaching from the west. The suspects crashed the victim's car into the curb when making the turn onto Halcyon Court. The suspects damaged the left front tire and disabled [REDACTED]'s vehicle. The driver (Terrence Holyfield, [REDACTED]) and passenger (Charles Anderson, [REDACTED]) fled on foot northbound Halcyon Court. Officer Collier immediately apprehended Anderson. Officer Breaux chased Holyfield northbound Halcyon Court and then eastbound Webster. Officer Breaux ran down Holyfield and detained him in the yard of [REDACTED]. Officer Gibbs cleared the vehicle and found a replica handgun in the driver's seat.

RECEIVED

OCT 26 2016

OFFICE OF THE CHIEF

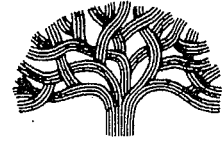
October 25, 2016

Officer Coria contacted [REDACTED] and obtained her statement. Officer Coria worked with [REDACTED] to get GPS coordinates from her cell phone. The cell phone was pinging at the Ashby Bart Station. Officer Coria directed officers to the area of the cell phone. Officer Hogan located the stolen cell phone and two of the victim's credit cards in the bushes in the southwest corner of the Bart parking lot. Officer Coria coordinated an "in field show up" with [REDACTED] and the suspects. [REDACTED] immediately identified Holyfield and Anderson as two of the three suspects who robbed/carjacked her at gunpoint. Officer Driscoll contacted [REDACTED] and obtained her statement. Officer Driscoll coordinated an "in field show up" with [REDACTED]. [REDACTED] identified Anderson as looking similar to the suspect who robbed her of her backpack. The following day, Det. Peter Lee took over the investigation. Det. Lee interviewed Holyfield and Anderson and was unable to get a confession. A records check of Holyfield revealed he was on active CDC parole for robbery. The District Attorney filed charges of 215 PC, 211 PC, 2800.2 VC, and 10851 VC on Holyfield and Anderson.

I would like to commend the above listed officers for their outstanding work on this case.



# CITY OF OAKLAND



POLICE ADMINISTRATION BUILDING • 455 - 7TH STREET • OAKLAND, CALIFORNIA 94607-3985

Police Department

Telephone Device for the Deaf (510) 777-3333  
Patrol Desk (510) 238-3455  
Fax (510) 238-2251

11/1/2016

Chief Andrew Greenwood  
Berkeley Police Department  
2100 Martin Luther King Jr Way  
Berkeley, Ca 94704

Dear Chief Greenwood,

I would like to take a moment out of my day to write a letter of appreciation for several officers within the ranks of your Police Department. My name is Sergeant Michael Cardoza. I am currently assigned as an investigator for the Oakland Police Homicide Section.

On 8 Jun 16, I was called to the Rainbow Recreation Center (IRO 5800 International Blvd) to investigate a 17yr old female who had been tragically shot and killed. Evidence and information from the crime scene provided us with a possible suspect named Darion Brown. The outstanding murder weapon was a .380 caliber semi-automatic.

In the early morning hours of 9 Jun 16, I conducted a CRIMS database search for Brown. It was at this time, I discovered he had been arrested by Berkeley Police Department under [REDACTED] on the same day the homicide occurred. In review of the charges, it appeared Brown had been arrested for a gun. I contacted Officer Jesse Grant, who has assisted us several times in the past. I asked Jesse if he would pull up their report and tell me what kind of gun was recovered when Brown was arrested. Jesse informed me a Beretta .380 caliber semi-automatic was recovered. I informed Jesse my victim was not found with a cell phone; however I did have her cell phone number. I requested Jesse to inform me if Brown had any cell phones on him when he was arrested. Jesse was able to help me verify Brown had been arrested with two cell phones, one of which belonged to my victim.

The detectives in the homicide section of your department were more than accommodating. We conducted our homicide interview with Brown while using your department's interview room. At the conclusion of the interview, we added the charges of murder 187(a)PC and was provided a copy of the recorded interview. Officer Jesse Grant and his partner Kyle White were instrumental in making sure we had everything we needed to push the case forward. Jesse took the investigation a step further and located a much needed witness that wasn't originally identified in the Berkeley police report. He took a supplemental report which was included with the main report.

RECEIVED  
NOV 07 2016  
OFFICE OF THE CHIEF

I do understand that although patrol officer Jason Tillberg did not realize the severity of crimes committed by Brown at the time he was arrested, it was his police actions which were able to help the Oakland Police Department take a murder suspect off the street and bring closure to the family.

In addition to the above, I was assigned to investigate another homicide which occurred in the 1400 block of 92<sup>nd</sup> Ave on 9 Jul 16. In this case, six suspects had drove up to the location in two separate vehicles. The suspects shot and killed a male Black named Anthony Stevens. The murder was captured on video. After making several attempts to identify each of the suspects, it was discovered one was from the City of Berkeley.

I again reached out to Officer Jesse Grant for assistance. With the help of his co-workers, we were able to discover each suspect's true identities. It was discovered the suspects were affiliated with the Five Finga Mafia gang. The Oakland Police Department put a plan of action together which included several members of the Berkeley Police Department. Your department played a key role in the surveillance and execution of a search warrant on the day of our take down. On 21 Jul 16, several search warrants were executed in five different cities. As a result, four suspects were arrested and charged with murder. As of this date, the last suspect had been arrested and charged.

On behalf of myself and the Oakland Police Department, I wish to give a special thanks and warm appreciation for the outstanding hard work shown. It is this partnership which allows law enforcement in general to be successful. In addition to the names already mentioned, we wish to acknowledge the following that help assisted our department with the success and apprehension of suspects in [REDACTED]

Sgt. Peter Hong, Officer Jeremy Lathrop, Officer Joe Ledoux, Officer Mike Parsons, Officer Peter Lee, Officer Jason Muniz, Officer Jesse Grant, Officer Donovan Edwards, Berkeley PD Special Response Team.

Sincerely,



Michael Cardoza  
Sergeant of Police  
Oakland Police Department

**Gonzalez, Manuel**

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**From:** Gonzalez, Manuel  
**Sent:** Thursday, November 10, 2016 12:38 PM  
**To:** Gonzalez, Manuel  
**Subject:** FW: thanks to Officer Hom

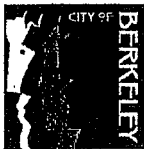
-----Original Message-----

From: [REDACTED]  
Sent: Monday, October 24, 2016 9:13 AM  
To: BPD Webmail [REDACTED]  
Subject: thanks to Officer Hom

I just wanted to give quick thanks to Officer Hom who arrived (with BFD) at a medical emergency today where I was the hapless friend of the injured party. He took information, explained things to me, and took the time to get a full picture of what had happened. It was a great relief to have a competent and kind person on site at that moment.

In appreciation,  
kc

[REDACTED]



# Berkeley Police Department Memorandum



To: Interim Chief Andrew Greenwood via  
Chain of Command

Date: November 22, 2016

From: CSO Dorin Lee #459

Subject: Commendation for Officer Shira Warren #76, Officer Jessica Nabozny #118 and Officer Jennifer Coats #151

On 11/15/2016, I responded to a typical residential burglary that turned out to be not so "typical". When I arrived on scene, I learned that the point of entry was made through the "typical" window that was left ajar and that all of the rooms had been routinely prowled and ransacked. What made this particular residential burglary unique was when I noticed a brand new nursery in the master bedroom and learned that the victim had just given birth at a local hospital. To add insult to injury, mommy was due to come home with her newborn baby that same day.

Instead of routinely clearing the scene and leaving the home in its offensive and disturbing condition, Officer Shira Warren #76, Officer Nabozny #118 and Officer Coats #151 took the initiative to lessen the blow for the new mom and baby before they arrived home. These Officers took the extra time, effort and care to reorganize and replace the items inside the residence that were so disrespectfully and carelessly disregarded.

This thoughtful, compassionate and genuine act of kindness made such an impression on me that I was compelled to share it with you and the rest of the department. These Officers went above and beyond their call of duty to do their best to ensure that this new mother would feel less victimized and not be deprived of the thrill, excitement, happiness and joy of bringing her new baby home for the first time.

The kind and considerate actions of Officers Warren, Nabozny and Coats should be recognized and serve as a reminder that nothing in this profession is routine. Without even realizing it, these Officers have raised my professional AND personal level of standards.

December 7, 2016

Chief of Police  
Berkeley Police Department  
2100 M.L.K. Jr Way  
Berkeley, CA 94704

Re:

[REDACTED]

Dear Chief Greenwood:

*Bartalini*

I am writing to commend your Department and specifically, Officer Bardolino (I apologize that I do not know the correct spelling of his name). Recently, my elderly mother, who lives alone in Berkeley, became concerned that a theft had occurred in her home. The officer provided timely, courteous and compassionate service despite his suspicions, which were ultimately confirmed, that no theft had occurred. He also responded quickly to my request to speak with him by phone and provided me with information that was both helpful and reassuring.

This was a very frightening event for my mother and I am very appreciative of the professional manner in which your department dealt with it. Living so far from my mother, it is wonderful to know that she can count on you. Thanks again for a job well done!

Sincerely,

*Nora Shub*

[REDACTED]

RECEIVED

DEC 12 2016

OFFICE OF THE CHIEF

LIEUTENANT MIKE DURBIN,

NOVEMBER 28, 2016

Thank you for assisting us by serving on our recent Qualifications Appraisal Board. Your skillful approach and good judgement were significant contributions to our selection procedure. We sincerely appreciate your valuable service to the City of Concord.

Very truly yours,  
H. Quate

**Gil, Sergio**

---

**From:** Gil, Sergio  
**Sent:** Thursday, December 01, 2016 10:16 AM  
**To:** Gil, Sergio  
**Subject:** FW: Executive Seminar

**From:** [REDACTED]  
**Sent:** Monday, November 28, 2016 5:26 PM  
**To:** Cueva, Lolita <LCueva@ci.berkeley.ca.us>  
**Subject:** Re: Executive Seminar

Lolita  
If every agency I dealt with had someone as good as you, my headaches would disappear.

Thanx for taking care of business  
Bob

On Monday, November 28, 2016 4:25 PM, "Cueva, Lolita" [REDACTED] wrote:

Confirming attendance of Chief Andrew Greenwood to the seminar at Bodega Bay on January 16-19, 2017.. I have requested check to be printed for the payment of the registration fee. I will mail it to Ms. Manzo prior to the January 6, 2017 deadline.  
Thank you.

[REDACTED]  
[REDACTED]

**NETZERO** Message Center

From: [REDACTED]  
To: police@cityofberkeley.info  
Bcc: BHerbel001@gmail.com  
Sent: Thu, Dec 01, 2016 06:01 PM  
Subject: GOOD JOB: Traffic Enforcement Agent Sandra Davis

---

Dear Traffic Enforcement Manager:


I would like to complement the fine work by your Traffic Enforcement Agent Sandra Davis. My wife and I were in Berkeley for the first time on the morning of November 19 to attend the Cal / Stanford Football game that afternoon. After we had driven around in the rain for what seemed like an eternity - but in reality was probably 30 minutes - we pulled in behind Agent Sandra Davis who was issuing a Parking Ticket to another person. We explained that it was our first time in town and we were having problems finding a parking spot. I am sure she sensed our frustration / desperation.

Sandra Davis asked us to wait a few minutes and then - because the streets were hard to explain and she was heading in that direction - to simply follow her vehicle. She proceeded to drive her vehicle and find us a parking spot. She also saw that our car fill in the tight spot that she located. The signage was a little confusing and she assured us that it was OK to park in that spot for the remainder of the day.

She was so pleasant and kind to us that I feel her efforts deserve recognition from her supervisor. She turned a bad experience for us into one that we will always remember for her kindness. Thanks to her efforts, we will likely visit Berkeley again.

Being a Traffic Enforcement Agent probably "hardens" some people; however, we sincerely appreciate the smile and assistance that Sandra Davis provided us on that rainy day.

[REDACTED]

 THANK YOU!  
LEONARD &  
BONNIE



December 5, 2016

To: Capt. D. Frankel, Professional Standards Division

From: <sup>AGC-1</sup> A. Greenwood, Int. Chief of Police

Re: **COMMENDATION FOR DEC. 2, 2016 OPERATION**

On 12/2/16, Sgt. Friedman recounted this summary of the enforcement operation earlier that day:

"Shortly after 0500 hours on 12/2/16, BPD members assisted City Staff in clearing the illegal encampment(s) on the north curtilage of City Hall and in Civic Center Park. Approximately 12 campers, 15 tents and a significant quantity of garbage and other items were moved off of City property. We issued no citations and made no arrests. Parks and Public Works personnel erected temporary fencing around the grassy areas. The operation lasted a little more than 1.5 hours and we continue to have officers actively monitoring the area..."

I received two messages later that day, complementing BPD personnel on their work, as follows: COB Mental Health Department Manager Steven Grolnic-McClurg, wrote, "I went to the encampment clearing this morning, and was really impressed by the skill and compassion of the officers who were there. They did an amazing job of being respectful and using a variety of techniques (body position, tone of voice, posture) to work with those being moved in a way that encouraged a positive outcome. It was a difficult assignment handled excellently by your staff."

Matthai Chakko in the City Manager's Office wrote to Sgt. Friedman and Capt. Louis, "Thank you and everyone on the team for your diligent planning and work today to ensure that our officers were safe. I'm very grateful and proud of the work you do for the Berkeley community."

Please process these comments from City staff as a formal commendation for those assigned to the Friday AM operation; their work and professionalism in this matter were exemplary.

Cpt. Louis #C-2  
Sgt. Jung #S-33  
Sgt. Friedman #S-2  
Sgt. Melero #S-4  
Sgt. Rittenhouse #S-9  
Sgt. D. Lindenau #S-5  
Sgt. C. Lindenau #S-22  
Sgt. P. Hong #S-27  
Sgt. B. Wilson #S-23  
Det. Salas #141  
Det. McDougall #77  
Det. Kacalek #88  
Det. Ledoux #137  
Det. Lee #24  
Det. Grant #29  
Det. Castle #39  
Ofc. Kishiyama #57  
Ofc. Li #33  
Ofc. Murray #85  
Ofc. Dozier #119  
Ofc. Jones #160  
Ofc. Lathrop #55  
Ofc. Hammonds # 157  
Ofc. De Bruin #2  
Ofc. Shannon #120  
Det. Bonaventure #86  
Ofc. Muratovic #159  
Ofc. S. Martinez # 21  
Ofc. Waite #20  
Ofc. Perkins #152  
Ofc. Driscoll # 71  
Ofc. J. Smith # 60

# Commendation

**To:** Andrew R. Greenwood, Interim Chief of Police, via chain of command  
**From:** Lieutenant Mike Durbin L-3  
**Date:** 12/7/2016  
**Re:** Commendatory work by Sergeant Craig Lindenau S-22

I would like to commend Sergeant Craig Lindenau for his work in solving a recent robbery series.

From October 8, 2016 to October 12, 2016 six victims were robbed via gun. Five of the robberies occurred in our jurisdiction with a sixth robbery occurring on the UC campus near Hearst Avenue. The five robberies handled by BPD occurred in the neighborhoods just north and south of the University of California. The similarities in these robberies led investigators to believe all six robberies were part of a series. Due to the danger to the public and pattern of the robberies, additional patrols began on October 12, 2016. Swingshift and graveyard patrol teams were also asked to focus their efforts on patrolling the area around the campus.

On October 19, 2016, Sergeant Craig Lindenau was patrolling the south campus area when he observed a car driving erratically. He stopped the car and contacted the driver and a passenger. Upon contact he smelled marijuana coming from inside the vehicle which led to a search of the interior. During a probable cause search for marijuana, Sergeant Lindenau located the following evidence connecting the driver of the vehicle and the passenger to the robbery series:

1. A black knit cap with eye holes cut out.
2. An extended magazine with 22 rounds of 9mm ammunition.
3. An unloaded black Taurus 9mm handgun.
4. Eight credit cards and identification cards belonging to the victim of a robbery that occurred on 10/12/16.

Both suspects were arrested for possession of the concealed firearm, possession of the large capacity magazine and possession of stolen property.

RECEIVED  
DEC 08 2016  
OFFICE OF THE CHIEF

The following day DD Robbery Detectives interviewed the suspects. The driver admitted to three of the robberies and implicated the passenger. This proved significant because the passenger refused to talk to investigators.

Investigators have continued to pursue leads in the robbery series including search warrants for cell phone records. In the meantime, the passenger was held for the gun charge with a bail enhancement of \$1,000,000.

Although this is one of many examples of exemplary crime fighting in Sergeant Lindenau's career, he should be commended for his effort. This car stop and subsequent investigation likely prevented additional citizens from becoming victims of robbery or other violent crimes. It also serves as an example of the proactive police work the community, BPD, and the City of Berkeley expects from its officers.

From: Art Beldonado and  
Kathleen Kirby

[REDACTED]  
Berkeley, CA. 94709

Phone: [REDACTED]

Dear Officer Greenwood,

12-12-16

We write to acknowledge the professionalism of Neil Egbert (Badge #103). Officer Egbert is assisting us with an identity theft crime (we are victims). Officer Egbert is a wonderful representative of the Berkeley PD - he is kind, attentive and very helpful. We know that so often the police dept. and its officers are seen as detached and not helpful to community members. We commend Officer Egbert for being a responsive and professional representative of the Berkeley PD. Thank you for your attention to this matter.

Sincerely -  
Art Beldonado & Kathleen Kirby

December 12, 2016

Officer Muniz, 34  
Berkeley Police Department  
2100 Martin Luther King  
Berkeley, CA  
94704

Dear Officer Muniz,

I am writing to thank you for your very professional and thoughtful investigation of my missing cell phone on Thursday Night. I am, and always will be, embarrassed that it was my fault that my phone was lost.

I had looked everywhere, or so I thought, and I was trying to follow the instructions on my "Find my iphone" app. I was frightened by the idea of looking throughout the neighborhood by myself late on a Thursday night in the very places my app suggested I must. I worried, once the battery ran down, it would be too late to ever locate it. I felt I had lost any way to communicate with anyone since my contact list was gone. I assumed it had been stolen and dumped into a garbage can, because the app showed the phone in a location I had not visited.

I am 75 and relatively new to the intricacies of the internet and just how my app should work. You were very thoughtful in explaining it to me. You never made me feel I was wasting your time or making frivolous requests for your help. I should say you gave both my husband and I such an amazing appreciation for the caliber and quality of police assistance in the Berkeley police department.

Thank you again for your graceful and valuable assistance.

Yours truly,

*Susan*  
[Redacted signature]

**Greenwood, Andrew**

---

**Subject:** FW: BPD and homeless encampment

From: David <snip>  
Date: Mon, Nov 7, 2016, 3:44 PM  
Subject: BPD and homeless encampment  
To: <police@ci.berkeley.ca.us> [REDACTED] <police@cityofberkeley.info>

To whom it may concern,

I am writing regarding the Berkeley Police Department's handling of the "homeless" encampment at Allston and Milvia.

On Sunday, November 6, 2016, my 4 year old son wanted to walk to the new Ace Hardware location on Milvia. On this particular day he insisted on wearing his Police costume jacket. My son, as is true of most 4 year old children, is enamored of the police. He knows that if he's ever in trouble he can always ask a Police Officer for help. When the world presents him with frightening challenges he often mentions how the police will keep him safe and get the bad guys.

As we walked up Milvia from Channing we came across the encampment in front of the city offices across from the YMCA. Belongings were strewn about and people were in various states of blocking the sidewalk. I heard profanity, I smelled marijuana. As we passed through the crowd my son (wearing his police jacket) asked me what all the chalk writing on the sidewalk said. I told him it was just art. In fact it said "F\$%^ the Police" everywhere I could see. Someone in the crowd made reference to my son's jacket, but he didn't notice.

I have lived in Berkeley for over 10 years. I have negative experiences with the homeless on a weekly basis. Most recently I was challenged to a fight by a young man in front of the library because I told him I didn't smoke and couldn't give him a cigarette. I have had several interactions with Berkeley Police Officers, all have been overwhelmingly positive.

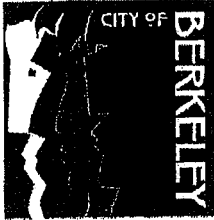
Despite my overwhelmingly negative experience with the homeless I have never once uttered or thought "F\$%# the Homeless"

I recognize prejudice in it's many forms and am constantly shocked at how completely tolerated, and sometimes encouraged, prejudice towards our Police Officers is in Berkeley.

This morning, as I arrived at the gym I was pleasantly surprised to see my usual parking spot was blocked by a BPD unit and the encampment was being taken down. I saw various city employees doing their jobs, professionally, and with efficiency. I saw an abundance of angry "homeless" young men shouting curses and referencing the size of BPD's genitalia.

I can only imagine the unique challenges facing the Berkeley Police Department. I wanted to write and let you know that I, a taxpaying, law abiding, father, husband, Berkeley resident, appreciate the BPD and all they do for our community.

Thank you,



Police Department

RECEIVED  
DEC 12 2016  
OFFICE OF THE CHIEF

DATE: December 9, 2016  
TO: Chief of Police Andrew Greenwood via Operations Division Captain *AGC-1*  
FROM: Sergeant Jack Friedman *JFS-2* *JF#2*  
CC: Phil Harrington, Director of Public Works;  
Scott Ferris, Director of Parks, Recreation and Waterfront  
SUBJECT: Commendation for November 17, 2016 City Hall Encampment Operation

I would like to thank and commend the many officers and City staff who participated in the clearing of the encampment at City Hall in the early morning of Thursday, November 17, 2016.

On the evening of Tuesday, November 15<sup>th</sup>, City Manager Williams-Ridley directed the Department to help remove approximately 12-15 campers from, and clean up their trash on, the south curtilage of City Hall. This particular group of campers has a history of occupying public land, refusing to leave when asked and becoming confrontational with officers and physically resistive when ordered to move.

On short notice, the officers listed below rearranged their personal, work and sleep schedules to be present for an operational briefing at 0330 hours. The early hour was necessary because past actions with these campers had stretched over several hours and we were concerned that a long-lasting operation would disrupt morning commuter traffic and the arrival of students at Berkeley High School.

Officers and employees from the City Manager's Office, Public Works and Parks, Recreation and Waterfront arrived at the south curtilage shortly after 0420 hours and cleared the area of campers, possessions and trash in the space of an hour. Each and every one of the officers and staff conducted her- or himself with skill and professionalism. They kept their composure even though they were met with a steady stream of verbal abuse from the campers and had to walk around a scene contaminated with human waste, marijuana smoke and filth.

This operation was difficult work, in a hostile atmosphere, at an inconvenient hour. It was "public service" in the pure sense of that term. I am grateful, but not a bit surprised, that my colleagues handled the situation so professionally, efficiently and successfully.



Lt. Schofield #L-11  
Det. Ledoux #137  
Ofc. Jung #11  
Sgt. Friedman #S-2

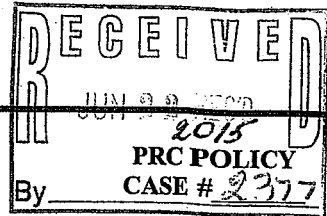
Sgt. P. Hong #S-27  
Sgt. Lindenau S-5  
Sgt. Landrum #S-1  
Sgt. B. Wilson #S-23  
Sgt. Fomby #S-7  
Sgt. Rittenhouse #S-9  
Sgt. D. White #S-

Det. Salas #141  
Det. Castle #39  
Det. Schafer #113  
Det. McGee #124  
Det. Combong #98  
Det. P. Lee #24  
Det. Rodrigues #45  
Det. Lathrop #55  
Det. M. Kelly #12  
Det. Kacalek #88  
Det. Rafferty #117  
Det. Parsons #74  
Det. Bonaventure #86  
Det. Grant #29

Ofc. Breaux #15  
Ofc. Seaton #66  
Ofc. V. Li #33  
Ofc. McDougall #77  
Ofc. S. Lee #110  
Ofc. De Bruin #2  
Ofc. Tinney #63  
Ofc. Kishiyama #57  
Ofc. McIntosh #54  
Ofc. Muratovic #159  
Ofc. B. Smith #3  
Ofc. Scott #23

R. Ofc. R. Brown #666





# POLICY COMPLAINT FORM



## Police Review Commission

1947 Center Street, 3rd 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

6-22-15

1

Name of Complainant: Denney Carol Ruth  
Last First Middle

Home Address: 1970 San Pablo #4, Berkeley CA 94702  
Street City State Zip

Home Phone: 510 548-1512 Alt Phone: \_\_\_\_\_

E-mail address: cdenney@igc.org

Occupation: Member relations Gender: F Age: 61  
asst.

Ethnicity (For statistical purposes only):

- Asian
- Black
- Caucasian
- Hispanic/Latino
- Multiethnic:
- 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.

public health ordinances regarding second hand smoke and/or aerosol exposure are not even communicated, let alone respected or utilized as intended by the city council.

3

Please provide a factual description of the incident that forms the basis of your complaint. Please be specific and include what transpired, and how the incident ended. → see attached

Location of Incident (if applicable) Civic Center Park, Martin Luther King

Date & Time of Incident (if applicable) around 2:00pm @ Center  
June 17, 2015

COMMUNICATION No. 4160

Revised 1-13-15

4

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

*See attached*

5

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

6

**VERIFICATION**

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

*Carl D...*  
Signature of Complainant

*6-18-2015*  
Date signed

7

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

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

*For Office Use Only*

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

Policy Complaint regarding e-cigarette ordinance and communication issues

From: Carol Denney

To: the Police Review Commission

3. On Wednesday, June 17, bike officers Schultz and Roberts were in Civic Center park in the mid-afternoon when I noticed someone smoking nearby. I asked them if they could please instruct the person that our parks are smokefree.

Officer Schultz insisted that it was not a conventional tobacco cigarette, but rather an electronic cigarette and thus not covered by Berkeley's law. I told him that the law had been amended to include electronic cigarettes, but he insisted that this was not the case. His partner also dismissed the idea that electronic cigarettes were included in the law.

They were dismissive and sarcastic to me, but that is not my concern. I had confirmed within the hour that yes, the ordinance which was adopted by the Berkeley City Council on September 30, 2014, was enacted 30 days later on October 30, 2014. This is a matter of public record.

This is the second time in only a handful of years in which I have encountered police officers who have no idea what the operative laws are governing secondhand smoke in Berkeley and actively resist even hearing information regarding relevant law. I appreciate that for them it seems like a low priority, but for some of us, including children, pregnant women, and people with immune deficiencies, cardiovascular and pulmonary difficulties or histories of cancer, it is a serious matter.

4. BPD's chain of communication needs re-examined in light of the fact that important life-saving legislation is being treated as irrelevant or not communicated at all to police.

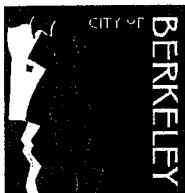
I would also suggest that the serious damage to public health policy by police officers who have for nearly a year treated the electronic cigarette amendment to our secondhand smoke ordinance as though it didn't exist needs to be actively addressed by the police themselves as they patrol. While secondhand smoke violations may remain a lower priority than active police shootings, the Berkeley Police need to make up for the serious confusion they have caused in our community and the needless exposure we have suffered in consequence.

Carol Denney

1970 San Pablo #4

Berkeley, CA 94702

510-548-1512



Police Review Commission (PRC)

August 7, 2015

To: Michael Meehan, Chief of Police

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

Re: PRC Concerns Regarding BPD Knowledge of City Non-Smoking Law

At its July 15, 2015, meeting, the Police Review Commission opened a policy review regarding the need to improve training in the BPD regarding the City's Smoking Pollution Program Ordinance (Berkeley Municipal Code Chapter 12.70), and voted on specific steps they wished to take in this review.

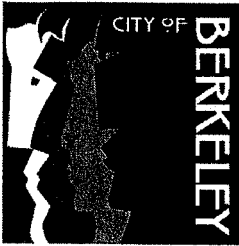
In general, the PRC is concerned about the level of familiarity that BPD officers have with the smoking ordinance, especially as it relates to electronic smoking devices. The ordinance was amended effective October 30, 2014 to regulate the use of e-cigarettes in the same way as traditional tobacco cigarettes but, according to the policy complainant, she encountered two patrol officers on June 17, 2015, who were unaware of this.

Specifically, the Commission requests that:

- The BPD take advantage of training that I have confirmed that our own Public Health Division employees could provide to your officers.
- The BPD's Training & Information Bulletin No. 276, "City of Berkeley Smoking Restrictions (BMC Chapter 12.70)," dated September 23, 2008, be revised to incorporate the regulation of electronic smoking devices as provided by the 2014 amendments to the ordinance.
- You inform the Commission how changes in City ordinances and other policies are communicated to members of your department.
- You, or someone you designate, attend a PRC meeting for the purpose of answering questions Commissioners have about the department's familiarity with the smoking ordinance. Please contact me to coordinate a mutually convenient meeting date.


Thank you for your attention to these requests.

1947 Center Street, 3<sup>rd</sup> Floor, Berkeley, CA 94704 • Tel: 510-981-4950 • TDD: 510-981-6903 • Fax: 510-981-4955  
Email: [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info) Website: [www.cityofberkeley.info/prc/](http://www.cityofberkeley.info/prc/)



Police Review Commission (PRC)

February 15, 2017

To: Police Review Commission  
From: Katherine J. Lee, PRC Officer   
Re: Report regarding Policy Complaint #2406: Searches of vehicles based on smell of marijuana when driver produces medical marijuana ID card

Complainant's requested policy change: Mr. Keenley proposes that "Berkeley police officers should not search the persons or vehicles of persons in possession marijuana where those persons are able to establish prima facie evidence that they are authorized medical users under the Compassionate Use Act of 1996, Cal. Health & Safety Code sec. 11362.5, especially when the person is initially detained in a dragnet stop."

Factual background: Complainant James Keenley was driving alone on Cedar Street near San Pablo Avenue around 10:30 p.m. last August, when he was stopped at a sobriety checkpoint. The officer who stopped Mr. Keenley smelled marijuana, and Mr. Keenley produced his medical marijuana card. The officer questioned Mr. Keenley and had him exit his car, whereupon the officer frisked Mr. Keenley and conducted an extensive search of his car.

When Mr. Keenly asked if he had to consent to the search of his person and car, the officer told him that medical marijuana is not a defense to being searched, and that the smell of marijuana gave him probable cause to search for other drugs and weapons. Mr. Keenley told the officer he had about a half-ounce of marijuana in a closed container in the back of the car, and that is what the officer found. No other drugs or weapons were found. The officer did not conduct a field sobriety test, contrary to what he initially advised Mr. Keenley he planned to do. The officer did not cite Mr. Keenley, and allowed him to go on his way.

Complainant's argument: Mr. Keenley acknowledges that the search conducted in this case was constitutional, and that the officer could have issued a citation for possession or even made an arrest. (At that time, for Health & Safety Code sec. 11357 (possession).) He argues, however, that BPD should adopt more progressive, safe and humane policies regarding "invasive" police searches. He felt humiliated by the search performed on him.

Applicable law (at the time of the stop): Under the Compassionate Use Act of 1996 (aka Prop. 215; codified in Calif. Health & Safety Code sec. 11362.5 et seq.), possession and consumption of marijuana is legal if a licensed physician recommends or approves the person's medical use of marijuana. Patients can obtain an optional ID card as evidence of such recommendation or approval.

The amount of medical marijuana that a patient may possess is established by local Measure JJ, passed in November 2008. Rather than a numerical limit on the amount of dried medical marijuana, "all possession of cannabis for medical purposes" by a patient is lawful when "solely for the personal medical purposes" of that patient. (Codified in B.M.C. sec. 12.26.070.B.)

BPD response: The smell of marijuana constitutes probable cause to search the person and the vehicle, notwithstanding Mr. Keenley's producing an apparently valid medical marijuana ID card. Consent to search is not required, because if the person refuses to consent, they may be detained for the purposes of an investigation.

The officer may be investigating for reasons that include: whether the person is in possession of an amount more than that solely for his or her medical purposes; whether the person is in fact possessing marijuana solely for personal medical needs; whether the person has illegal drugs in their possession; whether the person has weapons. The officer may, based on his or her observations of the driver, perform a field sobriety test to determine if the person is driving under the influence.

Essentially, the complainant is arguing that possession of a medical marijuana ID card that appears valid on its face is evidence, or at least creates a presumption, that the driver who possesses the card is not violating the law. The BPD disagrees, for the reasons explained above.

Moreover, the BPD maintains that, even with the passage of state Proposition 64 in November 2016, which legalized nonmedical marijuana use for adults 21 or older, the smell of marijuana emanating from a vehicle still constitutes a lawful reason to stop and search. Proposition 64 did not legalize smoking marijuana while driving a car, nor does it change existing prohibitions against driving while impaired. The new law legalizes possession of up to 28.5 grams of marijuana (and 8 grams in concentrated form), so detention and investigation for possession of more than those amounts may be appropriate.

PRC decision: The Commission should decide whether it believes a change in the BPD's policy is needed. If the answer is yes, it should discuss and craft a proposed alternative.





# POLICY COMPLAINT FORM

**Police Review Commission (PRC)**  
 1947 Center Street, 1<sup>st</sup> Floor, Berkeley, CA 94704  
 Website: [www.ci.berkeley.ca.us/prc/](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:

*2406*  
 Received by PRC  
 PRC CASE #  
 AUG 30 2016

1

Name of Complainant: Keenley James Pieper  
Last First Middle  
 Mailing Address: 1725 Wesley Ave. El Cerrito CA 94530  
Street City State Zip  
 Primary Phone: ( 510 ) 926-9233 Alt Phone: (      )  
 E-mail address: jkeenley@gmail.com  
 Occupation: Attorney Gender: M Age: 34  
 Ethnicity:  Asian  Black/African-American  Caucasian  
 Latino/Hispanic  Multiethnic:                       Other:                     

COPY

2

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

Please see attached description of incident and policy concerns.

3

Location of Incident (if applicable) San Pablo Ave between Cedar and Virginia

Date & Time of Incident (if applicable) August 19, 2016 at approximately 10:30 PM

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

Please see attached description of incident.

4

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

Please see attached information.

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

5

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Commission in evaluating your complaint.)

Please see attached document.

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

6

CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.

Jan P. [Signature]

Signature of Complainant

8-29-16

Date

7

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

- Internet
Publication:
Referral:
Other:

**Attachment to Policy Complaint Form 4-22-16**

**Complainant:** James Keenley

**Date of Incident:** August 19, 2016

**2. Improper Practice:** Conducting search of vehicle and person based on smell of marijuana when the driver and sole occupant of the vehicle produced prima facie evidence of being an authorized medical user and was stopped in a dragnet sobriety checkpoint.

**3. Description of Incident:** At approximately 10:30 PM on August 19, 2016, I was driving home from my office in west Berkeley (I own a Berkeley-based law firm) to my home in El Cerrito. I was taking Cedar across town to avoid the traffic on Interstate 80 and was caught up in a sobriety checkpoint on San Pablo avenue. Upon being detained at the checkpoint, I presented my driver's license to the officer at my vehicle. The officer was a male, [REDACTED]. I did not get the officer's name. He shined his flashlight in my face, and his first question to me was hostile: "How much marijuana is in the car?" I asked him what he meant by that, and he said "I smell marijuana coming from the car, how much marijuana is in the car?" I answered that I had some marijuana in the car, that I was not sure of the exact amount, but that I had medical authorization to possess the marijuana. The officer asked me to provide him with my medical card, which I did. The card has my photograph on it, is issued by my physician, and contains information on the card as to how to confirm the recommendation both online and by telephone.

The officer instructed me to pull over onto Virginia and then proceeded to pepper me with questions about the last time I consumed marijuana, whether I had any weapons or other drugs in the car or on my person, whether I had been drinking, and so forth. I explained to the officer that the marijuana was in a closed container in the back of the car and that I was unsure of the total amount but that it was approximately one-half of an ounce. The officer then stated that he was going to have me exit the vehicle and that he was going to search my person and my car and that following the search I would be required to complete field sobriety testing. I asked the officer "Do I have to consent to this search?" and the officer replied "You have to consent, medical marijuana is not a defense to being searched."

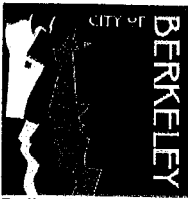
I exited the car, I was frisked, my pockets were emptied, and then my car (a 2015 Honda Odyssey minivan) was searched extensively. The officer located the marijuana exactly where I told him it would be. He did not find any contraband of any kind, because there was none. After finishing his search, the officer returned my license and medical cannabis card and allowed me to proceed on my way home without citation or further incident. Despite his prior statements to the contrary, the officer did not conduct any sobriety testing of any kind. When handing back my identification, the officer stated that the smell of marijuana was probable cause for him to search for other drugs or weapons.

While generally professional, I found the officer's initial question--"How much marijuana is in the car?"--unreasonably hostile. The officer and I at that point hadn't exchanged any conversation, and his first question was a confrontational one that presumed I was engaged in a criminal activity. This may be a useful tactic for catching people off guard, but it is a terrible way to build positive and productive relationships with the community and it needlessly escalates what was at that point an ordinary and calm interaction. I suggest that officers who suspect that someone is in possession of marijuana simply ask "Do you have any marijuana on your person or in the car?" Should be easy to do, since this is how normal people have conversations.

I also found the officer's ex post justification for the search—that he had probable cause to search for other drugs or weapons—completely ridiculous and insulting. I am an attorney, I know a few things about a probable cause, and while I concede that for purposes of the Fourth Amendment the case law establishes that the officer did have probable cause to search for evidence of sales, the smell of marijuana and my free acknowledgement that I had it in my car, combined with my presentation of a medical cannabis authorization card, does not give rise to any reasonable suspicion that I was in possession of contraband or engaged in any other criminal activity.

Finally, as a Berkeley business owner and a former resident of the city who frequently patronizes Berkeley businesses and partakes in Berkeley's community life in various ways, I am strongly opposed to the use of sobriety checkpoints and any and all other types of dragnet searches. These procedures have been shown to be rather ineffective at reducing drunk driving, and they do not make me feel any safer. To the contrary, the presence of such searches makes me feel unsafe, it makes me feel that I am vulnerable to random search by the police despite being a law abiding citizen, simply because I tend to work late and thus I am out driving at the time that these sorts of dragnets are conducted. Further, the use of dragnet searches is so contrary to our fundamental sense of liberty—the basic idea that a citizen should not be subject to random search and seizure by the state—that it shocks me that a famously progressive and high-minded city like Berkeley would ever deploy them.

Finally, my personal observation during the time that I was detained at the dragnet was that every single other driver who was pulled over for further questioning and sobriety testing was a Hispanic male. Obviously, I was only present for a small portion of the dragnet, but it seems to me highly probable these types of searches are more likely to produce racially biased law enforcement because rather than relying on observation of suspected illegal activity, the officers conducting dragnets are required to use their judgment as to the sobriety of a large number of individuals who pass before them in a small amount of time, and in so doing their subconscious racial biases are more likely to affect their judgment.



Police Review Commission (PRC)

February 6, 2017

Andrew Greenwood, Interim Chief of Police  
City of Berkeley  
2100 Martin Luther King, Jr. Way  
Berkeley, CA 94704

Re: Commendations of BPD employees January – June 2016

Dear Chief Greenwood:

At its December 14, 2016 meeting, the members of the Police Review Commission reviewed the numerous letters and emails of thanks and praise for members of your staff, which your department received from January through June 2016. The Commissioners singled out a number of Police Department employees whose actions were worthy of specific mention. They are:

**Ofc. Stephen Burcham**  
**Det. Susan Lee (twice)**  
**Ofc. Brian Hartley**  
**Sgt. Jennifer Wilson**  
**PSD Tamara Lopes**  
**Ofc. Paula Hammonds**  
**Ofc. Jason Collier**  
**Sgt. Frank Landrum**  
**CSO Leslie Assata**  
**Ofc. Brian Kishiyama (twice)**  
**Sgt. Peter Hong (twice)**  
**Lt. Rico Rolleri**  
**Ofc. R. Navarro**  
**Ofc. Brian Mathis**  
**Ofc. Benjamin Phelps**  
**Ofc. Darrin Rafferty**  
**Ofc. Jeff Shannon**  
**Sgt. Kevin Reece**  
**CSO Jess Schwarck**  
**Sgt. Joseph Okies**

**Sgt. Spencer Fomby**  
**Ofc. Christopher Schulz**  
**CSO Megan Jones**  
**Ofc. Tracie Lui**  
**Ofc. Zackery Nash**  
**Capt. Andrew Greenwood**  
**Lt. Andrew Rateaver**  
**Ofc. Samantha Speelman**  
**Ofc. Earl Emelson**  
**Ofc. Kevin Peters**  
**Ofc. Timothy Kaplan**  
**Ofc. Michael Huerta**  
**Sgt. Andrew Frankel**  
**Ofc. Rochell Bledsoe**  
**Ofc. Lionell Dozier**  
**Ofc. Hugo Diaz**  
**Ofc. Ryan Andersen**  
**Ofc. James Seaton**  
**Ofc. Jennifer Coats**  
**Ofc. Victor Martinez**

From the more mundane – yet important – task of returning a lost car key to its owner, to the dangerous job of apprehending a violent suspect, these officers and other employees made an overwhelmingly positive impression on members of the public. Please let these members of your staff know that the PRC recognizes and thanks them for their exemplary actions.

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

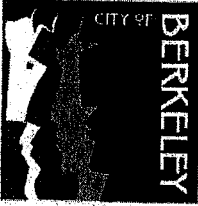
Sincerely,



Katherine J. Lee  
PRC Officer

Enclosures

cc: PRC Commissioners (w/o encls.)



Police Review Commission (PRC)

February 7, 2017

To: Honorable Mayor and Members of the City Council  
City Manager Dee Williams-Ridley

From: Alison Bernstein, Chair, Police Review Commission

Re: Seizure of Property from Homeless Encampments

The members of the Police Review Commission wish to express their concerns about the handling of people's personal property during the enforcement actions that have been occurring at homeless encampments over the past few months. The PRC has received consistent reports that property that is not abandoned is being improperly seized by our Public Works Department, with Berkeley Police Department members acting as support during these events. We have also heard that it is burdensome and sometimes impossible for people to regain possession of personal effects that have been so taken.

Therefore, we write to strongly encourage the City to develop a clear policy about the handling of personal property in such situations, that protects the rights of people to be secure in their belongings. We believe this would go a long way towards alleviating the high level of tension these seizures create between the BPD and members of the community.

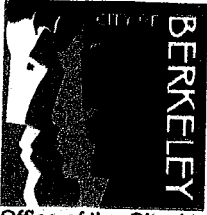
The members of the PRC voted at its February 1, 2017 meeting to communicate these concerns to you by the following vote: Ayes – Bernstein, DaSilva, Lippman, Perezvelez, Prichett, and Vicente; Noes – None; Abstain – None; Absent – Roberts and Yampolsky.

cc: Andrew Greenwood, Interim Police Chief  
Jovan Grogan, Deputy City Manager  
PRC Commissioners

1947 Center Street, 1st Floor, Berkeley, CA 94704 Tel: 510-981-4950 TDD: 510-981-6903 Fax: 510-981-4955  
e-mail: [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info) website: [www.cityofberkeley.info/prc/](http://www.cityofberkeley.info/prc/)







Office of the City Attorney

Date: February 15, 2017  
To: Katherine J. Lee, PRC Officer  
From: Zach Cowan, City Attorney  
By: Kristy van Herick, Assistant City Attorney *KVA*  
Re: Disclosure of Informal Complaints to the Police Review Commission

### **Background**

An email from a member of the public, raising specific concerns about the conduct of a named City of Berkeley peace officer, was included in the Police Review Commission (PRC) public agenda packet as a communication. This office informally advised that such emails are confidential and must not be included as communications in the agenda packet. On behalf of the PRC, you have requested a written opinion.

### **Issue**

May the Police Review Commission receive and review informal email complaints identifying specific officers in the public agenda packet?

### **Conclusion**

No. Any citizen complaint against an officer, even one that is not received on the official PRC complaint form, must be treated confidentially under Penal Code Sections 832.5, 832.7 and 832.8 and *Berkeley Police Assn v. City of Berkeley* (2008) 167 Cal.App.4th 385. Moreover, accepting and distributing informal email complaints is inconsistent with the PRC's own regulations.

### **Discussion**

Peace officer personnel records are confidential pursuant to the California Penal Code. Penal Code section 832.7(a), provides, in relevant part, that:

"[p]eace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not

be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code."

Penal Code Section 832.8 defines "personnel record" to include complaints:

"As used in Section 832.7, "personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

- (a) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.
- (b) Medical history.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) **Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.**
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy."

Additionally, Section 832.5 specifies the process for reviewing and considering complaints against officers, including, in relevant part:

- "(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. **All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law.** However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.
- (c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that **shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code...."**

Read together, these statutes require “that records pertaining to citizen complaints against officers be kept for at least five years” and that citizen complaints are “confidential and shall not be disclosed in any criminal or civil proceeding” except in accordance with the special discovery procedure set forth in Evidence Code section 1043. (*Berkeley Police Ass'n v. City of Berkeley* (2008) 167 Cal.App.4th 385, 391–92.) Moreover, the Public Records Act exempts citizen complaints against peace officers from disclosure. (Govt Code § 6254(c), (f) and (k).)

A review of case law provides a fairly broad interpretation of what falls within the scope of a citizen complaint. “[S]ection 832.7 does not make it a necessary condition for confidentiality to apply that the officer whose records are sought be involved in a disciplinary proceeding. It is sufficient that he or she be **the subject of a citizen complaint** without regard to whether disciplinary action is also involved.” (*Berkeley Police Ass'n, supra*, at p. 401.) How the record is processed or stored (i.e., in the official personnel file vs in an agenda packet) does not dictate whether it is a personnel record. As the California Supreme Court noted, “[w]e consider it unlikely the Legislature intended to render documents confidential based on their location, *rather than their content.*” (*Commission On Peace Officer Standards And Training [CPOST] v. Superior Court* (2007) 42 Cal.4th 278, 291.)

“As construed in *Copley Press* and *CPOST*, however, the statutes in issue were aimed primarily at protecting the confidentiality of records pertaining to citizen complaints against police officers, and the Legislature did not intend to allow local jurisdictions to **circumvent that protection either deliberately or inadvertently by the manner in which they assigned responsibility** for the investigation of such complaints.” (*Berkeley Police Ass'n, supra*, at p. 405.) It seems a logical extension of the court’s analysis that the form in which the complaint is presented (email vs. complaint form) should not result in a circumvention of the officer’s privacy rights.

Therefore, to determine whether an “informal email complaint” is considered part of a confidential “personnel record” of a peace officer, one must consider the content of the document, and err on the side of considering it to be a “citizen complaint” with the associated confidentiality protections. An email sent to the PRC or PRC staff from a member of the public that identifies an officer (or officers) by name, badge number, or other identifying features and alleges any act of misconduct pertaining to the manner in which he or she performs his or her duties certainly falls within the category of a citizen complaint and should be handled as a confidential document.

Currently, the PRC *Regulations for Handling Complaints Against Members of the Police Department*, effective March 28, 2016 (PRC Regulations) do not include a process for receiving and handling complaints received in an informal email. The PRC Regulations “govern the receipt and processing of complaints submitted to the Police Review Commission.” (PRC Reg. Section I.A.) Section II.A.1 specifies that “complaints and policy complaints **must be filed on a form** provided by the PRC, and except as provided in section 3 [*unavailability of complainant*], **signed by the complainant.**” The PRC Regulations further provide that within 20 business days of the date that a timely filed complaint is received by the PRC office, the PRC staff shall issue to the officer both the Notice of Allegations and a copy of the complaint. (PRC Regulations, III.B.1 and 2.)

The PRC staff shall maintain a central register of all complaints filed, and shall maintain the complaints in the PRC Office. (PRC Regulations, III.B.2.)

The consistent processing of complaints under the PRC Regulations helps to ensure compliance with privacy laws and the Police Officer Bill of Rights Act (POBRA). Peace officers have a right to read and sign (or refuse to sign) any comment adverse to their interests that is maintained in either their personnel file or any other file used for personnel purposes. (See Government Code sections 3305 and 3306.) In *Aguilar v. Johnson* (1988) 202 Cal.App.3d 241, the court determined that a complaint that was received and retained in a separate location, but was rejected for processing, nevertheless triggered notice obligations under POBRA. So it would not be a legally compliant alternative to allow for email complaints to be reviewed by the PRC or PRC staff without sharing the complaint with the subject peace officer.

The PRC Regulations and complaint form were carefully crafted to be consistent with the Police Officer Bill of Rights and California statutes and case law. The complaint form collects the types of information needed by staff to investigate the allegations. The certification, while not under "penalty of perjury", requires the complainant to certify that to the best of his or her knowledge, the statements made on the complaint are true. By signing the complaint form, the complainant also acknowledges that testimony before a Board of Inquiry will be given under oath. The Complaint form is promptly shared with the officer.

In considering the handling of informal email complaints, it is also critically important that citizens are not discouraged from raising complaints. "The Legislature, through the adoption of section 832.5, has indicated its desire that complaints filed with a law enforcement agency are to be encouraged. (*Pena v. Municipal Court* (1979) 96 Cal.App.3d 77, 82.)" (79 Ops.Cal.Atty.Gen. 163, 1996 WL 426537, p. 1.) Moreover, both the federal Constitution (U.S. Const., 1st Amend.) and state Constitution (Cal. Const., art. I, § 3) protect the right of the people to petition government for the redress of grievances.

In an effort to balance these important interests, there are a few approaches the PRC can take moving forward. A couple of suggestions are included as follows:

- (1) The PRC website could be updated to include a clear notice about communications to the PRC, explaining that emails that contain complaints about specific officers will be handled through the confidential complaint process and will not be treated as general communications to the PRC and will not be included in the public packet or listed as a communication on the agenda. The PRC staff can then follow up with the citizen regarding the process for initiating a complaint. General emails addressed to the PRC that do not directly or indirectly identify an officer or officers will be processed as communications, shared in the public packet, and considered a public document under the Public Records Act. (For example, an email discussing the status of police and public relations in California, making local policy suggestions, or making announcements of a general nature would not fall within the personnel record restrictions.)

Memo to Katherine Lee, PRC Officer

February 15, 2017

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- (2) The PRC could update its Regulations to include a protocol for receiving and handling informal email complaints. This would allow the PRC staff to process the email complaint, share it with the officer, and either investigate it or seek to administratively close the matter depending on whether the complainant chooses to participate in the process set forth in the Regulations.

cc: Dee Williams-Ridley, City Manager  
Jovan Grogan, Deputy City Manager  
Mark Numainville, City Clerk  
Opn. Index: II.A.1; II.E.1; II.F.6; II.I.2; II.G.8.a.

