

Observations and Thoughts about Urban Shield Exercises in September 2017

Terry Roberts

11/15/17

I attended the Urban Shield exercises for two days in September. The training was based on “real life” emergency situations that have been encountered by emergency response teams around the world, in an attempt to provide relevant vignettes to benefit local emergency responders. I thought the training provided very useful information and practice for police, fire, public works, and every day citizens to prepare for emergencies in their communities.

Available Training

The training included: Hazmat, event security, active shooters and hostage situations, critical infrastructure response, hospital and hotel attacks, bus and Amtrak hostage situations, biological and chemical response, rail collision, structure collapse, large animal rescue, water rescue, earthquake and severe weather response, and community preparedness with community members participating, focusing on community organization and readiness, to name a few. There were also sessions about responding to the Ghost Ship fire and the Orville Dam evacuation which gave important insights to emergency responders.

This provided a wide variety of training for all emergency responders---not just police. There were hundreds of emergency responders from all over California participating at 36 locations in the Bay Area.

I was surprised at the wide variety of training available to Berkeley and other communities, since some people in our community paint a picture of Urban Shield training that only results in militarization of our police department, but in truth it can benefit other city departments too, with the potential of improving overall safety in our community.

While the BPD SWAT team did participate in scenarios such as hostage situations and a truck running down pedestrians on a crowded street, those scenarios are certainly not outside of what might eventually be experienced in Berkeley in the future. You might have noticed lately that --- Berkeley is being targeted by various groups---and we don't know what to expect in the future. With terrorist-type attacks happening in California, the nation and the world, we need to be ready to respond to keep our community as safe as possible. We need to be equipped, trained and ready, so we aren't ringing our hands and Monday morning quarterbacking after an emergency event, blaming BPD and others for not being prepared, similar to after the Back Lives Matter protests recently. It's our responsibility to support BPD and other departments in their efforts to be ready to respond emergencies.

Vendor Show

For all the talk in the community about Urban Shield militarizing our police force I expected to find a lot of heavy weapons, armored personnel carriers, explosives, and other strictly military weaponry and equipment at the vendor show. But there was nothing I saw that would be

inappropriate for city police department use. Much of the equipment and technology was about officer safety. Of course, there were some weapons displayed, but of a small arms nature compared to military equipment. Some of this equipment may not be needed or appropriate in Berkeley due to local policies.

Some surveillance technology was also displayed at the vendor show, which may or may not be appropriate in Berkeley, but purchase of such equipment will eventually be governed by our pending surveillance ordinance.

Berkeley Participation Going forward

I believe Berkeley's emergency responders need this type of training to help our community become more prepared and safer in emergencies. The wide range of training in Urban Shield helps us achieve that goal and gives our staff emergency response training and some funding for equipment that we would not otherwise receive because we cannot afford it.

But the training and equipment we receive from Urban Shield should be selected based on our community values under a city-adopted plan to ensure it is appropriate for our community. In addition, we know that BPD needs additional training in other areas such as de-escalation training, fair and impartial policing training, etc., to ensure there is a balance in the training program to meet all of the challenges facing policing activities.

Overall, I believe that Urban Shield provides access to a critical piece of our training and safety equipment needs. As a community we need to have a clear plan to guide our emergency training that will address all likely emergency circumstances and will result in a higher level of community and officer safety.

In the final analysis, under Urban Shield, we choose locally what is appropriate for us----nothing in Urban Shield mandates either the training we take or the equipment we purchase for police. It is up to us locally to decide how we participate.

24. Refer to the Berkeley Police Department to Address Disparate Racial Treatment and Implement Policy and Practice Reforms *(Continued from October 31, 2017. Item contains revised materials.)*

From: Councilmembers Worthington, Bartlett, and Harrison

Recommendation: Refer to the Berkeley Police Department to track yield rates, develop training programs to address disparities found through the yield rates, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department and broader Berkeley community.

Financial Implications: Staff time

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Recess 8:23 p.m. – 8:37 p.m.

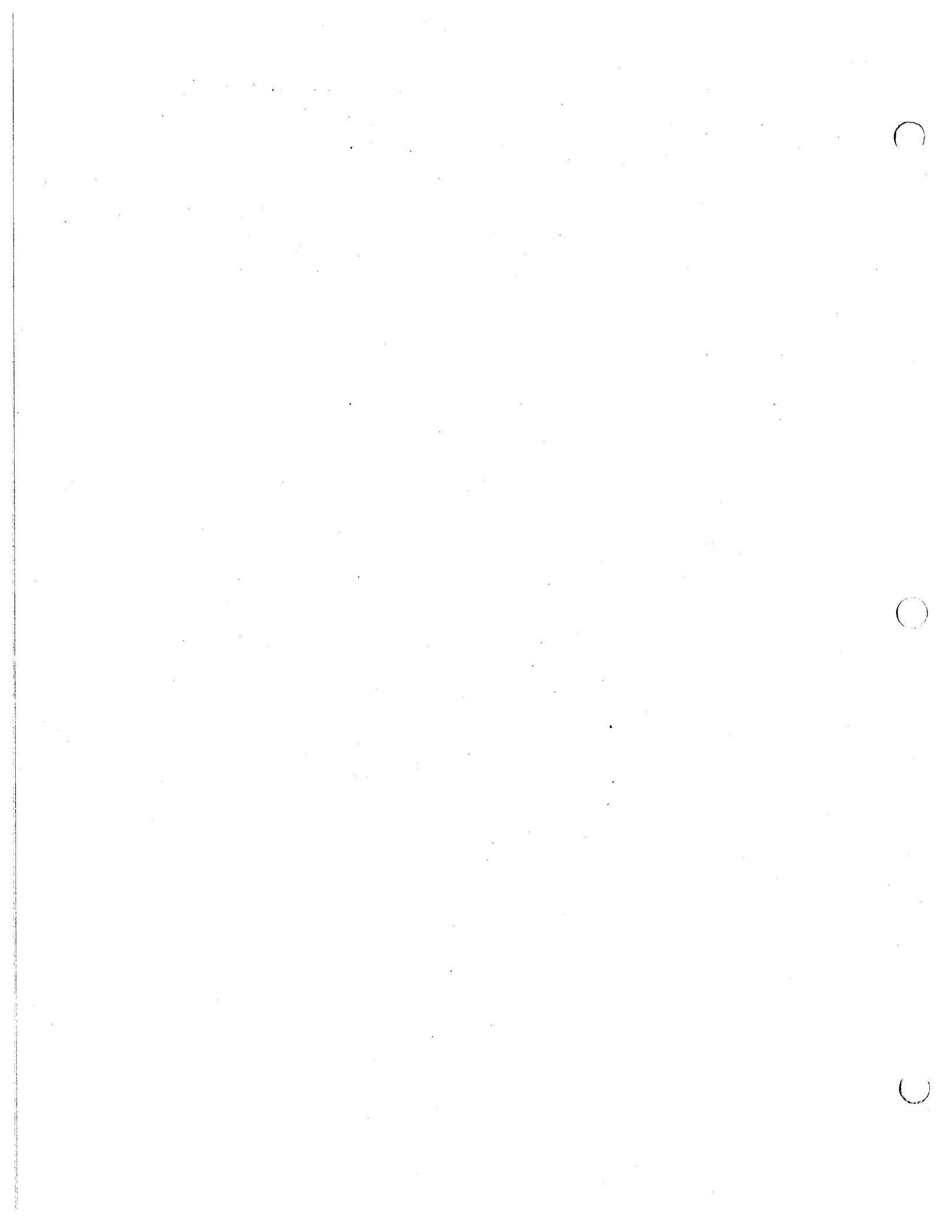
Action: 24 speakers. M/S/C (Bartlett/Wengraf) to approve the following recommendation.

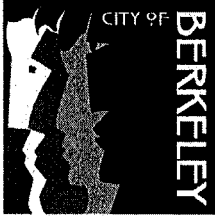
Direct the City Manager to track yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department ("BPD"), the Police Review Commission ("PRC") and the broader Berkeley community. The City Manager will report findings in September 2018 and annually thereafter, using anonymized data.

- 1. Tracking yield rates (i.e., the percentage of citations or arrests per traffic or pedestrian stop and the ratio of contraband found by search conducted) by individual officer, by patrol and by the department as a whole disaggregated by the race of the individual(s) stopped. This will include analyzing whether police actions were officer-initiated or in response to calls for service or warrants. This data will focus BPD examination of the reasons for disparate racial treatment and to identify any outliers.*
- 2. Considering any other criteria which would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions.*
- 3. Developing training programs to address the organizational causes of any disparate treatment and outcomes by race uncovered in #1 above and, in accordance with the City's body worn camera policy, through examination of footage on police body cameras (e.g., more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training).*
- 4. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms.*
- 5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed.*

Departmental, personnel and training issues will be easier to address with accessible and granular empirical data.

Vote: All Ayes.





Kriss Worthington
Councilmember District 7

Revises Item found in PRC 11-15-17 agenda packet,
p. 66 (PRC agenda item #10.a.iii)).

REVISED AGENDA MATERIAL

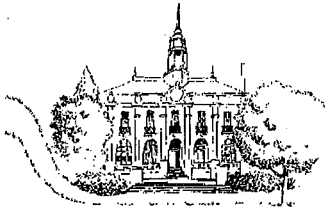
Meeting Date: November 14, 2017

Item Number: 24

Item Description: Direct the City Manager to analyze and address disparate racial outcomes in policing and implement policy and practice reforms.

Submitted by: Councilmember Kriss Worthington

Clarified and updated the title, recommendation and background.



Kriss Worthington

Councilmember, City of Berkeley, District 7
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kworthington@cityofberkeley.info

CONSENT CALENDAR
10/31/2017

To: Honorable Mayor and Members of the City Council

From: Councilmembers Kriss Worthington, Kate Harrison, and Ben Bartlett

Subject: Refer to the Berkeley Police Department to address Direct the City Manager to analyze and address disparate racial treatment outcomes in policing and implement policy and practice reforms.

RECOMMENDATION:

Refer to the Berkeley Police Department Direct the City Manager to track yield-stop, citation, search and arrest rates by race and ethnicity, develop training programs to address disparities found through the yield rates, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department ("BPD"), the Police Review Commission ("PRC") and broader Berkeley community. The City Manager will report findings biannually to the Council in the first year and annually thereafter, using anonymized data.

BACKGROUND:

The City of Berkeley and its police department are internationally recognized as having contributed to the development of modern law enforcement policies, practices and accountability measures. In the first decades of the twenty-first century, renewed community engagement in the issue of police disparities have focused attention on improving accountability in policing across departments in the Bay Area and the country.

In response to these latest developments, the BPD adopted a Fair and Impartial Policing policy with assistance from the PRC, National Association for the Advancement of Colored People ("NAACP") and American Civil Liberties Union ("ACLU"), increased transparency by releasing policing data to the public and research institutions, engaged in dialogue about their relationship and role in the broader community and worked with the Council to develop and pass broad policy goals relating to BPD's use of force. The Department and PRC deserve recognition for their accomplishments in these areas.

Repeated studies have found disparities in policing in Berkeley by race and ethnicity. In 2015, CopWatch filed a Public Records Act request that resulted in the release of data suggesting that there were racial disparities in BPD stop data. Analyses of the data conducted by the PRC and separately by Police Strategies, a for-profit policing data

analysis company, both found evidence of disparities. Significantly, the official BPD commissioned analysis conducted by the Center for Policing Equity ("CPE"), an independent, non-profit, grant-funded organization, indicated in its draft report that there are:

"...wide racial disparities observed in BPD stops, searches, arrests and use of force [which] combine to create an experience of policing for Black and Hispanic individuals in Berkeley that is quantitatively different from the experience of Whites."

The short-term reforms listed in this referral address the issue of racial disparity of police policies and practices in Berkeley. While the evidence of inequity in the data is clear, what is less clear are the factors that cause these disparate outcomes and what steps can be taken to address them. It is critical that the City address disparate outcomes in policing data by:

1. Tracking yield rates (i.e., the percentage of citations or arrests per traffic or pedestrian stop and the ratio of contraband found by search conducted) by individual officer, by patrol and by the department as a whole disaggregated by the race of the individual(s) stopped. This will include analyzing whether police actions were officer-initiated or in response to calls for service or warrants. This data will focus BPD examination of the reasons for disparate racial treatment and to identify outliers. ~~For the first year, BPD will report its findings quarterly to the Council, using anonymized data.~~
2. Considering any other criteria which would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions.
3. Developing training programs to address the organizational causes of disparate treatment uncovered in #1 above and through examination of footage on police body cameras (e.g., more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training).
3. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all information that may be helpful to designing reforms.
4. ~~Subject to applicable law, provide the PRC with the same access to all department files and records, in addition to all files and records of other City departments and agencies, as the department's Internal Affairs Division (IAD). The Department and other city departments and agencies will make every reasonable effort to respond to the PRC's requests for files and records within (10) days.~~
5. ~~Use the "Preponderance of the Evidence" as the standard of proof for Board of Inquiry Decisions of the PRC.~~
6. ~~Extend the current 120-day limit on the imposition of discipline to one year, consistent with existing California law.~~

Departmental, personnel and training issues will be easier to address with accessible and granular empirical data.

FINANCIAL IMPLICATIONS: Staff time.

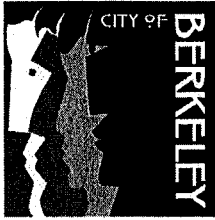
ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

Councilmember Kriss Worthington

510-981-7170



Sophie Hahn
Councilmember District 5

SUPPLEMENTAL AGENDA MATERIAL

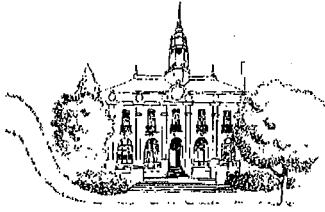
Meeting Date: November 14, 2017

Item Number: 24

Item Description: Direct the City Manager to analyze and address disparate racial outcomes in policing and implement policy and practice reforms

Submitted by: Councilmember Sophie Hahn

Edits (in purple) submitted as friendly amendments to item as revised in Supplemental 1.



Kriss Worthington

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CONSENT CALENDAR

10/31/2017

To: Honorable Mayor and Members of the City Council

From: Councilmembers Kriss Worthington, Kate Harrison, and Ben Bartlett

Subject: ~~Refer to the Berkeley Police Department to address~~ Direct the City Manager to analyze and address disparate racial treatment outcomes in policing and implement policy and practice reforms.

RECOMMENDATION:

~~Refer to the Berkeley Police Department~~ Direct the City Manager to track yield stop, citation, search and arrest rates by race and ethnicity, develop training programs to address any disparities found through the yield rates, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department ("BPD"), the Police Review Commission ("PRC") and the broader Berkeley community. The City Manager will report findings biannually to the Council in the first year and annually thereafter, using anonymized data.

BACKGROUND:

The City of Berkeley and its police department are internationally recognized as having contributed to the development of modern law enforcement policies, practices and accountability measures. In the first decades of the twenty-first century, renewed community engagement in the issue of police disparities have focused attention on improving accountability in policing across departments in the Bay Area and the country.

In response to these latest developments, the BPD adopted a Fair and Impartial Policing policy with assistance from the PRC, National Association for the Advancement of Colored People ("NAACP") and American Civil Liberties Union ("ACLU"), increased transparency by releasing policing data to the public and research institutions, engaged in dialogue about their relationship and role in the broader community and worked with the Council to develop and pass broad policy goals relating to BPD's use of force. The Department and PRC deserve recognition for their accomplishments in these areas.

Repeated studies have found disparities in policing in Berkeley by race and ethnicity. In 2015, CopWatch filed a Public Records Act request that resulted in the release of data suggesting that there were racial disparities in BPD stop data. Analyses of the data conducted by the PRC and separately by Police Strategies, a for-profit policing data

analysis company, both found evidence of disparities. Significantly, the official BPD commissioned analysis conducted by the Center for Policing Equity ("CPE"), an independent, non-profit, grant-funded organization, indicated in its draft report that there are:

"...wide racial disparities observed in BPD stops, searches, arrests and use of force [which] combine to create an experience of policing for Black and Hispanic individuals in Berkeley that is quantitatively different from the experience of Whites."

The short-term reforms listed in this referral address the issue of racial disparities ~~of police policies and practices~~ in Berkeley. While the evidence of inequity disparities in the data is clear, what is less clear are the factors that cause these disparate outcomes and what steps can be taken to address them. It is critical that the City address disparate outcomes in policing data by:

1. Tracking yield rates (i.e., the percentage of citations or arrests per traffic or pedestrian stop and the ratio of contraband found by search conducted) by individual officer, by patrol and by the department as a whole disaggregated by the race or ethnicity of the individual(s) stopped. This will include analyzing whether police actions were officer- initiated or in response to calls for service or warrants. This data will focus BPD examination of the reasons for disparate racial treatment and to identify any outliers. For the first year, BPD will report its findings quarterly to the Council, using anonymized data.
2. Considering any other criteria which would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions.
3. Developing training programs to address the organizational causes of any disparate treatment outcomes uncovered in #1 above and, in accordance with the City's body worn camera policy, through examination of footage on police body cameras (e.g., more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training).
3. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms.
4. Subject to applicable law, provide the PRC with the same access to all department files and records, in addition to all files and records of other City departments and agencies, as the department's Internal Affairs Division (IAD). The Department and other city departments and agencies will make every reasonable effort to respond to the PRC's requests for files and records within (10) days.
5. Use the "Preponderance of the Evidence" as the standard of proof for Board of Inquiry Decisions of the PRC.
6. Extend the current 120-day limit on the imposition of discipline to one year, consistent with existing California law.

Departmental, personnel and training issues will be easier to address with accessible and granular empirical data.

FINANCIAL IMPLICATIONS: Staff time.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

Councilmember Kriss Worthington

510-981-7170

25. Referral to Police Review Commission to Write a Charter Amendment Ballot Measure *(Continued from October 31, 2017. Item contains revised materials.)*

From: Councilmembers Worthington and Harrison

Recommendation: Referral to the Police Review Commission to write a charter amendment ballot measure to present to Berkeley voters to reform the Police Review Commission structure.

Financial Implications: Minimal

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action: M/S/C (Arreguin/Maio) to call the previous question on Item 25.

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Droste, Arreguin; Noes – Worthington; Abstain – Davila.

Action: M/S/C (Hahn/Droste) to adopt the following recommendation.

Refer to the City Manager and Police Review Commission (PRC) to review the existing enabling legislation, rules, and regulations for the PRC, and to consider all options, including charter amendments, ballot measures, and any other amendments to strengthen the authority of the PRC to consider and act on citizen complaints, and other possible structural, policy and procedural reforms.

Direct the City Manager (through the City Attorney) to provide a legal analysis of which proposals can be completed legislatively and which require amendments to the City Charter.

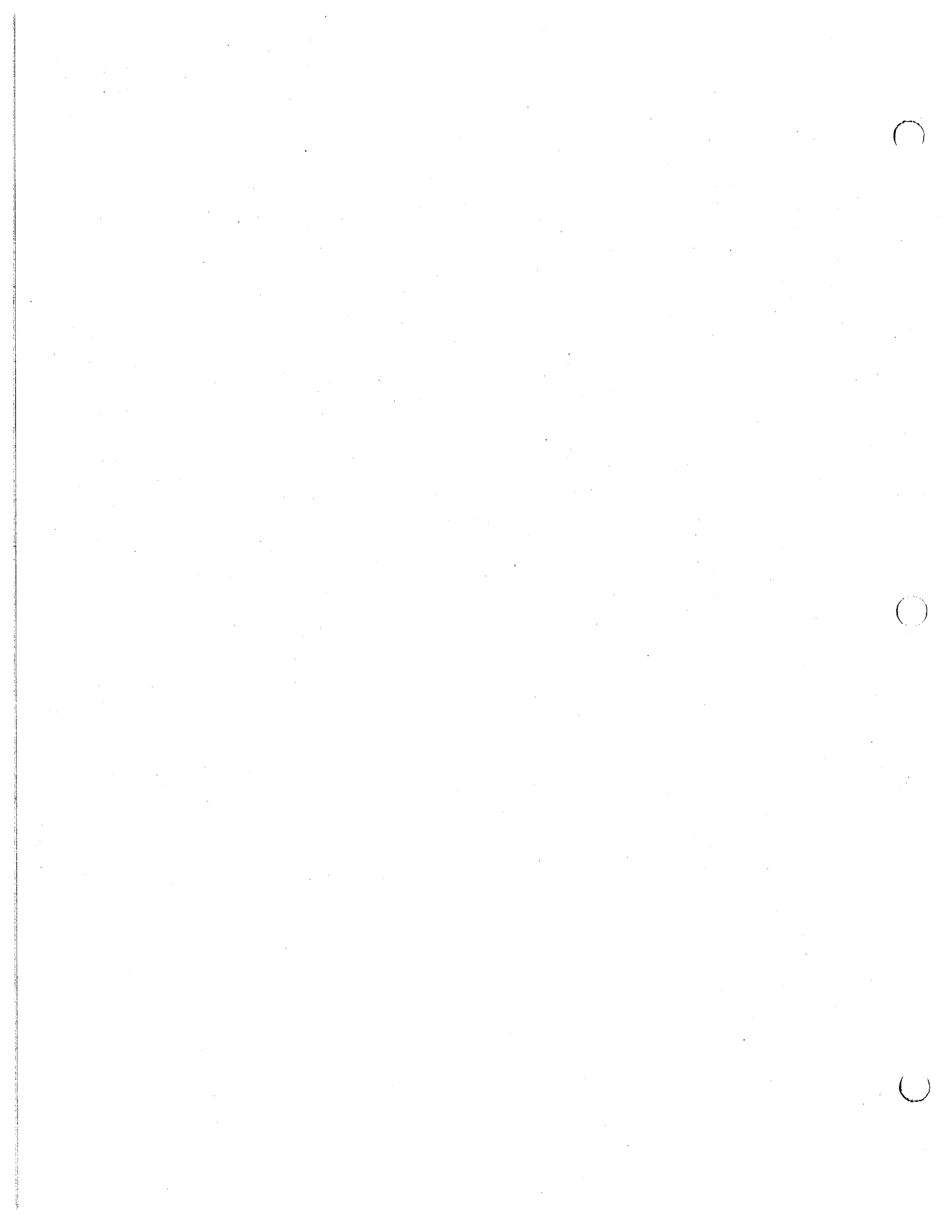
Changes the City Manager and PRC should consider, but not be limited to, include the following:

- 1. Use the "preponderance of the evidence" as the standard of proof for all PRC decisions.*
- 2. Extend the current 120-day limit on the imposition of discipline up to one year, consistent with existing California law.*
- 3. Give the PRC full discretion and access to evidence to review complaints as to alleged officer misconduct.*

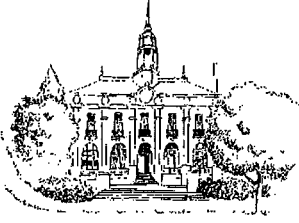
As part of the review of proposed improvements to the PRC process, the PRC should analyze police review policies and structures in other jurisdictions (e.g. San Francisco, BART, etc.), all PRC models and engage relevant stakeholders, including the Berkeley Police Association and community organizations, in developing proposals.

Full analysis by the PRC and City Manager must be reported to the City Council by May 2018.

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Droste, Arreguin; Noes – Worthington; Abstain – Davila.



Revises item found in PRC 11-15-17 agenda packet (PRC item #10.d.iii)).



Kriss Worthington

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Item No. 25

CONSENT Action CALENDAR

40/311/14/2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington, Ben Bartlett, and Kate Harrison
Subject: Referral to Police Review Commission to Write-Prepare a Charter Amendment Ballot Measure

RECOMMENDATION: Referral to the Police Review Commission to write-prepare a draft charter amendment ballot measure in time to present to Berkeley voters in November 2018, to reform the Police Review Commission structure.

BACKGROUND:

This Council item was developed in response to a series of meeting in 2015 and 2016 initiated by the NAACP and a coalition of seventeen organizations. It was also prepared in response to advice from multiple attorneys that a Charter Amendment Ballot Measure was necessary to achieve important reforms to the Police Review Commission process. A Charter Amendment is needed, in addition to short term reform, because a court decision invalidated some of the PRC's voter approved powers, unless adopted as a Charter Amendment.

The Daily Cal editorial has stated that a Charter Amendment is "what this city needs". This item is not intended as a criticism of anyone. After 45 years of existence it is simply time for significant reform.

In this compromise amendment we have deleted references to specific solutions or examples to consider. We have revised the original item to make it short and simple.

~~In 2016, citizens of Oakland voted to create a Police Review Commission that has power to create real changes. San Francisco voters also passed similar reforms. Berkeley now trails behind these two cities in police accountability standards.~~

~~The Police Review Commission was established in Berkeley in 1973. Since the establishment of the commission, relationships between the community and police organizations have changed. The Berkeley Police department's response to the Black Lives Matter protests made many cities and communities realize a more pressing issue, addressing police misconduct.~~

~~Thus, we refer to the Police Review Commission to review the Oakland Ballot Measure LL and develop a full-fledged charter amendment ballot measure to reform police accountability, similar to that done in Oakland. By referring to the Police Review Commission, the process of writing a ballot measure for the November 2018 election will begin. We request the Commission have a draft ballot measure within 6 months of the referral.~~

FINANCIAL IMPLICATIONS:

Minimal.

ENVIRONMENTAL SUSTAINABILITY:

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON:

Councilmember Kriss Worthington 510-981-7170

Councilmember Ben Bartlett 510-981-7130

Councilmember Kate Harrison 510-981-7140

19. **Require City Council Approval of Any Proposed Acquisition of Material from the Department of Defense 1033 Program and Request Report and Related Documentation of Material Transferred**

From: Councilmember Harrison

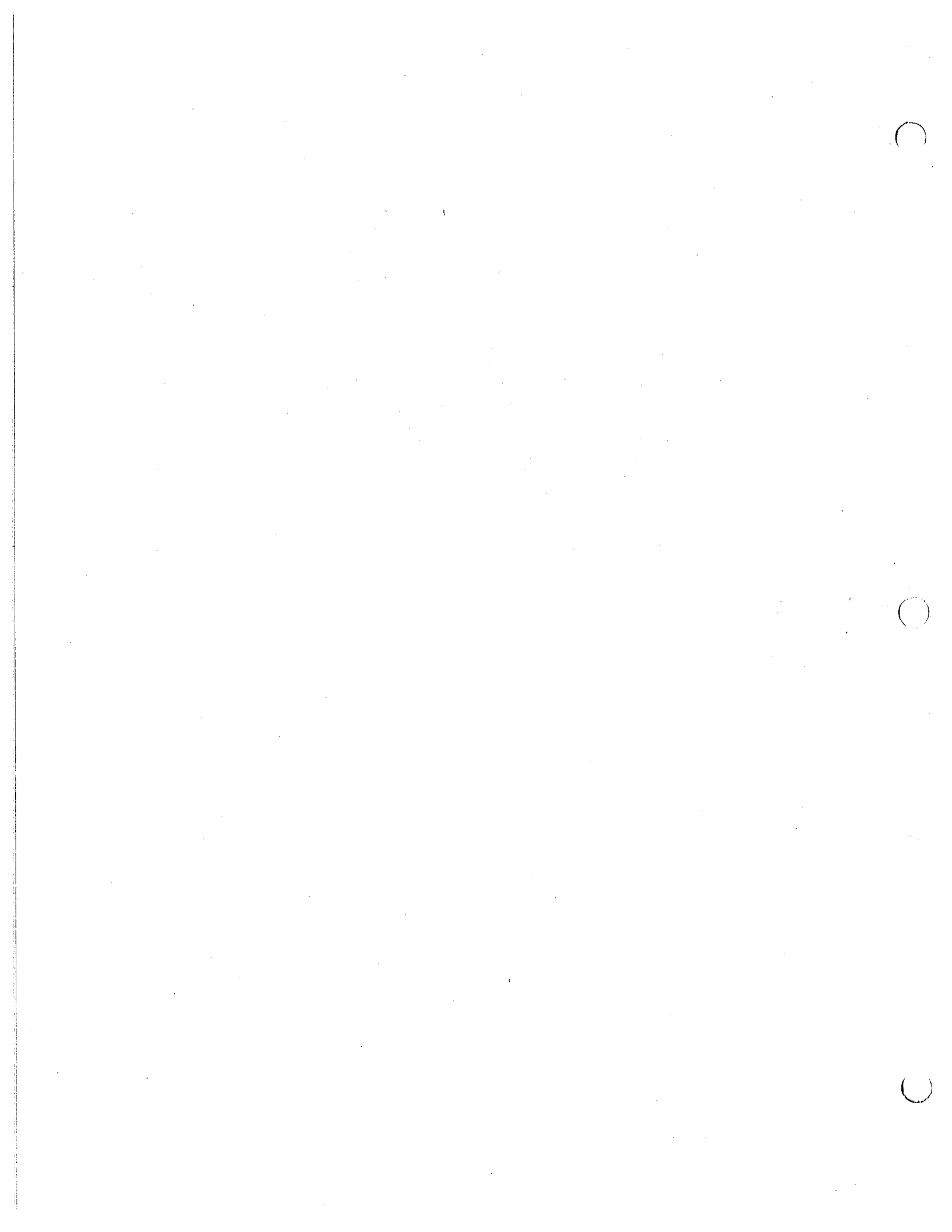
Recommendation: 1. Adopt a Resolution requiring City Council ("Council") to review and approve any proposed acquisition of material prior to the Berkeley Police Department applying for material through the Department of Defense ("DOD") 1033 Program. 2. Refer to the City Manager a request for a report on the dates, contents, and uses of the transfers of materials to the Berkeley Police Department through the 1033 Program that have occurred to date. Direct that the City Manager issue the report by December 5, 2017. 3. Refer to the Police Review Commission a request for a report considering the City's enrollment in the 1033 Program.

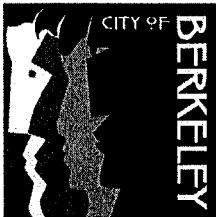
Financial Implications: Staff time

Contact: Kate Harrison, Councilmember, District 4, 981-7140

Action: Moved to Action Calendar. 5 speakers. M/S/C (Harrison/Maio) to adopt Resolution No. 68,227-N.S.; Recommendation approved as amended in Supplemental Reports Packet #2 and with the change to Recommendation #2 to request an off-agenda memo from the City Manager on the equipment previously obtained through the 1033 program.

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila.





Kate Harrison
Councilmember District 4

REVISED AGENDA MATERIAL

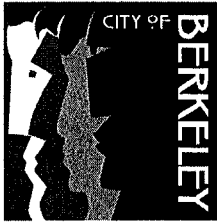
Meeting Date: November 14, 2017

Item Number: 19

Item Description: **Require City Council Approval of Any Proposed Acquisition of Material from the Department of Defense 1033 Program and Request Report and Related Documentation of Material Transferred**

Submitted by: Councilmember Kate Harrison

1. Added citations in footnotes.



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
November 14, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison
Subject: Require City Council Approval of Any Proposed Acquisition of Material from the Department of Defense 1033 Program and Request Report and Related Documentation of Material Transferred

RECOMMENDATION

1. Adopt a Resolution requiring City Council ("Council") to review and approve any proposed acquisition of material prior to the Berkeley Police Department applying for material through the Department of Defense ("DOD") 1033 Program.
2. Refer to the City Manager a request for a report on the dates, contents, and uses of the transfers of materials to the Berkeley Police Department through the 1033 Program that have occurred to date. Direct that the City Manager issue the report by December 5, 2017.
3. Refer to the Police Review Commission a request for a report considering the City's enrollment in the 1033 Program.

BACKGROUND

Citizens of the City of Berkeley have expressed concern about the use of military equipment at the local law enforcement level. Section 1033 of the National Defense Authorization Act of 1997 grants authority to the Secretary of Defense to transfer excess defense material to federal, state and local law enforcement agencies.¹ While Congress has sought to largely separate the military from civil law enforcement, it has also established programs through which federal agencies assist local police forces in obtaining defense material.²

A 2014 Congressional Research Service ("CRS") report about the 1033 program stated the legislative intent of the program was to enhance counter-narcotics law enforcement

¹ National Defense Authorization Act for 1997 (P.L. 104-201, 110 Stat. 2639).

² Else, Daniel H. "The '1033 Program,' Department of Defense Support to Law Enforcement." Congressional Research Service, 28 Aug. 2017, p.2., fas.org/sqp/crs/natsec/R43701.pdf. The Posse Comitatus Act of 1878 restricted use of the military domestically. It specifies that the military can only be used to enforce laws when Congress explicitly consents to its use or when authority exists under the Constitution. *Id.*, p. 4 at Fn. 1-3.

actions, but was later expanded to focus on counter-terrorism.³ The Law Enforcement Support Office ("LESO") within the DOD Defense Logistics Agency ("DLA") reports that more than 8,000 law enforcement agencies have enrolled in the 1033 program and an estimated \$6 billion in property has been transferred.⁴

The California Office of Emergency Services has confirmed that BPD has enrolled in the program and is eligible to receive transfers from the DOD. However, it is unclear as to whether BPD has requested and received equipment. A 2014 Freedom of Information Act request submitted to DOD confirmed that neighboring law enforcement agencies such as the University of California at Berkeley Police Department have received assault rifles and the San Francisco Police Department received grenade launchers through the 1033 Program.⁵ LESO clearly states that the program is, by design, a program for transferring military equipment to law enforcement: "[e]verything the program provides to law enforcement was purchased for the military."⁶

Some of the items that the CRS has listed are more general in nature (e.g. handcuffs), while others are high-grade military weapons. States share responsibility with the federal government for coordinating the transfers to agencies within the state, as well as ensuring accountability for transferred equipment. The title for weapons like assault rifles that have a military tactical purpose is never transferred to the receiving agency. Instead, the weapons are considered loaned to the agency and the DOD retains some degree of oversight.⁷

The program arrived in the national spotlight during the 2014 Ferguson, Missouri protests that followed the fatal police shooting of Michael Brown. The police forces that responded on scene were observed as utilizing various military or military-grade weapons and equipment. In 2015, President Barack Obama reacted to increased concern over police disparities after protests in cities such as Baltimore, Ferguson and New York, and about local police departments using military equipment during protests:

"We've seen how militarized gear can sometimes give people a feeling like there's an occupying force, as opposed to a force that's part of the community that's protecting them and serving them. It can alienate and intimidate local residents, and send the wrong message."⁸

³ Id., P. 5.

⁴ "Law Enforcement Support Office." Defense Logistics Agency, Department of Defense, www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement.aspx.

⁵ Musgrave, Shawn. "We Have over Half the Country's Agency-by-Agency 1033 Data ..." MuckRock, 4 Sept. 2014, www.muckrock.com/news/archives/2014/sep/04/we-have-over-half-countrys-agency-agency-1033-data/.

⁶ "Law Enforcement Support Office," Defense Logistics Agency.

⁷ Else, Daniel H., pp. 5-6.

⁸ "Remarks by the President on Community Policing." National Archives and Records Administration, National Archives and Records Administration, 18 May 2015, obamawhitehouse.archives.gov/the-press-office/2015/05/18/remarks-president-community-policing.

President Obama issued Executive Order 13688, "Federal Support for Local Law Enforcement Equipment Acquisition" ("EO 13688") to: standardize procedures associated with local police forces obtaining defense material, track transferred equipment, limit the scope of eligible material, require after-action reports for major incidents where equipment is used, create standards for violations of law, ensure that sufficient training (including civil liberties training) is required and that the equipment is appropriate for the receiving community. Most significantly, it required that the local civilian government authorize the acquisition of defense material.⁹ A federal working group explicitly banned prospective transfers of tracked armored vehicles, weaponized vehicles (including aircraft and vessels), grenade launchers, firearms and ammunition of .50-caliber or higher, bayonets and camouflage uniforms.¹⁰

However, in August of 2017 President Donald Trump issued Executive Order 13809 ("EO 13809"), "Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources," revoking President Obama's EO 13688.¹¹ The first step towards implementing safeguards is to understand what, if any, equipment has been transferred to the Berkeley Police Department under the 1033 program, when this material was transferred, how it is used and any policies that govern its use.

Second, the revocation of Executive Order 13688 removed the federal requirement that the Council authorize 1033 program transfers. The unanimously passed Council Resolution No. 65,901-N.S. (2012) requires Council approval of authorization of any grant through the Urban Area Security Initiative; this provides precedent for the Council to take action to oversee 1033 Program transfers independently of the federal government. This item requires Council authorization for any proposed acquisition of equipment prior to the Berkeley Police Department applying for equipment under the 1033 program. It is conceivable that there are appropriate usages for such equipment, but the Council should have the final say in determining the types of equipment appropriate for use in our community.

⁹ "Executive Order -- Federal Support for Local Law Enforcement Equipment Acquisition." National Archives and Records Administration, National Archives and Records Administration, 16 Jan. 2015. obamawhitehouse.archives.gov/the-press-office/2015/01/16/executive-order-federal-support-local-law-enforcement-equipment-acquisit.

¹⁰ "Recommendations Pursuant to Executive Order 13688 Federal Support for Local Law Enforcement Equipment Acquisition." Law Enforcement Equipment Working Group, Bureau of Justice Assistance, May 2015. www.bja.gov/publications/LEEWG_Report_Final.pdf.

¹¹ "Presidential Executive Order on Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources." The White House, The United States Government, 28 Aug. 2017. www.whitehouse.gov/the-press-office/2017/08/28/presidential-executive-order-restoring-state-tribal-and-local-law.

FINANCIAL IMPLICATIONS

Staff time would be necessary for preparing requests for Council to approve prospective transfers to BPD through the 1033 Program and to prepare a report regarding past transfers.

ENVIRONMENTAL SUSTAINABILITY

No Ecological Impact

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

ATTACHMENTS

1. Resolution

RESOLUTION NO. ##,###-N.S.

REQUIRING CITY COUNCIL APPROVAL OF ANY MATERIAL FROM THE
DEPARTMENT OF DEFENSE 1033 PROGRAM

WHEREAS, the equipment provided to and utilized by the Berkeley Police Department ("BPD") must be consistent with the will of the Berkeley community; and

WHEREAS, Bay Area Police Departments such as the University of California at Berkeley Police Department and the San Francisco Police Department have acquired military material through the 1033 Program, and the BPD is enrolled in the 1033 program and may acquire material through the program in the future.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it shall review and approve any proposed acquisition of material provided through the 1033 Program prior to the Berkeley Police Department applying for material.

Nixle
<https://local.nixle.com/alert/6250833/>
Thursday November 9th, 2017 :: 09:50 a.m. PST

BPD's Spirit of Giving Stretches into its 32nd year

The Berkeley Police Department, in partnership with the Berkeley Police Association (BPA), will be providing Turkey Baskets to those community members most in need for Thanksgiving. This year marks the department's 32nd year of giving.

BPA Board Director Scott Castle, a sergeant at the department and the organizer of this year's program said, "We are working hard to make this year better than the last. The goal for our 200 baskets is that they will contain a turkey, all the fixings, desert, and only use fresh produce. We are well on our way to achieving our goal."

"One of the most rewarding ways we serve our community is to give support to families in need over the Thanksgiving holiday. This is a decades-long tradition at BPD and partnership with the Association, and we look forward to bringing fresh, healthy Turkey dinners to scores of households on November 22," said Chief Andrew Greenwood.

The Turkey Basket Program's origin dates back to 1983 when three BPD officers rode their bicycles from Berkeley to South Lake Tahoe. During their trip, they talked about developing a community service related project that could involve their fellow officers. Ultimately they decided that they would raise money to buy food and give it to Berkeley families in need during the November and December holiday seasons.

In 1985, the inaugural Turkey Ride took place with seven officers riding the 216 miles from the Hall of Justice – the old Berkeley Police Station (then located at 2171 McKinley Ave) to Lake Tahoe in two and half days. The group raised enough money to buy 250 turkeys and other food items to give away to community members. Since then, support for the program

has expanded and contracted.

This event is only made possible through the charitable donations from others.

This event has only remained viable through the charitable contributions of our strong community partnerships. We would like to extend a special thanks to one such partnership. DeYoe Wealth Management has very generously pledged to support our cause for the next five years. We would also like to thank the Oakland Grocery Outlet, Berkeley Bowl, Trader Joe's, Whole Foods, the Berkeley 4th Street Business District for their support and Berkeley Youth Alternatives whose facility will be used as our base of operations for assembly and delivery.

Despite contributions from community benefactors we are always hoping to stretch 200 Turkey Baskets into another 50-100 baskets. With this increase in mind, the Berkeley Police Association set up a GoFundMe page has been established for anyone who might want to contribute to our efforts. It can be accessed here: www.gofundme.com/berkeley-turkey-baskets

Members of the community who might want to help build the baskets or make deliveries on November 22nd (delivery day) are encouraged to contact Sergeant Scott Castle at scastle@cityofberkeley.info With your continued assistance we hope to brighten the holidays for a larger number of our community who might need a little assistance.



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of NORTHERN CALIFORNIA**

Berkeley/North East Bay Chapter

Three Police Chiefs



in Conversation with the Public

Moderated by Abdi Soltani
Executive Director, ACLU of Northern California

Chief Andrew Greenwood, Berkeley

Chief Paul A. Keith, El Cerrito

Chief Allwyn Brown, Richmond

November 19

3pm to 4:30pm

Albany Community Center

1249 Marin Avenue

Albany, CA 94706

Visit acluberkeleynortheastbay.org/chiefs for more info

