

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**January 14, 2015
7:00 P.M.**

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL

2. APPROVAL OF AGENDA

3. PUBLIC COMMENT

(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)

4. APPROVAL OF MINUTES

Regular Meeting of December 10, 2014.

5. ELECTION OF 2015 CHAIR AND VICE-CHAIR (discussion and action)

6. CHAIR'S REPORT

End-of-term remarks by former Chair Sherman and Vice-Chair Bernstein; Fair & Impartial Training; announcements.

7. CHIEF OF POLICE'S REPORT

Budget, staffing, training updates, and other items.

8. OLD BUSINESS (discussion and action)

- a. Creation of a subcommittee to produce a General Order regarding the treatment of transgendered persons.
From: Commissioner Perezvelez
- b. Amend PRC Regulations to exempt certain types of cases from mediation.
From: Commissioner Perezvelez

- c. Commendations of Berkeley Police Department employees from January through May 2014: recognition of particular exemplary action.
- d. Request opinion from the City Attorney as to under what circumstances, if any, BPD's Internal Affairs findings on a particular matter can be disclosed to Commissioners.
From: Commissioner Bernstein
- e. Explore what steps are available to make the BOI process more accessible to the complainant, including asking the City Attorney whether BOI findings and reasoning can be shared with complainants.
From: Commissioner Bernstein

9. NEW BUSINESS (discussion and action)

- a. Policy Complaint #2362 and #2363 regarding use of McKinley Avenue for staging area beginning December 6, 2014.
- b. Consideration of the two urgency items at the December 10, 2014 meeting, in light of BPD input.
- c. Whether to open a policy review on the use of tear gas.
From: Commissioner Bernstein
- d. Whether to open a policy review on the limitation on movement of emergency vehicles on December 6, 7, and 8, 2014.
From: Commissioner Bernstein
- e. Whether to open a policy review on any orders regarding BPD engagement during the December 7, 2014 demonstration.
From: Commissioner Bernstein
- f. Consider establishing a subcommittee to review BPD general orders and training bulletins regarding crowd control policies in conjunction with recognized established best practices, with particular focus on San Francisco and Oakland crowd control policies.
From: Commissioner Lippman
- g. Whether to conduct information gathering and investigation into mutual aid practices and policies, specifically as they relate to control of law enforcement conduct, accountability for the conduct of assisting agencies within Berkeley, and the scope of BPD responsibility as the lead agency for the conduct of responding agencies.
From: Commissioner Lippman
- h. Approve revised Confidentiality Agreement.
From: PRC Officer

10. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)

- a. Wearable Video Cameras Subcommittee
Consider dissolution of subcommittee.

- b. Regulations Subcommittee
Update.
- c. Fair and Impartial Policing Subcommittee
Consider dissolution or renewal of subcommittee.
- d. Budget Review Subcommittee
Schedule meeting date.
- e. N-17 Subcommittee
Schedule meeting date; consider name change.

11. PRC OFFICER'S REPORT

Status of Complaints; announcements

12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached

13. PUBLIC COMMENT

(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on the agenda at this time.)

Closed Session

14. VOTE ON STAFF RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

Complaint #2356.

15. VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT

Complaint #2359.

16. REVIEW OF CALOCA DECISION

Complaint #2327.

End of Closed Session

17. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

18. ADJOURNMENT

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**Communication Access Information (A.R.1.12)**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 3rd floor, during regular business hours.

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

COMMUNICATIONS FOR PRC MEETING

January 14, 2015

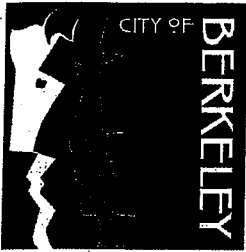
MINUTES

December 10, 2014 Regular Meeting Page 7

COMMUNICATIONS

- Communication #2312** – Background information related to a General Order on transgendered persons. Page 11
- Communication #1849** – Background information regarding exemptions from mediation. Page 57
- Communication #1106** – Commendations of BPD employees from January through May 2014. Page 61
- Communication #4160** – Policy Complaint #2362 and #2363. Page 87
- Communication #1299 – 4400 – 4411** – Communications to the Mayor and City Council: Request to temporarily ban the use of projectiles and over-the-shoulder baton strikes; request to temporarily ban use of tear gas. Page 105
- Communication #4160** – Recommendations to PRC regarding Policy Changes and Investigation Questions responding to 12-6-14 police actions. Page 107
- Communication #4370** – Confidentiality Agreement – current and proposed. Page 113
- Communication #4370** – 2015 Commission Meeting Dates. Page 115
- Communication #4272** – Commissioner Attendance Report for the Period July 1 through December 31, 2014. Page 119
- Communication #4400** – Letter from a Citizen re: Protest on Saturday evening, Dec. 6th. Page 121
- Communication #4400** – Editorial by Thomas Peele: Time to rethink California laws on police transparency. Page 123
- Communication #4418** – December 29, 2014 letter from BPD Public Safety Business Manager to Andrea Pritchett regarding Public Records Act request. Page 125
- Communication #1299** – Revised General Order N-18 governing the Situational Awareness Group. Page 129

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Police Review Commission (PRC)

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

**December 10, 2014
7:00 P.M.**

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

1. CALL TO ORDER & ROLL CALL BY CHAIR SHERMAN AT 7:05 P.M.

Present: Vice Chair Alison Bernstein
Commissioner John Cardoza
Commissioner George Perezvelez
Commissioner Ann Rogers

Absent: Commissioners Barbara Allen, Karen Kiyo Lowhurst, Oliver Zerrudo

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: None

2. CHAIR'S ANNOUNCEMENT and APPROVAL OF AGENDA

Chairperson Sherman announced that no members of the Berkeley Police Department would be present to either participate in or provide security for the meeting.

Due to the large numbers of persons present for public comment, and possible emergency items to be added to the agenda, the Chairperson proposed re-ordering of the agenda to consider priority items, and tabling certain items to the end of the agenda or the next regular meeting. **The Commission agreed by consensus.** (Additional re-ordering and tabling of items was done during the meeting.)

Motion to add as an urgency item to the agenda: Concerns regarding the BPD and mutual aid response to the ongoing protest marches.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: none **Abstain:** none **Absent:** Allen, Lowhurst, Zerrudo

3. PUBLIC COMMENT

There were ten speakers.

Closed Session

4. CONSIDERATION OF PETITION FOR REHEARING

Complaint #2357. Complainant was present to present case for rehearing.
Motion to deny the petition for rehearing, with a request to the City Attorney to change the policy to allow the BOI statement of findings to be released to the complainant in this and all future BOI cases.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

End of Closed Session

5. APPROVAL OF MINUTES

Motion to approve minutes of the Regular Meeting of November 12, 2014

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

Ayes: Bernstein, Cardoza, Rogers, and Sherman.

Noes: none Abstain: Perezvelez Absent: Allen, Lowhurst, Zerrudo

6. URGENCY ITEM (Part 1)

Motion: In accordance with the mission statement of General Order C-64, request that the City Council temporarily ban the Berkeley Police Department's use of tear gas for crowd control until the Police Review Commission conducts a full investigation into the improper use of tear gas on December 6, 2014, and to empower the PRC to produce documents and witnesses for the purposes of this investigation.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

7. NEW BUSINESS (discussion and action)

a. Report or recommendation from Wearable Video Camera Subcommittee to City Council regarding use of wearable video cameras.

Motion to adopt the draft Subcommittee report and send it to the City Council.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

b. Approve the 2015 Regular Meeting schedule

Motion to approve the proposed 2015 Regular Meeting schedule.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

8. URGENCY ITEM (Part 2)

Motion to urge the City Council to prohibit the Berkeley Police Department's use of projectiles and over-the-shoulder baton strikes for crowd control purposes until such time that a complete review of General Order C-64 (Crowd Management and Control) is conducted.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

Motion to ask the PRC Officer to do all in her power, and as expeditiously as possible, to communicate to the City Council that the PRC would like it to consider the two emergency items it passed tonight, at the Council's December 16, 2014 meeting.

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

Ayes: Bernstein, Cardoza, Perezvelez, Rogers, and Sherman.

Noes: None Abstain: None Absent: Allen, Lowhurst, Zerrudo

9. PUBLIC COMMENT

There was 1 speaker.

10. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

The vote, described in item #4 above, was publicly announced.

The following items were carried over to the next regular meeting:

OLD BUSINESS

- a. Creation of a subcommittee to produce a General Order regarding the treatment of transgendered persons.
- b. Amend PRC Regulations to exempt certain types of cases from mediation.
- c. Commendations of Berkeley Police Department employees from January through May 2014: recognition of particular exemplary action.

NEW BUSINESS

- a. Whether BPD's Internal Affairs findings can be disclosed to Commissioners.
From: Commissioner Bernstein
- b. Exploring the lifting of restrictions on the BOI process, including asking the City Attorney whether BOI findings and reasoning can be shared with complainants.

CHAIR'S REPORT

SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)

- a. **Wearable Video Cameras Subcommittee**
Consider dissolution of subcommittee.
- b. **Regulations Subcommittee**
Update.
- c. **Fair and Impartial Policing Subcommittee**
Consider dissolution or renewal of subcommittee.
- d. **Budget Review Subcommittee**
Schedule meeting date.
- e. **N-17 Subcommittee**
Schedule meeting date; consider name change.

PRC OFFICER'S REPORT

ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

CLOSED SESSION ITEM: VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT (Complaint #2358)

11. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Seconded (Perezvelez/Bernstein) Motion Carried

Ayes: Bernstein, Cardoza, Rogers, and Sherman.

Noes: none Abstain: Perezvelez Absent: Allen, Lowhurst, Zerrudo

The meeting was adjourned at 10:00 p.m.

DRAFT

INTERACTIONS WITH INDIVIDUALS IDENTIFYING AS TRANSGENDER

PURPOSE

The San Francisco Bay Area Rapid Transit District Police Department (BPD) recognizes and places a high priority on the rights of all people. This directive establishes policies for interactions with transgender people to provide for the safety of police officers and citizens, and for the protection of the constitutional rights of citizens in all official interactions.

DEFINITIONS

Sex:

The classification of people as male or female.

Gender Identity:

One's internal, deeply held sense of one's gender. Unlike gender expression (see below) gender identity is not visible to others.

Gender Expression:

External manifestations of gender, expressed through one's name, pronouns, clothing, haircut, behavior, voice, or body characteristics.

Sexual Orientation:

Describes a person's enduring physical, romantic and/or emotional attraction to another person. Gender identity and sexual orientation are not the same.

Transgender (adj.):

An umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they were assigned at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms, including transgender.

Transsexual (adj.):

An older term that originated in the medical and psychological communities. Still preferred by some people who have permanently changed or seek to change their bodies through medical interventions (including but not limited to hormones and/or

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surgeries). Unlike transgender, transsexual is not an umbrella term. Many transgender people do not identify as transsexual and prefer the word transgender.

Trans:

Used as shorthand to mean transgender or transsexual or sometimes to be inclusive of a wide variety of identities under the transgender umbrella.

Transition:

Altering one's assigned or designated sex is not a one-step procedure; it is a complex process that occurs over a long period of time. Transition includes a variety and combination of personal, medical, and legal steps. The exact steps involved in transition vary from person to person.

Sex Reassignment Surgery (SRS):

Refers to doctor-supervised surgical intervention, and is only one part of the transition process (see transition above).

Cisgender:

A term used by some to describe people who are not transgender. "Cis-" is a Latin prefix meaning "on the same side as," and is therefore an antonym of "trans-." A more common way to describe people who are not transgender is simply to say non-transgender people.

Gender Non-Conforming:

A term used to describe some people whose gender expression is different from conventional expectations of masculinity and femininity. Please note that not all gender non-conforming people identify as transgender, nor are all transgender people gender non-conforming.

Genderqueer:

A term used by some people who experience their gender identity and/or gender expression as falling outside the categories of man and woman. They may define their gender as falling somewhere in between man and woman, or they may define it as wholly different from these terms. The term is not a synonym for transgender or transsexual and should only be used if someone self-identifies as genderqueer.

INTERACTIONS WITH TRANSGENDER PEOPLE

The BART Police Department is to interact with transgender people and the transgender community in a manner that is professional, respectful, and courteous.

Officers shall not use language or tone that a reasonable person would consider to demean, question, or invalidate a person's actual or perceived gender identity, gender expression, appearance, sexual orientation, or immigration or employment status.

Under no circumstances shall an officer ask questions or make statements about a transgender person's genitalia, breasts, or transition except for compelling and professional reasons that can be clearly articulated.

Often gender expression will indicate how a person wishes to be treated. When the intention of a person's gender expression is clear to a reasonable person, the officer is to use this intention as a basis for sex determination.

Transgender people should be verbally addressed in a manner appropriate to the person's gender identity and gender expression, including addressing them by their preferred name and preferred pronoun.

A transgender person's preferred name and pronoun should be determined as follows:

In general, a transgender person's gender identity is to be definitive in determining the preferred pronoun.

If a transgender person is unwilling to volunteer such information, the officer(s) should make a decision about how to properly address that person based on apparent intention of gender expression and any other evidence that might be presented to the officer(s).

Whether or not the name on a person's driver's license or identification card coincides with the person's gender identity, an officer shall refer to the person by the name that the person has used to identify him or herself. An officer shall use the pronouns consistent with that name in addressing the person or referring to the person. Such name and pronoun usage is applicable even if the person has not received legal recognition of an adopted name.

If an officer determines a transgender person's preferred pronoun on the basis of gender presentation, but is then corrected by the transgender person, the officer is to use the gender identity verbally expressed by the transgender person.

DETERMINING TRANSGENDER STATUS

The fact that an officer is interacting with a transgender person may not become known immediately and it may become known at any point during the interaction.

Officers shall follow policies governing interactions with transgender people when either of these two conditions is met:

A person explicitly informs the officer(s) that they are a transgender person.

An officer has good reason to believe that the person is a transgender person. Good reason may be based on apparent intention of gender appearance and presentation, reasonable observation, frisking that inadvertently discloses transgender status, background checks, third party information, prior interaction, and routine policing procedures.

A person is under no obligation to disclose as transgender at any point in time, and the officer shall not compel any person to disclose.

When a person self-identifies as a transgender person, officers shall not question this identity or ask about the person's transgender status unless there are compelling and professional reasons to so inquire that can be clearly articulated.

If gender expression does not clearly indicate a transgender person's identity, officer(s) may politely and respectfully ask the person how they wish to be addressed. For example, an officer may ask a transgender person which name and pronoun they prefer.

Under no circumstances may an officer frisk, search or otherwise touch any person for the purpose of obtaining information about that person's transgender status.

Transgender people who disclose later on or who are subsequently determined to be transgender are to be treated according to the same policies governing interactions with all transgender people.

DETERMINATION OF LEGAL NAME

In the event a transgender person's legal name is required, this legal name can be obtained in the following manner:

An officer may ask the person directly for their legal name if in a one on one situation (i.e. outside the range of hearing of others with the exception of relevant and/or necessary BPD officers).

If the contact is in a group environment, the officer should ask the person to step outside the group to obtain the legal name and avoid "outing" the person.

If an exigent circumstance exists, the officer may request the legal identification from a community member.

MEDICAL TREATMENT OF TRANSGENDER ARRESTEES

Transgender people who have had, or are involved in transitional processes or are undergoing hormone treatments may experience adverse physical reactions or may require medical attention.

Whenever a transgender person who is detained by or in the custody of BPD requires or expresses a need for medical attention or medical care including hormone therapy, officers shall respond to and address the need with the same urgency and respect as required in connection with any other illness or injury suffered by any other detained arrestee.

PROSTHETICS AND APPEARANCE-RELATED ITEMS

Restrictions on the wearing of appearance-related items must be consistent with restrictions on the wearing of similar items for non-transgender/cisgender people. Appearance-related items, including, but not limited to, prosthetics, clothes of the presenting gender, wigs, or make-up should not be confiscated or removed from transgender people unless such items present a safety hazard, impede the administration of medical attention, or are needed for evidentiary reasons.

PROTECTION OF PRIVACY

Any information obtained regarding a person's transgender identification should be relayed to relevant personnel solely for the purpose of ensuring continuity of care and appropriate treatment, and the transgender arrestee should be apprised of this intention prior to any circulation of this information.

Under no circumstances shall officers disclose that a person is transgender to non-police personnel or to other non-relevant BPD personnel without compelling reasons that can be clearly articulated.

CONFIDENTIALITY OF RECORDS AND DATA

If a person has been identified by a police officer as a transgender person, but has not directly disclosed this information, the data should not be included in public documents.

If the person has self-identified as transgender, this information may be recorded in public documents.

JUVENILE TRANSGENDER INDIVIDUALS

All interactions with juvenile transgender individuals shall conform to the mandates set out by this policy. This policy does not affect any other safeguard provided in applicable directives covering the processing and handling of juveniles.

RECORD-KEEPING AND DATA TRACKING

All BPD forms and reports (both paper and computerized/digital), which record the gender of a person shall be broad and detailed enough to include transgender identity.

BPD shall establish and maintain records concerning the number of calls received from transgender people and the corresponding police service response rate.

PROBLEMATIC AND PREFERRED TERMS

PROBLEMATIC	PREFERRED	NOTES
<ul style="list-style-type: none"> • Transgenders • A Transgender 	<ul style="list-style-type: none"> • Transgender people • A transgender person 	<p>Transgender should be used as an adjective, not as a noun.</p>
<ul style="list-style-type: none"> • Transgendered 	<ul style="list-style-type: none"> • Transgender 	<p>The adjective transgender should never have an extraneous "-ed" affixed to the end.</p>
<ul style="list-style-type: none"> • Transgenderism 	<ul style="list-style-type: none"> • None 	<p>This is not a term commonly used by transgender people. This term may be and has been used to dehumanize transgender people and reduce their identity to "a condition."</p>
<ul style="list-style-type: none"> • Sex change • Pre-operative • Post-operative 	<ul style="list-style-type: none"> • Transition 	<p>Referring to a "sex-change operation," or using terms such as "pre-operative" or "post-operative," inaccurately suggests that one must have surgery in order to transition.</p>
<ul style="list-style-type: none"> • Biologically male • Biologically female • Genetically male • Genetically female • Born a man • Born a woman 	<ul style="list-style-type: none"> • Assigned male at birth • Assigned female at birth • Designated male at birth • Designated female at birth 	<p>Problematic phrases like these are reductive and overly-simplify a very complex subject. A person's sex is determined by a number of factors - not simply genetics - and biology does not override gender identity.</p>

-End-



In connection with the proposed policy recommendation regarding interactions with individuals identifying as transgender, there are several recommended changes to existing ancillary policies as follows:

[Amendments to existing policy are indicated by yellow highlighting and underline]

CHANGE TO LANGUAGE OF EXISTING POLICY

BART POLICE DEPARTMENT POLICY 402 "RACIAL- OR BIAS-BASED POLICING"

Shall be amended as follows:

402.1.1 DEFINITION

Definitions related to this policy include:

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, gender expression, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.

CHANGE TO LANGUAGE OF EXISTING POLICY

BART POLICE DEPARTMENT POLICY 900 "TEMPORARY HOLDING FACILITY" shall be amended as follows:

900.1.7 TRANSPORTATION OF PRISONERS

Generally and when circumstances permit, prisoners of the opposite sex, or adult and juvenile prisoners, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should be alert to inappropriate physical or verbal contact between them and take appropriate action as necessary.

Whenever a prisoner is to be transported from the Temporary Holding Facility to another facility by a member of this department the transporting officer shall be responsible for the following:

- (a) Verify that the identity of each prisoner to be transported matches the booking paperwork.
- (b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, an itemized list of the prisoner's property, warrant copies, etc.

other

NAME ON SHEET - male, female

(c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

(d) The transporting officers shall convey to intake personnel all information regarding a transgender arrestee obtained by and from any arresting officer(s).

(e) Transporting officers shall record the beginning and ending mileage for all transports involving transgender arrestees. The beginning and ending mileage for such transports shall be communicated to BPD dispatch who shall broadcast the starting and ending times as an appropriate response confirming the officer's broadcasts.

CHANGE TO LANGUAGE OF EXISTING POLICY

BART POLICE DEPARTMENT POLICY 902 "CUSTODY SEARCHES" shall be amended as follows:

902.3 PAT DOWN SEARCHES

When any officer has reasonable suspicion to believe that a person being lawfully detained may possess weapons or other dangerous items, or in such circumstances the officer reasonably believes that the individual may present a threat to officer safety, that officer may conduct a normal pat-down search of that individual.

Prior to detaining any individual in any police vehicle, an officer should conduct a normal pat-down search of that individual.

Whenever practical, a pat-down search of an individual should be conducted by an officer of the same sex as the person being searched. Absent the availability of a same sex officer, it is recommended that a supervisor and/or witness officer be present during any pat-down search of an individual of the opposite sex as the searching officer.

Officers will use the back side of their hands and fingers to search sensitive areas of the opposite sex to include the breast, crotch and buttocks area.

An officer shall not refuse to search a transgender arrestee based upon the arrestee identifying as a transgender person.

Under no circumstances shall officers engage in inappropriate touching of a transgender person's body.

Whenever practical, any transgender person subject to search shall be given a choice as to the sex of the officer to conduct the search and every reasonable effort will be

made to accommodate that choice. If the person disavows identifying as transgender, the person will be searched according to non-transgender/cisgender-specific policy.

Under no circumstances shall transgender people be subject to more invasive search procedures than non-transgender/cisgender people.

Under no circumstances shall officers search any person for the purpose of determining genital status or presence/absence of breasts or for the purpose of demeaning transgender people.

The possession of a needle which is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, especially if the person being stopped or arrested has documentation from a physician for being in the process of sex reassignment surgery or other transitional processes.

In all cases, transgender people shall have their identity respected and shall be accorded their dignity.

902.4 BOOKING SEARCHES

(a) Absent emergency circumstances in which no reasonable alternative exists, no person arrested for a misdemeanor or infraction not involving weapons, controlled substance or violence may be placed in the general jail population, unless all of the following conditions exist:

1. The person is not cited and released
2. The person is not released on his or her own recognizance
3. The person is not able to post bail within a reasonable time not less than three hours

(b) Any person taken into custody may be subjected to pat-down searches, metal detector searches, and thorough clothing searches in order to discover and retrieve concealed weapons and contraband prior to being placed in a booking cell.

(c) With regard to transgender arrestees, any requests to remove identity-related items such as prosthetics, clothing, wigs, and cosmetic items will be consistent with requirements for the removal of similar items for non-transgender/cisgender arrestees.

The first thing I noticed when I stepped out of the plane was the fresh air. It felt like I had been in a bubble for the last few days. The sun was shining brightly, and the birds were chirping. I took a deep breath and felt a sense of relief. I had finally reached home.

I had been away for so long, and it felt like a lifetime. I had missed everything - the smell of my mother's cooking, the sound of my father's voice, the sight of my friends. I had missed the simple things that made life so beautiful.

I had been so busy with work, with the pressure of the city, with the constant rush. I had forgotten to take time for myself, to take time for the people I loved. I had let the world take over my life, and I had lost touch with who I was.

Now, as I stood on the grass, I felt a sense of peace. I felt like I had found my way back to myself. I had found my way back to the things that mattered. I had found my way back to home.

I had been so lost, so alone, so afraid. But now, as I looked up at the sky, I felt a sense of hope. I felt like I had found my way back to the light. I had found my way back to the love that was always there, waiting for me.

I had been so far from home, so far from the people I loved. But now, as I took another deep breath, I felt a sense of belonging. I felt like I had found my way back to the place where I belonged. I had found my way back to the life that was always there, waiting for me.

News :: Local

Chicago Police Department Enacts Transgender Policy

by Christine Malcom

Contributor

Thursday Sep 13, 2012

The Chicago Police Department recently joined other major cities by signing a general order regarding the appropriate, respectful treatment of transgender individuals by police officers. Next week, with input from local LGBT groups, they will begin to decide how gender is determined.

"It's significant for the Chicago Police Department, it's great for the city and it's good for the community. But the General Order is not the final order," said Christina Kharl, an Equality Illinois (EQIL) board member who was integral to the process of getting the order in place.

The Chicago Police Department General Order on Interactions with Transgender, Intersex, and Gender Nonconforming Individuals (G02-01-03) is both an important step forward and very much a work in progress. It came as a surprise to stakeholders when CPD Superintendent Garry McCarthy quietly signed the order into effect on August 22, 2012.

"We were not made aware that they were enacting this policy," said Anthony Martinez of The Civil Rights Agenda (TCRA), a group that has had an observer role thus far, but hopes to take on a more active role now that the order is in place. "I think not engaging the community on that was a mistake on their part."

"I'm not sure what prompted that fit of initiative," echoed Kharl, who was also quick to praise the CPD overall. "The police have been great. It's unprecedented."

The road to the general order began two and a half years ago when a transgender woman approached the Lakeview Action Coalition (LAC) via a member institution after she was allegedly harassed and arrested for solicitation while grocery shopping.

"LAC made this happen. We brought the lack of a policy to the police officials. We researched existing policies and drafted a proposal, all the time meeting with immediate stakeholders, including homeless and at risk trans youth," said LAC Executive Director Jennifer Ritter.

Despite the lack of fanfare surrounding the signing, those involved are both guardedly optimistic and aware of how much work there is yet to come.

"It's a promising example of how we can adapt, adjust and readjust. There's room for amendment and editing. Now it's a matter of dealing with the language and nailing things down. The goal is not just to have a policy that's better than anywhere else in the nation, but one that is best for the transgender community," said Kharl.

Amendment and adjustment could begin as soon as Monday, September 17, when groups including LAC, EQIL, TCRA, and the Center on Halsted will gather with representatives from the Mayor's Office of Intergovernmental Affairs and the CPD for a meeting that was scheduled long before the order was signed.

The main issue on the table is gender determination. The order specifies government-issued ID as the primary criterion and an arrestee's self-report regarding genitalia as the secondary criterion. Although community organizations are quick to applaud the order for explicitly prohibiting "stop, detain, frisk," all agree that the current language falls far short.

"An ID is not the cure-all. Genitalia is not the be-all, end-all," said Kharl.

"We have been pushing the CPD to allow for more choice in the policy. The transgender individual knows best what keeps them safe, in terms of who searches them, how they are transported and where they are housed," added Ritter.

As for depending on government-issued ID, Ritter, Kharl, and Martinez all noted that the most vulnerable segments of the transgender community -- youth, the homeless and low-income individuals -- are both most likely to come in contact with the police and least likely to have government ID that reflects their gender.

"I think we're all on board with LAC's take that self-identification has to be the criterion," said Kharl.

Chicago Policy Similar to Those in Other Major Cities

Chicago joins cities like New York, Los Angeles and Washington, D.C. in establishing a policy for police interactions with gender-nonconforming individuals. And they stand to learn from earlier mistakes.

"The 2007 policy in Washington, D.C. failed spectacularly. It's a cautionary tale," said Kharl, who stressed the need not just for the specific, targeted training provisions and goals absent in the D.C. policy, but also for continued community engagement, oversight, and independent verification that the CPD is providing appropriate support for and enforcement of the order.

Cautious optimism also seems to characterize stakeholder attitudes toward training, partly thanks to insights from the process getting the order in place.

"[LAC] continued education and negotiation through several changes in police personnel. A great deal of our discussion was education on the issue for the police decision makers," said Ritter.

Similarly, Kharl described the long process as one of mutual education and an opportunity to look at other perspectives. Nonetheless, raising awareness and providing institutional support remain top concerns.

"There are two pieces to the education part of this: Setting community expectations, and training for the CPD regarding a new and significant policy shift," said Lisa Gilmore, Director of Education and Victim Advocacy at the Center on Halsted. For the community, a future session in the Center's Legal Series: Know Your Rights is likely. Gilmore also noted that the Center has provided police training in the past and would welcome playing that role again.

"The eventual goal will be to institutionalize training for new officers coming up through the academy," said Gilmore. For active personnel, the Center will likely develop options for training ranging from 1.5-hour to day-long sessions for those who need continuing education credit obligations and for those have encountered transgender issues on the job.

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INTERACTIONS WITH TRANSGENDER, INTERSEX, AND GENDER NONCONFORMING (TIGN) INDIVIDUALS



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RESCINDS:			
INDEX CATEGORY:	Human Rights and Community Partnerships		

I. PURPOSE

This directive:

- A. establishes policies for interactions with transgender, intersex, and gender nonconforming (TIGN) individuals to provide for their safety. Consistent with the General Order entitled "Human Rights and Human Resources," Department members will:
 - 1. treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public.
 - 2. not exhibit any bias, prejudice, or discriminate against a TIGN individual or group of TIGN individuals.
- B. defines certain terms which pertain to processing TIGN persons under Department control.
- C. establishes procedures for processing TIGN arrestees under Department control.

II. DEFINITIONS

- A. **Cross-Dresser** – A term that refers to people whose dress is typically associated with the opposite sex.
- B. **Gender Identity or Expression** – The actual or perceived identity or behavior of a person as being male or female.
- C. **Intersex** – A group of conditions where there is a discrepancy between the external genitalia and the internal genitalia (testes and ovaries).
- D. **Sexual Orientation** – An individual's enduring romantic, emotional, and/or sexual attraction to individuals of a particular gender.
- E. **Transgender** – Refers to any person whose gender identity or expression differs from the one which corresponds to the person's sex at birth. This term includes transsexuals, intersex individuals, and others whose identity are perceived to be gender nonconforming.
- F. **Transsexual** – A person whose personal sense of their gender conflicts with their anatomical sex at birth.

III. GUIDING PRINCIPLES

- A. Members will:
 - 1. respectfully treat TIGN individuals in a manner appropriate to the individual's gender expression;

2. use pronouns as requested by the TIGN individual (e.g., "she, her, hers" for an individual who self-identifies as a female; "he, him, his" for an individual who self-identifies as a male);

NOTE: If members are uncertain by which gender the individual wishes to be addressed, members will respectfully ask the individual for clarification.

3. when requested, address a TIGN individual by a name based on their gender identity rather than that which is on their government-issued identification;
4. conduct field and strip searches as delineated in the Department directive entitled "**Conducting Field and Strip Searches.**"

NOTE: A field search is defined in the Department directive entitled "**Interrogations: Field and Custodial.**"

B. Members will not:

1. stop, detain, frisk, or search any person in whole or in part for the purpose of determining that person's gender or in order to call attention to the person's gender expression;

NOTE: The above limitation does not prevent a member from following the established Department procedures relative to ensuring the proper processing of arrestees.

2. use language that a reasonable person would consider demeaning or derogatory, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation;
3. consider a person's gender identification as reasonable suspicion or prima facie evidence that the individual is or has engaged in a crime, including prostitution;
4. disclose an individual's TIGN identity to other arrestees, members of the public, or non-Department members, absent a proper law enforcement purpose.

C. Members will not unreasonably endanger themselves or another person to conform to this directive.

IV. GENDER CLASSIFICATION OF TIGN ARRESTEES FOR DEPARTMENT PURPOSES

- A.** An arrestee's gender will be classified as it appears on the individual's government-issued identification card.

NOTE: The Illinois Secretary of State designates the gender on an identification card based upon appropriate documentation submitted to the Secretary of State.

- B.** The exception to the government-issued identification card policy are those arrestees who are post operative gender re-assigned from:

1. male-to-female will be processed as a female;
2. female-to-male will be processed as a male.

- C.** In the event that a government-issued identification card is unavailable the following criteria will be used in determining gender:

If the arrestee states they:

1. have male genitalia, the arrestee will be classified as a male;
2. do **not** have male genitalia, the arrestee will be classified as a female.

- D.** In the event that there is uncertainty regarding the appropriate classification of an arrestee's gender, a supervisor will be consulted for further guidance on the appropriate classification.

V. PROCEDURES INVOLVING TIGN ARRESTEES

A. Searches of TIGN Individuals

1. Field searches will be conducted by a member who is the same gender as the arrestee based on the gender guidelines as delineated in Item IV of this directive and in accordance with established Department procedures. A field search is defined in the Department directive entitled "Interrogations: Field and Custodial."

EXCEPTION: If a member of the same gender is not immediately available, officer or public safety is compromised, and it is imperative that an immediate search be conducted, members will not endanger themselves or the public to comply with this requirement.

2. Members taking TIGN individuals into custody, accepting custody from other members, or conducting custodial and/or strip searches of TIGN individuals will be responsible for conducting a thorough search in accordance with established Department procedures.
 - a. The gender of the Department member(s) performing custodial searches of TIGN individuals, including custodial searches incident to arrest, prior to transport, and within a designated holding facility, will be based on the gender guidelines as delineated in Item IV of this directive.
 - b. When requested by a TIGN individual, a Department member of the TIGN individual's gender identity or expression will be present to observe the custodial search. When practical, this observing member will be a sworn supervisor.
3. Members will not conduct more frequent or more invasive searches of TIGN individuals than other individuals.
4. Requests to remove identity-related items such as prosthetics, clothing, wigs, and cosmetic items will be consistent with requirements for the removal of similar items for non-TIGN arrestees.
5. The possession of a needle which is purported to be for hormonal use will not be presumed to be evidence of criminal misconduct, especially, if the person being stopped or arrested has documentation from a physician for being in the process of a sex change.

B. Whenever practical, TIGN arrestees will be transported alone in a passenger vehicle, van cell, or squadrol compartment.

1. When requested by a TIGN individual, a Department member of the TIGN individual's gender identity or expression will be present during the transport.
2. When requested by a TIGN arrestee being transported from a holding facility to a court, the TIGN arrestee will be transported separately from the male and female transports.
3. In situations with multiple TIGN arrestees, mass arrests, where a member of the TIGN individual's gender identity or expression is unavailable, or where individual transport is not practical, TIGN arrestees will be transported by gender classification, as outlined in this directive.

C. The designated holding facility of TIGN arrestees will be Central Detention.

1. Upon completion of the preliminary investigation, TIGN arrestees will be fingerprinted and photographed in the district of arrest's designated holding facility before being transported to Central Detention consistent with the procedures outlined in the Department directive "Field Arrest Procedures."
2. The designated lock-up in Central Detention will be based on the TIGN arrestee's gender classification, as delineated in this directive.
3. Whenever practical, TIGN arrestees will be maintained in single cell occupancy.

- D. Members will record TIGN individual's gender information on Department reports in accordance with Item IV of this directive and all other demographic information as it appears on their government-issued identification. Any name used by the subject other than what is listed on their government-issued identification will be recorded as an alias.
- E. In the event a TIGN individual requires immediate medical care or medication, including hormone therapy, it will be provided in the same manner as any other person under Department control. The subject will be transported to the nearest approved emergency room, as delineated by the Department directive entitled, "**Approved Medical Facilities**," prior to any further arrest processing.
- F. If an individual explicitly informs a member that they are a TIGN person, a member finds a record for an individual (LEADS, NCIC, or any other law enforcement record) that lists a different gender from what the individual is currently presenting, or a member observes that a person is presenting a gender which is different than their gender classification, the member shall notify the lockup keeper before delivering the individual into their custody. The lockup keeper will document the information in the "Arrestee Questionnaire" section on the Arrest Report and in the "Lock-Up Keeper Comments" section by entering:
 - 1. "TIGN Arrestee, male presenting as a female," or
 - 2. "TIGN Arrestee, female presenting as a male."
- G. In situations involving the transfer of TIGN prisoners (e.g., Cook County Jail, other police agencies), the lockup keeper will ensure that the paperwork accompanying the prisoner adequately describes gender identity related issues.

VI. CONFLICT PROVISION

If this directive conflicts with any Department directive, this directive will take precedence.

Garry F. McCarthy
Superintendent of Police

11-136 MAV/JKH/MWK

Best Practices to Improve Police Relations with Transgender Individuals

Jan S. Redfern, PhD

ABSTRACT

Many experts agree that being transgender is a reflection of normal variation of human development and not a mental illness. However, transgender individuals continue to experience a wide range of unique challenges in their everyday lives, in workplaces, healthcare settings, judicial system, housing, and on occasion, in their interactions with law enforcement. Some transgender individuals have a general lack of trust of police, perhaps arising from first-hand experiences or the experiences of friends and community members, or as a result of the media publicizing accounts of harassment and incidents of abuse. Police departments should consider sensitivity training of law enforcement professionals to increase awareness and appreciation of gender diversity, to avoid personal biases and assumptions, and to avoid costly litigation from civil rights violations. Such training would help police officers improve interactions and communications with transgender individuals when officers are assisting these individuals or in cases where an arrest must be made. Transgender individuals should also be aware that they too have responsibilities during interactions with police, and their behavior can positively or negatively impact the outcome of such encounters. To help improve relations and bolster trust between the transgender community and law enforcement, police officers should consider speaking at local or national transgender organizations and conferences.

Keywords: Transgender, harassment, abuse, civil rights violations

Best Practices to Improve Police Relations with Transgender Individuals

Jan S. Redfern, PhD

During routine policing in the field, officers are likely to encounter a broad spectrum of gender diversity that is not reflected in traditional male-female stereotypes. Individuals who cross or transcend culturally defined categories of gender are referred to as transgender (see Appendix for definitions). Transgender is a broad term that includes: transsexuals, cross-dressers, drag queens/kings, Native American two-spirit, and gender-queer, among others.

As a group, transgender individuals experience a wide range of unique challenges in their everyday lives—in schools, workplaces, healthcare settings, the judicial system, housing availability, and in interactions with law enforcement (Grant et al., 2010). Nevertheless, transgender individuals have the fundamental right to live with dignity and privacy in their self-proclaimed gender, without worrying about the possibility of harassment, discrimination, or physical harm.

With respect to law enforcement interactions, all people including transgender individuals are entitled to fair and equal treatment with flexible responses to their unique gender needs. All too often, however, transgender people are a misunderstood and maligned group and may not always experience the same respect and courtesy afforded to non-transgendered individuals. As a consequence of adverse interactions between law enforcement and some transgender individuals, there are numerous cases in the media of law enforcement agencies becoming involved in costly and protracted litigation from civil rights attorneys and activist groups.

However, while legislation and implementation of policies and procedures are an excellent first step to improve interactions and relations between law enforcement and members of the transgender community, these alone cannot fundamentally change personal beliefs and attitudes towards transgender individuals. Changing perceptions, behavior, hearts, and minds of some takes cumulative, positive interactions and experiences with these populations, which are often misunderstood. In this respect, education is key to enhancing communication skills, knowledge, awareness, and receptivity to gender fluidity and non-traditional gender presentations within the law enforcement community.

This article was developed as a succinct overview for law enforcement agencies as a starting point to help bridge gaps in understanding regarding important issues faced by transgender individuals in law enforcement settings, while helping improve interaction with transgender individuals. The specific objectives of this article include: 1) Review transgender culture and its diversity; 2) Outline interactions between transgender individuals and law enforcement personnel in field incidents and the areas of particular concern; and 3) Describe practical suggestions and guidelines to improve relations with transgender individuals during interactions or processing with law enforcement personnel. This includes: policies and standards for interacting with transgender individuals, addressing transgender individuals in an informed manner that respects gender preferences, conducting safe and effective searches with sensitivity to unique issues facing transgender people, and processing, housing, and protecting transgender detainees.

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Finally, this article reviews the responsibilities of transgender individuals during interactions with law enforcement and the importance of communicating these responsibilities to the transgender community as part of an overall strategy to improve relations and bolster trust with the law enforcement community.

Hypothetical Incident Highlights Officer Dilemmas

A patrol officer makes a traffic stop for speeding and the driver in the stopped vehicle appears to be a male subject, based on his distinctly masculine voice, clothing, and a full beard. However, inspection of the state-issued driver's license reveals this individual's legal name to be Jane Doe with a sex designation as female. The subject explains that he is a transgender male in transition, and prefers to go by the name John. In this situation, several questions arise:

- How should the officer refer to the subject—Ms. or Mr. Doe, ma'am or sir, or he or she?
- Should a pat down or arrest become necessary, should this be done by a male or female officer?
- If the subject is arrested, where should they be housed in jail? Is this individual housed with the male population because of the self-proclaimed male gender identity and male presentation? Or should the individual be housed with the female population because the state-issued driver's license designation is female?

This article will help clarify these issues and provide a courteous and professional resolution of situations like these 1) without jeopardizing officer safety or risking civil rights litigation violations; and 2) preserving the dignity and constitutional rights of the transgender individuals.

Transgender Culture and Its Diversity

Sex, gender identity, and sexual orientation are separate entities and, along with gender expression and legal sex, can be simply defined as follows:

- Biologic sex—how one is born (e.g., sex assigned at birth)
- Gender identity—the sex one feels or intrinsically believes oneself to be
- Sexual orientation—whom one loves
- Gender expression—how one looks and acts
- Legal sex—what is stated on government-issued identification documents

When an individual's sex at birth differs from their gender identity, a condition known as gender dysphoria occurs (e.g., a state of mental discomfort with one's gender). This varies in intensity and time of onset and often manifests as a desire to be treated as the other gender. In some cases, there may be a desire to rid oneself of the internal and/or external biological, physical sex characteristics. Some individuals will take hormones or revert to surgery to make their bodies match their cross gender identity, but this is not always the case.

Currently, no definitive explanation exists as to why some people, despite being biologically and genetically male or female, have the unwavering conviction that they belong to the opposite sex from that assigned at birth. However, several explanations have been suggested, including: sex hormone effects on the fetus during pregnancy,

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infant and adolescent experiences, atypical brain developmental, and genetic influences (Savic et al., 2010; Zucker 2004).

Gender identity is believed to develop early in life, and counseling, aversion treatment, or psychiatric drugs have rarely been successful in alleviating severe gender dysphoria. People with this condition strive to live in a gender different from the one assigned at birth—that is, they transition from male to female or female to male. This transition may culminate in gender-affirmation surgery, often referred to as sex-change surgery.

The American Psychiatric Association and American Medical Association recognize the benefits and necessity of gender transition treatments for appropriately evaluated individuals. The overarching aim of such treatments is to help the transgender individual achieve lifelong comfort with their body and gender role. Surgeons often require transitioning individuals to live full time in the affirmed gender for at least 1 to 2 years prior to performing gender-affirming surgeries, making it likely that law enforcement personnel will encounter individuals at various stages along the transition continuum. Law enforcement personnel may encounter unexpected anatomical combinations (e.g., breasts and a penis or a beard and vagina or even a beard and pregnancy), as well as mismatches in identity documents.

How Many Transgender People Are There?

An accurate estimate of the number of transgender individuals is challenging because the transgender community, historically, has not been included in any governmental censuses. Recent estimates indicate that approximately 0.3% (approximately 700,000 individuals) of adults in the U.S. are transgender (Gates, 2011), suggesting that at some point law enforcement and members of the transgender community will meet in different settings.

Transgender Interactions with Police

The stereotypical perception of transgender individuals is that they are sexual deviants existing in the shadows of society. However, this is often based on perceptions of a few media sensationalized cases. On the contrary, thousands of transgender individuals are well-educated professionals making a meaningful contribution to society. Many transgender individuals have extraordinary talents and professional accomplishments and work as engineers, writers, scientists, physicians, pianists, computer programmers, etc., and live perfectly respectable lives.

Police officers may interact with transgender individuals for a variety of reasons, in addition to the routine policing for moving vehicle violations, etc. For example, transgender individuals are also victims of violent crime or domestic abuse, some are harassed for simply being in public, others are homeless, and a few engage in sex work because of employment discrimination. Due to the high degree of stress and anxiety the condition poses, some transgender individuals may engage in drug and alcohol abuse and some end up taking their own lives (Grant et al., 2010).

Like many other people, police officers that encounter a transgender individual for the first time might be curious initially, but then might become fearful, repulsed, be in disbelief, or become intolerant. However, experts agree that being transgender is a

reflection of the normal variation of human development and does not represent a mental illness (Coleman et al., 2011).

Overall Experience with Police Officers in Field Incidents

Accounts of harassment by law enforcement and isolated incidents of abuse have translated into a general lack of trust between some members of the transgender community and members of law enforcement (Grant et al., 2010). The results of two surveys, one in the City of Los Angeles (Bettcher et al., 2010) and one nationwide survey (Grant et al., 2010), highlight this assertion.

In 2009, the City of Los Angeles Human Relations Commission in collaboration with transgender community organizations conducted a survey of ~100 transgender individuals, the majority of survey respondents (e.g., 62%) were transgender females (e.g., male to female) (Bettcher et al., 2010). While 27% of respondents said they informed the police officer of their transgender status during the initial contact or stop, almost as many (23%) said they did not verbally inform the officers at any point. Some of the reasons cited for the lack of disclosure were fear, anticipated lack of respect, belief they would be unfairly processed, made fun of, or mistreated, and a mismatch of names or sex designation on identity documents.

When asked about the quality of encounters between transgender individuals and law enforcement in the field, approximately 58% of transgender respondents said they were verbally harassed or called the wrong name or pronoun, and 14% said they were physically or sexually assaulted or abused (see Figure 1).

The 2011 National Transgender Discrimination Survey involved a total of 6,450 transgender and gender non-conforming people from all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands (Grant et al., 2010). Among those respondents who had interacted with police, approximately 1 in 5 stated they were harassed (22%) due to bias or reported denial of equal service by police (20%) and nearly half (46%) felt uncomfortable seeking police assistance.

As a result of respondents being transgender or gender non-conforming, approximately 6% stated they were physically assaulted and 2% stated that they were sexually assaulted by law enforcement. The report concluded that, for many transgender and gender non-conforming individuals, the justice system operates suboptimally from multiple perspectives and fails to adequately safeguard certain populations. To paraphrase the report, the system perpetrates injustice rather than administers justice (Grant et al., 2010).

The findings suggested that a segment of law enforcement personnel would benefit from sensitivity training and increased awareness and appreciation of gender diversity. Such training would help members of the law enforcement community improve overall interactions and communication with transgender individuals and such training may prevent discrimination during interactions between the two groups.

Transgender Individuals' Responsibilities

Not everyone outside the law enforcement community fully appreciates the difficulties and safety issues faced by police officers during interactions with the public. As a result, some transgender individuals in the field and during processing and detainment will undoubtedly be challenging for a variety of reasons. Transgender

individuals also have responsibilities during interactions with law enforcement and their actions can positively or negatively impact the outcome. To help improve relations and bolster trust between the transgender community and law enforcement, officers may want to consider speaking at local or national transgender organizations and conferences. Some of the most important points to communicate to transgender individuals are summarized in Table 1.

Identifying Areas of Concern - Police Interactions with Transgender Individuals

A comprehensive report developed by the City of Los Angeles Human Relations Commission Transgender Working Group identified several key areas to improve service to the transgender community (Bettcher et al., 2010). Key areas requiring enhancement included: 1) Absence of transgender-related issues in police department's policy guidelines and procedures; 2) police officers disrespecting, dismissing and/or abusing transgender individuals; 3) variable or dangerous housing in jails; and 4) lack of meaningful ways to hold police officers accountable and to enforce policies. The report also made practical suggestions to help improve relations between the police and transgender community (see Table 2). Clearly, these areas are not unique to the Los Angeles Police Department, and these types of problem areas are relevant to other police departments.

Practical Suggestions and Guidelines When Interacting with Transgender People

Police departments in numerous major metropolitan areas, including Los Angeles (Office of the Chief of Police, City of Los Angeles, 2012), New York City (The Council of the City of New York, 2013), Chicago (Chicago Police Department, 2013), Philadelphia (Philadelphia Police Department, 2013), Boston (Boston Police Department, 2013), District of Columbia Metropolitan Police (Metropolitan Police, 2007), and San Francisco (Police Commission of the City and County of San Francisco, 2003; San Francisco Police Department, 2003) have all issued guidelines on how to interact with transgender individuals. These guidelines focus primarily on three main areas: forms of address, searches, and housing detainees in jail, and are for the most part, consistent among police departments with a few exceptions (see Table 3). Clearly, smaller, local agencies may lack the resources or space to adopt all of these procedures but they are presented here as a guide to help steer local policy decisions and discussion.

It is important to respect a transgender individual's self-proclaimed gender identity and gender expression and address the individual by their preferred name and salutation (sir/ma'am). Calling a person "it," "he/she," "she-male," or "the tranny" is never appropriate in any setting. Because of its central importance to the patient's transgender identity, the individual's preferred name should be used consistently.

In some circumstances, the individual's stated preferred name may differ from the legal name. Thus, an individual may wish to be referred to as a female in their interactions with officers, but are male with respect to identification documents. This may be challenging at first and processing records may need to be amended to accommodate these types of situations.

If an individual does not immediately disclose being transgender to law enforcement personnel, the individual's presentation with respect to clothing, language, and behavior, etc., may be used to make an initial reasonable determination of gender.

That is, if a person is dressed in female clothes and presents as a woman, the person should be recognized as a woman and addressed accordingly. If the person's gender identity is not immediately obvious, it is appropriate for the officer to ask the individual how they want to be addressed and by which pronoun they prefer to be called. When there is no self-identification or other obvious expressions of gender, the driver's license or other government-issued identification may then be used as first proof of gender.

As with any encounter, law enforcement personnel should speak and behave courteously and professionally and at no time use demeaning language in connection with a person's gender identity or expression, whether real or perceived. Further, no inquiry should be made regarding intimate particulars and no lewd statements regarding genitalia, breasts, or surgical status should ever be made. Obvious examples of questions or comments to avoid include, but are not limited to:

- Have you got a penis or a vagina down there?
- So what do you have between your legs?
- Have you undergone "the surgery?"

An individual's transgender status must be appropriately noted to ensure staff members are aware of possible safety and security issues in relation to other detainees. However, disclosure of transgender status should be on a need to know basis and not disclosed to other arrestees or the general public.

While strip or cavity searches are unpleasant for any arrestee, physical exams or even the act of undressing can be especially embarrassing, distressing, and uncomfortable for transgender individuals, when anatomy differs from one's gender identity. For this reason, officers of requested gender (by the transgender individual) should conduct necessary searches if possible.

Housing transgender detainees poses a plethora of issues, not least of which is safety. Most of the law enforcement agencies in major cities try to house transgender individuals in single cells. However, some agencies hold transgender individuals in sex-segregated facilities according to the person's genitalia (male genitalia present = male, male genitalia absent = female), while others hold individuals according to gender identity (regardless of sex assigned at birth) unless there is a major safety concern. After appropriate searches for contraband and weapons, transgender individuals should be allowed to keep undergarments, wigs, binders (e.g., compression bandages or vests used by transmen to create a male-looking chest or a gaff to hide genitals for transwomen), and prosthetic devices.

Law enforcement agencies should consider providing training and implementing enforcement for all staff to help them improve communication with transgender individuals to avoid personal biases and assumptions, to recognize and avoid transphobia (i.e., fear and disgust of transpeople), to increase staff knowledge of and sensitivity towards transgender patients, and to avoid litigation and civil rights violations.

Summary

Within contemporary society, a broad spectrum of gender diversity exists that is not reflected in traditional gender stereotypes of male and female. Law enforcement personnel must be open to gender fluidity and non-traditional gender presentation, while

also understanding that being transgender is not a mental illness, but rather a normal variation of human existence.

Transgender individuals have the right to live with dignity and privacy in their chosen gender without fear of discrimination or harassment. In addition, transgender individuals are entitled to fair and equal treatment regarding their unique gender needs when interacting with law enforcement personnel.

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Appendix

Definition of terms used in this article (Coleman et al., 2011; DSM 5 2013; Redfern & Sinclair, 2014).

Transgender: Broad term for diverse group of individuals who cross or transcend culturally defined categories of gender. The gender identity of transgender people differs to varying degrees from the sex assigned at birth. Some undergo surgeries or take hormones, many do not.

Transsexual: Refers to individuals who seek to change or who have changed their primary and/or secondary sex characteristics through feminizing or masculinizing medical interventions (hormones and/or surgery), typically accompanied by a permanent change in gender role.

Trans man (female-to-male, F-to-M): Individuals assigned female at birth who are changing or who have changed their body and/or gender role from birth-assigned female to a more masculine body or role.

Trans woman (male-to-female, M-to-F): Individuals assigned male at birth who are changing or who have changed their body and/or gender role from birth-assigned male to a more feminine body or role.

Cross dresser: People whose gender identity corresponds to their sex assigned at birth but occasionally wear clothes typically worn by the opposite sex. They do not want to live full time as members of the opposite sex or undergo gender-affirmation surgery.

Genderqueer: People who do not follow strictly male or female identities and roles. They often choose to present themselves as neither stereotypically male nor female, but instead present themselves as a gender-free individual, the extent of which may vary over time.

Gender Identity: Intrinsic sense of being male or female.

Gender dysphoria (clinical definition): Individuals with a marked difference between expressed/experienced gender and sex assigned at birth, a situation that causes clinically significant distress. There is often a strong desire to be treated as other gender and be rid of characteristics consistent with the sex designated at birth.

Gender expression or role: Pertains to external attributes, behavior, appearance, dress, etc. that are typically designated masculine or feminine.

Gender affirmation surgery (sex reassignment surgery, sex-change surgery): Surgery performed to change physical sex characteristics to affirm a person's gender identity.

Figure 1. Stages of Transition: Male to Female. Gender-affirmation surgery involves removal of the testicles and creation of a vagina and labia typically using skin from the penis and scrotum. The sequence depicted may vary among individuals.

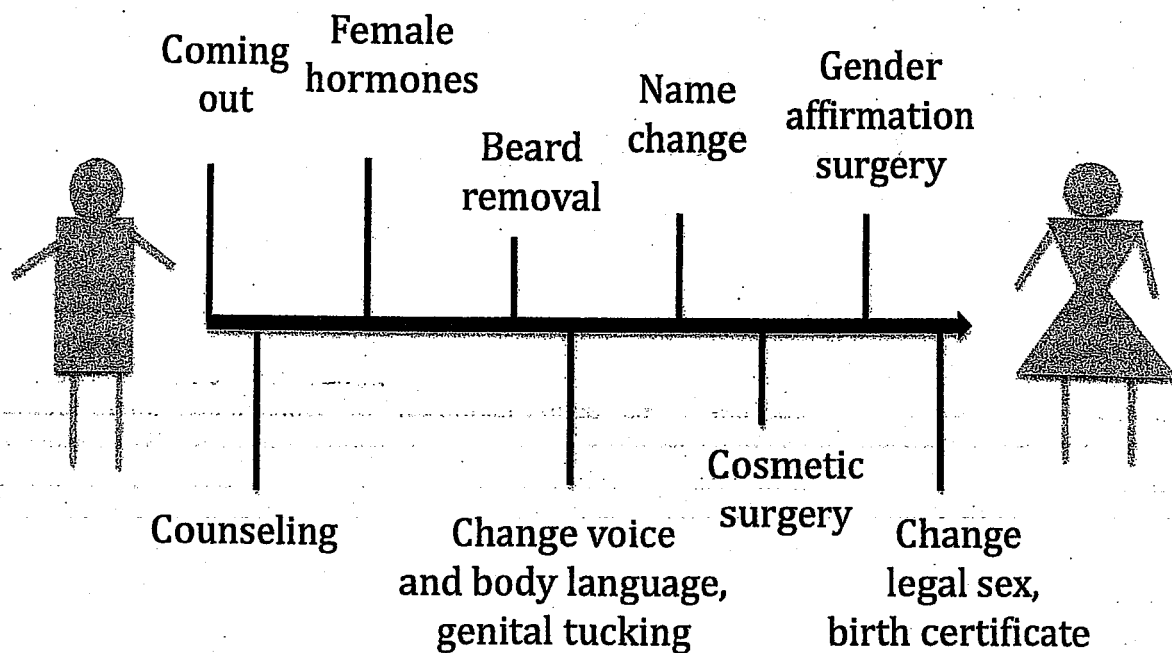


Figure 2. Stages of Transition: Female to Male. Top surgery refers to removal of both breasts. Bottom surgery may include one or more procedures such as removal of the uterus, ovaries, and vagina and, in some cases, creation of a penis using skin from the forearm, thigh, or abdomen/groin. The sequence depicted may vary among individuals.

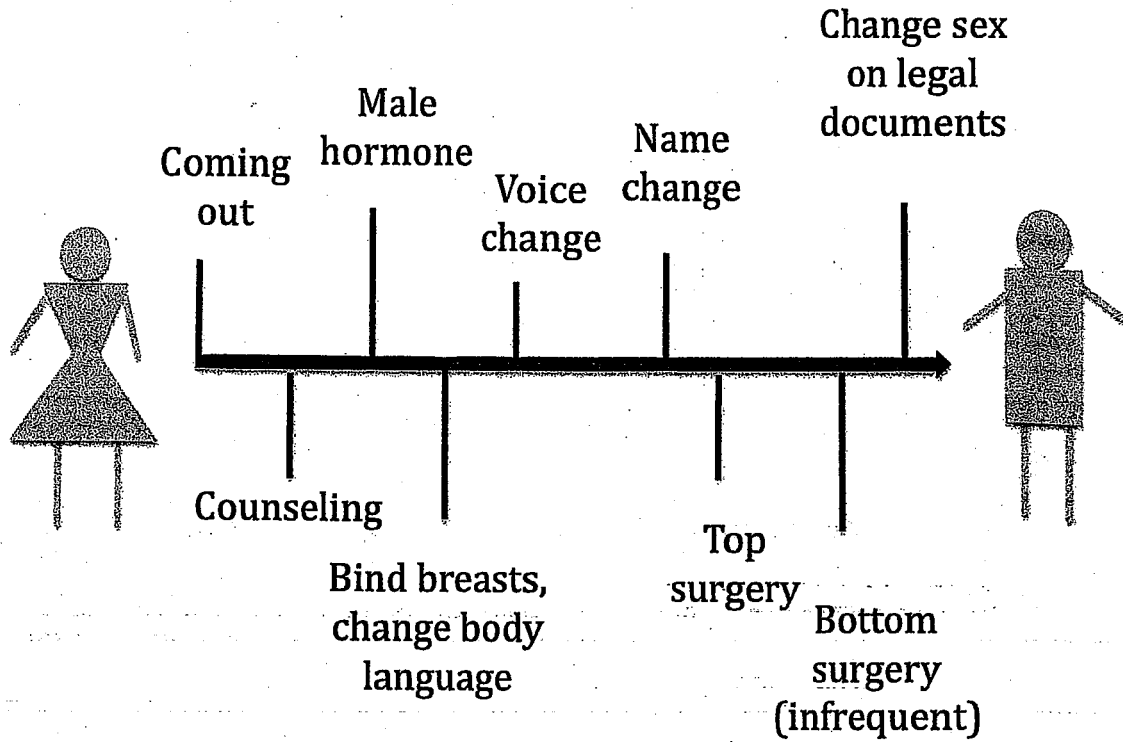
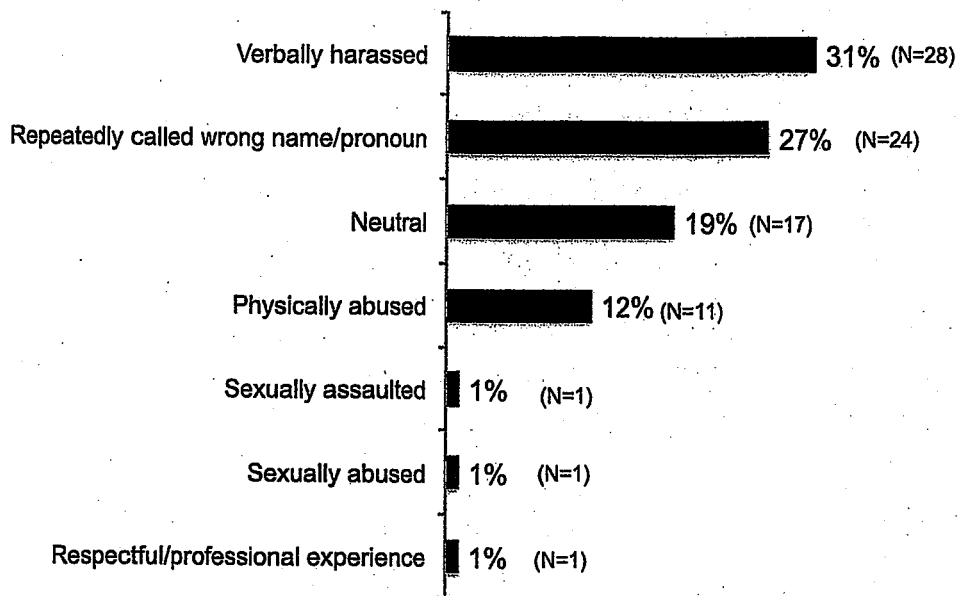


Figure 3. Results of a survey (conducted in 2009) of transgender individuals and the quality of their encounters with the LAPD (Bettcher et al., 2010).



N refers to the number of respondents. Percentages represent percentage of responses. Respondents could choose more than one answer (total 90 answers). Other=8%, non-responses=24.

Table 1. Key points for law enforcement to communicate with transgender individuals

- Be polite and respectful in your interactions with any law enforcement officer, and remember that respect is two-way street. Officers have some discretion in making an arrest so avoid being confrontational and argumentative.
- Stay calm and collected; avoid running under any circumstances and answer questions without an attitude.
- Do not be secretive or evasive about your transgender status and avoid lying and presenting false documents. Lying may lead to an arrest.
- State up front your true legal name as well as your preferred name and gender pronoun.
- Carry a letter from doctor/therapist stating your transgender status and stage of transition.
- Keep your hands visible at all times and avoid making erratic moves or gestures.
- Do not hinder the police or resist during an arrest. If the officer suspects a weapon, allow a pat down of exterior clothing. If a crime has been committed or is suspected, officers have the right to search your person.
- Avoid physically stopping or attempting to intervene in a search.
- If arrested, avoid making excuses and remain silent.
- Memorize phone numbers of persons you might want to contact if detained in jail.
- Avoid challenging an officer about misconduct on street; instead, remember the details of interaction and then file a written complaint.

Information extracted in part from Transgender Community of Police and Sheriffs, 2012.

Table 2. Problem areas of interactions with transgender individuals and suggested resolutions.

Problem area	Suggested resolutions
Lack of transgender-related issues in guidelines and practice documentation	<ul style="list-style-type: none"> • Include gender identity and expression in relevant police policies, documents, forms and practices
Disrespecting, dismissing, and/or abusing transgender individuals	<ul style="list-style-type: none"> • Implement policies/procedures to stop disrespecting behaviors • Ensure appropriate spoken interaction and searches • Prevent sexual harassment and excessive physical force • Prevent gender profiling, selective enforcement, wrongful arrests • Eliminate failure to respond to transgender individuals
Variable or dangerous housing in jails	<ul style="list-style-type: none"> • Implement a written accommodation policy that addresses safety of transgender individuals and significance of their gender identities • If possible, develop two segregated units for both transgender male-to-female and female-to-male non-violent detainees; if not, transgender arrestees housed in separate cells in female facility
Lack of meaningful accountability and enforcement measures	<ul style="list-style-type: none"> • Develop, assess, and adopt stronger accountability and enforcement measures, including evaluation of any patterns of complaints from transgender individuals

Information extracted from City of Los Angeles Human Relations Commission Transgender Working group report (Bettcher et al., 2010).

Table 3. Compilation of transgender policies of police departments in various major cities with respect to forms of address, searches, and holding conditions of detainees

Searches	Housing detainees	Forms of address
<p>No field searches to ascertain anatomical sex and no searches more invasive than those performed on non-transgender individuals</p>	<p>All efforts made to hold transgender individual in isolation, including in other locations</p>	<p>If person self identifies as transgender, their stated gender identity should be accepted and honored.</p>
<p>If weapons suspected or if officer/public safety compromised, immediate search by any officer permissible. Otherwise search conducted by officer of requested gender</p>	<p>Removal of appearance-related items (wigs, prostheses etc.) consistent with non-transgender individuals</p>	<p>Address transgender individual by preferred name (even if no legal recognition) and use appropriate pronouns for stated gender identity</p>
<p>If person is un-cooperative and/or no ID, search according to person's stated genitalia (male genitalia by male officer; no male genitalia by female officer)</p>	<p>Detainees transported alone (or as only person on one side of split wagon)</p>	<p>If uncertain of gender, ask respectfully. If unresponsive, use government ID as initial proof of gender identity</p>
<p>Gender expression or presentation is not <i>prima facie</i> evidence of a person engaging in crime including prostitution</p>	<p>Some police departments house arrestees in sex segregated police facilities according to gender identity unless safety issue, then held in isolation as special category prisoner</p>	<p>Treat arrestees with due respect and courtesy</p>
<p>Detainee completes statement of search, then searches conducted during booking by 2 officers of requested gender if practicable; if unavailable, then by any gender</p>	<p>Other police departments hold according to transgender individual's genitalia (male genitalia=male; no male genitalia=female)</p>	<p>Avoid discriminating against, harassing, and making demeaning or derogatory comments based on a person's actual or perceived gender</p>
<p>If no stated preference, searches performed by officers of same gender as detainee's expressed gender</p>	<p>Arrestee's gender classified according to government ID; inconsistencies in ID and gender identity/appearance are documented as aliases</p>	<p>Avoid asking about intimate details of person's genitalia, breasts, or surgical status</p>
	<p>If arrestee undergone gender affirming surgery then male-to-female</p>	<p>Gender classified per ID, otherwise male if male genitalia</p>

<p>(female-to-male by male officer)</p>	<p>processed as female and female-to-male as male (regardless of sex designation of ID)</p> <p>Juvenile transgender arrestees taken to juvenile processing center</p> <p>Under no circumstances handcuff transgender individuals to rails, bars or chairs for extended periods</p>	
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GENERAL ORDER



DISTRICT OF COLUMBIA

Subject
**Handling Interactions with
Transgender Individuals**

Topic	Series	Number
PCA	501	02

Effective Date
October 16, 2007

Related to
See: VI. Cross References

I. Background.....	Page 1	V. Procedural Guidelines.....	Page 4
II. Policy.....	Page 1	VI. Cross References	Page 9
III. Definitions.....	Page 1	VII. Provisions	Page 10
IV. Regulations.....	Page 3		

I. BACKGROUND

Interactions between police officers and transgender individuals present a unique set of issues. The term "transgender" is used to describe persons with transgender identities, and includes a wide variety of groups that differ from traditional gender norms. Some issues encountered by police include: difficulties in determining gender for identification purposes, transportation, processing, housing, and medical treatment. Although "sexual orientation" is not the same as "gender identity or expression," many individuals incorrectly perceive transgender persons as gay men or lesbians and, as a result, treat them as such, rather than as a transgender individual.

II. POLICY

It is the policy of the District of Columbia government, as expressed in the DC Human Rights Act, that agencies shall not limit services to any individual on the basis of that individual's actual or perceived gender identity or expression. (DC Official Code § 2-1402.73)

The policy of the Metropolitan Police Department (MPD) is to interact with the transgender community in a manner that is professional, respectful, and courteous. Additionally, it is MPD policy to handle transgender arrestees in a manner that ensures they are processed and housed safely and efficiently to the greatest extent possible.

III. DEFINITIONS

When used in this directive, the following terms are defined as follows:

1. Cell – Any area, space, or enclosure, wherein a prisoner is locked or placed, which prohibits his/her freedom of movement.

2. Field Search – The removal of a coat, jacket, or outer clothing to facilitate the search of the garments and clothes the prisoner is wearing.
3. Frisk – A limited protective search for concealed weapon(s) and/or dangerous instrument(s). Usually it occurs during a “stop” and consists of a pat down of the individual’s clothing to determine the presence of weapons or other dangerous objects. An officer may frisk a person on the basis of “reasonable suspicion” that the person is carrying a concealed weapon or dangerous instrument. A frisk is done for one purpose only: officer safety. [See GO-OPS-304.10.]
4. Gender Identity or Expression – A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual’s gender at birth. (DC Official Code § 2-1401.02 and 4 DCMR § 899)
5. Holding Facility – A temporary confinement facility in which a prisoner is usually held for less than forty-eight (48) hours, pending his/her release, arraignment, adjudication, or transfer to another facility. **For the purpose of this directive**, the Central Cellblock, each cellblock in each Police District, and the Juvenile Processing Center are the Department’s ordinary holding facilities. In certain circumstances, the Department may utilize other facilities, such as Cell Block B.
6. Intersex -- A set of medical conditions that features a congenital anomaly of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, or an internal reproductive system that is not considered “standard” for either male or female.” (Intersex Society of North America)
7. Member– Any MPD employee, either sworn or civilian.
8. Prisoner – A person who has been arrested and is being held, transported, treated, booked, or otherwise detained pending arraignment, release, adjudication, transfer to another facility, or otherwise being processed or handled.
9. Processing Area – A room or space used for processing, questioning or examining prisoners. While in these areas, the prisoner shall be under continuous control or supervision of agency personnel and may be restrained to a fixed object that is designed and intended only for this use.
10. Sexual Orientation – Includes male or female homosexuality, heterosexuality, and bisexuality, by preference or practice. (DC Official Code § 2-1401.02)

11. Squat Search – Having a prisoner crouch or squat while their undergarments and other clothing are removed, exposing the genital and anal area. This type of search permits contraband or other material concealed in the genital or anal area to become visible or dislodged.
12. Strip Search – Having a prisoner remove or arrange his/her clothing to allow a visual inspection of the genitals, buttocks, anus, breasts, and undergarments.
13. Transgender – Refers to any person whose identity or behavior differs from traditional gender expectations. This term includes transsexual individuals, cross-dressers, androgynous individuals, and others whose appearance or characteristics are perceived to be gender-atypical. (4 DCMR § 899)
14. Transsexual – A person whose personal sense of his or her gender conflicts with their anatomical sex. Some, but not all, transsexuals undergo medical treatments (such as hormone therapy or surgery), to change their physical sex so that it is in harmony with their gender identity.
15. Transvestite – An outdated term that refers to people who sometimes cross-dress, or whose dress is typically associated with the opposite sex. Many cross-dressers are heterosexual and typically present themselves in a manner consistent with their birth sex.

IV. REGULATIONS

- A. Under no circumstances shall members search any person solely for the purpose of determining that person's gender.
- B. Members shall not use language that a reasonable person would consider demeaning to another person, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation.
- C. Members shall treat transgender persons in a manner appropriate to the individual's gender presentation, which includes addressing them by their preferred or legal name, and shall use personal pronouns appropriate to the gender that the person claims to be.
- D. Members shall not solely construe gender expression or presentation as reasonable suspicion or *prima facie* evidence that an individual is or has engaged in prostitution or any other crime.
- E. When an individual self-identifies as being a transgender person, members shall not question this identity except for articulable compelling reasons.

- F. The Department shall establish and maintain records concerning the number of calls received from transgender individuals and the corresponding police service response rate. The Executive Office of the Chief of Police, Special Liaison Unit, Gay and Lesbian Liaison Unit (GLLU) will have the responsibility to collect and maintain these records.

V. PROCEDURAL GUIDELINES

A. Handling Calls for Service and Citizen Complaints Involving Transgender Individuals

1. Requests for service or complaints generated by transgender individuals shall be addressed or investigated in a manner that is consistent with Department policy.
2. Copies of all complaints against members (sworn or civilian) or those concerning the quality of police services shall be delivered or faxed to the Executive Office of the Chief of Police, Special Liaison Unit, Attention: Gay and Lesbian Liaison Unit (GLLU) by 0900 hours the next business day.
3. A member shall not fail to respond to a call for service or complaint on the basis of the gender identity or expression and/or sexual orientation of the caller or complainant.
4. The MPD will work with the Office of Unified Communications (OUC) to establish an MOU (Memorandum of Understanding) to establish a tracking mechanism for dispatchers to record requests for service or complaints generated by transgender individuals, where the caller discloses their gender identity.

B. Stop and Frisk Situations Involving Transgender Individuals

1. During a stop pursuant to GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisks), members shall respect the gender identification expressed or presented by the individual.
2. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender.
3. Transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.
4. Unless an officer has an articulable reason for questioning the gender identity of an individual being stopped, the gender identity expressed or presented by the individual shall be accepted and honored.
5. Identification issued by the District of Columbia Department of Motor Vehicles (DMV), the Department of Motor Vehicles of any of the fifty

(50) states, or any other government-issued form of identification (such as a passport), shall be acceptable as initial proof of gender identity in the absence of self-identification by the subject individual.

6. When a situation arises that involves questionable gender identification, the member shall inquire how the individual wishes to be addressed (e.g., Sir, Miss, Ms.) and the name by which the individual wishes to be addressed. This name shall be noted as an (AKA) if it differs from the individual's legal name.
7. Members shall not require proof of an individual's gender or inquire about intimate details of an individual's anatomy to determine an individual's gender without articulable reasons.

C. Handling Arrest Situations Involving Transgender Individuals

1. Searching of Transgender Arrestees

Generally speaking, all arrestees, including transgender arrestees, will be searched on several different occasions by MPD personnel from the time of their arrest to the time they are released or transferred to the custody of the US Marshal's Service for presentment in court. The first search of a transgender arrestee will take place at the scene of the arrest before the person is transported to a MPD facility to be processed. MPD personnel who are involved with searching a transgender arrestee shall adhere to the following procedures:

- a. When an arresting officer has reason to believe that the arrestee is a transgender individual, before searching that individual prior to transport to the station, the officer shall:
 - (1) Specifically inform the arrestee that he/she must, **and will be**, searched before being placed in a transport vehicle;
 - (2) Ask the arrestee if he/she has any objections to being searched by a male or female officer; and
 - (3) If the prisoner does object, inquire as to the nature of the objection.
- b. If the arrestee states an objection to either the male or female gender, then, absent exigent circumstances, the arresting officer shall:
 - (1) Ask an officer who is of the gender requested by the arrestee to conduct the search; and

- (2) Document the arrestee's objection (either by writing it in his or her notebook or by advising the dispatcher over the radio), indicating that he/she requested to be searched by a male/female officer (specifically indicating the stated preference).
 - c. No MPD member shall refuse to search a transgender arrestee.
 - d. In instances where the arrestee is uncooperative, or makes a claim with regard to his/her gender that is not credible:
 - (1) The arresting officer shall notify an official prior to searching the arrestee; and
 - (2) The official shall assess the situation and decide whether it shall be a sworn male or female MPD officer who conducts the search to facilitate the transportation of the arrestee.
 - e. All information that the arresting officer obtains concerning the arrestee shall be passed on to the transporting officers, including gender identity.
 - f. Transporting officers are required to again search all prisoners prior to transporting, even if the prisoner has just been searched by the arresting officer.
 - g. The arresting officer shall, in **red ink**, at the top of the PD Form 163 (Arrest/Prosecution Report), write the following words: **AT RISK**, to indicate that the transgender arrestee may experience hostility or another negative condition from other arrestees, and, therefore, shall be placed in a separate cell to ensure his/her safety and security.
 - h. Requests to remove appearance-related items such as prosthetics, clothes of the presenting gender, wigs, and cosmetic items, shall be consistent with requirements for the removal of similar items for non-transgender individuals.
2. Transporting of Transgender Arrestees

The general rule for transporting transgender arrestees is that, whenever practical, they shall be transported separately.

- a. When the transporting vehicle is a patrol car, the arrestee shall be the only prisoner in the back seat.
- b. In a transport wagon, the arrestee shall be either the only prisoner or the only prisoner on one side of a split wagon.

- c. Transporting officers shall adhere to the same guidelines as arresting officers with regard to searching transgender arrestees.
 - d. The transporting officers shall provide to officers who will be processing and housing the arrestee all information obtained from the arresting officer.
 - e. Transporting officers shall also record the beginning and ending mileage for all transports involving transgender arrestees.
3. Processing and Housing of Transgender Arrestees

The general rules for processing and housing transgender arrestees are:

- a. Processing officers are required to search all prisoners they process, even if the prisoner has just been searched by the arresting and/or the transporting officer.
- b. Whenever practical, transgender arrestees shall be placed in a cell by him/herself, even when more than one transgender person is in custody at the same MPD facility at the same time.
- c. MPD personnel assigned to any holding facility must be cognizant of the gender identity or expression of all arrestees being processed so that accurate gender information can be recorded and inconsistencies properly noted and documented as follows:
 - (1) When a member finds a record for an arrestee (e.g., LiveScan, CJIS, WACIIS, WALES, NCIC, or any other law enforcement database) that lists a different gender from what the arrestee is currently presenting, the member shall immediately notify the Watch Commander and apprise him/her of the situation.
 - (2) The Watch Commander shall evaluate the documentary evidence available and, if practical, speak with the arrestee and determine the course of action to take with regard to housing the arrestee.
 - (3) Information concerning conflicting gender information on the arrestee's computer records shall be clearly noted on the PD Form 163 and other arrest paperwork such as the PD Form 252 (Supplemental Report).
 - (4) In addition to conflicting gender information being noted on the paperwork, members shall **verbally** bring this

information to the attention of all personnel that they transfer custody of the arrestee to. Members transporting such an arrestee to another MPD facility shall advise the personnel at the receiving facility of the housing requirements and "AT-RISK" status of the arrestee.

- (5) Members shall bring conflicting gender information to the attention of the US Marshal's Service when the arrestee is remanded to their custody.
- (6) In other situations involving the transfer of transgender or ambiguously gendered prisoners (e.g., processing by federal authorities or other police agencies), members shall ensure that all paperwork accompanying the prisoner adequately describes the gender-related identity issues that are presented.
- (7) Restrictions on the wearing of appearance-related items must be consistent with restrictions on the wearing of similar items for non-transgender individuals. Appearance-related items, including, but not limited to, prosthetics, clothes of the presenting gender, wigs, or make-up should not be confiscated or removed from transgender individuals unless such items present a safety hazard or are needed for evidentiary reasons.

D. Handling Juvenile Transgender Arrestees

Juveniles handled under any circumstances addressed in this directive shall be accorded all relevant considerations contained herein that relate to their gender identity or expression, in addition to all safeguards provided in applicable directives covering the processing and handling of juveniles.

1. At no time shall any juvenile arrestee be taken to any Police District or any other unit. All transgender juveniles placed under arrest or taken into custody for questioning shall be taken directly to the Juvenile Processing Center located at 1000 Mount Olivet Road, N.E., and shall be processed in accordance with General Order 305.1 (Handling Juveniles), Part I-K-1(e)-6 and considered "AT RISK".
2. All relevant procedures in General Order 305.1 (Handling Juveniles) shall comply with the corresponding handling provisions delineated in this order.

E. Medical Treatment of Transgender Arrestees

Transgender individuals who have had, or are involved in transsexual operations, or are undergoing hormone treatments, may experience adverse physical reactions or may require medical attention.

1. Whenever a transgender individual expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any other illness or injury pursuant to GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).
2. The circumstances of the medical treatment shall be fully documented on the PD Form 313 (Arrestee's Injury/Illness Report).

F. PD Form 61-D (Violation Notice) or Notice of Infraction (NOI) Stops

1. Members shall respect the gender identification or expression provided by any individual cited for a violation that is appropriate for the issuance of a PD Form 61-D or an NOI.
2. Where gender may be questionable or a hindrance to correct identification, members shall make an appropriate notation on the PD Form 61-D or NOI and in their notebook.

VI. CROSS REFERENCES**A. General Orders**

1. GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisks)
2. GO-OPS-305.01 (Handling of Juveniles)
3. GO-PCA-502.01 (Transporting Prisoners)
4. GO-PCA-502.06 (Citation Release Program)
5. GO-PCA-502.07 (Medical Treatment and Hospitalization for Prisoners)

B. Standard Operation Procedures (SOP)

1. SOP (Booking Team Procedures)
2. SOP (Holding Facilities)
3. SOP (NSID Vice Operations), Section IV.C. Prostitution Enforcement Unit
4. SOP (PD Form 61D)

- C. Human Rights Act of 1977 (D.C. Official Code § 2-1401.01 et seq., as amended March 14, 2007)
- D. Compliance Rules and Regulations Regarding Gender Identity or Expression (4 DCMR, Chapter 8, § 899)

VII. PROVISIONS

The procedures and policy considerations expressed in this directive shall supplement existing teletypes, General Orders, Special Orders, Standard Operating Procedures, including, but not limited to, those listed in Section VI, Parts A and B above and other directives covering the operations described herein. Where a directive involving the same operation is clearly contradictory, this General Order shall supersede and amend the contradictory language.

//SIGNED//
Cathy L. Lanier
Chief of Police

CLL:JAE:JGW:CWS:DEP:afa

- iv. Better understanding of law enforcement procedures, which may lead to minimization of future complaints

COMMUNICATION No. 1849

b. *For Officers*

- i. More expedient resolution of complaint
- ii. Complaint handled outside of formal disciplinary process
- iii. Opportunity to explain justification for actions directly to complainant
- iv. Better understanding of issue that led to complaint, which may lead to minimization of future complaints

c. *For BART*

- i. Increased public confidence regarding police department
- ii. More efficient use of resources
- iii. Better customer service

4. Goals of Complaint Mediation Program

Mediation involves the informal resolution of a complaint of misconduct against a BPD employee through a face to face meeting in which a professional mediator serves as a neutral facilitator and where the complainant and the involved employee both ultimately agree to an acceptable resolution. Mediation is based on voluntary participation by all parties to a dispute, and it focuses on understanding, problem solving, and reconciliation rather than fact finding, determining guilt or innocence, and assigning responsibility.

5. Complaint Mediation Program Rules

The eligibility of complaints for inclusion in the Complaint Mediation Program is detailed in this section. As a corollary, any complaints that are not eligible for inclusion in the program, for any reason, shall be handled as complaints pursuant to BPD Policy 1020 and/or the Model, as applicable.

a. *Case eligibility*

- i. Participation in the Complaint Mediation Program must be voluntary for both the complainant(s) and the involved employee(s). Before the actual mediation process begins, all such parties must consent to the process in writing. Without written consent from all complainants and involved employees, the case is ineligible for inclusion in the program. Written consent may be obtained from the parties at the site of mediation, prior to the mediation session beginning.
- ii. Complaints that include the below-listed allegations and/or alleged circumstances are ineligible for the Complaint Mediation Program, regardless of the consent of the involved parties; when a complaint involves any of these allegations and/or alleged circumstances, as

From BART Independent Police Auditor

well as other allegations and/or alleged circumstances not on this list, the entire complaint is ineligible for the Complaint Mediation Program:¹

1. Use of Deadly Force
 2. Suspicious and Wrongful Deaths
 3. Unnecessary or Excessive Use of Force
 4. Truthfulness
 5. Racial Animus
 6. Bias-Based Policing and/or Racial Profiling
 7. Sexual Orientation Bias
 8. Sexual Harassment
 9. Arrest or Detention
 10. Search or Seizure
 11. Reporting Misconduct
 12. Workplace Discrimination/Harassment
 13. Supervision
 14. Substantial injury suffered by any of the involved parties
- iii. Subject to all of the exclusions listed in Section 5.a.ii, the types of allegations eligible for inclusion in the mediation include, but are not necessarily limited to:
1. Performance of Duty
 2. Conduct Unbecoming an Officer
 3. Courtesy
 4. Policy/Procedure
 5. Policy Complaint²

b. Officer Eligibility

- i. Any new complaint is ineligible for the Complaint Mediation Program when any involved employee who is being accused of misconduct in the complaint:
1. Has had any allegation of misconduct Sustained against him or her within the 12 months prior to the date that the new complaint was initiated; or
 2. Has been accused of misconduct in a Citizen Complaint, Administrative Investigation, or Comment of Non-Complaint, or any combination thereof, on three or more occasions within the 12 months prior to the date that the new complaint was initiated; or
 3. Has participated in the Complaint Mediation Program, as an employee being accused of misconduct, on three or more occasions within the 12 months prior to the date that the new complaint was initiated.

¹ Many of the terms included in this list, as well as the list in Section 5.a.iii, were taken from the Model and/or from BPD's Office of Internal Affairs. Both of these offices are responsible for classifying incoming complaints of misconduct regarding SPD employees. As the terminology used in such classification may change from time to time, this list may need to be updated accordingly.

² When a complaint that is otherwise eligible for mediation, but the complaint is against a BPD policy and not a specific employee, BPD may designate an employee that it feels is appropriate to participate in the mediation as a BPD representative.

Cases will be evaluated for eligibility for mediation by intake supervisors based upon two criteria, case eligibility and officer eligibility.

101 Case Eligibility

A) All complaints will be considered eligible for mediation when the complaint involves a dispute with a member of the public rather than a disagreement with departmental policy.

B) The following cases should not be considered for mediation absent exceptional circumstances:

- 1) cases listed as A or B offenses in the disciplinary schedule;
- 2) cases involving substantial injury to either complainant or officer;
- 3) cases involving sexual or racial slurs;
- 4) cases involving use of force allegations;
- 5) cases regarding questions of law such as search or detention issues.

102 Officer Eligibility

A) Mediation will not be available to officers who have any of the following in their OCC or MCD files:

- 1) Sustained case within the past year;
- 2) A prior mediation within the past six months;
- 3) Three mediations within the past two years.

B) Officers who are ineligible for mediation based on any of the above will become eligible after a one year period of no sustained complaints.

103 Non Eligible Cases

Cases which do not meet the above criteria will be sent for standard investigation.

200 MEDIATION REQUESTS

Mediation is a voluntary procedure for the resolution of cases which will not be placed in the officer's personnel file.

201 Request Letter

A case which has been determined to be eligible for mediation will be sent to the Mediation Coordinator (Coordinator). The Coordinator will send a letter to the complainant and the officer explaining the mediation process.

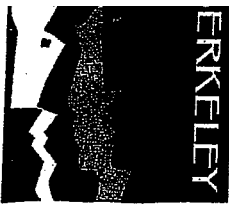
201.1 Contents

The letter will explain the process, rules and expectations of mediation. The Coordinator will outline the issues to be mediated in plain language for all parties to read. It will provide a space for any comments or changes requested by any party.

201.2 Responses

Responses to the request letter will be due 15 days from the date of mailing. Failure to respond by either party will result in a waiver of mediation.

*From S.F. Office of Citizen
Complaints*



Department of Fire and Emergency Services

COMMUNICATION No. 1106

May 2014

Dear Michael Meehan,

Thanks to the Police Department's contribution, the Berkeley Emergency Prep Fair on April 26, 2014 was a success. The event brought together about two thousand fair participants to enjoy a day of family, fun and learning while improving the disaster preparedness of our community. The Berkeley Fire Department sponsored the event but it was the dedication of city staff from multiple departments, the hospitality of over 150 total volunteers at the event itself, and the generosity of donations from our local community that made the fair special.

Officer Byron White's contribution to the event helped hundreds of families, children, parents, pet owners, and individual community members take action to make themselves and their families more ready for emergencies. The day was marked by a strong atmosphere of community member helping community member, a factor which we all know will be the key to how Berkeley remains resilient to any disaster in our community.

We are grateful for the contributions of all of our City staff and for your department's continued support and efforts to build a strong, resilient community. Thank you.

Sincerely,

Gil Dong, Fire Chief
City of Berkeley Fire Department

*Well Done Byron. Thank you.
Chief Michael Meehan C-1*

RECEIVED

MAY 14 2014

OFFICE OF THE CHIEF

Park Hills Homes Association

[REDACTED]
Berkeley, California 94708

May 12, 2014

Officer Byron White
Public Safety Building
2100 Martin Luther King Jr.
Berkeley, California 94704

Dear Officer White,

We send thanks for your presentation at our neighborhood safety meeting last week and for hundreds of other actions – often unseen – to help the Park Hills community.

You had lots of information and plenty of calm to go around.

Regards,

[REDACTED]
[REDACTED]
[REDACTED]

cc: Police Chief

Officer White was terrific!

WELL DONE BYRON. YOU CONSISTENTLY MAKE
A GOOD IMPRESSION WITH OUR COMMUNITY.

Chief [Signature]

RECEIVED

MAY 13 2014

OFFICE OF THE CHIEF

From: Morizono, Matt
Sent: Monday, May 19, 2014 10:53 AM
To: Macapagal, Jesse; Haney, Heather
Subject: Commendation For Lieutenant Rolleri

On May 15, 2014, at 1:02 AM, [REDACTED] wrote:

Dear Captain Greenwood,

Thank you and your lieutenant for an excellent presentation. I appreciated both the thoroughness and thoughtfulness of the presentation. You both answered the questions we had, clarified our understanding of the relationship between the DA and the department and, at least for me, corrected my understanding of how the department views its role in the charging process. Thank you very much, and please extend my thanks to your lieutenant (my apologies, i am not certain of the correct spelling of his name)

[REDACTED]

Typed on a mobile device with a tiny keyboard. Please excuse typos, arcane abbreviations and other symptoms of technology run amok.

Haney, Heather

From: Morizono, Matt
Sent: Tuesday, May 13, 2014 3:20 PM
To: Haney, Heather; Macapagal, Jesse
Subject: Commendation for Officer Shannon and Officer Polizziani

From: [REDACTED]
Sent: Tuesday, May 13, 2014 3:00 PM
To: Shannon, Jeffrey; Polizziani, Stephanie
Cc: Meehan, Michael
Subject: Kudos!

Hi, Jeff and Stephanie –

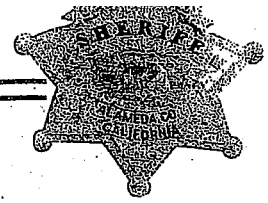
Thank you so much for developing and delivering the new field version of "**Keeping Each Other Safe At Work.**" I'm not sure if you saw the evaluations for the two sessions you did on May 6 and May 13 – you're getting rave reviews and everyone is *very appreciative* of the insights and information you've been sharing.

By the numbers:

From June 2013 to date, you two have done **7 sessions** of "Keeping Each Other Safe" (two of which were for field), for a total of **164 employees** trained! That's a lot of employees who are safer at the City of Berkeley!

Thank you for your time and energy and for making such a positive difference to the workplace!

[REDACTED]
[REDACTED]
City of Berkeley
Human Resources Department
2180 Milvia Street
Berkeley, CA 94704
[REDACTED]
[REDACTED]



Gregory J. Ahern, Sheriff

Director of Emergency Services
Coroner - Marshal

(510) 272-6866

May 14, 2014

Chief Michael Meehan
Berkeley Police Department
2100 Martin Luther King, Jr. Way.
Berkeley CA. 94704

Dear Chief Meehan:

I would like to thank you for the assistance your officers provided to my Agency on Friday, May 2, 2014. In October 2013, my Agency received citizen complaints regarding possible illicit massage parlors within our jurisdiction. Through undercover operations, seven businesses were determined to be soliciting acts of prostitution from customers. After further investigation, six additional businesses were identified in the cities of Oakland, San Leandro, and Hayward. Detectives also identified nineteen residences within Alameda County, Solano County, Contra Costa County, Santa Clara County, Marin County, and San Mateo County associated with the illicit massage parlors.

After hundreds of hours of surveillance, numerous undercover operations, dozens of court orders, and search warrants, the Alameda County Sheriff's Office needed to execute thirty-two search warrants simultaneously, which included nineteen arrest warrants for pimping and pandering. My detectives investigating the case reached out to your department for assistance. Sergeants Lindenau, Chu, and Detectives Rodrigues, Lathrop, Ledoux, Salas, along with Officers Flores, Bold, Kleppe, and Collier all assisted during the execution of this operation.

With the help of your department, we were able to safely execute the search warrants. During the execution of the search warrants, eighteen of the nineteen suspects were taken into custody and vital evidence was recovered. The support your department provided my detectives was instrumental and, with their assistance, we were able to successfully bring our case to closure. I wish to express my gratitude to you and also commend your staff for their assistance. If my staff and I can be of assistance to you in the future, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gregory J. Ahern".

Gregory J. Ahern
Sheriff-Coroner

GJA:EEC:ec

RECEIVED

MAY 16 2014

OFFICE OF THE CHIEF

OFFICE OF THE POLICE CHIEF • POLICE DEPARTMENT

1000 Villa Street • Mountain View, California 94041-1294

650-903-6355 • FAX 650-962-0151

April 15, 2014

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

RECEIVED

APR 18 2014

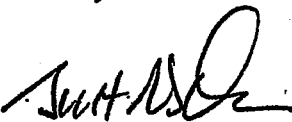
OFFICE OF THE CHIEF

Dear Chief Meehan:

It was a pleasure having Officer Jennifer Coats attend our first Law Enforcement Digital Media BETA Summit. While I know your department is preparing to launch various social media platforms, Officer Coats was able to provide my team and the other participants with valuable insight. I hope she was able to bring back relevant and useful information to your agency.

Historically, law enforcement has a tendency to fall behind the curve when it comes to innovation. Right now, we have a unique opportunity to create momentum in the digital media front; collaboratively and collectively, sharing our learnings with other law enforcement agencies throughout California. I am excited to see departments, like Berkeley, who recognize this next evolution in community policing. We look forward to working with Officer Coats and your department in the near future. Please feel free to call upon my team for assistance at any time, and we hope we can do the same of yours.

Sincerely,



Scott S.G. Vermeer

Police Chief

Assistant City Manager - Public Safety

April 15, 2014

RECEIVED

APR 18 2014

OFFICE OF THE CHIEF

Chief Michael K. Meehan
Berkeley Police Department
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704

Dear Chief Meehan:

I would like to extend my thanks and appreciation for the assistance provided to the Livermore Police Department, as well as the City of Livermore, from Captain Cynthia Harris. We recently held a Professional Assessment Panel for a promotional opportunity to the position of Lieutenant. As you know, it is imperative that we receive feedback and suggestions from highly trained law enforcement personnel and Captain Harris was an instrumental member of a panel of law enforcement professionals.

I am well aware of the time constraints and staff shortages being faced by law enforcement agencies today and, the fact that you were able to make Captain Harris available for this very important responsibility points to your continued support of fellow law enforcement agencies. Please do not hesitate to contact me if your department has a similar need in the future. Again thank you. Captain Harris is a shining example of the professionalism in your agency.

Sincerely,



Michael D. Harris
Chief of Police



Police Department

1110 South Livermore Avenue
Livermore, CA 94550

phone: (925) 371-4900

fax: (925) 371-4950

TDD: (925) 371-4982

www.ci.livermore.ca.us

From: Macapagal, Jessee
Sent: Wednesday, April 09, 2014 2:04 PM
To: Macapagal, Jessee
Subject: FW: Commendation for Detective Mike Parsons, Detective Peter Lee, and Sergeant Dave Lindenau

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

From: [REDACTED]
Sent: Tuesday, April 08, 2014 7:36 PM
To: BPD Webmail
Cc: Maio, Linda
Subject: Great job!

Chief Meehan:

Thanks to a 4 April "Berkeleyside" article I was made aware of the great police work your department performed leading to the recent arrest of 19-year-old [REDACTED] of Hercules and his minor accomplice for the March 5th robbery (at gunpoint) of a neighbor of mine on 8th Street.

GREAT JOB!!! And, thank you.

My thanks to Officer Mike Parsons, mentioned in the article as the one who obtained the warrant. Per the article, Dixon has been charged by the Alameda County DA and, from what I read, seems your folks built a solid case.

Myself and my family appreciate your department's dedication and effort.

Thank you.
Sincerely,

[REDACTED]
(Sent from my iPhone.)
[REDACTED]

From: Morizono, Matt
Sent: Tuesday, April 01, 2014 11:37 AM
To: Haney, Heather; Macapagal, Jesse
Subject: Commendation For Officer Fuentes

From: [REDACTED] <[REDACTED]>
Date: April 1, 2014 at 11:10:44 PDT
To: <RFuentes@cityofberkeley.info>
Subject: death of [REDACTED]

Officer Fuentes,

I want to personally thank you for your sensitivity and patience in the death of [REDACTED] on [REDACTED]. Her brother was very appreciative of your efforts after discovering [REDACTED] deceased.

We lived directly across the street from her home. [REDACTED] had struggled for decades after suffering a severe stroke as a young woman. After the stroke she returned home to live with her parents. Her mother died some years later and her father passed in the last decade.

Again, thank you for your kindness.

[REDACTED]
[REDACTED]
[REDACTED]

March 13, 2014

LT MORRISON
FOR PERSONNEL FILE
EM

To the Supervisor of Records,

I would like to commend
Carl for his exemplary
kindness and assistance.

He sent the copies of ~~_____~~
promptly and was and is
more than courteous.

MAR13 14 8:56AM

Sincerely,

~~_____~~
~~_____~~

From: Morizono, Matt
Sent: Thursday, March 06, 2014 2:21 PM
To: Macapagal, Jessee
Subject: Commendation For Lieutenant Files

From: John Geissberger [<mailto:JGeissberger@albanyca.org>]
Sent: Thursday, March 06, 2014 08:12 AM
To: Upton, Erik M.
Subject: Thanks

Erik,

I just wanted to let you know Randy Files came by last night before our City Council meeting to check in and see what we might need. I really appreciate your guys willingness to help us out, and I feel very fortunate that we have such great lines of communication.

All went well last night, the meeting got pretty heated, but we only had to remove one person from the chambers. Thanks again for your support, I totally appreciate it.

John

From: Morizono, Matt
Sent: Wednesday, March 05, 2014 8:39 AM
To: Macapagal, Jessee
Subject: Commendation for BPD Officers

Commendation for:

Officer Dave Marble
Officer Chris Bonaventure

On Feb 18, 2014, at 22:15, [REDACTED] <[REDACTED]@gmail.com> wrote:

Two North side BPD officers who made the right call tonight

----- Forwarded message -----

From: [REDACTED] <[REDACTED]@gmail.com>
Date: Tue, Feb 18, 2014 at 10:13 PM
Subject: Breaking news from tonight's homeless task force
To: Frances Dinkelspiel <fdinkelspiel@gmail.com>
Cc: Tracey Taylor <traceyktaylor@gmail.com>

contact: [REDACTED] 3577

I was not there...but Blake tells me that as attendees (45) of tonight's Homeless Task Force meeting at the north side senior center on Hearst were leaving the building...a homeless man barricaded himself in the men's room with, according to a janitor--a needle. Blake, newly named chairman of Berkeley's Mental Health Commission, tried out a version of his "we're all first responders," program and may have averted a tragedy. Blake successfully talked the man down (there was no needle). This is exactly the scenario that has proved fatal around the country. BPD arrived in what Blake estimated was 12 minutes and although they were not exactly cheering him on, they did respect his actions and did not burst in, guns-drawn (they should be commended). There was no police report.

I would say that Blake's fearless actions may have averted another deranged victim tragedy.

Blake doesn't talk much to the press, but would talk with Emilie.

Dear Mr. Sergeant Durbin,

Now I can tell all about
what you have done for

my safety on March 28th

2014.

I will not forget Sergeant

Durbin and I have learned

from you "what is the true

help others needs. Thank you

again and again.

A Very Happy and Blessed

Easter to you and the loved

one family.

With Many Appreciation,

...again and again.

[REDACTED]
[REDACTED]
Berkeley, CA [REDACTED]

March 28, 2014

Michael K. Meehan, Chief of Police
Berkeley Police Department
2100 Martin Luther King Jr. Way
Berkeley, CA 94704

Dear Chief Meehan,

I am writing to commend Officer Matthew Valle #111. Unfortunately, in the early morning hours of March 27, 2014, I was involved in an incident with a dangerous person and required police assistance (case number 14-17555). Officer Valle was not only professional and courteous, but also extremely thoughtful in the way he approached the situation, thorough in his investigation, and helpful in his communication with me.

I am somewhat familiar with the world of policing. In addition to having past contact with officers from several agencies, including BPD, as the victim of multiple property crimes, as a witness to a serious motor vehicle accident, and for other miscellaneous matters, I spent the final year of my studies at UC Berkeley examining various policing ideologies, with a focus on Community Oriented Policing, through literature and interviews with UCPD patrol officers and command staff.

Officer Valle stands out to me as an officer who, on this occasion at the very least, went above and beyond his required duties to find the most appropriate resolution to the incident and to be responsive to the community members he was serving – not just me but also a friend who was involved and other people in the area who could be at risk. Officer Valle was patient and diligent as he took our statements and investigated the somewhat intricate matter, helpfully explained the course of action he decided to take and his reasoning behind it, as well as our options for future preventative measures, and expressed a willingness to continue to work with us if this individual poses a threat again in the future. I strongly believe that positive, responsive interactions like this are fundamental to effective policing in any community.

Please include this commendation in Officer Valle's personnel file, and do not hesitate to contact me if you would like any further information.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

RECEIVED

APR 02 2014

OFFICE OF THE CHIEF

From: Morizono, Matt
Sent: Thursday, March 20, 2014 12:36 PM
To: Haney, Heather; Macapagal, Jesse
Subject: Commendation For Officer Perkins

> -----Original Message-----

> From: [REDACTED]
> Sent: Tuesday, March 18, 2014 9:21 PM
> To: Perkins, Jamie
> Subject: Thank you for your assistance

> Dear Officer Perkins,

> Thank you so kindly for assisting me last week while my vehicle was stranded in Berkeley. This is a letter I wrote in hopes that you can pass it along to the appropriate personnel in your department (or if you like, I would be happy to do so).

> Kind regards,

> [REDACTED]

> March 18, 2014

> Dear Sir/Madame:

> I would like to express my sincere gratitude toward Officer J. Perkins (Badge #152) for her outstanding service on the evening of Wednesday, March 12th. After undergoing a severe coolant leak, I had parked my vehicle ten blocks from my dear friend's home, who I was going to visit. While walking back to my vehicle later that evening, I approached Officer Perkins in her car as she waited for the light to turn. As I had forgotten my cell phone at home in Vallejo, she offered to drive me back to my vehicle, assisted with a phone call to AAA, for which I'm very grateful. Thanks to Officer Perkins' kind, friendly and patient nature and assistance, I was able to return home.

> Sincerely,

> [REDACTED]



Department of Fire and Emergency Services
Office of the Fire Chief
Gil Dong, Fire Chief

March 17, 2014

Michael Meehan, Police Chief
Berkeley Fire Department
2100 Martin Luther King Jr. Way
Berkeley, CA 94704

Dear Chief Meehan: *MIKE*

On behalf of the Berkeley Fire Department and the Nunes family, I want to thank you and your staff for your assistance and condolences for Firefighter Tony Nunes. The outpouring of support was appreciated by our department and the Nunes family. Special thanks should be extended to Officer Christopher Waite and Ryan Andersen for serving as members of the Honor Guard and PEOs Oliver Brown and Gladys Gray for assisting with traffic control during the memorial services.

Please convey our deep appreciation to your staff. If there is anything that I or the department can do to reciprocate the favor in the future, please feel free to contact me at your convenience.

With appreciation,


Gil Dong, Fire Chief
Berkeley Fire Department

RECEIVED
MAR 19 2014
OFFICE OF THE CHIEF



United States Department of State

Diplomatic Security Service

Special Agent in Charge

Suite 900

235 Pine Street

San Francisco, California 94104

February 28, 2014

Dear Chief Meehan,

I would like to express my appreciation for the assistance provided by the Berkeley Police Department during the official visit of His Holiness the Dalai Lama to the San Francisco Bay Area from February 21, 2014 to February 25, 2014. The Dalai Lama's speaking engagement at Berkeley High School presented numerous security challenges. Berkeley Police Department's response to these challenges was outstanding. Everyone involved from command staff to patrol officers demonstrated a proactive approach and a willingness to solve problems. Berkeley Police Department's response to a demonstration by the International Shugden Society allowed the protestors to exercise their free speech rights while ensuring the safety of the protectee.

The Berkeley Police Department's efforts were a tremendous asset to our operation and supported United States foreign policy objectives. I look forward to working with your department again in the near future.

Sincerely,

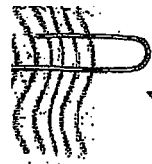
Dean Shear
Special Agent in Charge
U.S. Department of State
Bureau of Diplomatic Security
San Francisco Field Office

RECEIVED

MAR 03 2014

OFFICE OF THE CHIEF

140-110500-1
Berkeley, CA 94704



Officer M. Scha
2100 Madison Avenue
Berkeley, CA 94704

44110500

140-110500-1

Dear Officer Schaeffer,

Just a note to say that you
are so much for holding on
my keep Thursday. I know you
have more important things to
do than track down absent-minded
citizens! I appreciate your time

Best to you,
[Redacted]

Hello,

I would like to take a moment to express my extreme satisfaction with a recent interaction with the Berkeley Police Department. I was assisted by Latargie Pernell who went above and beyond to help me with completing a form. I would like to thank Ms. Pernell, and Lieutenant Allyson for taking the time to help me. I shared with the Lieutenant that after being a Berkeley Resident for all of my 46 years, the community presence of Police Officers at our Derby Block Parties, and our meetings gives me a sense of connection and security, and my recent experience with Ms. Pernell continues the sense of caring.

Thank you so very much for such a positive experience.

Respectfully,

[Redacted Signature]

Happy Berkeley Resident

FEB 5 14 1:29PM

[Redacted Address]

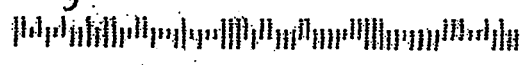
OAKLAND CA 946

Berkeley CA 94702

03 FEB 2014 PM 5 L



Berkeley Police Department
c/o Latargie Pernell
2100 Martin Luther King Jr. way
Berkeley CA 94704



CITY OF ALBANY



POLICE DEPARTMENT
1000 SAN PABLO AVENUE
ALBANY, CA 94706
510 525-7300
510 525-1380 FAX

MICHAEL McQUISTON
CHIEF OF POLICE

www.AlbanyCA.org/police

February 12, 2014

Chief Michael K. Meehan
Berkeley Police Department
2100 Martin Luther King Jr. Way
Berkeley, CA 94704

Dear Chief Meehan:

I am writing to express my appreciation for the assistance of Lieutenant Ed Spiller, who participated as an assessor on our Police Sergeant Promotional Assessment Exercise and Interview Panel on Tuesday February 11, 2014.

The Albany Police Department is undergoing a significant change in line supervisory leadership. Lieutenant Spiller graciously contributed his time, knowledge and expertise to assist us in identifying those candidates best suited to assume the rank of Sergeant. He provided us with valuable insight into the unique qualifications of each candidate and was an invaluable asset to the process. I am now positioned to promote supervisors who will serve the officers they supervise and lead, while advancing our department mission and core values.

I realize Lt. Spiller's schedule is likely very busy and I sincerely appreciate the time and effort he put forth to help us. The Albany Police Department stands ready to assist your department in a similar fashion when called upon to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike McQuiston". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mike McQuiston
Chief of Police

cc: Lieutenant Ed Spiller

RECEIVED

FEB 14 2014

OFFICE OF THE CHIEF

From: Macapagal, Jesse
Sent: Wednesday, January 22, 2014 10:06 AM
To: Macapagal, Jesse
Subject: FW: Commendation

From: [redacted] [gordonwozniak@gmail.com]
Sent: Saturday, January 18, 2014 1:11 PM
To: Meehan, Michael
Cc: Daniel, Christine
Subject: Fwd: El Camino Real

Chief,

I want to let you know that one of my constituents very much appreciates the efforts of Officer Nabozny and her fellow officers in resolving her concern. See below email.

Gordon

Begin forwarded message:

From: [redacted] <[redacted]@gmail.com>
Subject: El Camino Real
Date: January 14, 2014 at 4:51:18 PM PST
To: <JNabozny@cityofberkeley.info>, Gordon Wozniak [redacted]@ci.berkeley.ca.us>
Reply-To: <[redacted]@gmail.com>

Hello Officer Nabozny,

I wrote to you back in November about the derelict in the neighborhood, and under my porch.

You wrote back that officers had contacted the individual and encouraged him to move on. As far as I can tell, this has happened.

Thank you very much on behalf of myself and the neighbors. I apologize for not getting back to you earlier with the information and with my thanks.

Please also thank your officers for their good work.

Best always,
[redacted]
[redacted]

KAΘ

Officer Dunn-

Thank you very much for responding to the break-in on Christmas Day. We are very grateful for your fast response, and we sincerely appreciate the time you took out of your day to help us. Hope you are having a great spring!

Thanks so much!
Thank you!
-Desiree

Cordially,

The ladies of Kappa Alpha Theta

you're awesome! :)
-Sara

Thank you so much!!
-Anna

Thank you for your hard work!
-Tiffany

Thank you!
-Nelle

Thank you so much!
-Kelley

We appreciate all of your hard work!
Thank you so much!

Thanks so much!
-Loren

thanks!
-Stephanie

Thank you!
-Morgan

Best wishes,
[Redacted]

Thanks!
-Ashleigh



Don't keep it under your hat ...

Dear Chief Meehan,

On Wednesday, March 12, 2014, my mother & I were in town to attend the funeral for our cousin, being held at St. Theresa Catholic Church in Oakland. On our way to the funeral, our car was hit by a large Freightliner truck on Shattuck Ave, at Dwight. Officer Rafferty (#117) was the first to arrive on the scene within minutes of me calling 911. He was amazing. His first concern was to ask if we were hurt, which luckily we were not, just a bit shook-up. He then proceeded to take my statement, help me gather the truck driver's information, arrange for a tow truck for our car,



[REDACTED]

for a rental car. He kept me calm and focused. He even made sure I removed the house keys from the car key fob - something I would have not thought of at the time. I also want to commend the female officer who drove my mom & I to Enterprise. I apologize I do not recall her name. She was very kind, patient and helpful.

Both officers made an extremely stressful situation, bearable. With their help, we made it to the funeral in time. If these 2 officers are a representation of your force, the citizens of Berkeley are in very good hands.

Thank you again so very much!

[REDACTED]

Haney, Heather

From: Morizono, Matt
Sent: Wednesday, February 26, 2014 2:26 PM
To: Haney, Heather; Macapagal, Jessee
Subject: Commendation for Officers Burcham, Libed, and Nabozny

From: Curtin, Tom
Sent: Wednesday, February 26, 2014 2:11 PM
To: Rateaver, Andrew
Subject: FW: Homeless encampment on Tunnel Rd near Hiller - Gone!

LT,

Please forward this through the Chain of Command as an **External commendation for OFCs Burcham, Libed and Nabozny**

Thx,

Tom/S34

From: Nabozny, Jessyca A.
Sent: Wednesday, February 26, 2014 11:15 AM
To: Files, Randolph; Ross, Sean B.; Cardoza, Benjamin; Bartalini, David C.; Curtin, Tom; Melero, Cesar; Delaluna, Patricia; Libed, Stanley M.; Rateaver, Andrew; Burcham, Stephen
Cc: Fomby II, Spencer; Upson, Erik M.
Subject: FW: Homeless encampment on Tunnel Rd near Hiller - Gone!

Hi all;
I wanted to share this email with you all from a VERY thankful resident. I am not too sure which other officers assisted but these are the officers that I know helped. Thanks again to everyone who assisted on this issue.

Thanks!
Ofc. Jessyca A. Nabozny #118
CSB: Area 2 Coordinator
2100 Martin Luther King Jr. Way
Berkeley, Ca. 945704
Ph: 510-981-5778
Fax: 510-981-5819

From: [redacted] [redacted]@sbcglobal.net
Sent: Wednesday, February 26, 2014 11:11 AM
To: Nabozny, Jessyca A.
Cc: OpenForum
Subject: Homeless encampment on Tunnel Rd near Hiller - Gone!

Hi Officer Nabozny,

I am writing to thank you and the Berkeley Police department for your prompt and thorough response to dealing with the large homeless encampment that was located on the south side of Tunnel road just before the Hiller/Highway 13 intersection.

I placed several calls to the non-emergency number and received follow-up calls from officers letting me know that an officer had checked out the site, that you and another officer were trying to deal with the situation, i.e. working with CalTrans to clear the tents/carts/stuff from the property (as it was on CalTrans property), etc. One day I saw you at the site talking with one of the presumed residents/frequentors of the site.

So, just wanted to say thank you - you guys are great. The encampment was a very real and serious fire-hazard, as it was located in the woods of a high fire-danger zone, so I am very relieved that it has been removed.

I believe that several neighbors had lodged complaints, with Berkeley police as well as Oakland police and the See-Click-Fix program, so I'm sure that everyone is grateful.

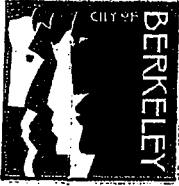
Thanks again,

[REDACTED]
[REDACTED]
Berkeley 94705
[REDACTED]

From: "Nabozny, Jessyca A." <JNabozny@ci.berkeley.ca.us>
To: "Nabozny, Jessyca A." <JNabozny@ci.berkeley.ca.us>
Sent: Thursday, December 12, 2013 4:07 PM
Subject: Community Alert

Hi Community members,
Please find the attached community alert regarding robberies. Please feel free to share this your groups and other organizations that could benefit from the information. Please feel free to contact me if you have any questions.

Thanks!
Ofc. Jessyca Nabozny #118
Area 2 Coordinator
2100 MLK Jr Way
Berkeley, Ca 94704-1109
Ph: (510) 981-5778
Fax: (510) 981-5819



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

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

Date Received: 12-23-14

PRC POLICY CASE #: 2362

1

Name of Complainant: Lindsay Virginia Carolyn
Last First Middle

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

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

E-mail address: vclindsay@gmail.com

Occupation lawyer Gender: F Date of Birth: 26 May 1954

Ethnicity: Asian Hispanic
 Black Multiethnic: _____
 Caucasian Other: _____

COPY

2

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

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

3

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

See Attachment A (emailed complaints)

COMMUNICATION No. 4160

4

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

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

5

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

Yes

6

VERIFICATION

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

V. C. Murray

 Signature of Complainant

23 Dec 2014

 Date signed

7

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

- Internet
- Publication: _____
- Referral: _____
- Other: _____

For Office Use Only

Complaint Received By:

4/21/10



Ginger Lindsay <vclindsay@gmail.com>

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

10 messages

Robin McDonnell

Fri, Dec 12, 2014 at 9:03 AM

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

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

I look forward to hearing back from you,

Robin McDonnell
2128 McKinley Ave.

From: Susan Church

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

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

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

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

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

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

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

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

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

Thank you

Susan Church
2128 McKinley Avenue
Berkeley, CA 94703

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

Hello,

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for your consideration.

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

Dear Ms. Polizziani and Councilmember Arreguin, et al.

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

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

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

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

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

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

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

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

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

Regards,
David MacFadden-Elliott

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

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

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

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

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

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

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

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

best,
Robin McDonnell

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

Dear Ms. Polizziani,

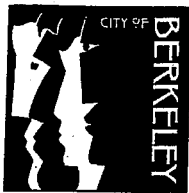
I am a 14+ year homeowner on McKinley Avenue (2112 McKinley Ave. #A). My family has always been supportive and cooperative with the local police. We supported them during the new station building and have always had positive community relations over the years.

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

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

Sincerely,

Julie Guilfof



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

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

Date Received: 1-8-15

PRC POLICY CASE #: 2363

1 Name of Complainant: McDonnell Robin

Last First Middle

Home Address: 2128 McKinley Ave. Berkeley CA 94703

Street City State Zip

Home Phone: (510) 289-0564 Alt. Phone: (510) 841-7709

E-mail address: robinmcdonnell@sbcglobal.net

Occupation Self employed Gender: female Date of Birth: 11/12/1955

Ethnicity: Asian Hispanic
 Black Multiethnic: _____
 Caucasian Other: _____

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

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

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

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

On December 6th the police without notification barricaded and staged multiple police units

on the 2100 block of McKinley ave..We were subjected to a complete nightly lockdown for five nights.

We were denied access and egress via our cars except for one entry early in the evening.

We were ID'd and treated hostilely everytime we tried to walk in or out of our street.

Multiple police units from other areas were staged on our block -they urinated, left trash and

were loud and belligerent until after midnight nightly with no awareness that they were on

a residential block. One Berkeley police officer said to put children in the back of the house

so they wouldn't be upset by the units in full riot gear marching and yelling commands.

4

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

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

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

5

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

Please see attached email complaints.

6

VERIFICATION

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



Signature of Complainant

January 8, 2015

Date signed

7

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

- Internet
- Publication: _____
- Referral: _____
- Other: _____

For Office Use Only

Complaint Received By: _____

4/21/10

Norris, Byron

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

Hello all,

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

Best,
Ginger

Dear Captain Greenwood:

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

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

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

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

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

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

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

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

At a minimum, I will be asking that

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

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

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

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

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

I look forward to hearing back from you,

Robin McDonnell

2128 McKinley Ave.

From: Susan Church <schurch545@icloud.com>

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

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

To: JArreguin@ci.berkeley.ca.us, SPolizziani@ci.berkeley.ca.us, manager@cityofberkeley.info, prc@cityofberkeley.info

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

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

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

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

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

Thank you

Susan Church
2128 McKinley Avenue
Berkeley, CA 94703

Begin forwarded message:

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

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

From: Ginger Lindsay <vclindsay@gmail.com>

To: SPolizziani@ci.berkeley.ca.us, JArreguin@ci.berkeley.ca.us, manager@cityofberkeley.info, prc@cityofberkeley.info

Hello,

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for your consideration.

Sincerely yours,

V. C. Lindsay

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

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

From: David MacFadden <davidmacfadden@gmail.com>

Date: December 11, 2014 at 8:51:30 AM PST

Subject: Police Staging on McKinley

To: spolizziani@ci.berkeley.ca.us, jarreguin@ci.berkeley.ca.us, manager@cityofberkeley.info,
prc@cityofberkeley.info

Cc: "Schurch545@mac.com" <schurch545@mac.com>, robinmcd@me.com, Lillian Kang
<mrsmochi@gmail.com>, Julia Cost <juliaacost@gmail.com>

Dear Ms. Polizziani and Councilmember Arreguin, et al.

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

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

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

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

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

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

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

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

Regards,
David MacFadden-Elliott

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

Inkyhill.com

Begin forwarded message:

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

Dear Stephanie, After thirty years of being a neighbor to the Berkeley Police department I was shocked and saddened to see how bad your departments relations with its immediate neighbors are. We were given no notice regarding the staging for the demonstrations except for signs saying no parking on Saturday (when a neighbor tried to find out what the signs were for the police denied it was theirs) Nothing that would prepare us for the complete lockdown of our street and the hundreds of police coming and going in full riot gear..They shouted and marched and had complete disregard for the neighbors till past midnight. They gathered ,,changed clothes , yelling back and forth,, full locker room language.We have children on our block and it was unbelievable what they were exposed to. That combined with the helicopters overhead. Not once did a Berkeley police officer ask them to keep it down until a wonderful officer named Lyle on night four took it upon himself. One Berkeley police officer just said keep the children in the back of the house. We were barricaded in had to give Id ..couldn't drive in or out. A young woman who lives next to me after going through the road block was yelled at to keep her hands out. This complete disregard for the community became glaringly akin to what the demonstrators were marching about.

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

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

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

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

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

Dear Ms. Polizziani,

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

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

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

Sincerely,

Julie Guilfooy

--
Virginia C. Lindsay

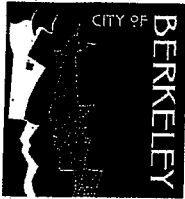
2138 McKinley Street, Apt. D
Berkeley, CA 94703

tel: 510-529-6153

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Before printing this e-mail, please think about the Environment.



Police Review Commission (PRC)

1299
COMMUNICATION No. 4400

4411

December 12, 2014

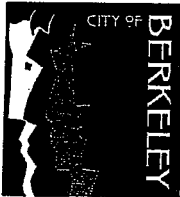
To: Honorable Mayor and Members of the City Council
From: Michael Sherman, ^{M/S/R} Chairperson, Police Review Commission
Re: Request to ban the use of projectiles and over-the-shoulder baton strikes pending a review of General Order C-64

The Police Review Commission (PRC) is deeply concerned about the Berkeley Police Department's (BPD) use of projectiles and over-the-shoulder baton strikes to disperse crowds, and requests that these methods be banned for crowd control purposes until General Order C-64, Crowd Management and Control, is reviewed.

During the December 6, 2014 protests in Berkeley against recent events in Ferguson, MO and Staten Island, NY, the BPD swung batons over their shoulder level to strike demonstrators, and used projectiles to control the crowd. At its December 10, 2014 meeting, the PRC heard from several speakers during public comment who witnessed these acts; such methods of crowd control were also seen in online videos and read or heard in media accounts, raising the question of whether the use of these methods was necessary.

Therefore, the PRC passed the following motion at its December 10, 2014 meeting (M/S/C Bernstein/Rogers): Urge the City Council to prohibit the Berkeley Police Department's use of projectiles and over-the-shoulder baton strikes for crowd control purposes until such time that a complete review of General Order C-64 (Crowd Management and Control) is conducted. Ayes – Bernstein, Cardoza, Perezvelez, Rogers, Sherman; Noes – None; Abstain – None; Absent: Allen, Lowhurst, Zerrudo.

cc: Christine Daniel, City Manager
Michael Meehan, Chief of Police



Police Review Commission (PRC)

December 12, 2014

To: Honorable Mayor and Members of the City Council
From: Michael Sherman, Chairperson, Police Review Commission
Re: Request to temporarily ban the use of tear gas for crowd control pending an investigation

The Police Review Commission (PRC) is deeply concerned about the Berkeley Police Department's (BPD) use of tear gas to disperse crowds, and requests that tear gas be banned for crowd control purposes until the PRC completes an investigation.

During the December 6, 2014 protests in Berkeley against recent events in Ferguson, MO and Staten Island, NY, the BPD employed tear gas as one means of forcing the protesters to disperse. At its December 10, 2014 meeting, the PRC heard from several speakers during public comment about how the tear gas affected them physically; one speaker, whose apartment windows on Telegraph Avenue were open the night of December 6, spoke of having to toss out food and wash clothing contaminated with the tear gas. These speakers amplified what many have seen in online videos and read or heard in media accounts about the police response to the December 6 protests. All this raises the question of whether the use tear gas was necessary.

Therefore, the PRC passed the following motion at its December 10, 2014 meeting (M/S/C Bernstein/Perezvelez): In accordance with the mission statement of General Order C-64, request that the City Council temporarily ban the Berkeley Police Department's use of tear gas for crowd control until the Police Review Commission conducts a full investigation into the improper use of tear gas on December 6, 2014, and to empower the PRC to produce documents and witnesses for the purposes of this investigation. Ayes – Bernstein, Cardoza, Perezvelez, Rogers, Sherman; Noes – None; Abstain – None; Absent: Allen, Lowhurst, Zerrudo.

cc: Christine Daniel, City Manager
Michael Meehan, Chief of Police

1947 Center Street, 3d Floor, Berkeley, CA 94704 Tel: 510-981-4950 TDD: 510-981-6903 Fax: 510-981-4955
e-mail: prc@cityofberkeley.info website: www.cityofberkeley.info/prc/

Recommendations to Berkeley Police Review Commission
Subject: Policy Changes and Investigation Questions responding to 12-6-14 police actions
Author: George Lippman
Date: 12-10-2014

Recommendation I: Declare that the following policy changes must be enacted immediately.

1. Ban baton strikes to the head and other vital organs.
2. Require a "clear shot" for less-than-lethal munitions such as rubber bullets (individual can be targeted without endangering other crowd members or bystanders).
3. Restrain use of tear gas in crowd control situations. Chemical agents can cause serious injuries or even death. They should only be used when other techniques such as encirclement and multiple arrest have failed.
4. Ban physical assaults on media representatives.
5. Clarify that BPD is the lead agency when mutual aid responding agencies operate in Berkeley. When Berkeley has a more restrictive policy on use of force or less-than lethal force, or a higher level of protection of free expression, compared to a responding department, Berkeley's policies govern. BPD is responsible for the actions of agencies that it invites into Berkeley.
6. Ban militarized armored vehicles from deployment in Berkeley by mutual aid responding agencies. Council has already declared that these vehicles have no place in Berkeley.

These are minimal and reasonable requirements. They are drawn in large part from Oakland's Crowd Control Policy, which has served that city well since the Scott Olsen tragedy three years ago.

https://oaklandwiki.org/OPD_Crowd_Control_Policy/_files/crowd%20control.pdf/_info/

COMMUNICATION No. 4160

Recommendation II: Require the following questions be answered in time for the PRC's next meeting in January 2015.

Less-than-lethal force:

- Do BPD policies require a "clear shot" for less-than-lethal munitions such as rubber bullets?
- Are over-the-head baton strikes permitted or banned to BPD officers?
- On Saturday December 6, did police officers fire rubber bullets into a Berkeley crowd? If so, what agency conducted these shootings and under what authorization? What injuries resulted from these shootings?

Media.

- Confirm allegations of physical assaults on media representatives carrying visual identification, including a baton strike to the head. What agency conducted these strikes and under what authorization? What steps are being taken to prevent a recurrence, even in a chaotic situation?

Mutual Aid.

- Did BPD or City management authorize the deployment of armored vehicles on Saturday December 6?
- When responding departments' actions conflict with such BPD or City policies (e.g. deployment of militarized armored vehicles or baton strikes to the head), what action is taken by the BPD command? What is the process for a decision not to invite such a department back for future mutual aid events?

Recommendation III: *In 2015*, the PRC and City leadership should examine the Oakland Crowd Control Policy and SFPD policies, and **bring Berkeley's policies up to date** with this more modern approach. Here are some relevant selections from the Oakland policy.

Less-Lethal Weapons: Uses of Direct Fired Specialty Impact Less-Lethal Munitions (SIM).

Direct Fired SIM are less-lethal specialty impact weapons that are designed to be direct fired at a specific target, including but not limited to flexible batons ("bean bags"), and shall not be used for crowd management, crowd control or crowd dispersal during demonstrations or crowd events.

Direct Fired SIM *may never be used indiscriminately against a crowd* or group of persons even if some members of the crowd or group are violent or disruptive.

a. Direct Fired SIM may be used against a specific individual who is engaging in conduct that poses an immediate threat of *loss of life or serious bodily injury* to himself or herself, officers, or the general public or who is engaging in *substantial destruction of property which creates an imminent risk to the lives or safety* of other persons. In such instances, Direct Fired SIM shall be used only when other means of arrest are unsafe and when the *individual can be targeted without endangering other crowd members or bystanders* (See Special Order No. 8135 enacted April 15, 2004.).

Batons: Batons shall only be used as set forth in General Order K-3 and Department Training Bulletin III-H.2, "Use of the Long Baton."

Officers shall not intentionally strike a person with any baton to the head, neck, throat, kidneys, spine, or groin or jab with force to the left armpit except when the person's conduct is *creating an imminent threat of serious bodily injury or death* to an officer or any other person. Batons shall not be used against a person who is handcuffed.

Gas:

4. Non Hand-Held Crowd Control Chemical Agents

a. Crowd control chemical agents are those chemical agents designed and intended to move or stop large numbers of individuals in a crowd situation and administered in the form of a delivery system which emits the chemical agent diffusely without targeting a specific individual or individuals.

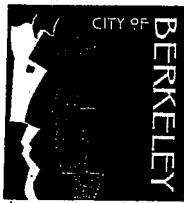
b. Chemical agents can produce serious injuries or even death. The elderly person or infant in the crowd or the individual with asthma or other breathing disorder may have a fatal reaction to chemical agents even when those chemical agents are used in accordance with the manufacturer's recommendations and the Department's training. Thus, crowd control chemical agents shall be used only if other techniques, such as encirclement and multiple simultaneous arrest or police formations, have failed or will not accomplish the policing goal as determined by the Incident Commander.

c. Members shall use the minimum amount of chemical agent necessary to obtain compliance....

Media:

C. The media shall be permitted to observe and shall be permitted close enough access to the arrestees to record their names. Even after a dispersal order has been given, clearly identified media shall be permitted to carry out their professional duties in any area where arrests are being made unless their presence would unduly interfere with the enforcement action.

F. The media, legal observers, crowd monitors, police liaison, and/or organizers shall never be targeted for dispersal or enforcement action because of their status.



Police Review Commission (PRC)

CONFIDENTIALITY AGREEMENT

This agreement must be signed by each Commissioner permanently or temporarily appointed to the Police Review Commission as soon after appointment as practicable. Until a Commissioner has signed this agreement, he or she is prohibited from participating in a Board of Inquiry or a closed session of the PRC involving a complaint, and from receiving confidential materials relating to Berkeley Police Department personnel.

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. The confidentiality of this information is governed by the Public Safety Officers Procedural Bill of Rights Act (Gov't. Code sections 3300-3319), Penal Code sections 832.5 and 832.7, and case law.

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

I have read and understand the above. I will keep confidential and will not disclose to any unauthorized person or organization the nature of any individual complaints against police officers that come before the PRC, and all records relating to the complaints, including, but not limited to, the identity of the officers and the substance of any investigative report.

Print name

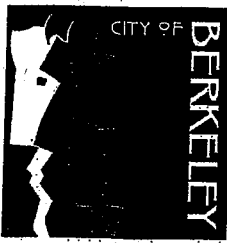
Signature

Date

G:\Commission\Commissioners\Confidentiality Agreement

1/8/15

1947 Center Street, 3rd Floor, Berkeley, CA 94704 • Tel: (510) 981-4950 • TDD: (510) 981-6903 • Fax: (510) 981-4955
Email: prc@cityofberkeley.info Website: www.cityofberkeley.info



Police Review Commission (PRC)

CONFIDENTIALITY AGREEMENT

All Commissioners shall execute this Agreement.

- I will keep confidential and will not discuss the nature of any individual complaints against officers that come before the PRC, and all records relating to them, including, but not limited to, the identity of the officers and the substance of any investigative report.
- I may discuss or disclose public records such as police reports, department policies or general orders, and other documents released to the public by the City of Berkeley, the Berkeley Police Department or other public agency.

Print name

Signature

Date

1-6-12

G:\Commission\Commissioners\Confidentiality Agreement

1947 Center Street, Third Floor, Berkeley, CA 94704
TEL: 510.981.4950 TDD: 510.981.6903 FAX: 510.981.4955
e-mail: prc@ci.berkeley.ca.us website: www.ci.berkeley.ca.us/prc/



2015 Commission Meeting Dates

Please complete this form and email it to the
Commission Inbox by: **Thursday, January 8, 2015**

Name of Commission: Police Review Commission

COMMUNICATION No. 4370

Commission Secretary: Katherine J. Lee

Please Note the Commission Meeting Dates for 2015 Below

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

"Example"

Month	Meeting Day and Date	Time
January 2015	Friday 1/02/15	7:00 pm

Month	Meeting Day and Date	Time
July 2015	No Meeting	

2015 Meeting Dates

Month	Meeting Day and Date	Time
January 2015	Wednesday 01/14/15	7:00 pm
	Wednesday 01/28/15	7:00 pm
February 2015	Wednesday 02/11/15	7:00 pm
	Wednesday 02/25/15	7:00 pm
March 2015	Wednesday 03/11/15	7:00 pm
	Wednesday 03/25/15	7:00 pm
April 2015	Wednesday 04/08/15	7:00 pm
	Wednesday 04/22/15	7:00 pm
May 2015	Wednesday 05/13/15	7:00 pm
	Wednesday 05/27/15	7:00 pm
June 2015	Wednesday 06/10/15	7:00 pm
	Wednesday 06/24/15	7:00 pm

Month	Meeting Day and Date	Time
July 2015	Wednesday 07/08/15	7:00 pm
	Wednesday 07/22/15	7:00 pm
August 2015	Recess	
September 2015	Wednesday 09/09/15	7:00 pm
	Thursday 09/24/15	7:00 pm
October 2015	Wednesday 10/14/15	7:00 pm
	Wednesday 10/28/15	7:00 pm
November 2015	Wednesday 11/18/15	7:00 pm
December 2015	Wednesday 12/09/15	7:00 pm

Please Return via Email to:

The Commission Inbox-City Clerk Department

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

PRC 2015 Regular Meeting Schedule

(2nd and 4th Wednesdays of each month*, except no meetings in August and one meeting in November and December)

January

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
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25	26	27	28	29	30	31

February

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March

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April

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May

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31						

June

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July

Su	Mo	Tu	We	Th	Fr	Sa
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August

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September

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October

Su	Mo	Tu	We	Th	Fr	Sa
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November

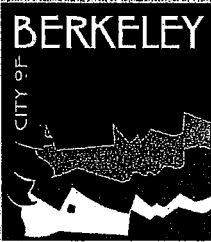
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

PRC Meeting
 City Holiday
 Council Meeting

* Note Sept. 24 meeting date is a Thursday, as Yom Kippur falls on Sept. 23.



Commissioner Attendance Report

For the Period July 1 through December 31, 2014

(Scroll down for information on completing this form.)

Commission Name

Police Review Commission

Secretary Name

Katherine J. Lee

Commissioner Name	# of Meetings Attended	# of Meetings Not Attended/Absent	% of Meetings Attended	Meetings Absent* (List dates, ex. 1/8)	Excused Absences* (List dates, ex. 1/8)
1. Allen, Barbara	5	2	71%		
2. Bernstein, Alison	6	1	86%		
3. Lowhurst, Karen Kiyo	6	1	86%		
4. Perezvelez, George	5	2	71%		
5. Rogers, Ann	5	2	71%		
6. Sherman, Michael	5	2	71%		
7. Zerrudo, Oliver	3	4	43%	7/9, 10/22, 11/12, 12/10	7/9, 10/22
8.					
9.					

* Only complete if the commissioner has missed 50% or more of regular meetings.

Was any member absent from 3 consecutive regular meetings? (otherwise, leave blank)

Commissioner Name	Dates of Missed Meetings (List dates, ex. 1/8)	Dates of Leave(s) of Absence (List dates, ex. 1/8)
1. Zerrudo, Oliver	10/22, 11/12, 12/10	10/22
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		

COMMUNICATION No. 4272

Instructions for Completing the Form

Only report the attendance for commissioners that are **active** as of the end of the reporting period. Do not include temporary appointments or commissioners that have already been terminated from the commission.

Report regular meetings only! Do not include special meetings or subcommittee meetings.

In the "# of Meetings Attended" column, input the number of meetings the commissioner attended (ex. "2"). In the "# of Meetings Not Attended/Absent" column, input the number of meetings the commissioner did not attend or was absent (ex. "4"). *Be sure to enter zeros where appropriate.* These two columns added together should equal the total number of meetings held during the reporting period (ex. 2 + 4 = 6).

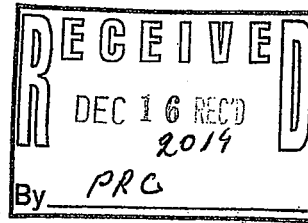
If the "% of Meetings Attended" column reflects 50% or less, complete the "Meetings Absent" and "Excused Absences" columns. If the commissioner attended 51% or more of meetings, do not complete these columns.

Only complete the lower portion of the form if a commissioner was absent from 3 consecutive regular meetings. If a commissioner was absent from 3 consecutive regular meetings, list the individual's name, dates of meetings missed, and dates of leaves of absence (if

Additional Attendance Rules

- a) A member must be present at least one hour, or 50% of the entire meeting, whichever is less, to be counted as present for purpose of attendance.
- b) If a commissioner was appointed part way through the reporting period, the "meetings attended" and "meetings not attended/absent" is based on the number of regular meetings held since their appointment and through the end of the reporting period. These commissioners must have attended more than half of all regular meetings held since being appointed.
- c) The City Clerk shall note any commissioner reported as being absent from 50% or more of all regular meetings held during the six (6) month period reported. The appointment of the commissioner shall expire on the date the attendance report is received by the City Clerk.
- d) Commissioners may be granted a leave of absence of up to three months by their appointing Councilmember. These approved leaves do not count against lack of attendance.
- e) Commissioners may request that an absence from a meeting be excused due to a conflict resulting from observance of religious or cultural holidays. This request needs to be made on the "Excused Absence Form" and submitted to the Secretary prior to the meeting for which the commissioner's absence is to be excused. The Secretary then excludes the absence from the semi-annual attendance report. (BMC 3.02.030)

Police Review Commission
1947 Center St.
Berkeley, CA 94094



Commission Members,

RE: Protest on Saturday evening, Dec. 6th

I was on Telegraph Avenue during the protest. I was tear-gassed—and I deserved it.

We did not disband as ordered by the police. Instead we stood there, and some of the crowd taunted the police. Some of us were there, frankly, just for entertainment or excitement.

Based on media reports, I assume that there were incidents where protesters (and reporters) were physically injured by police officers. I cannot speak to the justification or lack of justification of such incidents.

However, I do want to express my view that, for the most part, the blame for unwanted injury lies with the crowd that refused to follow police orders which would have allowed for peaceful protesting had we chosen to do so.

Respectfully,

A handwritten signature in cursive script, appearing to read "R. Gable".

Robert Gable

2738 Fulton Street
Berkeley, CA 94705

COMMUNICATION No. 4400

Dec. 14, 2014

Cc: Meehan

Commissioner of
Police
1911

Commissioner

1911

At the time of the ...

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Thomas Peele: Time to rethink California laws on police transparency

By Thomas Peele

Bay Area News Group investigative reporter

The old phrase "the truth will set you free" comes from the Bible, a book I have no relationship with because I'm an atheist. But let's interpret it not in the context of religious dogma but rather one of larger meaning about America.

How free are we when laws are designed to keep us ignorant? Some would enable the tearing of scientific facts from school books. Others keep more details about CIA torture a state secret.

In California, laws allow police to hide misconduct findings behind claims that revealing what's in their personnel files should never be publicly seen. That law now needs to be viewed in the context of national outrage about the killings of unarmed African American men by police in Missouri, New York and elsewhere. But as the country engages in new debates over police misconduct, California's special-interest laws protecting cops' personnel records need should be examined anew.

It's simply bad public policy that serves only cops. Want cops to behave better? Then require their behavior, and what comes of it, to be disclosed.

Aside from the deaths of Michael Brown and Eric Garner, the killing of 12-year-old Tamir Rice by Cleveland Police Officer Timothy Loehmann last month is incredibly troubling, especially considering that a video shows the fatal shot being fired just one and a half to two seconds after Loehmann got out of a cruiser just feet from Rice:

Yes, police were responding to reports of someone waving what turned out to be a toy gun. Cleveland police claimed Loehmann told Rice three times to raise his hands. The video shows that to be very doubtful. Police also claimed Rice was near other people and perhaps a threat. The video shows he was alone.

But here's the rub. Ohio has no law blocking the release of police personnel files. Within days of Rice's killing, it was reported that a suburban department had dismissed Rice for incompetence, raising immense questions about how Cleveland Police hired him. Department leaders later admitted they hadn't checked his record.

Documents about Loehmann's brief stint with the Independence, Ohio, police show that he became "distracted" and "weepy" during firearms training, Ohio media reported. "He could not follow simple directions, could not communicate clear thoughts nor recollections, and his handgun performance was dismal," a deputy chief wrote. "I do not believe time, nor training, will be able to change or correct the deficiencies."

But if Loehmann had been a California cop, such truths about him would remain locked away.

That police demand absolute support no matter the sins of the few plays directly to the secrecy. There's no gray. Just blue -- or wrong.

We saw this last weekend following the horrid murders of two New York City officers. Cops turned their backs en masse on Mayor Bill de Blasio because he supported protesters angry that the cop who choked Garner to death wasn't indicted.

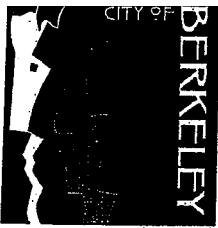
The head of the police union said the blood of the slain officers was on de Blasio's hands. Former New York Governor George Pataki said about the same thing in a tweet and tied in U.S. Attorney General Eric Holder, because, he, too, said he understood those angry about Brown and Garner's deaths.

The same either-you're-with-us-or-against-us mentality is pervasive in policing everywhere. You saw that in the idiotic tweets of San Jose cop Phillip White, who blathered into the ether: "Threaten me or my family and I will use my God given and law appointed right and duty to kill you."

San Jose is in the midst of deciding how to discipline White. Many are calling for his firing. Even given the national attention scorn he brought upon himself, what his department does with him will be a secret under California law.

In Ohio it would be public. Here, the truths you don't know cannot set you free.

Thomas Peele is an investigative reporter for this newspaper and teaches a class on public records at the UC Berkeley Graduate School of Journalism. Follow him at [Twitter.com/thomas_peele](https://twitter.com/thomas_peele).



Police Department

December 29, 2014

Andrea Pritchett
Prichett@locrian.com
Berkeley, California, 94704

COMMUNICATION No. 4418

Dear Ms. Pritchett,

I am in receipt of your Public Records Act request which was directed to Captain Upson on December 11th, 2014. In that request, you asked for the "Operational Plan and related emails and documents that establish BPD's planning and strategies for dealing with anticipated protests on December 6th and 7th, 2014". You further requested any related reports or evaluations of those operations.

The material requested is precluded from release as operational plans with all accompanying documentation are not considered public records under Government Code Sections 6254 (f) and 6255 as the planning and strategic material requested is privileged as both investigative material and deliberative procedure.

Further, the Department is further restricted from releasing the material as regulations in General Order R-23 Paragraph 11(b).

If you have further questions, please call me directly at 981-5976 or email me, llesen@ci.berkeley.ca.us.

Thank you,

Lynne E. Olesen
Public Safety Business Manager
Support Services Division Commander
Berkeley Police Department
2100 Martin Luther King Jr. Way
Berkeley, California 94704

Desk: 510.981.5976
Fax: 510.981.5744

From: Andrea Prichett [mailto:prichett@locrian.com]
Sent: Monday, January 05, 2015 6:06 PM
To: berkeleycopwatch@gmail.com; Meehan, Michael; 'e_halpern@sbcglobal.net'; 'george@igc.org'; 'middeen@hotmail.com'; 'nicca@igc.org'; 'berkeleycopwatch@yahoo.com'; 'bcw-discussion@lists.riseup.net'; Daniel, Christine; alibernstein@gmail.com; PRC (Police Review Commission); judith scherr; Rachel Lederman; Olesen, Lynne; Berkeley Copwatch; Jesse Arreguin; Worthington, Kriss
Subject: Re: PRA: Operational Plan for 12/6 and 12/7

Dear Chief Meehan and all,

I must say that I am a bit surprised at the response I received today regarding my Public Records Act request of 12-11-14. I have asked for any Operational Plans or information related to planning for protests in Berkeley on December 6 and 7th. After waiting well beyond the legally required 10 days for a response, I was finally given the attached letter which basically says that NOTHING about BPD's planning process for these protests will be disclosed. No emails, no mutual aid requests, nothing. As I read the provisions of the CPRA that have been cited as the basis for denying my request, I fail to see the relevance of these sections. Please explain how you can justify keeping the people of Berkeley in the dark about how and why its own police department decided to orchestrate a heavy police response on one night and then almost no response the next. Don't you think that this is worthy of a public inquiry?

I believe that your response, like so many others in recent times, represents an effort to keep the public in the dark about how decisions are really made by our city government and I find it outrageous that you would not release these documents. We have many questions that deserve a response.

- * Did the City Manager communicate to the police department that tear gas would not be used?
- * Did the police command staff make a decision that they would not defend the Berkeley City Hall when its windows were being broken about a block away from the police station?
- * What assumptions went into the planning for the large police response of Saturday night?
- * What assumptions went into the panning for the minimal police response of Sunday night?
- * What agencies were contacted on both nights?
- * Is the BPD conducting investigations stemming from that night? When will they be concluded? (It has been almost a month already!)

The level of secrecy that BPD engages in represents the worst type of administration of a police department. There is already a fundamental distrust of police (in case you haven't noticed) and it only gets worth with every denied PRA and every deflected question. The level of disregard by BPD administrators for community involvement in police accountability has been dubious in recent years. Sadly, under Chief Meehan, I believe that the withholding of information have become a major obstacle to building better trust between the community and police.

I hope that the Chief will be asked these questions in public that that he will be required to

account for the choices that were made on both nights. I also hope that you will reconsider this blanket ban on disclosure of information and release the documents that will help us to better understand the context and rationale for your decisions of those nights.

sincerely,

Andrea Prichett

Please explain how these sections are even relevant to the request for information about what planning happened prior to the protests.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss; as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation.

However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

6255. (a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

On 12/11/14, 1:32 PM, Andrea Prichett wrote:

Dear Cpt. Upson,

In accordance with the California Public Records Act, I am requesting the Operational Plan and related emails and documents that establish BPD's planning and strategies for dealing with anticipated protests on December 6 and December 7, 2014. I am also requesting any related reports or evaluations of these operations.

Please email your response and related documents to this email address.

Thanks in advance for your cooperation,

Andrea Prichett

Lee, Katherine

From: Stines, Christian O.
Sent: Thursday, November 20, 2014 4:58 PM
To: All PRC; All Police
Subject: GO N-18_20Nov14.docx
Attachments: GO N-18_20Nov14.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Please find enclosed the newly revised General Order governing the Situational Awareness Group. This order is in effect as of November 20, 2014.

-Sgt. Stines

COMMUNICATION No. 1299

SUBJECT: SITUATIONAL AWARENESS GROUP

PURPOSE

- 1 - The purpose of this General Order is to set forth procedures regarding the collection, analysis, retention, dissemination and disposition of criminal intelligence by the Berkeley Police Department Situational Awareness Group (SAG).

Criminal intelligence shall be handled in a manner that ensures the legality and integrity of the process and safeguards the constitutional rights of individuals, groups, associations, and other legal entities.

This policy also describes the purpose and structure of the Situational Awareness Group.

POLICY

- 2 - It is the policy of the Berkeley Police Department to lawfully and appropriately collect, analyze, retain, and disseminate criminal intelligence for the purpose of carrying out efforts to protect the public and suppress criminal activities.
- 3 - All Department personnel shall adhere to guidelines established in this policy to ensure the security, confidentiality, proper maintenance and dissemination of criminal intelligence.
- 4 - The Situational Awareness Group has primary responsibility for the processing and handling of criminal intelligence.

DEFINITIONS

- 5 - The following terms pertaining to this policy are defined:
 - (a) **Criminal Intelligence**: Information compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal and/or terrorism related activity.
 - (b) **Strategic Intelligence**: Information concerning existing patterns or emerging trends of criminal activity designed to assist in criminal apprehension and crime control strategies, for both long and short-term investigative goals.
 - (c) **Gang**: An ongoing association, organization, or group of three or more persons who have a common interest and/or activity characterized by the commission of or the involvement in a pattern of criminal or delinquent conduct.
 - (d) **Gang Intelligence**: Information gathered, analyzed or disseminated of potential and validated gang members and their organizations.

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- (e) **Tactical Intelligence**: Information regarding specific criminal events that can be used immediately by officers to further a criminal investigation, plan tactical operations and provide for officer safety.
- (f) **Suspected Criminals**: Persons whose conduct and actions would lead a reasonable and prudent law enforcement officer, based on personal knowledge or information from a reliable source, to believe that the person is probably engaged, or planning to engage, in criminal activity.
- (g) **Known Criminal Offender**: Person who has been arrested for a criminal offense. A Person whose criminal conduct has been verified through personal knowledge of a member of the Department, or through a reliable information source.
- (h) **Reasonable Suspicion of Criminal Activity**: "Reasonable suspicion" is present when sufficient facts are established to give a trained law enforcement officer a particularized and objective basis to believe that there is a reasonable possibility that an individual or organization is involved in a definable criminal enterprise or activity.
- (i) **Criminal Intelligence File**: Criminal intelligence information that has been collected, processed and retained in an informational file or database, and that may be shared within the law enforcement community.
- (j) **Processing**: When a Situational Awareness Group (SAG) officer establishes, maintains or updates a criminal intelligence file or database to ensure accuracy, security and proper dissemination of criminal intelligence.
- (k) **Analysis**: When a SAG officer obtains, researches and interprets criminal information from various sources to identify, disrupt, arrest and prosecute habitual offenders.
- (l) **Dissemination**: The product of analysis can be disseminated in verbal or written form. A SAG officer exchanges criminal intelligence to other bureaus and details within the Department, along with other allied agencies that have a need to know, in an effort to work collaboratively towards a common crime suppression goal.

PROCEDURES

Situational Awareness Group Purpose

- 6 - The Situational Awareness Group will provide support to all functions of the Berkeley Police Department and maintain working relationships with surrounding allied agencies and courts in order to maximize the sharing of criminal intelligence. The mission of the Situational Awareness Group is to support criminal investigations and enhance officer safety within the Berkeley Police Department. The Situational Awareness Group will gather, analyze, retain and

* Bold Text is new.

disseminate criminal intelligence to aid patrol and investigative personnel.

Situational Awareness Group Structure

- 7 - The Situational Awareness Group is under the Command of the Operations Division Captain. The Operations Division Captain will designate an Operations Division Lieutenant to provide functional command of the SAG, along with the additional duty as the NCRIC TLO Coordinator. The Operations Division Captain will also designate an Operations Division Sergeant to serve as the SAG Sergeant who will be second in command under the SAG Lieutenant.

(a) SAG Lieutenant Duties:

- (1) Responsible for ensuring the procedures and processes of the SAG are followed regularly and reviewed at least annually.
- (2) Responsible for ensuring all SAG personnel maintain current training on Local, State and Federal standards regarding the procedures and processes of dealing with criminal intelligence information.
- (3) The administration and coordination of criminal intelligence files. The SAG Lieutenant may designate the SAG Sergeant with the responsibility of overall file coordination.
- (4) Responsible for ensuring the Operations Division Captain is informed of any criminal intelligence or SAG investigation that deals with a threat where the community, city, or any officer is at risk.

(b) SAG Sergeant Duties:

- (1) Responsible for coordinating and overseeing the entering of all criminal intelligence received and/or developed into a file or computerized information file.
- (2) Ensure group personnel attend continuing education pertaining to their group duties.
- (3) Provide periodic training to department personnel regarding areas of expertise within the group.
- (4) Maintain a file of criminal intelligence that comes into the Department. The file shall contain information received from Department sources, allied agencies, and citizens. This file shall be secure and available on a need to know basis to persons requesting the information.
- (5) Prepare a monthly report to the SAG Lieutenant regarding the status of active investigations that TLO or Gang Information Group (GIG) members are actively investigating or supporting.

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(6) See General Order N-17 for further details regarding Supervisor responsibilities.

(c) Duties of TLO and GIG Personnel:

- (1) Responsible for the collection, processing, analysis, and dissemination of criminal intelligence concerning activities within the City of Berkeley.
- (2) Review of police reports, including but not limited to Berkeley Police Department police reports, to glean information for analysis and maintain necessary notes or documentation for later processing, analysis and dissemination.
- (3) The collection, processing, analysis, entering and dissemination of information by SAG personnel shall be done in compliance with all guidelines set forth by 28 Code of Federal Regulations Part 23, and General Order C-1.
- (4) Proactively assists with investigations upon explicit request from the handling officer, Detective Bureau, Special Enforcement Unit, or other department personnel. All such requests will be reported to the SAG chain of command.

8 - The SAG is comprised of the Terrorism Liaison Group and the Gang Information Group.

- (a) Terrorism Liaison Officers (TLO) Group: TLO Officers or Sergeants will work under the supervision of the SAG Sergeant. TLO Officers have received training in the identification, handling and reporting of potential terrorism related incidents. TLO's will be available as a resource for Suspicious Activity Reports related incidents. See General Order N-17 for further details regarding TLO responsibilities.
- (b) Gang Information Group (GIG): GIG Officers or Sergeants will work under the supervision of the SAG Sergeant. Officers or Sergeants assigned to the GIG will have specialized gang knowledge and training with a particular focus in one of the identified gangs in our area. All GIG Officers will gain expertise in gang member investigations through training and on the job experience. GIG Officers will attend local and regional gang task force meetings upon approval of the SAG chain of command.

9 - Members of the Terrorism Liaison Officer Group and the Gang Information Group will be selected by the Operations Division Captain or his/her designee with final approval made by the Chief of Police. The format for the selection process of TLO or GIG Officers is also at the discretion of the Operations Division Captain.

10 - Membership in either the TLO or GIG Groups is an ancillary duty to the officer's regular assignment.

* Bold Text is new.

Criminal Intelligence Handling

- 11 - The Department shall only collect or maintain criminal intelligence concerning an individual or organization if there is reasonable suspicion that the individual or organization is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity. The existence of reasonable suspicion will be based on specific, articulable facts that will be documented in the criminal intelligence file. Criminal intelligence files shall be maintained by the SAG Lieutenant or his/her designee. **Criminal intelligence files as described in this order are separate from Confidential Reliable Informant files maintained by the Special Investigations Bureau as described in General Order D-4.**
- 12 - The SAG shall review all information received to determine the accuracy of the information and ensure that it relates to criminal conduct or activities that present a potential threat to the community prior to including this information in the criminal intelligence files.
- (a) Criminal Intelligence Files include information regarding:
- (1) Individuals who:
- i. are suspected of being or having been involved in the actual or attempted planning, organizing, financing, or commission of criminal acts, or
 - ii. are suspected of being or having been involved in criminal activities with known or suspected crime figures
- (2) Organizations, businesses, or groups that:
- i. are suspected of being or having been involved in the actual or attempted planning, organizing, or commission of criminal acts, or
 - ii. are suspected of being or having been illegally operated, controlled, financed, or infiltrated by known or suspected crime figures; or
 - iii. use illegal activities and/or enterprises as a principal means to obtain resources, support for their existence, or further their organizational goals.
- (3) No intelligence data will be gathered, collected, or maintained on religious, political, racial, ethnic, sexual, or any other constitutionally protected status or activity which does not relate to criminal conduct or suspect identification and associations with individuals, which may be of a criminal nature.

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(b) Authorized Criminal Intelligence:

(1) The Criminal Intelligence File provides for the addition, deletion, or updating of the following information:

- i. Case Number
- ii. Reporting Officer
- iii. Date of Entry
- iv. Offense Location
- v. Offense Description
- vi. Names, Addresses, Identifying Information and other Physical Descriptors
- vii. Aliases
- viii. Vehicle Information
- ix. Narrative
- x. Evidence

13 - Criminal intelligence activities performed by the Berkeley Police Department shall include:

- (a) The gathering of information from confidential informants, other reliable sources, and sources of unknown reliability.
- (b) Analyzing the value, quality, and reliability of information received.
- (c) Dissemination of the information to the appropriate Departmental personnel.
- (d) Dissemination of the information to allied law enforcement agencies.

14 - Information sources must be protected to maintain their reliability, safety, and future usefulness. All policies and procedures set forth in General Order D-4 must be adhered to.

15 - To ensure the protection of innocent persons, it is imperative that the legality and integrity of the Department's intelligence effort be continually monitored for compliance by the Operations Division Captain.

- 16 - Criminal Intelligence will be submitted to the SAG for potential inclusion into the intelligence files by the following methods:
- (a) Memorandum
 - (b) Field Interview Card
 - (c) Police Report
 - (d) E-mail
 - (e) Telephone
 - (f) Police Radio
 - (g) Verbal
- 17 - Retention and Purging of Criminal Intelligence:
- (a) Criminal intelligence may be retained for up to five (5) years for adults and two (2) years for juveniles. At that time, criminal intelligence will be purged unless new criminal intelligence has been developed establishing reasonable suspicion that the individual and/or organization continues to be involved in a definable criminal activity or enterprise.
 - (b) Criminal intelligence may be entered into temporary criminal intelligence files when there is reasonable suspicion of criminal activity, but that finding is based, in part, upon "unproven" or "unknown" sources, or where the content reliability of the information is "unknown" or "undetermined". All temporary criminal intelligence files shall be specifically designated as such and must be reviewed by SAG personnel every sixty (60) days for validity. Temporary criminal intelligence files shall be retained no longer than one (1) year. At that time, a temporary file must be either purged or converted into a permanent criminal intelligence file. All temporary files must be kept distinctly separate from the general criminal intelligence files.
 - (c) The SAG Lieutenant shall ensure out-of-date criminal intelligence is purged from the file in accordance with federal and state guidelines.
 - (d) Documents within the criminal intelligence files shall be reviewed in an on-going basis to ascertain whether a higher degree or lesser degree of document security is required and to ensure that information is released only when appropriate. Any information received and entered into any criminal intelligence file must have the source and content reliability verified.

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18 - Release of Criminal Intelligence Information:

- (a) SAG personnel shall organize and analyze criminal intelligence information received, and shall prepare and release criminal intelligence reports to various Departmental units and allied agencies on a need/right to know basis only.
- (b) Criminal intelligence may not be released if the disclosure of such information:
 - (1) Interferes with an active investigation
 - (2) Constitutes an invasion of privacy
 - (3) Discloses the identity of a confidential source
 - (4) Discloses a confidential investigation technique or procedure
 - (5) Endangers the life or safety of a law enforcement officer

19 - The Berkeley Police Department will only cooperate with outside agencies consistent with this policy, the California Attorney General's Criminal Intelligence Guidelines and Title 28 Code of Federal Regulations, Part 23. Officers will follow this policy at all times when engaged in cooperative efforts with another agency.

20 - Security Procedures:

- (a) Criminal Intelligence files shall be secured, or in the event of computer files, shall be password protected. The files and databases will be secured during off-duty hours and when SAG personnel are away from their work station.
- (b) Access to Criminal Intelligence Files for the purpose of adding, deleting, or modifying information shall be restricted to:
 - (1) SAG Personnel
 - (2) Other personnel authorized by the Chief of Police
- (c) Access to Criminal Intelligence Files for read only access is granted to:
 - (1) Operations Division Captain
 - (2) Other personnel authorized by the Operations Division Captain
- (d) Computer access to Criminal Intelligence Information shall be available only to Department employees who have been trained and have security authorization to access the Criminal Intelligence Files.

- 21 - Criminal Intelligence provided to, or developed by the SAG will be processed in the following manner:
- (a) Tips from citizens pertaining to suspected suspicious behavior will be documented and developed to the point where there is no additional investigative leads to be pursued. The results will be kept in the SAG database.
 - (b) Operations Division Officers will do preliminary investigations as prescribed in General Order C-2. If the need arises for SAG officer involvement, the SAG officer shall assist in the investigation under the supervision of the Operations Division Supervisor.
 - (c) Should the information from the preliminary investigation become immediately actionable, Operations Supervisors will ensure the correct enforcement action is taken and the appropriate chain of command notifications are made. SAG officers must immediately report criminal intelligence that relates to a current investigation to the case officer.
 - (d) Should the information from the preliminary investigation require further investigation, SAG officers will ensure the information is given to the appropriate investigative unit in the department.
 - (e) If the preliminary investigation reveals information that requires submission to the Northern California Regional Intelligence Center (NCRIC), the SAG representative will prepare the information as a Suspicious Activity Report and notify the SAG chain of command for submission to NCRIC according to guidelines set forth in General Order N-17.
 - (f) Named criminal subjects will be documented on a Berkeley Police Subject Workup Sheet which includes identifying numbers and criminal records checks. A copy of this form will be submitted to the SAG Sergeant for inclusion into the SAG database.
 - (g) In situations where an arrest is made in which the follow-up responsibility goes to the Detective Bureau, the SAG officer shall inform both the initial handling officer and the responsible detective detail regarding the information that is SAG related. The SAG officer will serve in a support role if requested.

- 22 – Gang Intelligence Officers may support gang related investigations according to the following:
- (a) GIG officers may be asked for assistance, or may offer assistance with criminal investigations which appear to be gang-related. Upon case officer approval, the GIG officer may support an investigation through sharing gang-related intelligence, preparation of predicate statements, and related activities supporting the successful investigation, charging and prosecution of gang-related crimes. GIG officers may not conduct investigations independently of the case officer.
 - (b) GIG officers tasked with writing gang enhancement predicates for crimes being investigated by the Berkeley Police Department shall do so under the supervision of the case officer's supervisor. This includes writing gang predicates for arrests later determined to be gang related. The involvement of the SAG member will be documented and retained by the SAG Lieutenant.
 - (c) In the event there is a conflict between SAG personnel and another department detail, bureau or unit in regards to case handling responsibilities, involved personnel must first attempt to resolve the conflict at the line level. If there is not an agreeable resolution, then both parties must advise their respective supervisors. SAG staff must seek remedy from a higher ranking officer in the SAG chain of command to resolve the dispute. In all cases, the case officer's Division Captain will have authority to dictate the final course of action at any level.

General

- 23 - Members of SAG will share criminal intelligence on a regular basis with the Department concerning on-going issues, threats or concerns through a departmental intelligence briefing on the Crime Forum, at Crime Analysis and Response Strategies (CARS) meetings and as needed at team briefings. Members of SAG must ensure the accuracy of the criminal intelligence shared. Members of SAG who present training courses related to their SAG duties must first seek approval from the Operations Division Captain.
- 24 - SAG personnel shall document the dissemination of any criminal intelligence to allied agencies in the Intelligence Dissemination Log maintained by the SAG Sergeant.

References: General Orders C-1, C-2, D-4 and N-17

* Bold Text is new.