

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION  
SPECIAL MEETING  
AGENDA**

**May 6, 2015  
7:00 P.M.**

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

- 1. CALL TO ORDER & ROLL CALL**
- 2. 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.)*
- 3. APPROVAL OF MINUTES**  
Regular Meeting of April 22, 2015.
- 4. CHIEF OF POLICE'S REPORT**  
Budget, staffing, training updates, and other items.
- 5. PRC OFFICER'S REPORT**  
Status of Complaints; announcements.
- 6. OLD BUSINESS (discussion and action)**
  - a. Policy investigation regarding the events of December 6, 7, and 8, 2014, and Council directive for an investigation into the events of December 6, as both are more fully identified in the regular meeting agenda of February 25, 2015; and including review of mutual aid practices and policies.
    - i) Review and discussion of relevant policies, including those of the San Francisco and Oakland Police Department.
    - ii) Other discussion and action on investigation.
- 7. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)**
  - a. Suspicious Activity Reports Subcommittee  
Proposed recommendation on revisions to General Order N-17; other updates.

## 8. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached

## 9. 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.)*

## 10. ADJOURNMENT

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### **SB 343 Disclaimer**

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

# COMMUNICATIONS FOR PRC MEETING May 6, 2015

## MINUTES

April 22, 2015 Special Meeting

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## COMMUNICATIONS

**Communication #4160** – Policies for discussion at PRC Special Meeting of May 6, 2015.

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**Communication #1299** – BPD General Order F-2: Firearms, Ammunition, and Non-lethal Weapons: Training, Qualification, and Specifications.

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**Communication #4428** – BPD Police Regulations – Chapter 4, issued May 1, 1998.

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**Communication #4428** – BPD Police Regulations – Chapter 3, issued November 26, 2012.

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**Communication #4411** – SFPD General Order 5.01 Use of Force.

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**Communication #4400** – SFPD General Order 8.03 Crowd Control.

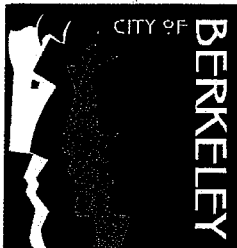
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**Communication #2350** – Memo from City Auditor, dated April 22, 2015, re Audit Planning for 2016.

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Police Review Commission (PRC)

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

**April 22, 2015  
7:00 P.M.**

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

**1. CALL TO ORDER & ROLL CALL BY ACTING CHAIR PEREZVELEZ AT 7:04 P.M.**

**Present:** Commissioner George Perezvelez  
Commissioner George Lippman  
Commissioner Ann Rogers  
Commissioner Bulmaro Vicente  
Commissioner Lowell Finley (*temporary assignment*)

**Absent:** Commissioner (Chair) Alison Bernstein, Commissioner Benjamin Bartlett, Commissioner Michael Sherman

**PRC Staff:** Byron Norris, PRC Investigator

**BPD Staff:** Chief Michael Meehan, Sergeant Craig Lindenau, Sergeant Katherine Smith

**2. APPROVAL OF AGENDA**

By consensus, the agenda was approved without changes.

**3. PUBLIC COMMENT**

There were no speakers.

**4. ELECTION OF ACTING VICE-CHAIRPERSON (discussion and action)**

Commissioner Lippman was nominated by Commissioner Finley; seconded by Commissioner Vicente. Commissioner Rogers was nominated by Commissioner Perezvelez; seconded by Commissioner Finley.

**Commissioner Rogers was elected acting Vice-Chairperson of the PRC Commissioner.**

Aye votes for Rogers: Finley, Perezvelez, and Rogers  
Aye votes for Lippman: Lippman and Vicente  
Absent: Bernstein, Bartlett, Sherman

**5. APPROVAL OF MINUTES**

**Motion to approve Regular Meeting minutes of April 8, 2015.**

Moved/Seconded (Lippman/Vicente) **Motion Carried Unanimously**  
Ayes: Finley, Lippman, Perezvelez, Rogers, and Vicente.  
Noes: None Abstain: None Absent: Bernstein, Bartlett, Sherman

**6. CHAIR'S REPORT**

Commissioner Perezvelez attended a meeting of the East Bay Chapter of the NAACP held on April 11, 2015. At the meeting, community members engaged the Berkeley Police Department about the December 2014 protests.

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

Chief Meehan announced his plan to present a report to the Commission on the December 2014 protests at its May 27, 2015 meeting, and indicated his desire to have the report provided to commissioners in advance of the meeting.

The chief thanked commissioners for their support of the police dispatchers as demonstrated by the commissioners' letter of recognition of April 12, 2015.

In regards to student disturbances, BPD staff and Berkeley High School and Berkeley Technical Academy representatives met during the past week and made a commitment to ensuring that youth remain in school.

Crime statistics show across-the-board increases, particularly in robberies and burglaries; no increases in homicide rates.

The department is currently staffed at 166 officers.

**8. PRC OFFICER'S REPORT**

There are currently 13 cases: four new complaints were filed since the last PRC meeting, two of which were filed by Spanish-speaking individuals.

On April 15, 2015, Deputy City Manager Dee Williams-Ridley, PRC Officer Lee, and Berkeley Police Association President Chris Stines engaged in a preliminary meet-and-confer regarding changes to the PRC Regulations. The City and the Association reached agreement on some of those changes.

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

- a. Policy investigation regarding the events of December 6, 7, and 8, 2014, and Council directive for an investigation into the events of December 6, as both are more fully identified in the regular meeting agenda of February 25, 2015; and including review of mutual aid practices and policies.

- i) Commissioners reported on their progress report in reviewing BPD documents and video.
- ii) Report from Investigation Steering Subcommittee:  
Commissioner Lippman, who was elected subcommittee chair, introduced the subcommittee's recommendations for an Investigation Plan, Timeline, and Commission Questions to the Police Chief.

**Motion to approve the subcommittee's recommendations for a Policy Investigation Plan as amended by the Commission (see Attachment 1):**

Moved/Seconded (Finley/Rogers) **Motion Carried Unanimously**

Ayes: Finley, Lippman, Perezvelez, Rogers, and Vicente.

Noes: None Abstain: None Absent: Bernstein, Bartlett, Sherman

**Motion to approve the subcommittee's recommendations for a Policy Investigation Timeline with tentative dates as amended by the Commission (see Attachment 2):**

Moved/Seconded (Finley/Rogers) **Motion Carried Unanimously**

Ayes: Finley, Lippman, Perezvelez, Rogers, and Vicente.

Noes: None Abstain: None Absent: Bernstein, Bartlett, Sherman

**By consensus, the commission agreed to: 1) hold multiple special meetings between May 6 and July 15, as reflected in the Investigation Chronology; 2) to clear the regular and meeting agendas of all items, except emergency items and subcommittee reports to focus on the policy investigation; 3) and to have staff communicate to Chief Meehan its urgent desire for him to be prepared to answer commissioners' questions at its May 27, 2015 meeting.**

**Motion to approve the subcommittee's Questions for the Police Chief Regarding the December protests as amended by the Commission (see Attachment 3):**

Moved/Seconded (Finley/Rogers) **Motion Carried Unanimously**

Ayes: Finley, Lippman, Perezvelez, Rogers, and Vicente.

Noes: None Abstain: None Absent: Bernstein, Bartlett, Sherman

- b. Discuss City Attorney opinion re Disclosure of BPD Internal Affairs' Records to the PRC.

**By consensus, commissioners agreed to take no further action on this item.**

**10. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)**

a. Suspicious Activity Reports Subcommittee

Subcommittee Chair Bulmaro reported that the subcommittee is reviewing the issues of redacted SAR reports, and that the next subcommittee meeting is scheduled for May 5, 2015, at 6pm.

b. Regulations Subcommittee  
No report.

c. Transgender General Order Subcommittee  
No report.

**11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS**

None.

**12. PUBLIC COMMENT**

There were no speakers.

**13. ADJOURNMENT**

**Motion to adjourn the meeting**

Moved/Seconded (Finley/Perezvelez) **Motion Carried Unanimously**

Ayes: Finley, Lippman, Perezvelez, Rogers, and Vicente.

Noes: None Abstain: None Absent: Bernstein, Bartlett, Sherman

Meeting was adjourned at 9:22 p.m.



**Berkeley Police Review Commission  
BPD Response to December 2014 Protests  
\* POLICY INVESTIGATION PLAN \***

**1. Review All Relevant Policies**

- General Order F-2: Firearms, Ammunition, and Non-Lethal Weapons: Training, Qualification, and Specifications
- Use of Force
- General Order U-2: Crowd Management and Control
- General Order C-64: Mutual Aid Agreements with Law Enforcement Agencies
- General Order M-2: Public/Media Relations
- General Order P-29: Uniform and Equipment Regulations
- Police Regulations Chapter 3: Duties and Responsibilities of the Ranks and Department Organization
- Police Regulations Chapter 4: San Francisco and Oakland Police Departments
- Other Policies:

**2. Review All Relevant Evidence**

- BPD videos
- BPD internal report
- BPD physical records
- Review or transcribe witness statements at Council meetings
- Review or transcribe witness statements at PRC meetings
- Review other video clips
- Obtain other witness statements

**3. Identify Policy Issues**

**4. Adopt Findings and Recommendations**

**5. Submit Report to City Council**

Adopted 4/22/2015



**Berkeley Police Review Commission (PRC)  
 BPD Response to December 6, 2014 Protests  
 \* POLICY INVESTIGATION TIMELINE \***

<b>ACTION TO BE COMPLETED</b>	<b>RESPONSIBLE PARTY</b>	<b>DUE DATE (PRC Meeting)</b>
Draft Policy Investigation Plan	Investigation Subcommittee	April 22
Adopt Investigation Plan Adopt Formal Questions for Police Chief	Commission	May 6 (Special Meeting)
<b>Review &amp; Discuss All Relevant Policies</b> (including San Francisco's and Oakland's)	Commission	May 13
<b>Review &amp; Discuss all Relevant Evidence</b> (including video)	Commission	May 20 (Special Meeting)
Review of BPD Report Internal Investigative Report	Individual Commissioners	May 27
Presentation of BPD Internal Investigative Report to Commission	Police Chief	
Questions to Chief (including questions on General Orders, staging areas and demonstrations)	Commission	

ATTACHMENT 2 -to PRC Minutes of April 22, 2015

<b>ACTION TO BE COMPLETED</b>	<b>RESPONSIBLE PARTY</b>	<b>DUE DATE (PRC Meeting)</b>
<b>Identify Policy Issues</b>	Commission	June 3 (Special Meeting)
Discuss Policy Recommendations	Commission	June 10
Adopt Policy Findings & Recommendations	Commission	June 17 (Special Meeting)
Begin Drafting PRC Report	Commission Staff	June 24
Continue Writing PRC Report	Commission Staff	July 8
Review PRC Draft Report	Commission	July 15 (Special Meeting)
<b>Adopt PRC Report &amp; Recommendations (session 1)</b>	Commission	July 22
<b>Adopt PRC Report &amp; Recommendations (session 2)</b>	Commission	July 29 (Special Meeting)
<b>Submit PRC Report &amp; Recommendations to City Council</b>	Commission Staff	August 10 (not a meeting date)

**Berkeley Police Review Commission  
BPD Response to December 6, 2014 Protests  
\* POLICY QUESTIONS FOR POLICE CHIEF \***

(Note: portions of quotes are italicized for emphasis.)

**I. Factual questions about police response on December 6, 2014, through the early morning of December 7.**

>> *"Less-than-lethal" (or less-lethal) force.*

1. Did police officers fire less-than-lethal projectiles such as sponge rounds, flash grenades, pyrotechnic devices, beanbags, or other munitions into a Berkeley crowd? If so:
  - a. What munitions were used when, where, how many and by which agency?
  - b. Who authorized the use of these weapons?
  - c. Does BPD policy require that use of less lethal munitions be authorized by a certain level commander?
  - d. What was the justification and goal for each such use of force? Were less lethal weapons used for crowd dispersal at any point? If so, why?
  - e. Was medical attention provided to persons who were shot with less lethal munitions, and what injuries resulted from these shootings?
  
2. Were less-than-lethal projectiles deployed in violation of the following provision of General Order U-2 (Use of Force) or any other Department policies?  
"16 - Less-than-lethal force shall only be used in the following situations, and, where feasible, after some warning has been given:
  - (a) When an act of violence is occurring, or is about to occur;
  - (b) To overcome the resistance of a physically combative person, or to gain compliance from a non-compliant person reasonably believed to be armed;
  - (c) To deter a person who is reasonably believed to be armed and is threatening to harm him-/herself, another person, or an officer; or,
  - (d) To resolve a potentially violent incident not otherwise described above."

>> *Baton use.*

3. Who authorized the use of batons on December 6? What were the circumstances under which officers were authorized to make contact with their batons?
  
4. How many over-the-head baton strikes were delivered on December 6?
  - a. What agency conducted these strikes and under what authorization?
  - b. What was the justification and goal of each such use of force?
  - c. Was medical attention provided to persons who were shot with less lethal munitions, and what injuries resulted from these shootings?
  - d. Does the Department consider a baton strike to the head to be deadly force?
  - e. Are you aware that several demonstrators were hit in the head with batons? If so, is this a component of your investigation?
  - f. Were there baton strikes on Dec. 6 that did not comply with Department policy?

>> *Tear gas and other chemical agents.*

5. Describe the use of chemical agents in the police response:
  - a. What chemical agent devices were used when, where, how many, and by which agencies?
  - b. Who authorized each such use of chemical agents?
  - c. Does BPD policy require that use of chemical agents be authorized by a certain level commander?
  - d. What was the specific justification and goal for each such use?
  - e. Given the known health risks of chemical agents (see OPD policy below), why and how was the decision made to use tear gas? What was the policing goal of this technique? Who made this decision? What other techniques were attempted to meet the policing goal before the tear gas option was selected?
  - f. Was audible warning of imminent use of tear gas given, and reasonable time given to the crowd, media, and observers to disperse?
  - g. Was tear gas deployed against civilians who were running away from police, for example southward on Telegraph? If so, what was the justification for this deployment?
  - h. Did BPD have adequate medical personnel on hand to decontaminate and screen civilians affected by tear gas? Did anyone require medical treatment, and did they receive it?

>> *Media injuries.*

6. Were media representatives struck by police officers on December 6, as alleged in a letter from the Society of Professional Journalists? <sup>1</sup> If so:
  - a. Were any struck on the head with batons? What other types of force were used on journalists? What was the nature of their injuries, and was medical attention provided?
  - b. What agency conducted these strikes? What individual from what agency authorized these strikes? What was the justification for each such use of force?
  - c. What steps are being taken to prevent a recurrence, even in a chaotic situation?

>> *Mutual Aid.*

7. What agencies deployed armored vehicles on December 6?
8. Did BPD or City of Berkeley management affirmatively authorize the deployment of armored vehicles? If so what was the goal? Were responding agencies informed of concerns by Berkeley representatives regarding this deployment?
9. At what point were City management or elected officials informed of the deployment of armored vehicles?

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<sup>1</sup> "OPEN LETTER: SPJ NORCAL RESPONDS TO REPORTS OF POLICE FORCE USED ON JOURNALISTS IN BERKELEY," Society of Professional Journalists-Northern California, <http://www.spjnorcal.org/new/2014/12/08/open-letter-spj-norcal-responds-to-reports-of-police-force-used-on-journalists-in-berkeley/>

10. Did BPD require outside agencies to account for the weapons brought to Berkeley? Did it require outside agencies to submit use of force reports, munitions inventories, and chemical agent inventories? Has it received such reports from all outside agencies who provided mutual aid? Are you satisfied with the reporting by the mutual aid agencies?
11. Did BPD or city management convey concerns to other departments or governments about other departments' practices, including but not limited to use of clubs or less-lethal/less-than-lethal projectiles or chemical agents? Has any follow-up action been taken by the City of Berkeley or the BPD?
12. Have other departments registered concerns with Berkeley over BPD conduct?

>> *Other Crowd Control tactics.*

13. With regard to the "Get'um running, stretch out the crowd" quote, what tactic is it meant to convey?  
Was the planned intent of crowd management, from the beginning, to break up assemblies whether or not they were peaceful?  
Is such an approach standard practice for protest assemblies?

*Background to Question 13:*

The *Incident Action Plan* for 12/6/2014, created before the street actions began, states under "Regarding Tactics":

"Get'um running! Stretch the crowd out so they are not a mass, but individuals." [Later in this document the protection of First Amendment Rights is stressed, specifically the right to assemble. The cited quote, however, appears at the top of the document without qualification as to illegal activity.]

The following dispatches are taken from the document "*Mater (sic) Case Report - 71905 Dec 6*":

23:12 "Peaceful now, will need to move them with skirmish line."

00:21:07 "They are not moving, if you want us to force, advise"

00:21:12 "Force the issue, keep them moving south"

Video footage appears to show use of batons on civilians who were non-violent, in pursuit of pushing them south on Telegraph.

14. Were dispersal orders given, and if so, when and where, what was the basis for each such dispersal order, and who authorized it?
15. When each dispersal order was given, how much time was allowed for crowd members to disperse before force was used, and was a feasible route specified for egress? Was

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force used for crowd dispersal, when, where and what type? If so, why was force used for dispersal, as opposed to arrests for violation of dispersal orders, or arrests for individual crimes?

16. Had crowd members committed any unlawful acts before the first use of force on Dec. 6, and if so, what unlawful acts and how many people did so? Was force used on people who had not done anything unlawful?
17. How many people were arrested on Dec. 6, and for what? How many of these arrestees were prosecuted and what was the outcome?
18. Why were demonstrators forced to move south on Telegraph on Dec. 6? Was the intention to disperse demonstrators across the city border to Oakland? Was this pre-planned? Who authorized this? Has Oakland expressed concerns to Berkeley in this regard?
19. Subsequent to the events of December 6, what City management or elected official direction was given to the BPD to modify crowd control behavior on following days?
  - o Specify what direction was given, including tear gas deployment, less-than-lethal munitions, baton use, mutual aid, other aspects of engagement with generally peaceful protest, and engagement with destructive behavior.
  - o Please supply written documentation of such direction and of any BPD management interpretation to officers.

## II. Questions about BPD policy.

>> *Tear gas.*

For reference purposes, the *Oakland Crowd Control and Management Policy* states:<sup>2</sup>

"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.

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<sup>2</sup> "OPD Crowd Control and Crowd Management," 2013, <http://www.scribd.com/doc/190992131/OPD-Crowd-Control-Policy-4-Oct-13#scribd>



c. Members shall use the *minimum amount of chemical agent* necessary to obtain compliance in accordance with Department General Order K-3, USE OF FORCE.

d. Indirect delivery or crowd dispersal spray and/or discharge of a chemical agent shall not be used in demonstrations or other crowd events without the approval of the Incident Commander. Only under exigent circumstances may a supervisor or commander authorize the immediate use of chemical agents

The Incident Commander shall be notified immediately when an exigent use of chemical agents has occurred.

e. Chemical agents shall not be used for crowd control or dispersal without first giving *audible warning of their imminent use and giving reasonable time* to the crowd, media, and observers to disperse.

f. If chemical agents are contemplated in crowd situations, OPD shall *have medical personnel on site prior to their use* and shall make provision for decontamination and medical screening to those persons affected by the chemical agent(s)."

20. Is it your opinion that there is room for improvement and changes to BPD's policy on tear gas?

Are there any elements in Oakland's policy that you think would be a good model for revisions to BPD's policy on tear gas?

>> *Mutual Aid.*

The *California Law Enforcement Mutual Aid Plan* (LEMA) states (page 18):

"Unless otherwise expressly provided, or later agreed upon, the responsible local law enforcement official of the jurisdiction *requesting mutual aid shall remain in charge*. It is operationally essential that the local law enforcement official coordinate all actions with responding law enforcement agencies to ensure an effective application of forces (8618 GC)."

"The agency requesting mutual aid is responsible for the following:

1. Identifying numbers and types of mutual aid resources requested.
2. Identifying specific missions for mutual aid responder tasking.
3. Advising responders what equipment they should bring...."

In addition, the Berkeley City Council adopted the following *mutual aid policy in 1992* upon recommendation by the PRC:<sup>3</sup>

Recommendations 9 and 10: "That the BPD take *direct supervisory responsibility for all mutual aid units* deployed to the maximum amount allowable by law...advise such units that *they will be expected to comply with [BPD] regulations and policies,*" and that if there are conflicts with other agencies over policies which cannot be resolved, "BPD reserves the right to *elect not to deploy*

<sup>3</sup> Berkeley City Council records, <http://www.ci.berkeley.ca.us/citycouncil/2003citycouncil/packet/090903/2003-09-09%20Item%2054-57.pdf>

*those units affected...where the City of Berkeley has adopted more stringent standards, those will take precedence over county-wide standards within Berkeley."*

For reference, the *Oakland Crowd Control and Management Policy* states:

"In addition, the IC shall be responsible for ensuring to the extent possible that mutual aid agencies:

1. Are briefed and in agreement with OPD's Unity of Command structure under which *only OPD Commanders may authorize the use of less lethal munitions* for crowd control and dispersal;
2. Are briefed on OPD's policy on prohibited weapons and force;
3. *Do not bring or use any weapons or force that is prohibited* under OPD's policy;
4. Are provided a copy of OPD's Crowd Control Policy and Use of Force policies;
5. *Are not assigned to front-line positions or used for crowd intervention, control or dispersal unless there is a public safety emergency"*

**21.** Does BPD, when hosting outside agencies in a mutual aid event, advise responders what equipment they should bring, directly supervise all mutual aid units, advise responding units to comply with BPD policies?

**22.** 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 deploy or invite such a department back for future mutual aid events?

**23.** Are the 1992 policies included in BPD General Orders such as M-02 Mutual Aid?

>> *"Less-than-lethal" (or less-lethal) force:*

The Council adopted the following *"non-lethal" policy* in 1992:

Recommendation 7: "Non-lethal munitions may be used where violent criminal acts are being committed, which pose a clear and present danger to officers and others, and for which no other reasonable non-lethal force alternative is available....The *only approved munitions* are foam rubber multiple baton rounds discharged from 37mm launchers."

For reference, the *Oakland Crowd Control and Management Policy* states:

"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 him or herself, officers, or the general public or who is engaging in *substantial destruction of property which creates an immediate 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.”

24. Does BPD have a similar policy banning use of less-lethal or less-than lethal weapons against a crowd? In other words, do BPD policies require a "clear shot" at a specific individual for less-lethal or less-than-lethal munitions?

25. Does BPD employ non-lethal, less-lethal, or less-than-lethal munitions other than the foam rubber rounds described in the 1992 policy?

>> *Baton use.*

**The Oakland Crowd Control and Management Policy states:**

“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 immediate 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.”

26. Does BPD have a similar policy restricting baton use?

27. Are over-the-head baton strikes permitted or banned to BPD officers?

>> *Establishing contact and communication with demonstration planners.*

**The Oakland Crowd Control and Management Policy states:**

“OPD shall make every effort to follow the principle of establishing contact and communication with the event or demonstration planners.

Stakeholder involvement is critical to the overall success of managing crowd events and/or civil disobedience during demonstrations. If knowledge exists that a demonstration or crowd event may happen or will happen, OPD shall proactively and repeatedly make every reasonable attempt to establish and to maintain communication and cooperation with representatives or leaders of the demonstration or crowd event, without regard to whether a permit has been applied for or issued

When planning for and responding to demonstrations, crowd events, and civil disobedience situations, Incident Commanders assigned to these incidents shall facilitate the involvement of stakeholders. If and when communication is established, personnel shall make every effort to identify representatives or leaders of the event and identify a primary police liaison. The primary police liaison should be requested to be in continuous contact with an assigned police representative, preferably the Incident Commander or someone with continuous access to the Incident Commander.

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A group's failure to respond to OPD attempts to establish communication and cooperation prior to a demonstration shall not mitigate OPD's efforts to *establish liaison and positive communication with the group as early as possible at the scene of the demonstration or crowd event.*

Spontaneous demonstrations or crowd events, which occur without prior planning and/or without prior notice to the police, present less opportunity for OPD planning and prevention efforts. Nonetheless, the same policies and regulations concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder apply to a spontaneous demonstration or crowd event situation as to a planned demonstration or crowd event. Incident Commanders *shall involve representatives of demonstrators or crowd events* when planning and responding to both *planned and spontaneous events.*"

**28. What policies does the BPD have with respect to engaging demonstrators to maintain communication and cooperation?**

>> *Protect innocent persons from force and arrests.*

The *Oakland Crowd Control and Management Policy* states:

"It is essential to recognize that all members of a crowd of demonstrators are not the same.

Even when some members of a crowd engage in violence or destruction of property, other members of the crowd are not participating in those acts. Once some members of a crowd become violent, the situation often turns chaotic, and many individuals in the crowd who do not want to participate in the violent or destructive acts may be blocked from leaving the scene because the crowd is so large or because they are afraid they will move into a position of heightened danger.

This understanding does not mean OPD cannot take enforcement action against the crowd as permitted under this policy, but OPD shall seek to minimize the risk that force and arrests may be directed at innocent persons."

**29. Does the BPD have a policy to minimize the risk that force and arrests may be directed at innocent persons?**

End.

**Policies for discussion at PRC Special Meeting of May 6, 2015**  
 (Berkeley Police Department policies unless noted otherwise)

<b>Policy</b>	<b>Title</b>	<b>Where to find</b>
General Order F-2	Firearms, Ammunition, and Non-Lethal Weapons: Training, Qualification, and Specifications	Attached
General Order U-2	Use of Force	Agenda packet of January 28 or February 4 (identical packets), pp. 25-48
General Order C-64	Crowd Management and Control	
General Order M-2	Mutual Aid Agreements with Law Enforcement Agencies	
BPD MOU binder item #2.13	California Office of Emergency Services Law Enforcement Mutual Aid (LEMA) Plan and Law Enforcement Guide for Emergency Operations (excerpted)	Distributed at February 25 Meeting
General Order P-29	Public/Media Relations	Distributed at February 4 Meeting
Police Regulations Chapter 3	Uniform and Equipment Regulations	Attached
Police Regulations Chapter 4	Duties and Responsibilities of the Ranks and Department Organization	Attached
Oakland Police Department Training Bulletin III-G	Crowd Control and Crowd Management Policy (and cover memo dated 04 Oct 13)	Agenda packet of January 28 or February 4, pp. 68-93
San Francisco Police Department General Order 5.01	Use of Force	Attached
San Francisco Police Department General Order 8.03	Crowd Control	Attached
Other policies		<i>To be delivered</i>

COMMUNICATION No. 4160



BERKELEY POLICE DEPARTMENT

DATE ISSUED: September 16, 2004

GENERAL ORDER F-2

SUBJECT: FIREARMS, AMMUNITION, AND NON-LETHAL WEAPONS:  
TRAINING, QUALIFICATION, AND SPECIFICATIONS

PURPOSE

- 1 - The purpose of this General Order is to establish procedures for training, qualification, and specifications for firearms, ammunition and non-lethal weapons.

POLICY

- 2 - All employees are expected to follow rules, regulations, and procedures regarding weapons specifications, qualification, and training.

PROCEDURES

- 3 - Lethal and Non-lethal weapons training is mandatory for assigned employees.
  - (a) Each Supervisor shall ensure that employees under his/her supervision attend training sessions as scheduled.

TRAINING AND QUALIFICATION

- 4 - The guidelines for training and qualification are as follows:
  - (a) Firearms and Ammunition:
    - (1) **While on-duty, sworn officers shall carry only firearms authorized by the Berkeley Police Department.**
    - (2) **Authorized firearms, including Optional Duty Pistols (ODP's) must be registered and on file with the Firearms Training Unit.**
    - (3) Authorized firearms are those with which the officer has qualified, received departmental training in safe usage, and comply with departmental specifications.
    - (4) The Personnel and Training Bureau shall schedule regular training and qualification sessions for duty, off-duty, auxiliary and specialized firearms, which will be evaluated on a pass/remediate basis. Officers, at minimum, shall qualify with firearms as follows:
      - (a) **Barricaded Subject/Hostage Negotiation Team, firearms, quarterly. Qualification during HNT training sessions may suffice for departmental qualifications, providing that qualification takes place within the same quarter.**

\*Highlighted text is new.

COMMUNICATION No. 1299

**BERKELEY POLICE DEPARTMENT**

**DATE ISSUED: September 16, 2004**

**GENERAL ORDER F-2**

- (b) On-duty service **pistol, shotgun, and patrol rifle if assigned, semi-annually.**
  - (c) Off-duty and auxiliary firearms, annually.
- (5) Any officer who fails to attend firearms qualifications, or who fails to achieve the qualifying standard with their duty firearm in accordance with departmental testing procedures, shall be retested until he/she qualifies. As noted in MOU Section 45.3, "Employees who are not able to achieve the minimum standard within a reasonable period of time will be immediately assigned to work on an intensive basis with range masters who will evaluate the severity of the problem. Consistent inability to meet the standard may be cause for termination."
- a) Per **Departmental standards**, the FTU will furnish remedial measures and an employee failing to demonstrate proficiency with his/her weapon will not return to duty until such time as proficiency is demonstrated and documented.
- (6) An officer shall not be permitted to carry any off-duty or auxiliary firearm with which he/she has not qualified with at least annually.
- (7) An officer who has taken an extended leave, (6 months or more) or suffered an illness or injury that could affect his/her firearms skills will be required to re-qualify before returning to enforcement duties.
- (b) Non-lethal Weapons:
- (1) The following non-lethal weapons are authorized:
    - (a) **29" baton**
    - (b) 36" long baton (CMT only)
    - (c) 26" expandable baton
    - (d) Aerosol Gas Dispenser (Oleoresin Capsicum)

**FIREARMS SPECIFICATIONS**

- 5 - The following Departmental specifications regulate firearms for sworn personnel for uniform or plainclothes duty wear.
- (a) The authorized service pistol shall be the Smith and Wesson self-loading double action pistol in .40 caliber with a minimum barrel length of 4", in blue or stainless steel finish.

\*Highlighted text is new.



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- (b) **The authorized Optional Duty Pistols (ODP) shall be Heckler & Koch, Glock and Sigarms, in .40 and .45 caliber only, with a minimum barrel length of 3 ½ ", and a maximum barrel length or 5". Double action pistols shall be holstered in the double action mode, with the hammer down.**
    - (1) **The authorized magazine capacity for the ODP shall be not less than a total of seven (7) rounds in a factory supplied magazine. Only Departmentally issued duty ammunition shall be carried.**
    - (2) **Trigger pulls shall be maintained according to manufacturer specifications.**
    - (3) **No laser sighting devices shall be used unless expressly authorized in writing, by the Chief of Police.**
    - (4) **No weapons with a ported slide, barrel or compensator shall be authorized.**
    - (5) **All manufacturers approved and installed safety devices shall be maintained according to manufacturer recommendations and/or specifications.**
  - (c) **The modification of any pistol, other than changes in sights or stocks/grips, is expressly prohibited. Removable tactical lights are not considered modifications.**
  - (d) **The Firearms Training Unit will maintain, on the appropriate form, a record of each weapon approved for use.**
  - (e) **Firearms Training Unit Armorers shall inspect and approve all pistols intended for duty for mechanical functioning within specifications prior to deployment. Should a pistol be deemed "unsafe," it will be barred from deployment, until the cause of the unsafe pistol has been remedied, and rechecked and deemed "safe" by the armorers.**
- 6 - Holsters, ammunition carriers and necessary auxiliary equipment for ODP's must be supplied by the officer, be specifically made for the pistol in use, be of comparable quality to the Departmentally issued holsters, and be approved by the Department prior to deployment.**
- (a) **Approved holsters shall be manufactured with at least a primary and a secondary retention device.**
  - (b) **Unless expressly authorized, holsters for uniform patrol shall be of a black basket weave design and shall match the remainder of an officer's duty belt.**

**\*Highlighted text is new.**

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- 7 - Officers shall supply magazine pouches for ODP's. (Unless current leather gear accommodates the ODP magazines) Pouches must be of a black basket weave design, be of comparable quality to the Departmentally issued magazine pouches, and be approved by the Department prior to deployment.
- 8 - In the event an ODP malfunctions or is otherwise unavailable for use, the following options for ODP Replacement are as follows:
  - (a) Use another officer's departmentally registered ODP of the same make, model and caliber.
  - (b) Use a second pistol owned by the officer of the same make, model and caliber and registered with the Department.
  - (c) Obtain a "loaner" pistol from the Department, of the same make, model and caliber.
  - (d) If the same make, model and caliber of pistol is not available, the officer shall qualify with another ODP or Departmentally issued firearm.
- 9 - Patrol Rifle
  - (a) The authorized Patrol Rifle is an AR-15 style semi-automatic rifle in 5.56mm or .223 caliber issued by the department to selected officers assigned to Patrol or SEU.

### OFF-DUTY FIREARMS

- 10 - An "off-duty firearm" is defined as any concealable primary handgun normally carried by the sworn officer when not officially in an "on-duty" status.

### AUXILIARY FIREARMS

- 11 - Approval to carry an auxiliary (secondary) weapon is governed by Police Regulation 319. Employees on duty shall not carry auxiliary weapons, either on their person or in vehicles, without written approval of the Administrative Division Captain.

Auxiliary weapons shall meet the following criteria and be inspected by a Firearms Training Unit instructor before being approved for use.

- (a) Weapon and Ammunition:
  - (1) The firearm and ammunition must be of commercial manufacture. The FTU will record the manufacturer, caliber and serial number of the weapon on the back of the firearms training record card.

\*Highlighted text is new.

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- (2) The caliber of the auxiliary weapon shall not be greater than .45 caliber.
- (b) Reliability and Quality:
  - (1) An FTU instructor will operate the firearm to ascertain any observable defects.
  - (2) An FTU instructor will conduct a routine service inspection of the firearm.
  - (3) The officer will, when possible, field strip the firearm for a detailed inspection.
- (c) Method of Carry:
  - (1) The weapon shall be held secure and completely hidden in a short-sleeved uniform.
- (d) The officer shall complete a qualification exercise, as provided by the FTU, which will verify security of the weapon's method of carry.
- (e) The auxiliary weapon application shall be routed to the Administrative Division Captain via the officer's Division Commander for final approval upon successful completion of the qualification exercise.

### AMMUNITION

- 12 - The following Departmental specifications regulate service ammunition for sworn personnel:
- (a) The authorized primary service handgun cartridge shall be of a controlled expansion bullet type (hollow point) that will release the greatest amount of kinetic energy within the target, and reduce the potential for over-penetration and ricochet.
    - (1) The reference cartridge for the semi-automatic pistols shall be those issued by and approved for use by the FTU, and authorized by the Chief of Police.
    - (2) Ammunition for the auxiliary pistol shall conform to the bullet type of the service handgun cartridge.
    - (3) Ammunition authorized for service use in the 12-gauge shotgun is the 9 or 12 pellet Buckshot and Rifled Slug cartridges.

\*Highlighted text is new.

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- (4) **Ammunition authorized for service use for the Patrol Rifle is the 5.56mm or .223 caliber cartridge, provided by the FTU and authorized by the Department prior to deployment.**
- (5) The use of any other ammunition while on-duty is strictly prohibited.

References: Berkeley Police Association MOU  
General Order U-2  
Police Regulations 318, 320, 321, 322, 323, 324 and 330  
Uniform Equipment Manual  
Departmental Order of 10/31/03, Patrol Rifle and Deployment Policy

**\*Highlighted text is new.**

DATE ISSUED: May 1, 1998

POLICE REGULATIONS – CHAPTER 4

DUTIES AND RESPONSIBILITIES OF THE RANKS AND DEPARTMENT  
ORGANIZATION

PR 400 General Responsibilities of Officers and Employees: It shall be the duty and responsibility of each officer and employee to fulfill to the greatest extent possible the functions of the Police Department and the bureau, division or unit to which one is assigned and to perform any duty assigned by a superior officer. **An officer's and employee's work performance shall be in keeping with the focus of the Department's Mission Statement and the concept of Community Involved Policing. The main goals of the Quality Service, Community Engagement and Problem Solving shall be the foundation upon which all action is based.\***

PR 401 Individual Responsibilities of Officers and Employees: Each officer and employee of the Department is individually responsible for:

- a. The proper execution of assigned duties.
- b. The prevention of crime.
- c. The suppression of crime.
- d. The enforcement of laws.
- e. The arrest of offenders, depending upon the nature of his/her specific assignment.
- f. Maintenance of proper public relations.
- g. Maintenance of discipline.
- h. Adherence to rules, regulations, orders and Departmental procedures.
- i. Enforcement of rules, regulations, orders and procedures among subordinates, depending upon the nature of his/her specific assignment.
- j. Promptly reporting through channels developments that may adversely affect public or official relations.
- k. Initiating police action when necessary.
- l. The proper care and use of Departmental equipment, supplies and facilities.

\*Highlighted text is new

DATE ISSUED: May 1, 1998

POLICE REGULATIONS – CHAPTER 4

PR 402

Responsibilities of Supervisory Officers and Supervisors: Each supervisory officer and supervisor, in addition to the general and individual responsibilities of each officer and employee, shall be responsible for:

- a. The detailed inspection of all activities of the employees under one's supervision.
- b. An intimate knowledge of the duties and responsibilities of one's subordinates.
- c. Proper performance of duties and adherence to policies and procedures by each member of one's unit.
- d. The enforcement of rules and regulations among members of one's unit.
- e. Working as closely with one's subordinates as time and area permit.
- f. Providing leadership in carrying out police activities.
- g. Coordination of effort when more than one employee is involved and the proper assignment of duties to each person.
- h. Functional supervision of employees not directly supervised.
- i. Detailed training on the job as necessary to insure efficient operations by one's subordinates.
- j. The effective operation of one's unit.
- k. Providing command to members of one's division as necessary in the absence of divisional command or a ranking officer.

PR 403

Responsibilities of Commanding Officers: Each Commanding Officer, in addition to the general and individual responsibilities of each officer, employee, supervisory officer and supervisor, shall be held responsible for:

- a. The proper direction and control of personnel under one's command.
- b. The maintenance of discipline among members of one's command.
- c. Proper performance of duties and adherence to policies and procedures by each member of one's command.

\*Highlighted text is new

- d. The enforcement of rules and regulations among members of one's command.
- e. Providing supervision and command to members of other divisions as necessary.
- f. The proper discharge of detailed divisional responsibilities.
- g. The proper condition and maintenance of quarters assigned to one's command.
- h. The proper maintenance, use and operation of equipment, supplies and materials assigned for divisional use.
- i. The prompt initiation of employee, supervisory, or administrative action when necessary to fulfill a functional responsibility of the Department when such action is not otherwise being taken.
- j. The effective operation of one's division or unit.
- k. Providing for continuation of command and/or supervision in one's absence.
- l. Preparation of correspondence pertaining to activities of the division.
- m. Complete Duty Command assignments as scheduled.

PR 404

Functional Responsibilities of the Police Department: The functions of the Police Department are the maintenance of law and order in the City; the enforcement in the City of all laws of the United States and the State of California, and all Ordinances of the City, except when such enforcement is by such law, Ordinance, or the Charter of the City made the responsibility of a state or federal agency or officer; the administration of the City jail and the care, custody and control of prisoners; the performance of such other functions as may be assigned by the City Manager or prescribed by Ordinance of the Council or by applicable State law.

Section 2.64.020 of the Berkeley Municipal Code provides that "...The Chief of Police, subject to the approval of the City Manager, shall organize and maintain such divisions in said department as the operations may in his judgment require."

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## POLICE REGULATIONS – CHAPTER 4

In conformity with this legislation, the Department is divided into five major units, with sub-units as indicated below, all of which are responsible to the Chief of Police.

1. Office of the Chief
  - a. Chief of Police
  - b. Internal Affairs Bureau
2. Administrative Division
  - a. Accreditation Program
  - b. Bureau of Inspection and Control
  - c. Personnel and Training
    - Underwater Search & Recovery Team (US & R)
3. Patrol Division
  - a. Barricaded Subject/Hostage Negotiation Team
  - b. Community Services Bureau  
(transferred to Patrol Division 6/21/92)
  - c. Crime Analysis/Violence Suppression Unit
  - d. Crowd Management Team
  - e. Field Training Program
  - f. Foot Patrol
  - g. Patrol Teams
  - h. Police Reserves
  - i. Special Enforcement Unit
  - j. Telephone Report Team
4. Support Services Division
  - a. Detective Bureau
    1. Homicide

\*Highlighted text is new



2. Property Crimes
  - a. Auto Theft
  - b. Forgery/Fraud
3. Robbery
4. Sex Crimes
5. Youth Services
- b. Service Bureau
  1. Identification Unit
  2. Information Management
  3. Jail Operations
  4. Property Unit
  5. Public Safety Communications Center
  6. Records Unit
  7. Report Review
    - Data Entry Operations
    - Report Transcribing
  8. Warrant Detail
  9. Telecommunications Center
5. Traffic Division (established 7/1/90)
  - a. Traffic Bureau
    - Traffic Enforcement Unit
    - Traffic Analyst
    - Commercial Enforcement/Tow Officer
    - Berkeley Junior Traffic Police/Adult Crossing Guards

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## POLICE REGULATIONS – CHAPTER 4

- b. Parking Bureau
  - Parking Enforcement
  - Meter Repair & Maintenance
  - City Garages
  - Center Street Garage
  - Berkeley Way Lot
  - Oxford/Fulton Lot
  - Sather Gate Garage
  - Elmwood Lot

PR 405 OFFICE OF THE CHIEF

Administered by the Chief of Police

a. Chief of Police

Function: To set objectives for the Department; make plans; develop procedures; organize and reorganize; provide for staffing and equipping the Department; adopt rules and regulations for the administration, discipline, equipment and uniforms of the members and officers of the Department, fixing powers and duties, and prescribing the penalties for violations of any such rules and regulations, and providing for their enforcement; inspect, assign and promote personnel; coordinate efforts and relationships, establish policies, report on Department accomplishments; maintain good public, employee and official relations; develop the Departmental budget; provide general direction for the Department; and keep the City Manager informed of incidents or developments that may adversely affect public or official relations.

b. Internal Affairs Bureau

Administered by two Sergeants who are directly responsible to the Chief of Police.

Function: To investigate citizen complaints alleging misconduct by Police Department personnel and to investigate internally originated personnel complaints as assigned by the Chief of Police; coordinate the Department's Board of Review process; assist the City Attorney's Office in the investigation of civil claims against the

\*Highlighted text is new

Department and/or its employees; assist the City Attorney's Office in the preparation and presentation of Pitchess Motions; act as liaison with the Office of the City Attorney, the Police Review Commission and legal defense attorneys; prepare correspondence relating to personnel complaints and disciplinary actions; and advise the Chief of Police on matters relating to discipline and issues of liability and training as they relate to the disciplinary process.

PR 406 ADMINISTRATIVE DIVISION

Administered by a Captain who is directly responsible to the Chief of Police.

a. Administrative Bureau

Administered by a Captain who is directly responsible to the Chief of Police.

Function: Cooperate with City Personnel Department in the preparation and conduct of recruit and promotional examinations; process leaves of absence, terminations and retirements; process service rating reports on all probationary employees and Performance Evaluation reports on all non-probationary employees; provide administrative processing of disciplinary sanctions taken against members of the Department; participate as member(s) of Departmental Boards of Review dealing with personnel complaints; develop and control employee incentive programs; develop, compile and disseminate information pertaining to the promotion of health, welfare and morale of police personnel; schedule examinations with contractor administering fitness program; maintain Departmental personnel files and develop personnel data as requested by the Chief of Police; compile Department strength and assignment reports on a monthly basis from data received from other units.

a. Accreditation Program

Administered by a Lieutenant who reports directly to the Administrative Division Captain.

Function: To coordinate the Department's accreditation effort; to maintain Departmental orders, regulations and manuals; to administer the Career Development Program; to maintain Departmental Affirmative Action statistics; to compile the Departmental Monthly Management Report for the Chief of police (to the City Manager); to investigate and prepare reports of claims

for damage to uniforms; to maintain the Special and Temporary assignment rotation file; to coordinate the Department's involvement in the City of Berkeley Project Management System; to coordinate and track the Department's participation in the City of Berkeley quarterly Performance Measures program; handle other staff assignments and special projects as assigned by the Administrative Division Captain; to assist the Administrative Division Captain as assigned.

b. Bureau of Inspections and Control

Administered by a Lieutenant who is directly responsible to the Administrative Captain.

Function: To plan and conduct research; prepare surveys, studies and projects; schedule visits of outside and foreign officials who are studying local police procedures; originate and respond to correspondence; draft replies to questionnaires, and other outside inquiries; coordinate the preparation of the annual budget; monitor budget expenditures; develop and assist in the administration of grant programs; audit medical expenses incurred by the Department in its investigative and custodial activities; perform staff inspections/audits of all functional areas of the Department; plan, coordinate, prepare and write the Special Order for the bi-annual inspection of the Department; act as Adjutant for the Departmental Annual Inspection; handle other staff assignments and special projects as assigned by the Administrative Captain.

c. Personnel and Training

Administered by a Sergeant who is directly responsible to the Administrative Captain.

Function: To administer reimbursement monies from California Peace Officer Standards and Training (POST) Commission, maintaining close liaison with City Auditor in this accounting responsibility; process expense accounts for Police personnel; to assist City Personnel Department in the preparation and conduct of recruit examinations; conduct pre-employment personnel investigations; to develop and direct Departmental training programs, including scheduling mandated and job-specific training, both in-house and outside; maintain liaison with other police agencies on matters of personnel and training, and arrange for the interchange of teaching materials and instructors; collect pertinent information for police training files; prepare and issue Departmental Orders concerned with personnel, training and administrative matters; assist in the preparation and issuance of Departmental

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## POLICE REGULATIONS – CHAPTER 4

Training Bulletins; assist in the processing of personnel commendations, both internally prepared and those received from citizens; develop specifications for uniforms and other equipment and determine that the equipment used by members of the Department complies with specifications; requisition, inventory, maintain and issue safety equipment; develop and supervise effective health and safety programs including the investigation preparation of proper reports of injuries to personnel received in the line of duty, and preparing reports to contractor administering Worker's Compensation Insurance, City Personnel Department and City Risk Manager; process all correspondence of persons and recruit and process applicants for the Police Aide positions in cooperation with City Personnel Department; develop and direct a training program, make duty assignments, maintain individual school and work records, and evaluate, counsel and direct the development of the Aides in their career objectives; to assist in compiling Department strength and assignment reports on a monthly basis from data received from other units; to assist the Administrative Division Captain and other Division/Department personnel as assigned.

1. Underwater Search and Recovery Team (US & R)

Administered by the Personnel & Training staff who are responsible to the Administrative Division Captain.

Function: To perform underwater searches in the Aquatic Park lagoon and in San Francisco Bay waters within Berkeley City limits to locate vehicles, weapons, human remains, or other items of investigative interest or evidentiary value. Team members are also available to assist outside agencies with water searches when requested under Mutual Aid. Under certain circumstances, the Team may assist in actual rescue attempts at the scene of boating accidents or similar incidents. The US & R is comprised of full-time members of both the Police and Fire Departments. All Team members must be certified Self-Contained Underwater Breathing Apparatus (SCUBA) divers and must obtain additional training and certification in the "Search and Recovery" specialty prior to actual deployment.

PR 407 PATROL DIVISION

Administered by a Captain who is directly responsible to the Deputy Chief of Police. Assistance to the Captain is provided by the Patrol Lieutenants and the Special Enforcement Bureau Lieutenant.

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a. Barricaded Subject/Hostage Negotiation Team (BSHNT)

Administered by designated employees who are directly responsible to the Captain of the Patrol Division.

Function: The primary purpose of the BSHNT is to handle barricaded subject situations, with or without hostages using specially trained employees. It is also used for protection of individuals and the service of high-risk felony warrants.

b. Community Services Bureau

Administered by a Sergeant who is directly responsible to a designated Patrol Lieutenant.

Function: To develop, direct, and maintain a broad based crime prevention program sensitive to the overall prevention needs of the community; meet with concerned citizen groups, neighborhood associations, and merchant groups to assist in the development of crime prevention programs; coordinate crime prevention efforts within the Berkeley Police Department, other City Departments, police departments, governmental agencies and community organizations which are engaged in related programs; maintain a community relations program by meeting with various community groups, in both formal and informal settings, and respond to their needs; respond to requests for officers to speak before community groups, organizations, and schools as well as schedule the appearances; utilize available crime analyst data within the Department as an information source to address specific locations by crime type, and to assist in the application of specific programs dealing with both Department and community needs; work closely with the Partnership Against Crime coordinator to better provide services to members of the community and organized business and residential neighborhoods; manage the "Are You OK" program; administer the Police Activities League program; coordinate and supervise the activities of the Berkeley Police Explorer Scout Post and the volunteer program (Transferred to Patrol Division 6/21/92)

c. Crowd Management Team (CMT)

Administered by a designated Lieutenant(s) who is directly responsible to the Captain of the Patrol Division.

Function: The primary purpose of the CMT is to serve as first and/or primary responders to those designated situations warranting crowd management (i.e., unusual occurrences, civil

disturbances, etc.).

d. Field Training Officer Program (FTO)

Administered by a Sergeant(s) who is directly responsible to the designated FTO Lieutenant assigned to Patrol.

Function: The purpose of the FTO program is to train entry level and lateral officers to operate within Department guidelines, policies and procedures.

e. Foot Patrol

Supervision of a functional nature is provided by a Sergeant assigned to a day shift, who is directly responsible to the day watch Lieutenant.

Function: To provide visible foot and/or bicycle patrol in business districts, high crime areas and as otherwise directed; discourage those types of crimes generally associated with congested pedestrian conditions; assist at crowd control scenes; and perform other specialized police functions in times of emergency need.

f. Patrol Teams

Administered by Lieutenants who are directly responsible to the Captain of the Patrol Division.

Function: To provide 24-hour uniformed patrol coverage to all areas of the City with each Patrol Team working 10 hour shifts; receive, process and investigate complaints by citizens; observe and investigate circumstances which require attention; prevent crime; preserve the peace; arrest offenders; protect life and property; provide traffic enforcement; administer the Departmental motor pool and portable radios, and issue and maintain special equipment; attend Neighborhood Watch and other community meetings as directed; control public gatherings; provide traffic direction and control; perform miscellaneous services relative to public health and safety; prepare reports and testify in court.

g. Police Reserves

Administered by a Sergeant who is directly responsible to the day shift Lieutenant.

Function: To recruit, train, equip and supervise a volunteer police reserve; assist regular police personnel when the need for police services exceeds that available from the normal complement of the

Patrol Division; maintain adequate personnel and equipment records; assign police reserve officers to provide regular support activity in the field; coordinate, plan, and staff special events; provide supervisory personnel from within the Reserve ranks; perform other specialized police functions in times of emergency need.

h. Special Enforcement Unit

Administered by a Lieutenant who is directly responsible to the Captain of the Patrol Division.

Function of Administrative Narcotics Unit: Responsible for gathering, analyzing, and disseminating information regarding narcotics-related criminal activity; acting as a liaison with the court and District Attorney; maintaining records of SEU cases charged/not charged and providing feedback to handling officers about those cases; developing an alpha file of local drug offenders and providing that information to DTF and SIB personnel; identifying, tracking, and prosecuting those involved in organized narcotic-related crime; providing drug abatement training for Patrol officers; coordinating asset forfeitures with State and Federal agencies.

Function of Drug Task Force (DTF): To provide drug enforcement directed against street level dealers; take assertive action against street drug dealers; implement "buy/bust" operations using undercover buyers; respond to "hot spot" complaints when available; monitor police channel 1 for current activities and specialized assignments when required; operate jointly with other agencies to suppress drug dealing; respond tactically to other crime problems as assigned.

Function of Special Investigations Bureau (SIB): To prevent drug trafficking, prostitution, illegal sale or use of narcotics and alcoholic beverages, and gambling; prevent other forms of commercialized vice; give particular attention to places where commercialized vice may be conducted and take every legal means to arrest those persons who may be engaged in such commerce; inspect and enforce regulations concerning the operation of on and off sale alcoholic beverage establishments; investigate applicants for adult dance permits, skating rink permits, entertainment permits, and inspect such locations; and to work closely with other City departments, law enforcement agencies, and other agencies on matters of mutual concern.



i. Telephone Response Team (TRT)

Functional supervision is provided by Sergeants of a day or evening Patrol Team, depending on hours of assignment of TRT officers.

Function: To handle those calls for service which do not require the presence/assignment of an officer at the scene. The officers also provide assistance to citizens at the Front Counter at the Hall of Justice and to the Jailer, when assigned. Officers may occasionally be assigned to work in a mobile sub-station.

## PR 408 SUPPORT SERVICES DIVISION

Administered by a Captain who is directly responsible to the Chief of Police.

a. Detective Bureau

Administered by a Captain who is directly responsible to the Chief of Police.

Function: To handle follow-up investigations of all reported crime involving adults and juveniles (with the exception of crimes involving auto burglary, thefts from autos and traffic-related matters); coordinate pawn shop and secondhand store transactions; investigate applications for used car dealers and wrecking permits; assist in felony and misdemeanor investigations by other jurisdictions; maintain investigative liaison with other law enforcement agencies; investigate crimes involving child abuse (physical and sexual) and child neglect; develop police programs dealing with juvenile control, delinquency prevention and drug awareness education; dispose of all cases involving juveniles as prescribed in Departmental Orders; maintain cooperative relationships with other agencies concerned with juvenile matters; provide individual treatment in the disposition of juvenile offenders; develop crime analysis information to assist in effective Patrol Division operations and to better inform the community of crime matters, and coordinate media requests.

b. Service Bureau

Administered by a Lieutenant who is directly responsible to the Captain of the Support Services Division.

1. Identification Unit

Administered by an Identification Expert who is responsible to the Lieutenant of the Service Bureau.

Function: To provide identification services, including fingerprinting, photography and the maintenance of fingerprint identification and photograph files; examine crime scenes for identification evidence; conduct latent finger prints and handwriting comparison examinations; provide other technical services as appropriate.

2. Information Management

Administered by the Service Bureau Lieutenant who is directly responsible to the Captain of the Support Services Division.

Function: Development, implementation and maintenance of all computer related information management systems applicable throughout the Department.

3. Jail Operations

Administered by the Service Bureau Lieutenant and the Jail Operations Sergeant, who are directly responsible to the Captain of the Support Services Division.

Function: To insure the safe and efficient operation of the City Jail; provide for the short term detention of persons pending arraignment in court; insure that there is adequate staffing to provide for the physical needs and safety of all inmates; and provide for the safekeeping of prisoners' property during their detention in the City Jail.

4. Property Unit

Administered by a Supervisor who is directly responsible to the Lieutenant of the Service Bureau.

Function: To safeguard, inventory and process property and evidence related to investigations conducted by Department personnel; maintenance and monitoring of supplies for the police facility.

5. Public Safety Communications Center

Administered by a Lead Sergeant who is directly responsible to the Lieutenant of the Service Bureau.

Function: To maintain the Public Safety Department's computer aided dispatch (CAD), radio and telephone communications systems; receive all incoming calls for emergency and routine Public Safety services; dispatch and assign Public Safety units; maintain radio discipline and control; provide information to the public; prepare the police CAD Daily Bulletin; and maintain related Public Safety files.

6. Records Unit

Managed by a Supervisor who reports directly to the Service Bureau Lieutenant.

Function: To maintain report and record files of the Department; furnish information and answer inquiries as outlined in Departmental Orders; handle Departmental correspondence not otherwise assigned by order or practice; process applications and issue permits; issue reports and provide information from these data as the Department may require; receive bail or arrange court appearances during the hours the Municipal Court Office is closed; maintain liaison with units of other City departments in securing and maintaining adequate communications and services needed in police operations and quarters; inventory and have custody of all property in the possession of or received by the Department, except evidence in the custody of the Detective Bureau; supervise the maintenance and use of police buildings; assist other Divisions in emergencies as necessary.

7. Report Review

Administered by a Supervising OAI who reports directly to the Service Bureau Lieutenant.

Function: Report Review is responsible for ensuring that police reports are transcribed and processed in a timely manner, meeting quality control guidelines, coding properly for entry into the Records Management System, distributed appropriately, and report liaison for the District Attorney's office.

8. Warrant Detail

Administered by a Sergeant who is directly responsible to the Lieutenant of the Service Bureau.

Function: To serve all felony and misdemeanor warrants; serve certain criminal subpoenas on persons living outside the City.

## PR 409 TRAFFIC DIVISION (established 7/1/90)

Administered by a Captain who is directly responsible to the Deputy Chief of Police.

a. Traffic Bureau

Administered by a Sergeant who is directly responsible to the Captain of the Traffic Division.

Function: To enforce traffic regulations; investigate traffic hazards and initiate remedial measures; prepare and maintain charts and summarize for use by Patrol and Traffic Divisions in maintaining selective enforcement programs; cooperate with public schools, other agencies and organizations to provide traffic safety education and information; prepare reports for the Chief of Police, City Manager, City Council, or others as directed; cooperate with City Traffic Engineer in developing engineering plans for the solution of traffic problems; initiate and assist in the preparation and review of traffic control legislation; oversee the police tow contract with private contractors and conduct post storage tow hearings; conduct the report review process on all collision reports; administer the tow program for the identification, locate and tow vehicles with accumulated parking citations; enforce California Vehicle Code sections relating to commercial vehicles; administer the Traffic Division motor pool, and issue and maintain special equipment. In conjunction with the Berkeley School District, train and supervise the Berkeley Junior Traffic Police and Adult Crossing Guards, and perform other duties as appropriate.

b. Parking Bureau

Administered by a Lieutenant who is directly responsible to the Captain of the Traffic Division.

Function: To enforce local parking regulations; oversee operation of parking garages; maintain and regulate parking in off street lots; enforces preferential parking regulations; make routine collections from meters; keeps records and account for all parking revenues;

prepares related reports and correspondence for the Chief of Police, and maintains fleet and special equipment.



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UNIFORM AND EQUIPMENT REGULATIONS

Uniform Regulations

PR 300 Uniform – Regulation – Sworn Officers. The regulation uniform for sworn officers of the Berkeley Police Department shall consist of the following items, for which **detailed specifications** are on file in the Uniform & Equipment Specifications Manual:

- |                  |                    |                 |
|------------------|--------------------|-----------------|
| Coat             | Shirt              | Trousers        |
| Shoulder Patches | Cap                | Shoes           |
| Tie              | Belt               | Holster         |
| Badge            | Name Bar           | Service Stripes |
| Breast Patch     | All Purpose Jacket | Helmet          |

PR 301 (Rescinded)

PR 302 Uniform – Optional – Sworn Officers. Wearing of the following uniform items is optional, but when worn they shall conform to detailed specifications on file in the Uniform & Equipment Specifications Manual:

- |                 |             |                     |
|-----------------|-------------|---------------------|
| Scarf           | Raincoat    | Cap Cover           |
| Rubber Boots    | Rain Jacket | Baseball Cap        |
| Rain Pants      | Rain Shoes  | Black Turtleneck    |
| Gloves          | Windbreaker | Dickie              |
| Class C Uniform | Jacket      | Special Awards/Pins |

PR 303 Uniform – Regulation – Community Service Officers. The regulation uniform for **Community Service Officers** of the Berkeley Police Department shall consist of the following items, for which detailed specifications are on file in the Uniform & Equipment Specifications Manual:

- |             |                 |                    |
|-------------|-----------------|--------------------|
| Coat        | Badge           | Class C Uniform    |
| Cap         | Name Bar        | Shoulder Patches   |
| Shirt       | Tie             | Key Strap          |
| Trousers    | Shoes           | Sweater (Optional) |
| Rain Jacket | Rain Pants      | Handcuffs          |
| Belt        | Jacket          | Handcuff Case      |
|             | Service Stripes |                    |

\* Highlighted text is new

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Uniform – Regulation – Public Safety Dispatchers. The regulation uniform for Public Safety Dispatchers of the Berkeley Police Department shall consist of the following items, for which detailed specifications are on file in the Uniform & Equipment Specifications Manual:

Badge	Name Bar	Shoulder Patches
Belt	Tie	Sweater (Optional)
Shirt	Shoes	Special Awards/Pins
	Trousers	

Uniform – Regulation – Parking Enforcement Officers. The regulation uniform for Parking Enforcement **Officers** of the Berkeley Police Department shall consist of the following items, for which detailed specifications are on file in the Uniform & Equipment Specifications Manual:

Badge	Name Bar	Shoulder Patches
Belt	Tie	Helmet
Shirt	Shoes	Dress Jacket
	Trousers	

Uniform – Optional – Parking Enforcement Officers. Wearing of the following uniform items is optional, but when worn they shall conform to detailed specifications on file in the Uniform & Equipment Specifications Manual:

Shirt	Rain Shoes	All Purpose Jacket
Shorts	Rain Jacket	Sweater - Pullover
Turtleneck	Rain Pants	Sweater - Cardigan
Gloves	Head Scarf	Jacket
Dickie	Neck Scarf	Baseball Cap

PR 304

Uniform – Regulation – Police Aides. The regulation uniform for Police Aides of the Berkeley Police Department shall consist of the following items, for which detailed specifications are on file in the Uniform & Equipment Specifications Manual:

Shirt	Jacket	Shoes
Tie	Rain Shoes	Shoulder Strap Covers
Trousers	Rain Jacket	Name Bar
Belt	Rain Pants	Badge



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PR 305

Uniform – Insignia of Rank. The Departmental rank of officers shall be indicated by the following insignia when uniforms are worn:

Chief of Police	Chiefs badge and cap shield, gold braid on cap, Four (4) stars (gold) on shoulder or shirt collar (star mandatory on coat).
Captain	Captain's badge and cap shield, gold braid on cap, double bar (gold) on shoulder or shirt collar (shoulder bars mandatory on coat).
Lieutenant	Lieutenant's badge and cap shield, gold braid on cap, single bar (gold) on shoulder or shirt collar (shoulder bars mandatory on coat).
Sergeant	Sergeant's badge and cap shield, sergeant's chevrons on coat and shirt.
Patrol Officer	Patrol Officer's badge and cap shield.
Senior Community Service Officer	"Senior" stripe above shoulder patch.
Senior Public Safety Dispatcher	"Senior" inscribed on badge.
Supervising Public Safety Dispatcher	Silver collar pins "SUPV"
Supervising Parking Enforcement Officer	Silver collar pins "SUPV"

PR 306

Uniform - Who Must Possess. All sworn officers of the Department shall possess a regulation uniform.

Non-sworn employees of the Department who shall possess a regulation uniform are:

<b>Community Service Officers</b>	<b>Police Aides</b>
<b>Public Safety Dispatchers</b>	<b>Parking Enforcement Officers</b>

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- PR 307      Uniforms – Wearing of – Who Shall. All on-duty sworn officers and non-sworn personnel authorized to wear uniforms shall be attired in regulation uniform including insignia of rank except as otherwise provided by Departmental Order or orders of a superior officer. The wearing of uniform coat or jacket is optional except when ordered by competent authority.
- PR 308      Uniform – Specifications – Shall Conform. Employees on duty shall not wear any uniforms or portions thereof which do not conform with the specifications on file in the office of the **Professional Standards Division** Captain and/or designated office.
- PR 309      Uniforms – Authorization to Purchase – New Employees. Employees newly appointed shall not purchase or wear uniforms or portions thereof until authorized by competent authority.
- PR 310      Uniforms – Equipment – Maintenance of. Employees shall maintain uniforms and equipment in serviceable condition. Uniforms or portions thereof shall be clean, pressed, and shall not be noticeably patched, torn or worn. Shoes, leather and metal equipment shall be well polished and shined.
- PR 311      Uniform Cap – Wearing of – Removal. The wearing or not wearing of a uniform cap by uniformed employees while on outside uniform duty is optional except in certain situations. Caps shall always be available at the place of the employee's duty assignment, e. g., patrol vehicle, desk or work area. The uniform cap shall be worn at the direction of a supervisory or Commanding Officer and should be worn for purposes of personal safety in cases such as prowler calls, block searches and traffic collisions where immediate identification as a police officer is advantageous. If the cap is worn in routine situations, its removal shall be directed by normal courtesy.
- PR 312      Uniform Necktie – Wearing of Undergarment. Uniform employees, at their discretion, may remove the uniform tie except when wearing the dress coat. Other than a protective vest, the only visible garment authorized to be worn under the shirt is a white or black crew neck tee shirt or other authorized garments as set forth in the Uniform & Equipment Specifications Manual.
- PR 313      Non-Uniform Attire. All on-duty employees who normally or are authorized to wear civilian attire shall dress in a neat, clean and conservative manner. Male personnel shall wear a necktie unless authorization to the contrary has been given by a supervisor.

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Equipment Regulations

PR 314 Equipment – Personal – Furnished by City. Officers at the time of employment shall be furnished the following items of equipment by the City:

- |                   |                 |                  |
|-------------------|-----------------|------------------|
| Ammunition        | Flashlight      | Radio Holder     |
| Ammunition Case   | Helmet          | Rain Hat Cover   |
| Sidearm           | Key Ring/Holder | Rain Jacket      |
| Holster           | Keys            | Rain Pants       |
| Batons (Wood/Asp) | -Call Box       | Baton Ring       |
| Handcuffs         | -PSB            | Belt Keepers (2) |
| Handcuff Case     | Badge           | Whistle          |
| Duty Bag          | Name Bars       | Soft Body Armor  |
| Duty Belt         | OC Dispenser    | General Orders   |
|                   | OC Holder       |                  |

**Community Service Officers**, Public Safety Dispatchers, and Police Aides shall be furnished by the City with the following items of equipment:

- |            |                          |            |
|------------|--------------------------|------------|
| Name Bars  | Handcuff Case (CSO only) | Keys       |
| Flashlight | Cap Shield (CSO only)    | - PSB      |
| Whistle    | General Orders           | - Call Box |

Parking Enforcement **Officers** shall be furnished by the City with the following items of equipment:

- |             |                     |                 |
|-------------|---------------------|-----------------|
| Badge       | Patches             | Key Ring/Holder |
| Name Bars   | Whistle             | Keys            |
| Rain Pants  | Flashlight          | - PSB           |
| Rain Jacket | Traffic Safety Vest | - Call Box      |
|             | General Orders      |                 |

PR 315 Equipment – Personal – Furnished by Employee. Officers at the time of employment shall provide at their own expense the following items of equipment:

- Uniform shoes
- Watch
- Cap shield (authorized by Commanding Officer)

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Community Service Officers and Police Aides at the time of employment shall provide at their own expense the following items of equipment:

- Uniform Shoes
- Watch

Public Safety Dispatchers and Parking Enforcement Officers at the time of employment shall provide at their own expense the following items of equipment:

- Uniform shoes

PR 316 Equipment – Specifications – Shall Conform. Employees shall not carry any required equipment which does not conform with the specifications on file in the Uniform & Equipment Specifications Manual maintained by the Professional Standards Bureau.

PR 317 Equipment – Carried on Person. Officers on uniformed duty shall carry the following items of equipment on their person unless approval to the contrary is received from a Commanding Officer:

- |           |                 |                |
|-----------|-----------------|----------------|
| Badge     | Handcuffs       | Keys           |
| Name Bars | Watch           | - PSB          |
| Sidearm   | Ball Point Pen  | - Call Box     |
| Whistle   | Key Ring/Holder | - Handcuff key |

Community Service Officers and Police Aides on-duty shall carry the following items of equipment on their person:

- |         |                      |                           |
|---------|----------------------|---------------------------|
| Badge   | Handcuffs (CSO only) | Keys                      |
| Watch   | Ball Point Pen       | - PSB                     |
| Whistle | Key Ring/Holder      | - Handcuff key (CSO only) |

Public Safety Dispatchers and Parking Enforcement Officers on-duty shall carry the following items of equipment on their person:

- |                |                 |
|----------------|-----------------|
| Badge          | Key Ring/Holder |
| Ball Point Pen | Keys - PSB      |

PR 317.1 Soft Body Armor. All sworn officers assigned primarily to street duties shall be required to wear Soft Body Armor. All sworn employees who are assigned station duties may wear Soft Body Armor at their discretion unless ordered otherwise. Employees issued Soft Body Armor shall be responsible for its maintenance. Should defects or damage be noted, the Professional Standards Division – Personnel and Training Bureau shall be notified and arrangements will be made for repair or replacement.

\* Highlighted text is new

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- PR 318 **Grooming Standards - All Personnel.** In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.
- PR 319 (Rescinded)
- PR 320 **Automatic Weapons – Chemicals – Approval to Use.** Employees shall not use **automatic weapons**, gas, or other types of chemical weapons not specifically approved for Departmental use except with the approval of a Commanding Officer.
- PR 321 (Rescinded)
- PR 322 **Carotid Restraint Hold – Use of – Not Permitted.** Council Resolution No. 52,605-N.S., dated February 14, 1985 states:

"Prohibiting Use of choke hold" for law enforcement purposes in the City of Berkeley.

Be it resolved by the Council of the City of Berkeley as follows: That the choke hold, including (but not limited to) the carotid restraint and the bar-arm hold, is hereby banned from use for law enforcement purposes in the City of Berkeley."

### Care and Use of Firearms

- PR 323 **Firearms – Use of – By Officers.**
- 1 - The term "display" shall be used to describe the unholstering or showing of a lethal firearm during the conduct of police business.
  - 2 - The term "lethal firearm" shall be used to describe a firearm that is loaded with ammunition designed to kill.
  - 3 - A lethal firearm may be displayed only if the officer feels such action is, or may become, necessary in the defense of the officer's or another's life or under the provisions of applicable Regulations.
  - 4 - Lethal firearms shall not be discharged as a warning.
  - 5 - Lethal firearms shall not be pointed at a person in an attempt at apprehension unless the officer has reasonable cause to believe the person falls within the purview of applicable Regulations.
  - 6 - Officers shall not unnecessarily display any firearm in any public place or carelessly handle a firearm at any time.

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- 7 - Officers shall not carry a firearm or be expected to take police action as authorized in applicable Regulations when under the influence of alcohol as defined in the California Vehicle Code and/or other drugs.

PR 324

**Firearms – Discharge of/Use of Deadly Force – When Permitted.**

**Officers shall not discharge firearms or use other lethal force in connection with police duty, except in the following circumstances:**

- (a) **When the officer reasonably believes that doing so is necessary to protect the officer or others from death or serious bodily injury, and, where feasible, some warning has been given.**
- (b) **To apprehend a suspected fleeing felon:**
  - (1) **When necessary to prevent escape, and**
  - (2) **When the officer has probable cause to believe that the suspected fleeing felon poses a significant threat of death or serious bodily injury to the officer or others, and**
  - (3) **Where feasible, some warning has been given.**
- (c) **During other police duty:**
  - (1) **In supervised Department training sessions at an approved range, or other site.**
  - (2) **To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured. If possible, supervisory approval should be obtained prior to using lethal force to destroy an animal.**

PR 325

**Firearms – Discharge of – File Report.** An officer who discharges a firearm, accidentally or intentionally, while performing any police function, **on or off-duty**, shall make an oral report to the Communications Center as soon as circumstances will permit and **shall advise** one's superior officer as soon as practical. If any person is seriously injured or killed as a result of an officer's actions, such officer shall be placed on administrative leave for a period of time, as determined by the Chief of Police, depending upon the circumstances of the situation. The officer shall not return to regular duties until he/she meets with a mental health professional.

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- PR 326 Firearms – Cleaning or Loading – Restrictions. Employees shall not clean, repair, load or unload firearms, except as noted below, at any place in the **Public Safety Building** other than those locations specified by the **Professional Standards** Division Captain. This restriction shall not apply to sidearms when loading or unloading is ordered by a superior officer for inspection purposes.
- PR 327 Firearms – Weapons – Storage of. Employees shall not place or store any firearms in the **Public Safety Building** except when the place of storage is locked.
- PR 328 Firearms – Selling – Restrictions. Employees shall not lend, give, or sell any firearm to any persons who do not have a legal right to possess such firearm.
- PR 329 Firearms – Purchase or Loss of File Report. Officers shall file a written report with the **Professional Standards** Division Captain immediately following the purchase, replacement, loss, or other disposition of regulation firearms and shall list complete descriptions including the serial numbers. Reports concerning the loss of a regulation firearm shall include all facts surrounding the loss.
- PR 330 Ammunition – Replacement – Security of – Authorized. Officers shall be issued normal replacement ammunition by their supervisor or under the authority of the Range Master. Only ammunition that has been issued by Department authority is authorized for duty use in the primary weapon. Any exceptions to this rule must be approved by a Command Officer in writing. No ammunition for replacement purposes should be obtained from the arms locker except for emergency police conditions.

Police Vehicles

- PR 331 Police Vehicles – Safe Operation. Employees operating police vehicles shall drive in a reasonable and prudent manner.
- PR 332 Police Vehicles – Exceptional Use
- Officers shall not use police vehicles to ram or block other vehicles, persons, or moving objects in a manner that reasonably appears to constitute the use of lethal force, except in the following circumstances:**
- (a) **When the officer reasonably believes that doing so is necessary to protect the officer or others from death or**

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serious bodily injury, and, where feasible, some warning has been given.

(b) To apprehend a suspected fleeing felon:

(1) When necessary to prevent escape, and

(2) When the officer has probable cause to believe that the suspected fleeing felon poses a significant threat of death or serious bodily injury to the officer or others, and

(3) Where feasible, some warning has been given.

PR 333 Police Vehicles – Passengers In. Employees operating police vehicles shall not permit passengers to ride except when necessary in the accomplishment of an essential police objective or when authorized by a Commanding Officer or in the absence of a Commanding Officer by the ranking officer on-duty.

PR 334 Police Vehicles – Citizens Requesting to Ride with Officers. Participation from members of the general public riding as observers in patrol cars was rescinded on 10/18/91. As set forth in the amended ride-along procedures, individuals eligible to ride along are limited to Berkeley Police Aides and Public Safety Dispatchers, and individuals specifically authorized by the Chief of Police.

Special Requests

PR 335 Special Requests – Mutual Aid/Assistance – Police Dogs. The use of Police Dogs from other law enforcement agencies is permitted with the approval of the Chief of Police or City Manager:

- 1 - to apprehend suspects where there is a threat to human life, and the suspect is reasonably believed to be armed with a deadly weapon, and the suspect is in a controlled, contained area and there are no known occupants of the area other than the suspect; or
- 2 - to locate missing persons; or
- 3 - to locate crime scenes.
- 4 - The use of dogs is explicitly prohibited for use in crowd control.



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The City Council shall be notified in writing within 24 hours in each case where a dog is used. (Berkeley City Council Resolution No. 51.408 – N.S.)

**PR 336** Special Requests – Mutual Aid/Assistance – Helicopters. The use of police helicopters from other law enforcement agencies is permitted with the approval of the Chief of Police or City Manager for:

- 1 - Disaster Assistance
- 2 - Rescue efforts, excluding hostages
- 3 - Locating missing persons

The City Council shall be notified in writing within 24 hours in each case where a helicopter is used. (Berkeley City Council Resolution No. 51.408 – N.S.)

**PR 337** Special Requests – Mutual Aid/Assistance – Tasers. The use of police tasers at the request of the Berkeley Police Department may be permitted with the approval of the Chief of Police or City Manager. Once approved, a taser will only be deployed by Outside Agency Personnel responding to a request for assistance.

Care and Use of Departmental Property

**PR 338** Departmental Property – Location – Moving From. Employees shall not move office equipment or furnishings outside of the Division to which the equipment is assigned without permission of the Commanding Officer of the Division concerned and the Support Services Division Commander.

**PR 339** Departmental Property – Care Of. Employees using Departmental equipment or property shall be responsible for its proper care and use. Failure of an employee to exercise reasonable care in the use of Departmental equipment or property may result in disciplinary action.

Off duty loss of or damage to equipment permanently issued to employees (e.g., gun, leather, handcuffs, etc.) shall be the employee's responsibility to repair or replace. Other loss or damage to property or equipment issued to employees shall be the employer's responsibility to repair or replace so long as it is a direct consequence of the discharge of the employee's duties.

In those instances where the employee has the responsibility for repair or replacement, the employee shall make his/her own arrangements expeditiously, insuring that replaced equipment meets approved

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specifications.

In those instances where there is a question or a difference in opinion as to whether the loss or damage should be the financial responsibility of the employee or the obligation of the Department, an investigation board shall be established per General Order E-7. In all cases, the decision of the Chief of Police shall be final.

**PR 340**      Departmental Property – Loss of – Damage – File Report. Employees shall promptly report in writing through channels to their superior officer the loss of, damage to, or unserviceable condition of any Departmental property or equipment issued for, or assigned to, their use. Such reports shall be forwarded immediately by the superior officer to the **Professional Standards** Division.

**PR 341**      Advertising Matter – Public Safety Building – Posting of. Employees shall not attach objects to the walls of the **Public Safety Building** without authorization of the Division Commander.

**USE OF FORCE**

The purpose of this order is to set forth the circumstances under which officers may resort to the use of force. The order also outlines procedures for reporting and evaluating incidents involving the use of force.

**I. POLICY**

- A. It is the policy of the San Francisco Police Department to accomplish the police mission as effectively as possible with the highest regard for the dignity of all persons and with minimal reliance upon the use of physical force. The use of physical force shall be restricted to circumstances authorized by law and to the degree minimally necessary to accomplish a lawful police task.**
  
- B. Officers are frequently confronted with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations that cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances.**
  
- C. Officers are permitted to use whatever force is reasonable and necessary to protect others or themselves, but no more. The purpose of this policy is not to restrict officers from using sufficient force to protect themselves or others, but to provide general guidelines under which force may be used. If exceptional circumstances occur which are not contemplated by this order, officers should use any force reasonably necessary to protect themselves or others; however, they must be able to articulate the reasons for employing such force.**

COMMUNICATION No. 4411

**D. CATEGORIES OF FORCE TO EMPLOY (IN ASCENDING ORDER OF GRAVITY)**

1. **When the use of force is necessary and appropriate, officers shall, to the extent possible, utilize an escalating scale of options and not employ more forceful measures unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is set forth below:**
  - a. **Verbal Persuasion**
  - b. **Physical Control (e.g., passive resister, bent wrist control, excluding the carotid restraint)**
  - c. **Liquid Chemical Agent (Mace/Oleoresin Capsicum)**
  - d. **Carotid Restraint**
  - e. **Department-issued Baton**
  - f. **Firearm**
2. **It is not the intent of the order to require officers to try each of the options before escalating to the next. Clearly, good judgment and the circumstances of each situation will dictate the level at which an officer will start. Officers using any type of force are accountable for its use.**

**E. REASONABLE FORCE**

1. **Officers must frequently employ the use of force to effect arrests and ensure the public safety. It is not intended that any suspect should ever be allowed to be the first to exercise force, thus gaining an advantage in a physical confrontation. Nothing in this order should be interpreted to mean that an officer is required to engage in prolonged hand-to-hand combat with all its risks before resorting to the use of force that will more quickly, humanely and safely bring an arrestee under physical control.**

2. **Penal Code Section 835 a provides that, " Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self defense by the use of reasonable force to effect the arrest, or to prevent escape, or to overcome resistance."**

#### **F. CIRCUMSTANCES JUSTIFYING THE USE OF FORCE**

1. **Officers may use force in the performance of their duties in the following circumstances:**
  - a. **To prevent the commission of a public offense.**
  - b. **To prevent a person from injuring himself/herself.**
  - c. **To effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention.**
  - d. **In self-defense or in the defense of another person.**
2. **Before using force, the officer should consider these questions:**
  - a. **What actions on the part of the suspect justify the use of force?**
  - b. **What crime is being or has been committed?**
  - c. **Does the situation require the immediate use of force?**

#### **G. VERBAL PERSUASION AS A MEANS OF EFFECTING CUSTODY**

1. **The practice of courtesy in all public contact encourages understanding and cooperation; lack of courtesy arouses resentment and often physical resistance. Simple directions which are complied with while you merely accompany the subject are by far the most desirable method of dealing with an arrest situation. Control may be achieved through advice, persuasion and warnings before resorting to actual physical force.**

2. **The above should not be construed to suggest that you should ever relax and lose control of a situation, thus endangering your personal safety or the safety of others. Officers are permitted to use that force which is reasonable and necessary to protect themselves from bodily harm.**

#### **H. USE OF PHYSICAL CONTROL TO ACCOMPLISH CUSTODY**

1. **Frequently, subjects are reluctant to be taken into custody and offer some degree of physical resistance. Normally all that is required to overcome the resistance is physical strength and skill in defensive tactics, e.g., passive resister, bent wrist control.**
2. **Defensive tactics are techniques intended for use when weapons are not available or their use is inadvisable or unreasonable under the circumstances. You must, however, ensure that you are capable of utilizing physical skills to subdue a person. Good judgement is extremely important in deciding which tactics to use and how much force to apply. The force used must be necessary.**
3. **When confronted with a situation that may necessitate the use of physical control, consideration should be given to calling for additional cover officers prior to the contact.**
4. **In encountering physical resistance and/or assault, an officer's primary goal is to control the situation. The level of force encountered determines what form of defense should be exercised. When conditions permit, the best means of controlling a subject is by the imposition of manual restraint according to methods taught in Department training courses.**
  - a. **Choking by means of pressure on the subject's trachea is a prohibited practice.**
  - b. **Rendering a subject unconscious by applying pressure to the carotid artery is permissible only when lesser types of restraint would be ineffective (see Section I., J.).**

**I. USE OF LIQUID CHEMICAL AGENT (MACE/OLEORESIN CAPSICUM) TO ACCOMPLISH CUSTODY**

- 1. Liquid chemical agent is a non-lethal device designed to subdue a person by projecting a specially formulated liquid onto the face. It is not designed to replace the police revolver or baton. Liquid chemical agent is a defensive weapon intended for use when attempting to subdue an unarmed attacker or to overcome resistance likely to result in injury to either the suspect or the officer.**
- 2. In most instances, liquid chemical agent will reduce or eliminate the necessity for greater physical force to effect the arrest. Every officer should be equipped with liquid chemical agent and, when practical to do so, should use it rather than the baton or carotid restraint.**
- 3. MEDICAL TREATMENT. Persons who have had Mace or O.C. sprayed on their faces shall have their faces washed and their eyes flushed with clean water at the scene or as soon as possible. Medical evaluation shall occur:**
  - a. Prior to booking and as soon as practicable.**
  - b. If the person is recovering normally, request an ambulance (Code 2) to the scene or arrange to have paramedics meet you at another location to medically assess the individual.**
  - c. If the ambulance is unavailable or the delay will be excessive, transport the exposed subject to SFGH for medical evaluation.**
  - d. If the sprayed suspect loses consciousness or has difficulty breathing, summon an ambulance Code 3.**
- 4. TRANSPORTATION. Persons who have been sprayed with Mace or O.C. must be transported in an upright position by two officers. The passenger officer shall closely monitor the subject for any signs of distress which would require medical evaluation and/or treatment. Hobble cords or similar types of restraints shall only be used to secure a subject's legs together. They shall not be used to connect the subject's legs to his/her waist or hands in a "trussed" position.**

5. **MONITORING SUBJECTS.** Supervisors shall ensure that any person who has been sprayed with Mace or O.C. is kept under direct visual observation until he/she has been medically evaluated. If the person appears to be having difficulty breathing, an ambulance shall be summoned immediately.
6. **BOOKING FORM.** Persons who have been sprayed with liquid chemical agent shall have that noted on the booking form.

**J. USE OF CAROTID RESTRAINT TO ACCOMPLISH CUSTODY**

1. **The carotid restraint, when properly applied, is a very effective means of subduing a violent subject; however, caution must be used in its application. The officer applying the hold must attempt to ensure the hold does not slip into a bar arm trachea choke.**
2. **The carotid restraint is an acceptable use of force in the following situations:**
  - a. **The officer is physically attacked.**
  - b. **To stop a physical attack on another person.**
  - c. **The officer has attempted a lesser level of force and found it to be inadequate.**
  - d. **In the officer's best judgement, having evaluated the particular circumstances, a lesser level of force would be inadequate.**
3. **MEDICAL TREATMENT.** Officers finding it necessary to apply the carotid restraint must monitor the subject's vital signs closely. Additionally, if the subject has difficulty breathing or does not immediately regain consciousness, the arresting officer shall immediately call paramedics to the scene. In all cases where the carotid restraint is used, the subject shall be medically evaluated.
4. **BOOKING FORM.** Persons who have been the subject of a carotid restraint shall have that noted on the booking form.



**K. USE OF BATON TO ACCOMPLISH CUSTODY.** The baton in the hands of an officer trained in its use is a very formidable weapon. If we are to obtain effective results, avoid unnecessary injury to suspects, and minimize criticism of the Department, the baton must be used properly and judiciously.

1. The baton must be carried properly in the officer's baton ring. A baton left in the car is of no use to an officer in a confrontation.
2. Officers are not to slap the palm of their hand with the baton or poke the baton at people as an intimidation technique.
3. The baton, when properly used, is capable of delivering extremely powerful blows to stun and incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows to the head, throat, side of the neck, or armpit must be avoided whenever possible.
4. To properly control and therefore maximize its effectiveness, the baton should normally never be raised above the head to strike a blow. The use of the baton as a club is generally prohibited.
5. Striking a handcuffed prisoner with a baton is expressly prohibited (except as allowed for in Section I, C., of this order).
6. Officers will carry only batons issued by the Department.

**L. USE OF FIREARM TO ACCOMPLISH CUSTODY.** See DGO 5.02, Use of Firearms.

**M. UNNECESSARY FORCE (DEFINED)**

1. Unnecessary force occurs when it is apparent that the type or degree of force employed was neither necessary nor appropriate. When any degree of force is utilized as summary punishment or for vengeance, it is clearly improper and unlawful.
2. Malicious assaults and batteries committed by officers constitute gross and unlawful misconduct. Penal Code Section 149 provides criminal penalties for every public officer who under the color of authority, without lawful necessity, assaults or beats any person.

3. **When the use of force is applied indiscriminately, the officer will face civil and criminal liability and Department disciplinary action.**
4. **Justification for the use of force is limited to what is reasonably known or perceived by you at the time. Facts discovered after the event, no matter how compelling, cannot be considered in determining whether the force was justified.**

#### **N. REPORTING AND INVESTIGATING THE USE OF FORCE**

1. **TYPES OF INCIDENTS REQUIRING REPORTING. Officers must report the use of the following types of force:**
  - a. **Physical control, when the person is injured or claims to be injured.**
  - b. **Liquid chemical agent, when sprayed on or at the person.**
  - c. **Department-issued baton, when the person is struck or jabbed.**
  - d. **When the officer finds it necessary to strike a suspect with his/her fist, a flashlight, or any other object.**
  - e. **Carotid restraint.**
  - f. **Firearm (also see DGO 5.02, Use of Firearms).**
2. **NOTIFICATION/INCIDENT REPORT. In all cases in which an officer is required to report the use of force, the officer using the force shall immediately notify his/her supervisor, and:**
  - a. **When the officer using force is also the reporting officer, prepare an incident report containing the following information:**
    - (1) **The type of force used (e.g., carotid restraint, struck with fist).**
    - (2) **Reason for the use of force (e.g., subject resisted arrest).**
    - (3) **The supervisor's name, rank, star number and time notified. If applicable, the supervisor's reason for not responding to the scene shall also be included.**

**b. In the event that the officer using force is not the officer preparing the incident report, the officer using the force shall:**

**(1) Ensure that he/she is clearly identified in the incident report.**

**(2) Ensure that the incident report includes:**

- The type of force used (e.g., carotid restraint, struck with fist).**
- Reason for the use of force (e.g., subject resisted arrest).**
- The supervisor's name, rank, star number and time notified.**

**(3) Or prepare a supplemental report or a statement form with the above information.**

**3. SUPERVISORY OFFICER'S RESPONSIBILITIES. When notified of the use of force, supervisors shall determine whether anyone (including the officer) has sustained an injury and its severity. If an injury has been sustained which is serious enough to require immediate medical treatment, the supervisor shall immediately respond to the scene of the incident unless a response is impracticable, poses a danger, or where officers' continued presence creates a risk. Response is optional in other reportable use of force incidents. Upon arrival, the supervisor shall do the following (when more than one supervisor responds, the responsibility shall fall on the senior supervisor):**

- a. Ensure that witnesses (including officers) to the criminal incident and also the reportable use of force incident are identified, interviewed, and that this information is included in the incident report. Hostile situations or number of witnesses may preclude identification and interview of all witnesses.**
- b. Conduct observations of the scene and injured subjects or officers.**
- c. Conduct a supervisory evaluation to determine whether the force used appears reasonable and within the provisions of this order.**
- d. When appropriate, cause photographs of injuries or other evidence connected to the case to be taken and booked as evidence.**

- e. **Review the officer's incident report.**
  - f. **Record the incident in the Use of Force Log (see below). The supervisor who is notified of the reportable use of force is responsible for recording the incident in the Use of Force Log.**
- 4. UNNECESSARY OR EXCESSIVE FORCE/REPORTING AND INVESTIGATIVE RESPONSIBILITIES. Should the supervisory evaluation conclude possible misconduct involved in the use of force, the supervisor shall:**
- a. **Immediately notify his/her superior.**
  - b. **Make arrangements for any interviews that may have to be conducted.**
  - c. **Prepare a memorandum of observations, evaluation and actions taken.**
- 5. SUPERIOR OFFICER RESPONSIBILITIES. After being notified of possible misconduct involved in the use of force, the superior officer shall:**
- a. **Conduct an investigation.**
  - b. **Officers suspected of misconduct shall be advised of rights described in DGO 2.08, Peace Officers' Rights, and be given the opportunity to have a representative present before any administrative interviews.**
  - c. **If a criminal investigator is assigned the case, the superior officer should confer with the investigator to coordinate the criminal and administrative interviews and Miranda warning.**
  - d. **Make the required notifications to O.C.C. if a citizen complaint is made (see DGO 2.04, Citizen Complaints Against Officers). Notify the officer's commanding officer when required (see DGO 1.06, Duties of Superior Officers).**
  - e. **Prepare a report containing results of investigation, preliminary findings, conclusions and recommendations if appropriate.**

- 6. RECORDING PROCEDURES/USE OF FORCE LOG/TRAINING DIVISION USE OF FORCE REPORT.** Every unit of the Department whose officers normally perform street duty (e.g., district stations, Narcotics, Vice Crimes, Traffic, Special Operations Division, etc.) shall maintain a Use of Force Log (SFPD 128). Other units (e.g., administrative, investigative, etc.) need not maintain a Use of Force Log; however, commanding officers of these units are responsible to ensure compliance with all other provisions of this order along with the following recording procedures:
- a. On each occasion that an officer reports the use of force in an incident report, he/she shall verbally notify the supervisor reviewing the report if different than the supervisor notified that the report contains reportable use of force. The supervisor reviewing this report shall ensure the necessary information is placed in the Use of Force Log. Two copies of the incident report shall be attached to the log.
  - b. On the 1st and 15th of each month, commanding officers shall sign the log and send it, along with one copy of each of the incident reports, to their respective deputy chief. The deputy chief will review the log and route it to the Management Control Division. Commanding officers shall forward a copy of the log and one copy of each incident report to the Commanding Officer of the Training Division.
  - c. The Commanding Officer of the Management Control Division will maintain controls that assure all unit logs are received and shall review completed forms to ascertain if any officer appears to be having problems with the use of force. If so, he/she shall notify the appropriate command personnel (also see DGO 3.18, Performance Improvement Program and *Performance Improvement Program, A Supervisor's Guide, DM-06*).
  - d. The Commanding Officer of the Training Division will maintain controls that assure all unit logs and reports are received, and shall perform a non-punitive review of completed logs and incident reports to ascertain the number, types, proper application and effectiveness of uses of force reported by members of this Department. The information developed shall be used to identify training needs. The Commanding Officer of the Training Division shall report to the Chief of Police quarterly on the use of force by members of the Department.



**CROWD CONTROL**

This order establishes general policies and procedures regarding the Department's response to demonstrations and other First Amendment activities, and specifies acceptable crowd control techniques and levels of force.

**I. POLICY**

**A. PROTECTION OF RIGHTS.** It is the policy of the San Francisco Police Department to ensure that rights guaranteed by the constitutions of the United States and the State of California are protected for all individuals. A primary mission of police at events involving free speech activity is to protect and respect First Amendment rights to freedom of expression and assembly.

**B. RESTRICTIONS**

**1. LIMITS.** The San Francisco Police Department will not attempt to limit the size, location, time or activity at any demonstration, march, protest or picket unless there are articulable facts or circumstances causing reasonable concern for public safety, public health or the safe movement of persons in the area.

**2. RESTRICTIONS/CONTROL.** The San Francisco Police Department will not seek to restrict or control the content of opinions being expressed, nor shall members let their own personal, political or religious views affect their actions.

**C. CROWD CONTROL TACTICS.** Crowd control tactics shall not be affected by the content of opinions alone being expressed, nor by the race, sex, sexual orientation, physical disabilities, appearance or affiliations of the participants.

**D. ANNOUNCEMENTS.** To ensure that the participants can hear and understand the order to disperse, equipment appropriate to the size and noise of the crowd shall be used. The order to disperse shall be given repeatedly over a period of time and, if necessary, from a variety of locations.

COMMUNICATION No. 4400

DGO 8.03  
08/03/94

**E. DISPERSAL.** Crowds shall not be dispersed or ordered to move unless there are reasonable and articulable factors justifying the order in accordance with law. Before giving the order to disperse, the event commander must consider whether a dispersal endangers the public or participants in the crowd. If the event commander directs a crowd be moved by any means, including the use of force, time to disperse and a safe and clear route for individuals must be provided and announced in the same manner as the order to disperse.

**F. ARRESTS.** A proper response to criminal conduct during a free speech activity is to cite or book those individuals engaged in criminal conduct (see DGO 5.06, Citation Release).

### **G. USE OF FORCE**

**1. REASONABLE FORCE.** When the use of force is justified, the minimum degree of force necessary to accomplish an arrest or dispersal shall be employed. Officers are permitted to use reasonable and necessary force to protect themselves or others from bodily harm, but no more (see DGO 5.01, Use of Force).

**2. HORSES, MOTORCYCLES, MOTOR BIKES.** Horses shall not be used to move or disperse passive individuals who are sitting or lying down. Motor bikes or motorcycles shall not be driven into a crowd or used to make physical contact with persons.

**H. USE OF NON-UNIFORMED OFFICERS.** See DGO 5.08, Non-Uniformed Officers.

## **II. PROCEDURES**

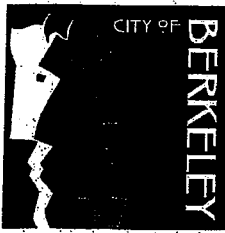
For detailed policies and procedures concerning crowd control and event planning, see SFPD "Crowd Control Manual" and "Event Management Manual."

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### References

DGO 8.10, Guidelines for First Amendment Activities  
*Event Management Manual, SFPD*  
*Crowd Control Manual, SFPD*





Office of the City Auditor  
Ann-Marie Hogan, City Auditor

COMMUNICATION No. 2350

**Date:** April 22, 2015  
**To:** City of Berkeley Commissioners  
**From:** Ann-Marie Hogan, City Auditor  
**Re:** Audit Planning for 2016

Each of you makes a valuable contribution to the city by your commission work. You also have the opportunity to learn a lot about how the city works, and what can be improved. I would very much appreciate your assistance as we put together our 2016 audit plan. Together, we can make a difference, improving effectiveness and efficiency of service delivery, as you identify areas that are important to you and important to the community.

We are looking for ideas that can lead to:

- Streamlined services (efficiency)
- Improved program outcomes or service delivery (effectiveness)
- Cost savings, or
- Avoidance of risks that can lead to fraud, waste, or abuse (protection of City assets and public trust)

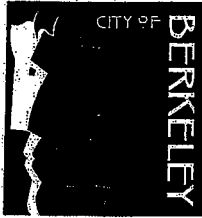
We are currently in the report-writing phase of these audits:

- Zero Waste Billing – comparing service delivery levels to billing
- Contracts - timeliness of execution (sign off)

We are in the field work (information gathering) phase of two audits:

- An audit, including an employee survey, of the City's ethical climate, and
- An audit of City hiring, aimed at ensuring that Human Resources adheres to the merit-based hiring system and equal employment opportunity laws and policies. This audit was requested by Human Resources because of specific issues raised in the Mason Tillman report.

Attached is some guidance about how we analyze risk in deciding what to audit. Please email me at [ahogan@cityofberkeley.info](mailto:ahogan@cityofberkeley.info) or call me at 981-6750 with your suggestions. before **Friday May 22**; the City Charter requires us to notify Council of our audit plan by June 30. I would also be happy to attend a commission meeting to talk about the Auditor's Office. Thank you so much for assistance and for all of your contributions to our city.



Office of the City Auditor  
Ann-Marie Hogan, City Auditor

DATE: \_\_\_\_\_

TO: City Auditor  
City of Berkeley  
2180 Milvia Street, 3<sup>rd</sup> Floor  
Berkeley, CA 94704

FROM (Optional):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

Program/Entity to be Audited: \_\_\_\_\_  
Entity Address: \_\_\_\_\_

Please describe the program/entity to be audited; the reason you believe the audit is warranted; and the period of time to audit. Be specific and, if possible, cite examples of actions that caused your concern. We are looking for ideas that can lead to streamlined services (efficiency); improved program outcomes or service delivery (effectiveness); or cost savings or avoidance of risks that can lead to fraud, waste, or abuse (protection of city assets and public trust). You may use a separate sheet to provide your description, if you prefer.

**Background Information for Your Consideration**

The Office of the City Auditor conducts performance audits to determine whether an entity is achieving its objectives while using City resources as optimally as possible. Performance audits provide objective analysis so management and others with oversight responsibilities can use the information to improve program performance and operations, reduce costs, facilitate decisionmaking, and contribute to public accountability.

# City Auditor's Office: 2016 Audit Planning

## Step One: Identify Risks

In the context of audit planning, what is a risk?

- ∞ The potential for loss or harm, OR
- ∞ Diminished opportunity for success

### **TYPES OF RISK**

**Strategic** – a risk that could prevent a department from meeting its goals

- If you don't measure performance, you may not know that you have not met or will not meet your goals until something bad happens
- If you don't use recognized best practices, you may be missing the opportunity to achieve better outcomes

**Financial** – a risk that could result in negative financial impact

- Inadequate project planning could result in cost overruns (other examples of negative financial impacts include penalties, fines, lawsuit settlements)
- If you don't monitor the financial market, you may miss opportunities to increase the return on investments

**Regulatory** – a risk that could result in sanctions from a regulatory agency for noncompliance with laws and regulations

- Not taking appropriate action to prevent sewer overflows could result in state or federal sanctions mandating clean-up and compliance with a long-term prevention plan
- Delaying implementation of new regulatory requirements could result in a missed opportunity to achieve better outcomes sooner

**Reputational** – a risk that could expose the City to negative publicity or loss of credibility

- Not establishing procedures to prevent fraud, waste, or abuse from occurring could result in negative publicity in the media and lost credibility
- Not obtaining sufficient public input on a new project could result in a missed opportunity to assure citizens that you are concerned about serving their interests

**Operational** – a risk that could prevent a department from operating in the most effective and efficient manner

- Using outdated methods could result in excessive steps and time delays for completing work
- Not using the right eligibility requirements for a grant-funded program could result in a missed opportunity to fully serve the intended populations

## **HOW TO IDENTIFY RISK FOR AUDIT SELECTION**

### **Consider factors that can increase risk:**

- *Have there recently been significant changes or are significant future changes expected in revenues, expenses, programs, systems, or laws and regulations?*
- *Do you have performance measures and do they adequately represent your expected inputs, processes, outputs, and outcomes?*
- *Do you have aging systems or processes?*
- *Is there overlap in program activities among divisions within your department or with other departments?*
- *Is there a segment of the population that you should be serving but aren't?*
- *Is there a regulatory requirement you should be following but aren't?*
- *Are you required to perform activities that no longer meet the needs of your customers?*
- *Do you have written policies and procedures for carrying out your programs? Have they been communicated to responsible staff? Is monitoring performed to ensure procedures are followed?*

- Identify your risks
- Look at what processes are in place to address those risks; for example:
  - ∞ Clearly defined (written) mission, goals and objectives and procedures to accomplish them, including appropriate training
  - ∞ Established priorities with standards for performance
  - ∞ Performance measures that are routinely monitored to ensure you accomplish your mission and achieve your goals and objectives (consider inputs, processes, outputs, and outcomes)
  - ∞ Methods to review performance to ensure management systems function properly and that adjustments are made as needed
- Get input from others – poll stakeholders, survey other cities

### **Help Us Help You – Step Two: Requests for audits (or consulting services)**

- Ask yourself:
  - ∞ How likely is the risk to occur and how bad would it be if it did?
  - ∞ Are there opportunities for improvement? That is, are we doing the right things right?
  - ∞ How likely is it that a performance audit would identify positive change?
  - ∞ What benefit would a performance audit provide, (e.g., identification of potential for increased revenue, cost savings, enhanced efficiency and/or effectiveness)?