

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**Wednesday, March 14, 2018
7:00 P.M.**

South Berkeley Senior Center
2939 Ellis Street, Berkeley

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**
(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers. They may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)
- 4. APPROVAL OF MINUTES**
Regular Meeting of February 28, 2018.
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**
Status of complaints; other items.
Prioritizing new agenda items (**discussion & action**)
- 7. CHIEF OF POLICE'S REPORT**
Crime, budget, staffing, training updates, and other items.
- 8. SUBCOMMITTEE REPORTS (discussion & action)**
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
 - a. General Orders C-64, etc. Subcommittee
-- Renew Subcommittee.
-- Next meeting Thursday, March 22, 2018. Time to be determined.
 - b. Homeless Encampment Subcommittee

9. OLD BUSINESS (discussion & action)

- a. Continue discussion of review and consider next steps, including establishing a subcommittee, regarding City Council's November 14 referral on broader or longer-term changes to PRC structure and authority; review proposed ballot initiative filed by Berkeley Community United for Police Oversight.
(See also materials attached to February 28, 2018 packet, p 21.)
- b. Ways to address BPD staffing shortage.
(See materials attached to February 28, 2018 packet, p. 35.)
- c. Decide how to address City Council referral regarding City's enrollment in the Department of Defense 1033 Program.
From: City Council
(See materials attached to February 28, 2018 packet, p. 27.)
- d. Establish subcommittee or other means to review and make recommendations on Lexipol policies from BPD.
(See materials attached to February 28, 2018 packet, p. 31.)
- e. Commendations of BPD personnel:
 - i) Establish process for review and communication back to BPD.
(See materials attached to February 28, 2018 packet, p. 33.)
 - ii) Review commendations of BPD personnel for January to August 2017 and direct PRC Officer to communicate to BPD.
(See materials attached to January 24, 2018 agenda packet, pp. 25-125.)

10. NEW BUSINESS (discussion & action)

- a. Process for requesting information from BPD.
From: Commissioner Matthews
- b. Assess BPD's After-Action reporting and response to Public Records Act Request.
From: Commissioner Prichett
- c. Review of General Order C-45, Police Chaplain Program
From: Commissioner Prichett
(See materials attached to February 28, 2018 packet, p 45.)

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

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

Closed Session

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002 057569, the PRC will recess into closed session to discuss and take action on the following matter(s):

13. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE IN COMPLAINT #2432

14. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE IN COMPLAINT #2417


End of Closed Session

15. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

16. ADJOURNMENT

Communications Disclaimer

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the PRC Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary for further information.

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

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 1st floor, during regular business hours.

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

PRC REGULAR MEETING ATTACHMENTS

March 14, 2018

MINUTES

February 28, 2018 Regular Meeting Minutes Page 7

AGENDA-RELATED

Item 6. – Prioritization of PRC Tasks in order of rank. Page 13

Item 8. – PRC Subcommittees List as of 3-1-18. Page 14

Item 9.a. – Ballot initiative from Berkeley Community United for Police Oversight. Page 15

Item 10.b. – Email from PRC Commissioner Prichett, dated March 2, 2018, re PRA Request: After Action Report 2-8-18. Page 35

Item 10.b. – Response from the City Attorney, dated March 6, 2018, to Commissioner Prichett's request. Page 37

COMMUNICATION(S)

Memo to the City Manager, dated March 5, 2018, from the PRC Chair: Request to include topics during negotiations with the Berkeley Police Association, attaching June 14, 2016 memo from PRC to City Manager. Page 57

Memo to the Mayor and Council Members, dated March 8, 2018, from the PRC Chair: Police Review Commission Recommendation for a Financial and Performance Audit of the Berkeley Police Department, attaching Resolution. Page 61

Email to the Police Chief, dated Feb. 16, 2018, re Proposed revised Right to Watch General Order W-1. Page 65

Article from The Atlantic, dated 3-1-18: Should Schools Be Doing 'Active-Shooter Drills'? Page 67

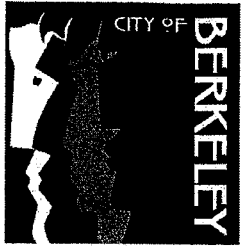
Article dated March 6, 2018: ICE agents shackled African immigrants for 48 hours on deportation flight from hell. Page 71

Memo to Commission Secretaries, dated March 2, 2018, from the City Clerk: Amendments to City Council Rules of Procedure and Order. Page 73

Memo to Mayor and Council Members, dated March 8, 2018, from the City Clerk re Referral Response: Gender Options on Commission Applications. Page 77

Email from Blair Beekman, dated March 7, 2018: A few thoughts from 2017, to continue into 2018. Page 79

KJL:mgm



Police Review Commission (PRC)

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

**Wednesday, February 28, 2018
7:00 P.M.**

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR MATTHEWS AT 7:08 P.M.

Present: Commissioner Sahana Matthews (Chair)
Commissioner George Lippman (Vice-Chair)
Commissioner Gwen Allamby
Commissioner George Perezvelez (left 9:24 p.m.)
Commissioner Andrea Prichett (arrived 7:14 p.m.)
Commissioner Terry Roberts
Commissioner Michael Sherman
Commissioner Ari Yampolsky (arrived 7:12 p.m.)

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Lt. Kevin Reece, Sgt. Rashawn Cummings, Sgt. Sean Ross (BPA)

2. APPROVAL OF AGENDA

By general consent, the Commissioners approved the agenda, including Commissioner Roberts's request to consider Item #10.a. before Item #9.c.

3. PUBLIC COMMENT

There were 2 speakers.

4. APPROVAL OF MINUTES

The Regular Meeting Minutes of February 14, 2018 were approved by general consent.

5. CHAIR'S REPORT

The community group working on a charter amendment is called Berkeley Community United for Police Oversight; its ballot initiative was filed with the City Clerk and should be available by the next meeting.

6. PRC OFFICER'S REPORT

- Case deadlines report distributed. No new complaints filed since last meeting. BOI last Thursday.
- Policy complaint is placed earlier on today's agenda. As a matter of service to the public, Commission should act on it timely.
- Reminder that the Surveillance Ordinance and the Fair & Impartial Policing Report are on the City Council's March 13 agenda.
- Copies of communications re your Feb. 14 actions on the armored panel van and good governance accountability plan in packet.

7. CHIEF OF POLICE'S REPORT

Lt. Kevin Reece reported on behalf of Chief Greenwood, who is appearing before the Commission on the Status of Women tonight.

- Currently at 157 sworn officers, including 4 in academy now (really 3 because one was injured), 3 in field training, and 10 on injury leave. Hiring 6 recruits to start in the next academy class. Current recruitment: 140 of 270 applicants met minimum qualifications. Written tests given and physical agility tests coming up.
- New timesheets [schedules] start March 11. Expect to lose at least 3 officers to retirement and several others to other agencies in next few months. Using a variety of strategies to staff patrol teams. Continue to invite Commission to consider of ways to support hiring, retaining and recruiting officers.
- Anticipate promotions in spring.
- Contract negotiations ongoing.
- Chief has received and is reviewing PRC's recommendations on the Right to Watch general order and the armored van policy.
- iPhones for the body-worn cameras have been configured and delivered to small group of officers to make sure they work properly.
- Anticipate sharing more Lexipol policies with the Commission soon.

Lt. Reece answered questions from Commissioners.

8. SUBCOMMITTEE REPORTS (discussion & action)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

- a. General Orders C-64, etc. Subcommittee – Comm. Perezvelez has resigned from this subcommittee; PRC Officer will facilitate scheduling of next meeting.

- b. Homeless Encampment Subcommittee – Would like to meet, and not wait for Council’s ad hoc committee. PRC Officer to contact Homeless Commission secretary to coordinate scheduling a meeting.
- c. Mutual Aid Pacts Subcommittee
 - i) Consider rescinding recommendation on MOU with Dept. of Homeland Security/US ICE and adopting new recommendation.

Motion to rescind entire recommendation previously made, and to adopt a new recommendation that reads as follows “Approve the ICE MOU with the proviso that it be modified to reflect the following: BPD shall not provide stand-by security service for USICE investigations or enforcement actions or otherwise be involved in any way with facilitating or aiding in an ICE operation. This shall not prevent BPD from responding to a public safety emergency related to an ICE action; in such event BPD shall explain the facts giving rise to its action in a written report to the Berkeley City Council and the Police Review Commission at the earliest opportunity.”

Moved/Seconded (Sherman/Prichett)

Substitute Motion:

Same as the original motion, with the addition of this language: “Additionally, the sanctuary city policy shall be amended to affirm that non-violent civil disobedience to prevent ICE detention and/or removal of undocumented immigrants from Berkeley would be, as policy, set as the lowest priority of the BPD.”

Moved/Seconded (Lippman/Prichett) **Substitute Motion Failed**

Ayes: Lippman, Sherman

Noes: Perezvelez, Roberts, Yampolsky

Abstain: Allamby, Matthews, Prichett Absent: None

Original Motion (Sherman/Prichett) Carried

Ayes: Lippman, Matthews, Prichett, Roberts, Sherman, and Yampolsky.

Noes: Allamby Abstain: Perezvelez Absent: None

- ii) Dissolve subcommittee or consider renaming.

Motion to dissolve the Mutual Aid Pacts Subcommittee

Moved/Seconded (Matthews/Allamby) **Motion Carried**

Ayes: Allamby, Lippman, Matthews, Perezvelez, Prichett, Roberts, Sherman, and Yampolsky.

Noes: None Abstain: None Absent: None

9. OLD BUSINESS (discussion & action)

- a. Consider whether to accept Policy Complaint #2433 and, if accepted, what steps to take.

Motion to open a policy complaint #2433 and direct the PRC Officer to communicate with the BPD about policies regarding the treatment of

homeless people as described by the complainant in section 4 of her complaint.

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

Ayes: Allamby, Lippman, Matthews, Sherman, and Yampolsky.

Noes: Perezvelez

Abstain: Prichett, Roberts

Absent: None

- b. Review and consider next steps, including establishing a subcommittee, regarding City Council's November 14 action on broader or longer-term changes to PRC structure and authority.

Motion to send re-send the PRC's June 14, 2016 letter to the City Council to the City Manager, and ask her to take into consideration the first two items, regarding the 120-day limit on the imposition of discipline, and use of the preponderance of the evidence standard, in the current negotiations with the BPA.

Moved/Seconded (Matthews/Perezvelez)

Friendly amendment: that a copy of the letter be sent to the City Council as well.

Moved by Lippman; Accepted by Matthews and Perezvelez

Motion, as amended, Carried

Ayes: Allamby, Lippman, Matthews, Perezvelez, Prichett, Roberts, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: None

- c. Proposal for BPD performance audit.
(*Heard following Item #10.a.*)

Motion to adopt proposed resolution for a Performance Audit of the BPD as found on pp. 25-26 of the agenda packet, with the following changes:

-- 2nd Whereas, replace "There has been no indication that there has been an . . ." with "The Chief has told the PRC that he is unaware of any . . ."

-- 3rd Whereas, replace "Peace Officers" with "Police," and "POA" with "BPA".

-- Section 1., insert, after "City of Berkeley," "either by internal audit or"

-- Section 1.c., add, "This should include an examination of how much time patrol officers spend responding to people with mental health issues, and to what degree can mental health professionals be utilized to respond to incident involving with mental health disabilities."

-- Section 1.h., revised to read, "How effectively is BPD handling complaints? How can this be improved?"

-- Section 1.j., move the second question into a separate section and renumber as appropriate.

-- Throughout, change "BPD" to "we" as appropriate, for consistency.

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

Ayes: Allamby, Lippman, Matthews, Prichett, Roberts, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: Perezvelez

By general consent, the Commission asked the PRC Officer to include reference to the 2002 and 2012 reports from the City Auditor on the Police Staffing Audit as background information in the referral.

- d. Decide how to address City Council referral regarding City's enrollment in the Department of Defense 1033 Program.
(Item postponed to the next meeting.)
- e. Establish subcommittee or other means to review and make recommendations on Lexipol policies from BPD.
(Item postponed to the next meeting.)
- f. Commendations of BPD personnel:
 - i) Establish process for review and communication back to BPD.
 - ii) Review commendations of BPD personnel for January to August 2017 and direct PRC Officer to communicate to BPD.
(Item postponed to the next meeting.)

10. NEW BUSINESS (discussion and action)

- a. BPD staffing shortage
(Heard following Item #9.b.)

Discussion begun; to be continued at next meeting.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

There was 1 speaker.

13. ADJOURNMENT

By general consent, the meeting was adjourned at 10:05 p.m.

Prioritization of PRC Tasks

Overall rank or priority	Tasks in order of rank (lower rank = higher priority)	Status 3.7.2018	Average numerical rank (scale = 1 to 5)
1	–Body-Worn Camera Policy	Awaiting policy from BPD	1.625
1	–MOUs/Mutual Aid - NCRIC; Council Committee on UASI and NCRIC	PRC recommendations for this year done	1.625
3	–Police Accountability Reforms (Increase PRC power)	In progress	1.750
4	–Fair & Impartial Policing - follow-up on recommendations	PRC report to Council; awaiting CPE report	2.125
5	–BPD staffing shortage	In progress	2.250
5	–G.O. U-2, Use of Force revision	Awaiting policy from BPD	2.250
7	–Review BPD budget	Done -- part of performance audit request?	2.625
7	–General Orders C-64, U-2, M-2 re Crowd Control [Subcomm]	In progress	2.625
9	–Dept. of Defense 1033 Program	3.14 agenda	2.750
10	–Review Lexipol policies	3.14 agenda	2.875
11	–Commendations of BPD personnel	3.14 agenda	3.000
11	–BPD Accountability Plan for Training/Professional Development	Done. Ltr to CM 2.21.	3.000
11	–June 20, 2017 (Review of BPD Response at Council meeting)	Draft to BPD 1.31; awaiting response.	3.000
14	–Process for considering informal complaints	To be agendized	3.250
14	–PRC Regulations re Commissioner challenges	Meet-and-confer requested	3.250
14	–Armored Van Policy	Done. Ltr to Council 2.16.	3.250
17	–Homeless Encampments [Subcomm]	In progress	3.375
18	–Outreach - publicize existence of PRC and its services to community	To be agendized	3.500
19	–Review of DUI checkpoints	To be agendized	3.875
20	–Regional radio interoperability for common encrypted channels	To be agendized	4.000
20	–Media Credentialing	To be agendized	4.000
22	–BPD's policy for shelter-in-place directive to schools	To be agendized	4.125

**POLICE REVIEW COMMISSION
SUBCOMMITTEES LIST
Updated 3-1-18**

Subcommittee	Commissioners	Chair	BPD Reps / Others
General Orders on Crowd Control C-64, U-2, M-2 Formed 1-13-16 Renewed 3-22-17	Lippman Prichett		Lt. Michael Durbin
Homeless Encampments Formed 2-1-17 Renewed 1-24-18	Prichett Sherman	Prichett	
June 20, 2017 (Review of BPD Response at City Council Meeting) Formed 7-12-17	Matthews Prichett Roberts <i>Public member:</i> Elliot Halpern	Roberts	Chief Andrew Greenwood Sgt. Sean Ross

THE PEOPLE OF THE CITY OF BERKELEY DO ADOPT AS FOLLOWS:
Article XVIII –Berkeley Police Commission

2018FEB22 PM 2:20
CITY OF BERKELEY
CITY CLERK DEPT

(a) Definitions.

“Chief” shall mean the Chief of Police of the Berkeley Police Department.

“Commission” shall mean the Berkeley Police Commission.

“Department” shall mean the Berkeley Police Department.

“Misconduct” shall mean both a police officer’s affirmative act that violates, and/or any willful failure to act which violates the Department’s policies, procedures or directives, including without limitation the Department’s General Orders.

“Serious Incident” shall mean a police officer-involved shooting, death or serious bodily harm caused by the action and/or inaction of a police officer, in-custody death, and/or on-duty or off-duty criminal conduct of a sworn Department employee that rises to the level of a felony or Serious Misdemeanor.

“Serious Misdemeanor” shall mean any misdemeanor crime that, if convicted, could preclude active law enforcement personnel, or a member or employee of the Department, from successfully fulfilling the responsibilities of their job classification. Examples include those crimes that involve violence, intimidation, threats, sexual offenses, theft, dishonesty, possession of drugs, purchase, ownership or possession of a firearm in violation of California Penal Code section 12021(c)(1), and those crimes where bias based on any legally protected characteristic is a motivating factor.

“Subject Officer” shall mean the Department sworn employee who is the subject of a complaint of alleged Misconduct.

• **Creation and Role.**

1. There is hereby established the Berkeley Police Commission (hereinafter, Commission) which shall oversee the Police Department in order to ensure that its policies, practices, and customs conform to constitutional policing and best practices and are responsive to all of Berkeley’s communities.

2. The Commission is an independent Department of the City and shall have the power to retain its own attorney.

With respect to its employees, the Commission shall, subject to Article VII of this Charter, have the sole power to appoint, assign, reassign, discipline and remove its own managerial and executive staff. The Commission shall have the functions and duties regarding the Berkeley Police Department enumerated in this Section.

The Commission is empowered to request and receive funding from the City of Berkeley for its reasonable and necessary expenses. Decision-making regarding the budget of the Commission shall be independent of the City Manager's office. With the Commission's consent, the City Council may assign additional powers and duties to the Commission as appropriate. Furthermore, the electorate may give additional powers or duties through initiative ordinance as provided by this charter.

(c) Functions and Duties.

3. The Commission shall assume the functions, duties, and staffing of the Police Review Commission (PRC).

To assist in an orderly transition between the Police Review Commission, herein abolished, and the Police Commission established by this Article, all files, records, books, and publications, and documents of whatever kind of the former Commission shall be promptly deposited in the office of and for the use and benefit of the newly created Police Commission.

The PRC shall continue in existence until its functions are transferred to the Police Commission; but under no circumstances shall the PRC continue in existence for more than thirty (30) days past the first meeting of the Police Commission.

Record-keeping and confidentiality

- In accord with the City's record retention schedule, maintain all electronic communications to, from and/or copied to any Commissioner or alternate regarding any matters within the Commission's jurisdiction, and provide such communications to the City upon request.
- Maintain the confidentiality of its business, including without limitation, the confidentiality of documents it creates or receives as permitted by the California Public Records Act (Cal. Gov't Code sec. 6250, *et seq.*), to the extent required by state and local law. A Commissioner's intentional failure to maintain such confidentiality may be considered "gross misconduct in office" and grounds for removal by a majority of the Commission.
- Review and comment on the education and training the Department provides its sworn employees. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing.

Commission functions

7. Police misconduct investigations and discipline are addressed in Section (h) below.

8. The Commission shall conduct public hearings at least once a year on police policies, practices, and customs.

9. All policies and procedures of the Police Department shall be subject to the approval of the Commission. In addition, the commission may regulate practices of the BPD where appropriate and consistent with state and federal law and the U.S. and California Constitutions.

The Commission shall have the power to review and modify all written and unwritten policies, practices, and procedures of whatever kind and without limitation, in relation to the Berkeley Police Department, including its relationships with other law enforcement agencies and intelligence and military agencies operating within the City of Berkeley, and with law enforcement generally.

The Commission shall have the discretion on its own motion to initiate an investigative hearing on any matter within its jurisdiction.

10. There is hereby established, under the authority of the Police Commission, a Policy Section.

The powers, functions and duties of the Policy Director shall be those assigned, authorized and directed by the Commission, and shall include conducting any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also include conducting any audit or review of the Department's policies and procedures, including any pattern of non-compliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties. The Chief shall assign a sworn officer to act as a liaison from the Department to the Policy Director.

The Commission shall be responsible for oversight of the Policy Section. The Section will be composed of a Policy Director appointed by the Commission, and professional and administrative staff reporting to the Policy Director.

The Commission shall have the authority to prioritize the functions and duties of the Policy Director, which shall include, without limitation:

- a. Preparing an annual report, summarizing the results of the annual reviews of:
 1. The Department's processes and procedures for investigating alleged misconduct;
 2. The Department's processes and procedures for determining the appropriate level of discipline for sustained findings of misconduct;
 3. The Commission investigative staff's processes and procedures for investigating alleged misconduct;
 4. The Commission investigative staff's processes and procedures for determining

- the appropriate level of discipline for sustained findings of misconduct;
5. Trends and patterns regarding Department training and education, and the Department's use of any early warning system(s);
 6. Training and/or policy issues that arise during the investigations of complaints; and
 7. Trends and patterns regarding use of force and officer-involved shootings. .
 8. The number of complaints filed and their disposition.

This annual report shall be presented to the Commission, the Mayor, the City Council, the City Manager, and the Chief and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

- b. Monitoring and evaluating, on at least an annual basis, the number and percentage of sworn officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem-solving, and work-related stress management, and make recommendations, as appropriate, to the Commission regarding changes to the Department's training programs.
- c. Developing and presenting a plan to the Commission to measure the performance of each element of the Department's discipline process.
- d. Completing all audits or reviews requested by the Mayor, the City Manager, and/or the City Council by an affirmative majority vote. The Policy Director shall report all findings to the office that requested the audit or review.
- e. Monitoring, evaluating, and making recommendations regarding the Department's recruitment and hiring practices for sworn personnel.
- f. Monitoring, evaluating, and making recommendations regarding the Department's policies and procedures as requested by the Commission in furtherance of its duties.
- g. Monitoring, evaluating, and making recommendations regarding the Department's risk management practices.
- h. The Policy Director may review all police files without limitation, except for criminal investigations.
- i. The Policy Director shall assist the Commission in policy investigations.

11. The Commission shall review the budget of the Police Department to determine whether budgetary allocations are aligned with contemporary and constitutional law enforcement standards. The Commission shall have the power to modify the Department's budget request to the city council, consistent with the civil service laws, the labor MOUs, and remaining within 5% of current staffing levels. The City Council will have final authority over the Department budget, except that no program specifically rejected by the Commission may have funds appropriated for it by the City Council.

12. The Commission shall require that the Police Department provide its officers adequate treatment when appropriate for stress management, post-traumatic stress disorder, and other mental and emotional job-related health issues.

13. The Commission shall require that the Berkeley Police Department implement a fair, objective, unbiased promotional and disciplinary matrix.

Relationship with the Chief of Police

14. Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Mayor with approval of a majority of the Council. A request to the Council, approved by a majority of the Commission, to remove the Chief shall be considered by the Council within 45 days.

15. Upon the notice of vacancy of the office of Police Chief, the Human Resources Department shall cooperate with the commission to prepare a job announcement, describe requirements, and establish an application process. The Commission will have final say over the application process. The Commission shall prepare a list of two candidates and transmit the names to the Mayor and Council. The Mayor shall appoint one person from the list with the approval of the City Council.

16. The Chief of Police shall cooperate with the Commission in all reasonable requests to the extent feasible, and shall attend at least twelve regular and special full Commission meetings per calendar year, or half of all full meetings, whichever is greater. In an emergency, the Chief may designate a representative to attend.

Required reporting

17. Within one hundred and eighty (180) days of the City Council's confirmation of the first group of Commissioners and alternates and on the anniversary of that date thereafter, notify the Chief regarding what information will be required in the Chief's annual report to the Commission which shall include, at a minimum, the following, while noting that disclosure of legally restricted confidential information to persons beyond the Commission and its staff shall be prohibited:

- a. The number of complaints submitted to the Department's Internal Affairs Division (hereinafter, "IAD") together with a brief description of the nature of the complaints;
 - The number of pending investigations in IAD, and the types of Misconduct that are being investigated;
 - The number of investigations completed by IAD, and the results of the investigations;
 - The number of training sessions provided to Department sworn employees,

- and the subject matter of the training sessions;
- Revisions made to Department policies;
- The number and location of officer-involved shootings;
- The number of Review Board hearings bearing on Serious Incidents, use of force, or discrimination, and the results;
- A summary of the Department's monthly Use of Force Reports;
- Number of officers disciplined and the level of discipline imposed; and
- The number of closed investigations which did not result in discipline of the subject officer.
- Police activities including but not restricted to: police- involved shootings; in-custody injuries and deaths; civil lawsuits based on allegations of police misconduct; use of force incidents; trends and patterns in police stops, field investigations, detentions and arrests, taking into account, at a minimum, demographics based on age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, or national origin.
- Any other matter deemed appropriate by a majority of the Commission

18. The Internal Affairs Division shall report monthly to the Commission on a confidential basis on the status of all complaints active or resolved since the last report. If the Commission deems the report insufficient, it shall have the right to require additional information be provided.

19. The Commission shall report as often as needed, but at least once annually to the Mayor, the City Council and to the public to the extent permissible by law, information pertaining to the following: a summary of all complaints made against BPD members; policing practices, policies and customs; Department personnel practices, policies and customs; Department risk management practices; Department financial/efficiency/performance audits; crime and violence trends; police/community relations and service quality; such other matters as are relevant to the functions and duties of the Commission.

20. Conduct an annual performance review of the Policy Director. The Commission shall determine the criteria for evaluating the Policy Director's and the Investigative Director's job performance, and communicate those performance criteria, in addition to any other job performance expectations, to both the Policy Director and the Investigative Director one full year before conducting any evaluation of their job performances. The Commission may at its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Manager and other City staff who are familiar with the Policy Director's and the Investigative Director's job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary.

21. Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of:

- To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration;
- Arbitration decisions or other related results;

- The ways in which it has supported the police discipline process; and
- Significant recent developments in police discipline.

22. Within two years of its first meeting, the Commission shall determine what methodology to use to measure its own effectiveness and shall produce a report on its effectiveness and recommendations for improvement. Thereafter, the Commission shall submit such reports biennially (every other year).

23. Make available on its website, to the extent permitted by law:

- The Commission's annual report
- The Chief's annual report

24. Review and comment on the Department's policy and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the comments in writing.

25. Solicit and consider input from members of the public regarding the quality of their interactions with the Commission and its staff.

(d) Appointment, Terms, Vacancies, Removal.

26. The Commission shall consist of seven regular members and three alternate members, all of whom shall be Berkeley residents. To the extent practicable, appointments shall be broadly inclusive of the communities of interest, neighborhoods, and diversity in economic, ethnicity, race, age, and sexual orientation, and persons with disabilities, and expertise in fields such as human resources, the law, and police reform. No current sworn police officer or officer of an employee association representing sworn police officers is eligible to serve as a Commissioner.

27. With the exception of the first group of Commissioners, the term for each Commissioner shall be three years. The expiration date of all terms shall be November 30.

28. Commission members are limited to no more than two terms. However, when a term of office ends and no replacement has been appointed, the incumbent shall continue to serve until a replacement is appointed.

29. A vacancy on the Commission shall exist whenever a regular or alternate member dies, resigns, ceases to be a resident of the City, is convicted of a felony, or is removed. Additionally, elevation of an alternate member to fill a vacancy among the regular membership shall constitute a vacancy in the alternate pool.

30. For vacancies occurring for reasons other than the expiration of a regular member's term, an alternate chosen by the Commission shall replace the regular member and

assume the term of office of such member.

31. Members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular Commission meetings or five regular meetings in a calendar year except when absent by permission. Procedures and regulations for approving absences shall be developed and adopted by the Commission.

Initial selection of Commissioners.

32. There is hereby established a Selection Panel. Within ninety days (90) of the enactment of this Section, each City Council member shall appoint one person and the Mayor shall appoint two people to the Selection Panel. To the extent practicable, the Mayor and the City Council shall use best efforts to appoint individuals to the Selection Panel who are broadly representative of Berkeley's diversity and who represent communities experiencing the most frequent contact with the Department.

No police officer or member of an employee association representing sworn police officers is eligible to be a member of the Selection Panel. The Selection Panel will conduct outreach to the community; will solicit applications from those willing to serve on the Police Commission; will review the applications, and interview applicants to serve as regular or alternate members of the Commission. Each January the Mayor and each Council member may replace their appointee(s) on the Selection Panel. Selection Panel members may serve up to five years.

33. Within one hundred and twenty days (120) of its formation the Selection Panel shall submit a slate of seven (7) regular members and three (3) alternate members to the City Council. If the City Council does not accept or reject the submission within sixty (60) days the person(s) shall be deemed appointed. If Council rejects a submission, the entire slate of names will return to the Selection Panel, which will send a revised slate back to Council for consideration.

If three slates of commissioners are rejected by Council, or 240 days have elapsed since formation of the Selection Panel, whichever occurs first, the Selection Panel shall pick the regular and alternate members of the Commission without need for approval by the City Council.

34. To effect a staggering of terms among the Commissioners, duration of the first group of Commissioners shall be determined by the Selection Panel as follows:

- Class I: Two regular and one alternate members shall have an initial term of approximately two years, ending on November 30, 2021.
- Class II: Three regular and one alternate members shall have an initial term of

approximately three years, ending on November 30, 2022.

- Class III: Two regular and one alternate members shall have an initial term of approximately four years, ending on November 30, 2023.

Selection of Commissioners in following years.

35. Each year the Selection Panel shall re-convene to designate replacements for Commissioner vacancies as needed and shall submit the names of such designated persons to the City Council for acceptance or rejection. These vacancies include two types:

- a. Vacancies occurring due to the expiration of a regular member's term on the following November 30.
- b. Vacancy of an alternate member for any reason.

If the City Council does not accept or reject the submission within sixty (60) days the person(s) shall be deemed appointed. If Council rejects a submission of a member of a slate submitted by the Selection Panel, the entire slate of names will return to the Selection Panel, which will send a revised slate back to Council for consideration. The sitting Commissioners will continue to serve until the Council approves a new class of Commissioners.

36. All final Commissioner candidates, whether in the initial or subsequent years, shall be subject to a background check before their names are submitted to the City Council for confirmation. The City Manager's office shall retain an independent contractor to perform these background checks, which shall include verification of educational and employment background, and any other information that may be verified by a public records search. The results of the background check identified in subsection (A) above shall be treated as public records.

(e) Meetings, Rules and Procedures.

37. The Commission shall meet at least twice each month. The Commission shall notify the public of the time and place of the meeting and provide time for public comment at each meeting. The regular place of meeting shall be in an appropriate location in the City capable of accommodating at least 50 people, but shall not be in the Public Safety Building. At least once a year, and more frequently if the Commission desires, the Commission shall meet in other locations throughout the City for the purpose of encouraging interest and facilitating attendance by people in the various neighborhoods in the City at the meetings. Commission staff shall arrange for audiotape of all full Commission meetings to be recorded and made publicly available, and if feasible, for video recordings to be aired on local cable television.

38. The Commission shall establish rules and procedures for the conduct of its business.

Such rules shall be made available to the public.

39. The Commission may appoint such subcommittees as are deemed necessary or desirable for the purposes of this Article, provided that membership on such subcommittees shall not be limited to the Commission members but may include members of the public who express an interest in the business of the subcommittees. The public members of such subcommittees shall serve without compensation.

40. Five members shall constitute a quorum. An alternate member shall be counted for a quorum and shall cast a vote in place of a missing member. The order of service for alternate members for purposes of substitution shall be determined at the first Commission meeting of each year after November 30. There shall not be more than seven (7) voting members of the Commission at any given time.

41. The affirmative vote of four regular members of the Commission shall be required for the adoption of any motion or recommendation regarding discipline of a police officer. Motions on all other matters may be approved by a majority of those Commission members present, including both regular and alternates seated for voting. To the extent permissible by state law, the vote of each Commissioner shall be made public.

42. The Commission shall elect one of its members as Chair and one as Vice-Chair, who shall each hold office for one (1) year or until their successors are elected, whichever comes first. A Chair shall not be eligible to serve more than two terms in successive years, each of six months or longer, unless no other candidate is nominated for the office. Officers shall be elected no later than the second meeting of the new Commission following its initial appointment, and annually at a meeting in the month of January.

43. On the petition of one hundred (100) or more residents of the City of Berkeley filed in the office of the Secretary of the Commission, the Commission shall hold a special meeting in an appropriate and convenient location for the individuals so petitioning for the purpose of responding to the petition and hearing and inquiring into matters identified therein as the concern of the petitioners. Copies of the petition shall be filed by the Commission with the City Clerk and the City Council. Notice of such meeting shall be given in the same manner as notice is given for other meetings of the Commission. In no case shall the Commission meet later than ten (10) working days following the date the petition is filed.

44. In conducting its meetings, the Commission shall comply with all requirements of the Brown Act, California Government Code section 54950, *et seq.*

(f) Budget.

45. The City shall allocate a sufficient budget for the Commission, necessary to perform its functions and duties effectively and efficiently.

46. By September 16, 2019, the City shall meet a minimum staffing requirement for the

Commission. The minimum staffing shall consist of the following full-time positions or their equivalent should classifications change: Executive Director of the Commission and an Operations Support Specialist; an Investigations Director and Investigator(s) and other necessary staff; a Policy Director and one Policy Analyst and other necessary staff. The Commission shall have the number of investigators necessary to fairly and impartially investigate decisions in a way that will be fair to the police officer and the complainant.

47. Resources shall be provided for appropriate office facilities, equipment, staffing, information technology support, outreach and other essential requirements.

48. Sufficient resources shall be provided so that the Commission and staff may attend training regarding the best practices of policing, police oversight, auditing, policy analysis, investigations, and human resources. Such training shall be consistent with the most current national standards, including offerings of the National Association of Civilian Oversight of Law Enforcement (NACOLE), and the Commission on Police Officer Standards and Training (POST) or similar professional development organizations and opportunities

49. Commissioners and alternates shall receive a stipend of one hundred dollars (\$100) per regular or special meeting of the full commission they attend, and \$20 (twenty dollars) per hour for attending subcommittee, Board of Inquiry, and Discipline Committee meetings. The stipend will be subject to a limit of \$1000 per commissioner per month beginning in 2019. The regular and subcommittee rates and the monthly stipend limit will be adjusted annually for inflation to conform with the Consumer Price Index (CPI). Procedures and regulations for accounting for hours worked and compensation and for adjusting the rate of and limit on stipends shall be developed and adopted by the Commission and filed with the office of City Clerk.

(g) Staffing.

50. The Executive Director, the Investigations Director, and the Policy Director shall be hired by the Commission. The Commission shall periodically conduct a performance review of the three Directors. The Directors shall be at-will employees and shall serve at the pleasure of the Commission. By an affirmative vote of at least five members, the Commission may terminate any of the three Directors.

The Policy Director and the Investigations Director shall report to the Executive Director of the Commission, and may only be removed after an affirmative vote of five (5) members of the Commission. The City Manager shall not have the authority to independently remove the Policy Director or the Investigations Director.

The Commission shall employ such staff as may be necessary to perform its functions efficiently.

51. For an interim period from the effective date of this Charter amendment until the new Police Commission appoints the Executive Director, the PRC Officer will also serve as

the Acting Executive Director of the Police Commission.

52. Commission staff, with the exception of the three Directors, shall be civil service employees in accordance with Article VII of the City Charter. The Commission shall not have any authority to hire or fire staff other than the three Directors. After the effective date of this Charter amendment, the Executive Director shall identify special qualifications and experience that the Policy Analyst, Investigators, and Operation Support Specialist candidates must possess. Candidates for future vacancies shall be selectively certified in accordance with the Civil Service procedures, except that said selective certification shall not be subject to discretionary approval by City management. The Executive Director, the Investigations Director, and the Policy Director shall appoint lower-level staff in their respective sections, subject to confirmation by the Commission.

53. No current or former member of the Berkeley Police Department or official of an employee association representing sworn police officers is eligible for any staff position in the Commission. The Executive Director, the Investigations Director, and the Policy Director shall have relevant experience in managing similar agencies where they have had the responsibility of advocating for the public interest.

54. The Executive Director shall be classified as a Department head.

(h) Investigations.

55. There is hereby established, under the authority of the Police Commission, a civilian Investigations Section.

56. The Executive Director shall supervise the Investigations Director. The Section will be composed of an Investigations Director appointed by the Commission, and professional and administrative staff reporting to the Investigations Director.

The powers, functions and duties of the Investigations Section shall be those assigned, authorized and directed by the Commission, and shall include initial review of all complaints and allegations against sworn BPD officers, recommendations to the Commission on which complaints and allegations should be investigated by the Section, investigation of the complaints and allegations chosen by the Commission. The Chief shall assign a sworn officer to act as a liaison from the Department to the Investigations Section.

The Commission, its staff, and the Department will all work diligently to ensure that investigations and notifications to the police officer shall be completed within the one-year timeframe required by state law for the imposition of discipline. Any failure to complete an investigation and appropriate notification within one year as required by state law, which results in an inability to impose discipline on an officer who

would otherwise be subject to discipline, may be subject any responsible commissioner or employee to discipline or removal.

57. The Chief of Police or her/his designee shall notify the Investigations Director, the Commission Executive Director, and the Chair of the Commission within twenty-four (24) hours that a Serious Incident has occurred, of the filing of an internal or external complaint against a BPD officer, or of reasonable suspicion that an officer has committed a crime. Unless informed otherwise by Commission staff, IAD shall proceed with investigation of the incident.

The Chief shall also provide a confidential status report to the Investigations Director, the Commission Executive Director, and the Chair of the Commission within ten (10) calendar days of the date on which a suspected crime occurred, and brief the Investigations Director, the Commission Executive Director, and the Chair of the Commission at least once a month regarding allegations of all such crimes under investigation.

58. The Investigations Section shall view all complaints, whether they come directly from the public or are referred to it by the Police Department. Within 21 days, the investigative staff shall recommend to the Commission which of these complaints merit its investigation.

Commission staff shall make an initial report to the Commission chair about new complaints and investigations within 24 hours, and to the Commission by its next meeting.

In an urgent situation, the Investigations Director, in consultation with the Commission chair, may make a provisional decision whether or not Commission staff shall investigate a complaint. This decision shall be reviewed and upheld or overturned by the Commission at the next possible meeting.

In recommending complaints for investigation, the staff shall prioritize the following: uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies; urgency for response to public concerns; availability of witness(es) and/or evidence; the prior history of either the complainant or the subject officer(s).

The Commission shall provide further policy guidelines to the Investigations Director for assistance in determining case prioritization.

The investigative staff shall forward a copy of each external complaint received from outside the BPD to the Internal Affairs Division of the Berkeley Police Department within 24 hours of receipt.

59. Within 30 days of receipt of the Investigation Section's recommendations, the

Commission shall direct the Investigations Section which public or department-generated complaints to investigate. The Commission shall direct staff to investigate a Serious Incident when requested by the Mayor, the City Manager, and/or the City Council by an affirmative majority vote. The staff and the Commission shall have access to BPD files on all department-conducted internal investigations. Upon completion of the investigation, staff shall make a finding regarding each such complaint. If a complaint is upheld, the Investigations Section shall recommend discipline.

When the Commission determines that the Investigations Section shall investigate a complaint, the Commission will become the lead agency on the investigation. IAD shall provide information on such a complaint to the Investigations Director or the Commission upon request. IAD must fully cooperate and assist with the Commission upon request. Additionally, IAD must also report to the Investigative Section any evidence they develop or encounter about a complaint.

IAD shall process complaints under applicable state law and BPD procedure for any cases that the Commission elects not to investigate.

60. Subject to applicable law, the Commission, its Boards of Inquiry, the Discipline Committees, the Executive Director, the Investigations Section, and the Policy Director shall have access to all Department files and records, including personnel records, and to all files and records of other City departments and agencies, that are relevant and necessary to the performance of its duties.

61. Within 90 days of direction by the Commission to investigate, the Investigations Section shall complete investigations of misconduct.

62. The Police Department shall respond to Commission staff requests regarding investigation within ten (10) business days. A responsible BPD employee who fails to comply with this requirement shall be subject to discipline if appropriate.

63. The Investigations Section shall immediately forward to the Alameda County District Attorney's Office any evidence of criminal misconduct when there is reasonable suspicion to believe a police officer has been involved in a felony or serious misdemeanor.

64. The Commission shall review the Investigations Section's dismissal and/or administrative closure of complaints involving use of force or discrimination, including any Investigations Section file regarding such complaints, and, at its discretion and by five (5) affirmative votes, direct the Investigations Section to reopen the case and investigate the complaint.

65. In conjunction with the Investigations Director and in consultation with the Chief or the Chief's designee, the Commission shall establish rules and procedures for the

mediation and resolution of complaints of Misconduct.

66. The Executive Director shall convene a separate Police Commission Board of Inquiry (BOI) to make a judgment on each complaint for which the Commission is the lead investigative agency. The BOI shall review the recommendations from the Investigations Section and hold evidentiary hearings. The Board will be composed of three sitting Commissioners. However, the Commission shall sit as a Board of the whole to hear complaints involving the death of a person. Also, if the Commission so decides by a vote of six Commissioners, the Commission shall sit as a Board of the whole to hear other complaints. Any Board of the whole shall require a quorum of five Commissioners.

Within forty-five (45) days of completion of the investigation, the Board of Inquiry shall complete its hearing, affirm or modify the staff's disposition of the allegations, and establish the Proposed Discipline. The Executive Director shall communicate the findings and Proposed Discipline to the Chief of Police within four (4) days.

67. The Commission shall create regulations for the Board of Inquiry process based on the BOI regulations of the Police Review Commission, modified to suit the needs of the Police Commission herein established. Any modifications, without limitation, may be made by a majority vote of the Commission.

Until the Police Commission creates new BOI regulations, Police Commission BOIs may utilize an interim, modified version of the PRC BOI regulations, to be created by the Executive Director of the Police Commission. The Executive Director shall bring proposed interim regulations to the first meeting of the new Police Commission for adoption. The Executive Director's draft interim regulations shall include these changes to the PRC version:

- References to the PRC shall be updated to refer to the Police Commission
- Any provisions of the PRC regulations that conflict with the language of this charter amendment shall be corrected to comply with it.
- The Board of Inquiry hearing shall review and vote to affirm or modify the staff's recommended disposition of the allegations in the complaint (sustained, not sustained, exonerated, or unfounded). The Board will also vote to affirm or modify the staff proposal on discipline.
- The standard of proof shall be changed to "preponderance of evidence" from "clear and convincing evidence."
- The disciplinary deadline may be changed from the present 120 days to any deadline, consistent with state law, that the Commission deems prudent, once the Commission is established and can consider this matter.

The Commission shall establish rules and procedures for Discipline Committees, ensuring protection for officers' due process and statutory rights including *Skelly* rights.

68. Up to three members of the Commission may attend meetings of the Berkeley Police Department incident Review Boards as observers.

69. City management will consult in a timely way with the Commission on terms of all future MOUs between City and the police employee association(s). Any change that affects the Commission's power to adjudicate complaints shall be subject to ratification by the Commission by a majority vote.

70. The Commission, with the assistance of the Investigations staff, shall establish additional rules and procedures for the Investigations Section, governing, for example, intake of complaints, use of forms, audio and video recording of testimony, public information, training for Investigations staff, production of subpoenas to compel testimony from sworn officers, and periodic reports to the City Council.

71. The Commission may utilize dispute resolution methods other than formal administrative hearings, including, but not limited to voluntary conciliation, mediation, and referral to the Chief of Police for disposition without a hearing.

The Commission shall establish a mediation program. Upon the agreement of the Chief, the Investigations Director, the complainant(s) and the Subject Officer(s), the Investigations Director shall appoint a qualified mediator to mediate a final and binding resolution of the complaint in accordance with the Commission's established rules and procedures. Any Commissioner, City employee, or former Department sworn officer shall not be appointed mediator. Both the Chief and the Investigations Director must approve of any settlement offer before it is proposed to the subject officer and/or before any such offer is accepted.

72. The Commission shall have the power to issue subpoenas to compel the appearance of witnesses, and the production of books, papers, records, and documents, and take testimony on any pending matter. The Commission may seek a contempt order as provided by the general law of the State for a person's failure or refusal to appear, testify, or produce subpoenaed documents.

73. Complaints in which the complainant is the subject of criminal prosecution may be investigated, but shall not be brought to a hearing while the prosecution is pending.

(i) Adjudication of Discipline.

74. Upon notification by the Commission of a sustained complaint, the Chief of Police shall notify the police officer of his or her rights to an administrative appeal. Subsequent to administrative appeals, if requested, and Skelly hearings, the Chief of Police will recommend a final discipline. If the Final Discipline is different from the discipline proposed by the Commission, the issue of discipline will be decided by the Discipline Committee within 30 days of the BOI setting the Proposed Discipline

75. The Chairperson of the Commission shall appoint three (3) Commission members to serve on a Discipline Committee, and shall designate one of these three (3) Commission members as the Chairperson. The Discipline Committees shall decide any dispute between the Commission and the Chief regarding the final level of discipline to be imposed on a Subject Officer.

- No Discipline Committee established by the Commission shall decide any dispute between the Chief and the Commission, until each member of the Discipline Committee has completed: (1) orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for misconduct, and (2) the training described herein.
- Membership in the Discipline Committees shall rotate for each police officer discipline or termination case, as determined by the Chairperson of the Commission.

All Department employees shall be afforded their due process and statutory rights, including *Skelly* rights, as follows:

- After the investigation of a complaint has been completed and a decision has been made regarding the proposed findings and the proposed level of discipline (hereinafter referred to as the "Proposed Discipline"), either by agreement between the Chief and the Commission or by decision of the Discipline Committee, the Chief shall send a Notice of Intent to Impose Discipline or a Notice of Intent to Terminate to the Subject Officer. Consistent with City policy and applicable law, the Department shall offer the Subject Officer a *Skelly* hearing to be conducted by an assigned *Skelly* officer. After completion of the *Skelly* hearing, the *Skelly* officer shall issue his or her report which shall include his or her recommendation regarding whether the Proposed Discipline should be affirmed or modified in any way.
- The *Skelly* report shall be submitted to the Chief and to the Investigations Director. The Chief and the Investigations Director shall consider the *Skelly* report and consult with each other regarding the final set of findings and level of discipline to be imposed (hereinafter referred to as "Final Discipline").
 - If the Final Discipline is the same as the Proposed Discipline,

the Chief shall send a Notice of Discipline or Notice of Termination to the Subject Officer.

- If the Final Discipline differs from the Proposed Discipline, or the Chief and the Investigations Director do not agree on the Final Discipline, the *Skelly* report shall be submitted to the Discipline Committee which shall decide the Final Discipline based on the record reviewed and considered by the Skelly Officer (which shall include the Notice of Intent to Discipline or Terminate with all attachments). The Discipline Committee shall also have the authority to require the Chief and the Investigations Director, or their non-attorney designees, to appear before the Discipline Committee to present their recommendations and to answer questions. After determining the Final Discipline, the Discipline Committee shall direct the Chief to send a Notice of Discipline or Notice of Termination to the Subject Officer.
- After the Final Discipline has been determined by either the agreement of the Investigations Director and the Chief, or by the Discipline Committee, and to the greatest extent permitted by law, the complainant(s) shall be informed of the disposition of the complaint.
- The Discipline Committee shall maintain the confidentiality of all personnel and/or privileged information as required by State law. After the Discipline Committee has concluded its deliberations regarding the Proposed Discipline and/or the Final Discipline, it shall return all records and information it received to the Commission office, which shall retain such records confidentially. Members of the Discipline Committee shall not retain copies of the records they receive from the Chief and the Investigations Section, nor shall they publicly comment about, or discuss any personnel matter with anyone, including another member of the Discipline Committee, outside of Discipline Committee meetings, except in the Commission review provided for in paragraph 69, or as required by a valid subpoena. This subsection (D) shall not preclude any member of a Discipline Committee from participating in any grievance procedure, including without limitation testifying in an appeal before the Civil Service Board or an arbitration or other type of administrative hearing.
- The Subject Officer may appeal the imposition of discipline or termination to the Civil Service Board. In addition, the Subject Officer may grieve the imposition of discipline or termination as prescribed in a collective bargaining agreement.

76. Within twenty-one (21) days of the Discipline Committee setting the Final Discipline, the Commission shall review the decision of the Discipline Committee and either uphold or modify the Final Discipline. The Commission shall impose appropriate discipline or delegate its authority to impose discipline to the Chief of Police, who shall impose such discipline.

(j) Legality.

77. Sections of this Amendment shall be deemed to be severable. Should any section, paragraph, or provision of this Amendment be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or in part, other than the part so declared to be unconstitutional or invalid.

78. Effective the thirtieth day after the first meeting of the new Police Commission, Ordinance No. 4644-N.S., which created the Police Review Commission, and Ordinance No. 5503-N.S. in amendment thereof, shall both be repealed.

79. Wherever this Amendment conflicts with other provisions of the City Charter, this Amendment overrides previous versions of the Charter.

Lee, Katherine

From: Andrea Prichett <prichett@locrian.com>
Sent: Friday, March 02, 2018 2:26 PM
To: Lee, Katherine
Subject: Fwd: RE: PRA REQUEST: After Action Report 2-8-18

Hello again, Kathy.

Please include this communication in the next PRC packet. Thanks!

----- Forwarded Message -----

Subject: RE: PRA REQUEST: After Action Report 2-8-18
Date: Fri, 23 Feb 2018 18:46:24 +0000
From: Valderas, Lester <LValderas@cityofberkeley.info>
To: Andrea Prichett! <prichett@locrian.com>

Good morning Ms. Prichett,

This email is regarding your below California Public Records Act request dated February 13, 2018. Please be advised that the City is extending the response period by fourteen additional calendar days to March 9, 2018, based on the need for consultation with two or more components of the agency having substantial subject matter interest therein. Gov't Code §6253(c)(3).

If you have any questions or concerns regarding your CPRA request, please feel free to contact me by email at lvalderas@cityofberkeley.info.

Thank you.

Lester A. Valderas | *Paralegal*
City of Berkeley, City Attorney's Office
2180 Milvia St., 4th Floor, CA 94704
Phone: (510) 981-6984 **Fax:** (510) 981-6960
Email: lvalderas@cityofberkeley.info

From: Andrea Prichett [<mailto:prichett@locrian.com>]
Sent: Tuesday, February 13, 2018 3:50 PM
To: Norman, Latargie <lnorman@cityofberkeley.info>; Norman, Latargie <lnorman@cityofberkeley.info>
Subject: PRA REQUEST: After Action Report 2-8-18

Dear Custodian of Records for the Berkeley Police department,

Pursuant to the California Public Records Act, I would like to obtain copies of the following:

1. Operational Plan for the police action for 2-8-18 at old City Hall to remove a homeless encampment

2. After Action report (as required in General order C-64) including the estimated costs of the police action at 2134 Martin Luther King Jr Way on 2-8-18

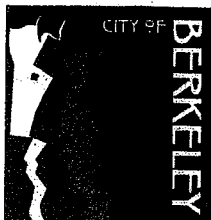
3. Copies of planning documents related to the removal of the encampment at the same location including but not limited to

a. emails, communications, planning documents, timelines, announcements between agencies including Neighborhood Services, Public Works, Berkeley Mental health, City Manager and City Council members

Thank you in advance for your kind assistance.

Please provide these responses via email at:
prichett@locrian.com

Andrea Prichett



Office of the City Attorney

March 6, 2018

Via e-mail at prichett@locrian.com

RE: Public Records Act Request Dated February 13, 2018

Dear Ms. Prichett:

This letter is in response to your California Public Records Act request below dated February 13, 2018, in which the City of Berkeley's response time was subsequently extended on February 23, 2018:

"Pursuant to the California Public Records Act, I would like to obtain copies of the following:

1. *Operational Plan for the police action for 2-8-18 at old City Hall to remove a homeless encampment*
2. *After Action Report (as required in General order C-64) including the estimated costs of the police action at 2134 Martin Luther King Jr Way on 2-8-18*
3. *Copies of planning documents related to the removal of the encampment at the same location including but not limited to*
 - a. *Emails, communications, planning documents, timelines, announcements between agencies including Neighborhood Services, Public Works, Berkeley Mental Health, City Manager and City Councilmembers."*

Please be advised that the Operational Plan is exempt from disclosure as a record of operations and security procedures pursuant to Gov't Code §6254(f) and is not required to be disclosed under the Public Records Act. Additionally, the After Action Report is exempt from disclosure as it is an investigative record and is not required to be disclosed. This action was in response to lodging on public property and not pursuant to BPD General Order C-64. Lastly, please find documents responsive to your 3rd request regarding planning documents, attached to this letter as a courtesy.

With this response, staff has completed their work to process and respond to your California Public Records Act request. If you have any questions concerning your request, please contact Paralegal Lester Valderas by e-mail at lvalderas@cityofberkeley.info.

Sincerely,

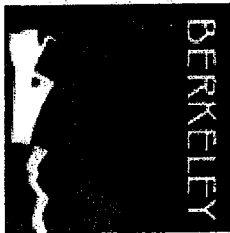
Farimah Brown
City Attorney

From: Grogan, Jovan
Sent: Wednesday, February 07, 2018 3:02 PM
Subject: Notice to Old City Hall Encampment
Attachments: OCH Posting Notice_020618.pdf


This email is being sent to the Mayor, Councilmembers, and all legislative staff.

Council:

Attached to this email, please find the notice that was provided to the encampment at Old City Hall earlier today. There has been growing concern about health and safety conditions at this location, including human waste and trash accumulations, as well as recent fires, which have been the subject of numerous complaints from neighboring residents and businesses. The notice advises members of the encampment to immediately collect their belongings and vacate the premises. Staff from the Homeless Outreach Team also visited the encampment today. Please feel free to contact me with any questions.

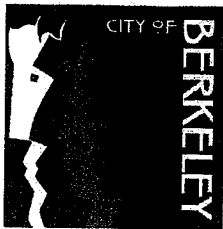


Jovan D. Grogan
Deputy City Manager
City of Berkeley
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
(510) 981-7014 / jgrogan@cityofberkeley.info

 [Follow](#) the City of Berkeley

Most City offices are closed the second Friday of each month for cost-saving measures. For a complete schedule of City closures and exceptions, please visit the [Holiday and Reduced Service Day Schedule](#).

Administrative Assistant: [Melanie E. McLean / \(510\) 981-7005 / \[MeMcLean@cityofberkeley.info\]\(mailto:MeMcLean@cityofberkeley.info\)](#)



Note: For purposes of the PRC agenda packet, duplicate copies of this Public Notice, which were attached to numerous emails that follow, are not reproduced. Omissions are indicated by a handwritten asterisk.

PUBLIC NOTICE

Date: February 6, 2018
To: Persons Lodging at 2134 Martin Luther King Jr. Way (Old City Hall)
Notice of Violation of BMC section 13.36.065.C and Administrative Rule 1.15, Penal Code (PC) 647e
From: City of Berkeley Neighborhood Services
Subject: **Encampments Located at 2134 Martin Luther King Jr. Way (Old City Hall)**

You are hereby notified that BMC 13.36.065 and Administrative Rule 1.15 prohibit persons from doing any of the following:

- "Set up, place, maintain or install any structure or large object in or on the exterior grounds of a City building without a City-issued permit. A structure or large object as used herein is any object with a footprint or coverage area of 10 square feet (i.e., 3.3 feet by 3.3 feet) or more, including but not limited to a tent or table exceeding that size."
- "Leave or store any unattended personal property in or on the exterior grounds of a City building regardless of the size."
- Remain "inside of or on the curtilage of a City building without a purpose related to conducting business, accessing services, or contacting an occupant on the premises."

See [http://www.cityofberkeley.info/uploadedFiles/City_Manager/Level 3 - General/AR%201-15\(1\).pdf](http://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_General/AR%201-15(1).pdf).

You are further hereby notified that Penal Code Section 647(e) prohibits lodging on public property without permission of the property owner. PC 647 provides that "... every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

Lodging on the property at 2134 Martin Luther King Jr. Way is not permitted. Please take this opportunity to immediately collect your belongings and leave this location. The City prefers not to have to resort to citation or arrest to gain your compliance with this notice. However, absent voluntary compliance, failure to comply may result in citations and arrest. Arrested individuals may be booked into the Berkeley jail in appropriate circumstances.

Any property which is left unattended will be handled in accordance with City policy regarding temporary storage of unattended property. Individuals who wish to reclaim their property may contact 311 Customer Service Center during regular business hours (Monday – Friday, 8:00 AM to 5:00 PM): (510) 981-2489.

There has been growing concern about health and safety conditions at this location, including human waste and trash accumulations, as well as recent fires, which have been the subject of numerous complaints from neighboring residents and businesses.

The City of Berkeley provides a number of services that you are encouraged to utilize:

The City of Berkeley funds an emergency storm shelter for adults (18+ years old) who are living on the streets in Berkeley, with accommodation provided on a first-come, first-served basis. **Hours:** 6:00 PM to 7:00 AM through April 15, 2018. **Location:** 1925 9th Street @ University

If you are interested in shelter and/or housing, **contact the Hub** by:

- Calling 211 between 9 AM and 12 PM on Tuesdays;
- Attending a housing workshop at the Berkeley Drop-In Center (3234 Adeline St.) @ 10:30 AM on Tuesdays;
- Meeting a Hub assessor at the Community Meal (Mondays, 3:30 - 4:45 PM at 1744 University Avenue) or Community Breakfast (Tuesdays, 7:00 - 8:00 AM, 2138 Cedar Street)

Free meals are available throughout Berkeley during the week, including the following:

- **Dorothy Day House.** **Hours:** Monday - Saturday mornings, 7:00 AM - 8:15 AM. Coffee is served @ 6:30 AM. **Location:** Christ Church, 2138 Cedar Street.
- **Berkeley Food and Housing Project.** **Hours:** Monday, Tuesday, Thursday and Friday, 3:30 - 5:00 PM. **Location:** 1744 University Avenue at the Lutheran Church of the Cross.
- **McGee Avenue Baptist church.** **Hours:** Monday, Wednesday, and Friday, 12-1 PM. **Location:** 1640 Stuart @ McGee. **Contact:** (510) 843- 1774.
- **St. Paul's AME Church.** **Hours:** Tuesdays, 11:30 AM-12.30 PM. **Location:** 2024 Ashby Avenue @ Adeline **Contact:** (510) 848- 2050.
- **South Berkeley Community Church.** **Hours:** Thursdays, 12- 1PM. **Location:** 1802 Fairview street @ Ellis. **Contact:** (510) 652-1040.

Weekend meals:

- **All Souls Episcopal Church.** **Hours:** every 2nd Sun.@ 4 PM. **Location:** 2220 Cedar Street @ Spruce **Contact:** (510) 848- 1755.
- **St. Mary Magdalene.** **Hours:** 1st & 4th Sundays @ 3 PM. **Location:** 2005 Berryman St. @ Henry St. **Contact:** (510) 526-4811

Shower, laundry, and daytime respite available in Berkeley:

- **The Multi-Agency Service Center** offers showers and laundry. **Location:** 1931 Center Street (entrance in the front) **Hours:** 8:00 AM - 12 PM, 7 days a week.
- **Willard Pool Showers** **Location:** corner of Telegraph and Derby **Hours:** 8:00PM - 9:00 PM on Monday - Friday and 9 AM – 10 AM on Saturday & Sunday mornings.
- **Berkeley Drop-In Center:** provides restrooms, storage lockers, packaged meals, free phone services, message services, counseling, and more. **Location:** 3234 Adeline St. **Hours:** Monday – Thursday, 9:00 AM - 4:00 PM; Friday 9:00 AM - 2:00 PM.
- **Women's Daytime Drop-In Center:** provides respite, restroom, case management services, and referrals to community services, and more to women and children. **Location:** 2218 Acton St. **Hours:** Monday – Friday, 8:00 AM - 4:00 PM (closed 1st Fridays). **Contact:** (510) 548-2884

Medical Services:

- **Suitcase Clinic/ ASUC Youth/LGBTQ+ Clinic.** **Hours:** Mondays, 6 PM – 9 PM. **Location:** 2300 Bancroft Way **Contact:** (510) 423-3303.
- **Suitcase Clinic/ASUC Women's Clinic.** **Hours:** Mondays, 7 pm – 9 p.m. **Location:** 2140 Dwight Way **Contact:** (510) 423-3659.
- **Suitcase Clinic/ASUC General Clinic.** **Hours:** Tuesdays, 6:15 pm – 9 p.m. **Location:** 2407 Dana Street **Contact:** (510) 269-7242.

For more service referrals, contact the Hub by calling 211 or (866) 960-2132.

From: Elgstrand, Stefan
Sent: Wednesday, February 07, 2018 11:55 AM
To: Harrison, Kate
Cc: Naso, Christopher
Subject: Public Notice to Old City Hall Encampment
Attachments: Public Notice 2-6-18.pdf

*
Attached is the notice that we received this morning. It was delivered to the encampment yesterday evening/late afternoon.

Stefan Elgstrand
Assistant to the Mayor
Office of Mayor Jesse Arreguin
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7103 phone
(510) 981-7199 fax
SElgstrand@cityofberkeley.info
www.jessearreguin.com

Sign up for our [monthly newsletter](#).

From: Steffen, Erin
Sent: Tuesday, February 06, 2018 5:21 PM
To: Radu, Peter
Cc: Burke, Bill; Bourgault, Lynne S.
Subject: Public Notice Services
Attachments: OCH Posting Notice_020618.docx

Importance: High

Hi Peter,

Thank you for reviewing the language on services for this notice. Please reply back before 8:30 AM tomorrow if you have any updates to the contact information regarding services on page 2. Let me know if you have any questions.

Thanks,
Erin

From: Burke, Bill
Sent: Wednesday, February 07, 2018 9:43 AM
To: Steffen, Erin
Subject: RE: Public Notice Services

Sorry Erin, I did not think to change the date. That shouldn't be a problem as the date was when the notice was created, not when it was posted. It is generally accepted that the notice be posted within 24 hours of the date of the notice. And it was clear that it became effective at the time of posting. 39 camps were posted, as well as several unclaimed piles of personal property, the trees and traffic poles along MLK, the entry pillars to OCH, , the Public Notice board fronting OCH, and other perimeter trees. Juumane videotaped.

Bill Burke
City of Berkeley
Office of the City Manager
Code Enforcement Supervisor
2180 Milvia Street
Berkeley, CA 94704
Tel: 510-981-2492

From: Steffen, Erin
Sent: Tuesday, February 06, 2018 5:21 PM
To: Radu, Peter <pradu@cityofberkeley.info>
Cc: Burke, Bill <BBurke@cityofberkeley.info>; Bourgault, Lynne S. <LBourgault@cityofberkeley.info>
Subject: Public Notice Services
Importance: High

Hi Peter,

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Thanks,
Erin

From: Chakko, Matthai
Sent: Thursday, February 08, 2018 12:17 PM
To: Frankel, Andrew J.; Burke, Bill; Steffen, Erin
Subject: RE: Encampment Flyer
Attachments: OCH Posting Notice_020618.pdf

From: Frankel, Andrew J.
Sent: Thursday, February 08, 2018 11:57 AM
To: Chakko, Matthai <MChakko@cityofberkeley.info>; Burke, Bill <BBurke@cityofberkeley.info>; Steffen, Erin <ESteffen@cityofberkeley.info>
Subject: Encampment Flyer

Good morning,

Does anyone have an e-copy of the flyer [✓] which was posted yesterday?

Andrew

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

From: Reece, David K.
Sent: Wednesday, February 07, 2018 1:20 PM
To: Spiller, Edward
Cc: Greenwood, Andrew; Louis, Jennifer A.; Hart, Alyson L.
Subject: Encampment Clearing

The City has decided to vacate the encampment tomorrow at 0500. We will brief at 0430 in the MPR. We need all of DD and Motors to add to CSB and patrol. Can I get a head count ASAP please.

Sent from my iPhone

From: Reece, David K.
Sent: Wednesday, February 07, 2018 1:56 PM
To: Spiller, Edward
Cc: Greenwood, Andrew; Louis, Jennifer A.; Hart, Alyson L.
Subject: FW: Encampment - Help Needed

The ask from Kevin. This needs to be more than a volunteer situation.

Captain Dave Reece C-4
Berkeley Police Department
Professional Standards Division
(510) 981-5760 office
(510) 981-5704 fax
dreece@ci.berkeley.ca.us

From: Schofield, Kevin M.
Sent: Wednesday, February 07, 2018 1:55 PM
To: Reece, David K. <DRreece@cityofberkeley.info>
Cc: Durbin, Michael R. <MDurbin@cityofberkeley.info>; Rodrigues, Veronica <VRodrigues@cityofberkeley.info>
Subject: Encampment - Help Needed

Captain-

Tomorrow (Thursday) morning, BPD and other city departments will be clearing out the homeless encampment that is around Old City Hall. We will need approximately 25 officers to assist. The encampment currently houses an unknown number of people and has 39 currently erected structures. We noticed the encampment this morning with direction to leave. At a previous cleanout of the same location we used 25-30 officers.

Thus far we only have 2 weekend officers that volunteered to come in (DeBruin and Hom) and 4 from CSB. I'm also looking for 4 PEO's and have contacted Traffic.

Can you please help us gather approximately 20 more officers/sgts from other areas including Traffic and DD? I will clear officers out to return to their assignments as quickly as I can.

Mike- I'm sure we can pull a few Team 4 and Team 1 to help, I want to be careful about not making patrol too short or counting on them in case there is a major incident. Maybe we pull patrol people as needed to help get us to the number we need after hearing back from DD and Traffic?

Briefing in the MPR at 0430hrs., on scene at 0500hrs.

Thank you, Kevin

From: Reece, David K.
Sent: Wednesday, February 07, 2018 2:52 PM
To: Greenwood, Andrew
Subject: FW: Encampment - Help Needed

FYSA only. Doing this tomorrow 0500 with same concept of operation. Will have 35 or so officers as there are almost 40 tents. I will keep you apprised. Get well.

Captain Dave Reece C-4

Berkeley Police Department
Professional Standards Division
(510) 981-5760 office
(510) 981-5704 fax
dreece@ci.berkeley.ca.us

From: Schofield, Kevin M.
Sent: Wednesday, February 07, 2018 1:55 PM
To: Reece, David K. <DReece@cityofberkeley.info>
Cc: Durbin, Michael R. <MDurbin@cityofberkeley.info>; Rodrigues, Veronica <VRodrigues@cityofberkeley.info>
Subject: Encampment - Help Needed

Captain-

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Briefing in the MPR at 0430hrs., on scene at 0500hrs.

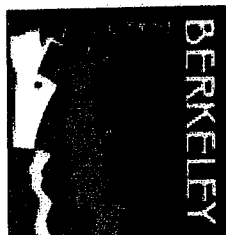
Thank you, Kevin

From: Grogan, Jovan
Sent: Wednesday, February 07, 2018 3:02 PM
Subject: Notice to Old City Hall Encampment
Attachments: OCH Posting Notice_020618.pdf

This email is being sent to the Mayor, Councilmembers, and all legislative staff.

Council:

Attached to this email, please find the notice that was provided to the encampment at Old City Hall earlier today. There has been growing concern about health and safety conditions at this location, including human waste and trash accumulations, as well as recent fires, which have been the subject of numerous complaints from neighboring residents and businesses. The notice advises members of the encampment to immediately collect their belongings and vacate the premises. Staff from the Homeless Outreach Team also visited the encampment today. Please feel free to contact me with any questions.



Jovan D. Grogan
Deputy City Manager
City of Berkeley
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
(510) 981-7014 / jgrogan@cityofberkeley.info



...the City of Berkeley

Most City offices are closed the second Friday of each month for cost-saving measures. For a complete schedule of City closures and exceptions, please visit the [Holiday and Reduced Service Day Schedule](#).

Administrative Assistant: Melanie E. McLean / (510) 981-7005 / MeMcLean@cityofberkeley.info

From: Reece, David K.
Sent: Thursday, February 08, 2018 8:28 AM
To: Williams-Ridley, Dee; Grogan, Jovan; Chakko, Matthai
Cc: Greenwood, Andrew; Spiller, Edward; Hart, Alyson L.; Louis, Jennifer A.
Subject: This Mornings Operation

We just cleared Old City Hall. All in all, things went smooth and coordination between City departments was good.

Of note, Nancy Temple Armstrong arrived and was arrested for obstructing a public officer. Armstrong essentially ducked under the police line, was confronted by officers, failed to obey their direction, then passively resisted.

Also of note, CM Davila and Andrea Pritchett responded. Pritchett harassed a number of my officers in the presence of CM Davila.

Community Services Bureau staff will patrol today to ascertain where they land next. They believe they may be headed to the railroad tracks near South Aquatic Park.

Respectfully,

Captain Dave Reece C-4

Berkeley Police Department
Operations Division
(510) 981-5800 office
(510) 981-5704 fax
dreece@ci.berkeley.ca.us

From: Williams-Ridley, Dee
Sent: Thursday, February 08, 2018 10:37 AM
To: Arreguin, Jesse L.; Bartlett, Ben; Davila, Cheryl; Hahn, Sophie; Harrison, Kate; Droste, Lori; Maio, Linda; Wengraf, Susan; Worthington, Kriss
Cc: SET
Subject: Old City Hall Encampment - Update

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mayor and Council:

I wanted to provide you with a brief update about the encampment at Old City Hall, which was peacefully cleared this morning. Campers were noticed on Wednesday on a personal basis, with civilian staff leaving copies of the notice and a list of supportive services at every tent and with every individual. The City's homeless outreach team also followed up with a visit to those at the site. As a result, many people left peaceably on Wednesday.

Those individuals who remained this morning also left peacefully and with no incident.

The multi-departmental effort included staff from Mental Health, Neighborhood Services, Parks, Police and Public Work. Their professionalism, compassion and dedication make operations like this successful.

As you know, the growing health and safety concerns -- including human waste, trash and two fires -- created an untenable situation. Numerous neighbors, residents and merchants have issued complaints about their comfort, safety and ability to walk through the area and the encampment's impact on their confidence and comfort in Berkeley.

One individual, Nancy Temple Armstrong, who was not a camper and who later came to the site was arrested for obstructing a police officer.

Please feel free to direct any media inquiries to Matthai Chakko, the City's PIO.

Thank you,
Dee

From: Steffen, Erin
Sent: Wednesday, February 07, 2018 9:04 AM
To: Slimick, Breanne
Subject: FW: Public Notice Services
Attachments: OCH Posting Notice_020618.docx

Importance: High

*
Here's the final notice, Peter had no corrections.

Cheers,
Erin

From: Steffen, Erin
Sent: Tuesday, February 6, 2018 5:21 PM
To: Peter Radu (pradu@cityofberkeley.info)
Cc: Burke, Bill; Bourgault, Lynne S.
Subject: Public Notice Services
Importance: High

Hi Peter,

Thank you for reviewing the language on services for this notice. Please reply back before 8:30 AM tomorrow if you have any updates to the contact information regarding services on page 2. Let me know if you have any questions.

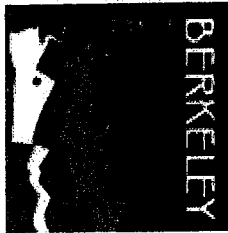
Thanks,
Erin

From: Grogan, Jovan
Sent: Wednesday, February 07, 2018 3:02 PM
Subject: Notice to Old City Hall Encampment
Attachments: OCH Posting Notice_020618.pdf

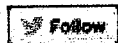
This email is being sent to the Mayor, Councilmembers, and all legislative staff.

Council:

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Jovan D. Grogan
Deputy City Manager
City of Berkeley
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
(510) 981-7014 / jgrogan@cityofberkeley.info



...the City of Berkeley

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Administrative Assistant: Melanie E. McLean / (510) 981-7005 / MeMcLean@cityofberkeley.info

From: Radu, Peter
Sent: Tuesday, February 06, 2018 5:30 PM
To: Steffen, Erin
Cc: Burke, Bill; Bourgault, Lynne S.
Subject: RE: Public Notice Services

Looks fine to me; Erin! Thanks.

From: Steffen, Erin
Sent: Tuesday, February 06, 2018 5:21 PM
To: Radu, Peter <pradu@cityofberkeley.info>
Cc: Burke, Bill <BBurke@cityofberkeley.info>; Bourgault, Lynne S. <LBourgault@cityofberkeley.info>
Subject: Public Notice Services
Importance: High

Hi Peter,

Thank you for reviewing the language on services for this notice. ^{*}Please reply back before 8:30 AM tomorrow if you have any updates to the contact information regarding services on page 2. Let me know if you have any questions.

Thanks,
Erin

From: Elgstrand, Stefan
Sent: Wednesday, February 07, 2018 11:55 AM
To: Harrison, Kate
Cc: Naso, Christopher
Subject: Public Notice to Old City Hall Encampment
Attachments: Public Notice 2-6-18.pdf

x
Attached is the notice that we received this morning. It was delivered to the encampment yesterday evening/late afternoon.

Stefan Elgstrand
Assistant to the Mayor
Office of Mayor Jesse Arreguin
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7103 phone
(510) 981-7199 fax
SElgstrand@cityofberkeley.info
www.jessearreguin.com

Sign up for our monthly newsletter.

From: Buddenhagen, Paul
Sent: Tuesday, February 06, 2018 5:34 PM
To: Ahmed, Eve
Cc: Yavneh, Tenli; Grolnic-McClurg, Steven
Subject: Need Hott at old city hall

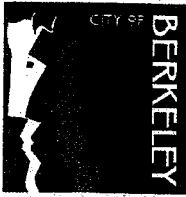
Hi Eve,
Please have a pair of Hott outreach staff go to the encampment at old city hall tomorrow morning and offer services inform of services.

There was a fire there today that threatened the building and the city is going to notice removal at 8 tomorrow morning with enforcement on Thursday.

Call me if you have questions/concerns.

Thanks
Paul

Sent from my iPhone



Police Review Commission (PRC)

March 5, 2018

To: Dee Williams-Ridley, City Manager
From: Sahana Matthews, Chairperson, Police Review Commission *SM*
Re: Request to include topics during negotiations with the Berkeley Police Association

As you know, the City Council has asked the Police Review Commission to review various options for strengthening the authority of the PRC to consider and act on citizen complaints. The PRC has commenced its consideration of various options, including a revisiting of the suggestions it made to the Council when it was contemplating changes to the PRC's enabling ordinance in 2016. (See attached letter of June 14, 2016, from the PRC to the Council.)

While the PRC has not completed its current discussion of possible ways to enhance its authority, the Commission wishes to make two recommendations now, due to their significance and time-sensitive nature. Specifically, the Commission would like to extend the current the 120-day time limit on discipline to one year, and to change the standard of proof used in Board of Inquiry hearings to the "preponderance of the evidence."

Regarding the 120-day time limit, it is the Commission's understanding that this time frame is quite short for the amount of investigative work that a typical complaint to the PRC requires. Moreover, the 120 days is an anomaly among the civilian oversight agencies in the Bay Area, which use the one year limit, consistent with the maximum set forth in the Public Safety Officers Bill of Rights Act.

Similarly, the "clear and convincing" standard currently used for making findings in a PRC Board of Inquiry is far less common than "preponderance of the evidence" used by other civilian oversight agencies.

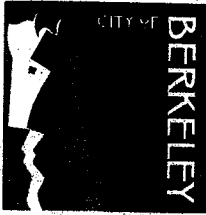
The PRC is aware that these two changes do not require an amendment to the enabling ordinance or to the City Charter, but are subject to meet-and-confer with the Berkeley Police Association. As you are currently in contract negotiations with union, the PRC asks that the 120-day limitation and the standard of proof be included in your discussions.

Thank you for your consideration of this request.

Dee Williams-Ridley, City Manager
Request to include topics during negotiations with the BPA
March 5, 2018
P. 2 of 2

Attachment

cc: Mayor and City Councilmembers
Andrew Greenwood, Chief of Police
Christian Stines, President, Berkeley Police Association
Jovan Grogan, Deputy City Manager



Police Review Commission (PRC)

June 14, 2016

To: Honorable Mayor and Members of the City Council
From: George Perezvelez, Chair, Police Review Commission *GP/KSP*
Re: Suggestions for Ballot Measure to Amend Current Enabling Ordinance
Establishing the Police Review Commission (Response to Item #52 on
the Council's June 14, 2016 agenda.)

The Berkeley Police Review Commission (PRC) was created with the general purpose of providing for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. section 3.32.010.)

In the interest of creating a more robust and effective avenue for citizen oversight of the Berkeley Police Department (BPD), the members of the PRC suggest the following changes to the PRC ordinance, to be either approved by the City Council or submitted to the voters in November. We believe these proposed changes will greatly enhance the effectiveness of the PRC, and assure that we are able to fully able to provide meaningful oversight to BPD.

- 1) The PRC shall use the "preponderance of the evidence" as the standard of proof for all decisions.
- 2) The current 120-day limit on the imposition of discipline shall be extended to one year, consistent with existing California law.
- 3) The PRC shall have full discretion to review complaints as to alleged officer misconduct from any person with personal knowledge of the alleged misconduct. Additionally, the PRC shall have the discretion to accept complaints from anonymous sources professing first-hand knowledge of alleged police misconduct, so long as the complainant requests anonymity based upon a credible belief that the complainant will face prosecution or harassment. The determination of whether the request for anonymity is based upon a credible belief shall be made by the a 2/3 vote of the full commission, acting in closed session.
- 4) The Commission shall have the same access to all BPD files and records, in addition to all files and records of other City departments and agencies, as the BPD's Internal Affairs Division. The BPD and other City departments and

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

agencies shall make every reasonable effort to respond to the Commissioner's requests for files and records within ten (10) days.

5) Upon a sustained finding of misconduct, the Board of Inquiry shall have the authority to suggest appropriate discipline to the Chief and/or City manager.

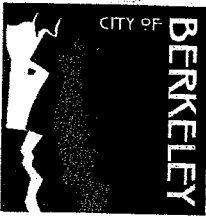
6) In addition to the training required of all Berkeley City Commissioners, all members of the PRC shall be required to complete training in the following areas: use of force; criminal procedure; Fourth Amendment; BPD general orders and standard operating procedures. This training shall include law, policy and best practices. The training shall be organized annually by the PRC Officer, in consultation with the City Attorney's office, the BPD, the BPA, and other community organizations.

7) Expand the jurisdiction of the PRC to include non-sworn employees of the BPD.

8) Review the Mayor's proposed budget to determine whether budgetary allocations for the Department are aligned with the Commission's approved policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.

The members of the PRC voted at its June 8, 2016 meeting to send this communication to you by the following vote: Ayes – Bernstein, Lippman, Murphy (temporary appointment), Perezvelez, Roberts, Sherman, Smith, and Yampolsky; Noes – None; Abstain – None; Absent – Javier, Waldman.

cc: Dee Williams-Ridley, City Manager
Michael Meehan, Chief of Police
Zach Cowan, City Manager
Christian Stines, BPA
PRC Commissioners



Police Review Commission (PRC)

March 8, 2018

To: Honorable Mayor and Members of the City Council
From: Sahana Matthews, Chair, Police Review Commission *SM/KSA*
Re: Police Review Commission Recommendation for a Financial and Performance Audit of the Berkeley Police Department

In light of the Berkeley Police Department's current difficulties in maintaining its sworn staff at budgeted levels, the Police Review Commission believes that this is an opportune time for an in-depth assessment of how the BPD is using its financial and human resources.

The members of the PRC read with interest the City Auditor's report to the City Council of April 30, 2002, regarding a Police Staffing Audit, and a Status Report of that audit dated May 29, 2012. The purpose of the audit was to determine if Community Service Officers (CSOs) could perform tasks performed by sworn officers to alleviate the shortage of sworn officers at that time, and if civilians could perform specific tasks then performed by sworn officers. Additional CSOs were not hired due to budget reductions, but at least two civilian positions – a Business Manager and Communications Center Manager – were created from formerly sworn officer positions.

The Commission's recommendations in the attached resolution are made in a similar vein, in that they call for an examination of whether some tasks performed by sworn officers could be done by non-sworn personnel. In light of the considerable level of sworn officer resources currently devoted to calls involving people with mental health challenges, the Commission has identified the possible use of mental health professionals to respond to such calls as a specific area to be assessed.

The Commission is asking that, beyond the use of personnel, other inquiries be undertaken, such as establishing performance measures, examining whether the BPD is using best practices, and looking at management of costs. The goal of all these measures, taken together, should give everyone – policymakers and staff alike – a complete picture of an appropriate level of sworn and non-sworn staffing and efficient allocation of other resources within the BPD.

The attached resolution was passed unanimously by the Police Review Commission at its February 28, 2018 meeting. Moved/Seconded

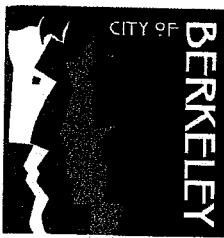
1947 Center Street, 1st Floor, Berkeley, CA 94704 Tel: 510-981-4950 TDD: 510-981-6903 Fax: 510-981-4955
e-mail: prc@cityofberkeley.info website: www.cityofberkeley.info/prc/

Honorable Mayor and Members of the City Council
Police Review Commission Recommendation for a Financial and Performance Audit of the
Berkeley Police Department
March 8, 2018
p. 2

(Prichett/Roberts) Ayes: Allamby, Lippman, Matthews, Prichett, Roberts,
Sherman, and Yampolsky; Noes: None; Abstain: None; Absent: None.

Attachment

cc: Dee Williams-Ridley, City Manager
Andrew Greenwood, Chief of Police
Christian Stines, President, Berkeley Police Association
Jovan Grogan, Deputy City Manager
PRC Commissioners



Police Review Commission (PRC)

**Resolution of the Police Review Commission
Calling for a Financial and Performance Audit of the Berkeley Police Department
Adopted February 28, 2018**

Whereas, like departments across the country, BPD is experiencing difficulty recruiting sworn officers and the total staffing level of sworn officers is in steady decline; and

Whereas, the Police Chief has told the Police Review Commission that he is unaware of any efficiency study, audit or examination of how BPD uses its financial and human resources and how effectively these resources are being used in promoting public safety; and

Whereas, the City is currently in negotiations with the Berkeley Police Association and the BPA has launched a campaign called "Where's My Berkeley Cop?"; and

Whereas, identifying performance standards, studying response times, identifying areas of redundancy, establishing performance measures, utilizing best practices and implementing a performance measurement system can all help to ensure that Berkeley Police Department is well managed and making the best use of its personnel and resources.

Now therefore, be it resolved that:

1. The Police Review Commission recommends that the City Council, on behalf of the City of Berkeley, either by internal audit or by contract with an outside auditor, have a financial and performance audit done of the Berkeley Police Department to examine the following areas and aspects of the department's functioning, including, but not limited to:
 - a. What are the overall areas of responsibility for BPD personnel at this point in time? How is BPD managing the workload?
 - b. What is the scope of tasks that sworn officers are required to do while on duty? What tasks are done by non-sworn personnel?
 - c. What tasks are done by sworn officers and what could be conducted by non-sworn personnel and possibly hired out? This should include an examination of how much time patrol officers are spending responding to people with mental health issues, and to what degree mental health professionals can be utilized to respond to people with mental health disabilities.
 - d. How can we measure the effectiveness of current BPD approaches to public safety?

- e. Can BPD reduce redundancy of service by examining deployment strategies and practices? Can BPD revise its deployment and dispatch practices to make best use of available sworn personnel?
 - f. Is BPD ensuring that facilities and equipment are used effectively to support the goals of the community regarding crime prevention and resolution?
 - g. How effective is BPD in recruiting and training of law enforcement personnel in supporting public safety? What can be done to retain quality recruits and trained officers?
 - h. How effectively is BPD handling complaints?
 - i. What methods are or should be using in measuring, reporting and improving on performance?
 - j. How well is BPD managing costs?
 - k. How are community concerns and priorities reflected in the budget, training and allocation of staff and resources?
 - l. How well is BPD safeguarding property and evidence?
2. Police Review Commission members contribute to the drafting of a scope of work and contribute their questions to the City Manager for inclusion in such a proposal.

Lee, Katherine

From: Lee, Katherine
Sent: Friday, February 16, 2018 9:25 AM
To: Greenwood, Andrew
Subject: FW: Proposed revised Right to Watch General Order
Attachments: Memo Chief proposed Rt to Watch GO 11-2-17.pdf; GO W-1 Right to Watch PRC Proposal.docx

Dear Chief Greenwood,

As discussed at the PRC's Feb. 14 meeting, I am re-sending the transmittal of the Commission's proposed Right-to-Watch general order, which it voted on at its Oct. 25, 2017 meeting.

PRC Commissioners are cc'd on this email, as they were on the first of the two emails below.

Sincerely,
Kathy

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

From: Lee, Katherine
Sent: Thursday, November 02, 2017 2:31 PM
To: Lee, Katherine <KLee@cityofberkeley.info>
Subject: FW: Proposed revised Right to Watch General Order

FYI.

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

From: Lee, Katherine
Sent: Thursday, November 02, 2017 2:31 PM
To: Greenwood, Andrew <AGreenwood@cityofberkeley.info>
Cc: Grogan, Jovan <JGrogan@cityofberkeley.info>
Subject: Proposed revised Right to Watch General Order

Dear Chief Greenwood,

Please see the attached.

Sincerely,

Kathy

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

What Are Active-Shooter Drills Doing to Kids?

There's always at least one kid in tears, as they huddle under their desks in the dark. Still Beth Manias, an early-elementary literacy teacher outside of Seattle, tries to act upbeat and relaxed.

"I have them whisper about their favorite candy, dinner, books, movies—whatever, as a distraction," Manias told me. She tells the kids they're practicing to stay safe in case there's ever a bear on campus. Though, she admits, "They *always* see through this. The older they get, the more savvy they become, probably because they are exposed to more of the news."

At schools across the country, more children are taking part in mandatory "active-shooter drills." Forgoing any pretense of a bear, sometimes a faculty member plays the role of a shooter, jiggling doorknobs as children practice keeping perfectly silent. Many parents, teachers, and students say that the experience is somewhere between upsetting and traumatizing.

Which may be worthwhile, if it were clear that the drills saved lives.

Active-shooter drills came into existence after the Columbine massacre in 1999. What is known of their long-term psychological effects comes from the reports of people now in early adulthood.

Ryan Marino, an emergency-medicine physician at the University of Pittsburgh, recalled that his school had adopted the drills during that period, after a student was found to have a "death list" and access to guns. He told me the drills didn't seem real until he was 12, and a fellow student coughed during one of the drills. "The teacher told us that if this had been real, we would all be dead."

"That single experience shaped my childhood," Marino said. "Having to practice and prepare for a peer coming to my school and shooting at me and my friends was something that really changed the overall atmosphere. Looking back, it was a major shift in how the world felt."

In the two weeks since the shooting at a high school in Parkland, Florida, new and renewed calls for such drills raise the question of whether they do any good—and if they might be doing harm.

The day after the event, Susan Hennessey, the executive editor of *Lawfare*, tweeted: "Feeling mildly nauseous reading a note from my kid's preschool about implementing active-shooter drills."

Brian Leff, a writer in Los Angeles, told me his fifth-grade daughter's principal just announced the school is contemplating a surprise lockdown drill. "Now my daughter can't stop thinking about when it's going to happen and how she'll know if it's 'real' or not."

The writer Allison Gibson says that at her 4-year-old son's preschool, they're called "self-control drills," because the goal is to get the students very quiet. "The first

time he mentioned it, when he was 2, I had to piece together what he was referring to, and it nearly broke me.”

Of course, general lockdown and disaster drills have a long history; a generation of Americans came of age hiding under desks from nuclear bombs. While the idea of such a maneuver protecting a person from a bomb blast or nuclear fallout became fodder for jokes, the drills themselves had insidious effects on kids’ senses of safety. Some teachers reported that students’ artwork changed to feature mushroom clouds and sometimes the child’s own death, bringing a pervasive sense of danger into the places where kids most need to feel safe.

Despite some similarities to natural-disaster and Cold War drills, active-shooter drills also mean exposing kids to the idea that at any point, someone they know may try to kill them.

“It’s good to do emergency drills, but active shooters are not a drill anyone should have to do,” says Meredith Corley, who taught math in Colorado in the aftermath of Columbine. “It re-traumatizes kids who have experienced violence. Getting the kids settled back into the work of learning after lockdown drills is a nightmare. That mind-set has no place in a learning environment.”

“I was slightly too young for bomb drills, but in greater Kansas City, tornado drills were de rigueur,” says Lily Alice, a Midwesterner born in 1965. “We did have tornados now and then. The difference, of course, is that no one stockpiles them to use against other people, and weather forecasts mitigated some fear.”

Even President Trump, who has expressed support for arming teachers, has warned against active-shooter drills. During a White House meeting last week, he said, “If I’m a child and I’m 10 years old, and they say we’re going to have an active-shooter drill, I say, ‘What’s that?’ ‘Well, people may come in and shoot you’—I think that’s a very negative thing ... to be honest. I don’t like it.”

Zachary Levinsky, a lecturer in the department of sociology at the University of Toronto at Mississauga, is one of few academics who has studied active-shooter drills. He argues that though some school violence always existed, Columbine marked a shift of the burden of prevention: “Schools were somehow positioned as blamable—as responsible for these massacres.” This created an institutional concern for reputational risk management. To implement something like an active-shooter drill was to signal to parents and the community that the school is being proactive—it was doing *something*.

Of course, a demand for action does not often make for prudent decisions when it comes to harm reduction. Drills cover administrator and school-district liability, and they may make parents feel better knowing that their kids are in a school that’s taking decisive action. But what are the longer-term effects on the children’s health and development?

Studies of whether active-shooter drills actually prevent harm are all but impossible. Case studies are difficult to parse. In Parkland, for example, the site of the recent shooting, Marjory Stoneman Douglas High School, had an active-shooter drill just last month. The shooter had been through such drills. Purposely countering them may have been a reason that, as he was beginning his rampage,

the shooter pulled a fire alarm.

In any case, preparedness drills always change the baseline level of risk that people perceive. This heightening can manifest as stress and anxiety, not to mention changing the way kids understand how people treat one another—to even consider violence an option, not in some abstract way.

Colleen Derkatch, an associate professor at Ryerson University in Toronto, studies how we assess risk when it comes to our health. “The more prepared we are, the more heightened our sense of risk,” she told me. “And one potential effect we haven’t considered is how these kinds of preparedness activities affect kids psychologically, and could increase a sense of feeling at risk. They really expand the ways in which we feel increasingly under siege.”

Preparedness activities, that is, are never neutral. Derkatch’s work relates this concept to the anxiety wrought by a culture of “wellness” products, which are ostensibly meant to keep us healthy, but also enhance our awareness of health risks. “They give us a sense that we’re all constantly on the edge of illness,” Derkatch told me. “Preparedness can be a good thing, but it has very real costs and consequences. For children whose personalities are just forming—who are figuring out what kind of world they live in—if this is the input they get, I think it will have a significant impact down the road.”

The idea extends to the fact that a child is much more likely to be abused by a parent than shot in school; but there would be obvious limits to the value of putting kids through realistic simulations in which a parent turns on them.

Derkatch has an 11-year-old daughter who is in the sixth grade. In her school, they’ve done lockdown drills, but the drills are the sort that are generalizable to any emergency. The teachers are very clear that it’s just a drill, and they lock the doors, and kids stay in their seats. There’s no hiding or barricading, as many schools in the United States now require.

If you were to move to the United States, I asked Derkatch, would you want your daughter going through these sorts of drills?

“No,” she said. “But I wouldn’t move to the United States. And guns are the reason why. Guns and health care.”

The two are, of course, now intertwined. President Trump and many other Republicans have a penchant for blaming “mental illness” for mass shootings—even though most shooters have no known or diagnosable mental illness. People who are mentally ill are much more likely to be victims than murderers. Most are rather, like the shooter in Parkland, described as isolated, troubled, angry, resentful men and boys. Many have a history of childhood trauma, like being abused or neglected. It is rare that a shooter has come up in an environment with multiple adults on whom they could rely—where they felt safe and secure.

A sense of safety and security in childhood is integrally tied to mental and physical health later in life—as well as emotional wellbeing, and the formation of the coping mechanisms that allow a person to deal with later adversity in ways that do not involve killing. It is this sense that can be undermined sometimes even by the best

of intentions.

“Kids perceive the world generally as a bit of a dangerous place now because of how they tend to be closely supervised at almost all times,” said Derkatch. “If you look at the proposals in the United States, it sounds like they’re trying to make schools an awful lot like prisons, with monitored perimeters and armed guards and possibly armed teachers. You could extrapolate from the experiences of kids living in potentially violent situations, where you never know what’s going to happen. That does have a profound impact on kids.”

“I will never be able to explain it well, but losing a feeling of safety as a child, especially at school, is a major thing,” said Marino, the emergency physician who was terrified to cough. “Anyone who has not gone through school with active-shooter drills can never understand what it feels like.”

ICE agents shackled African immigrants for 48 hours on deportation flight from hell



Jazzi Johnson

Mar 6th 2018 11:23AM

Dating back to Donald Trump's campaign promises to have ICE agents round up immigrants, many communities have been on edge.

And since taking office he's stepped up not only his rhetoric but also increased the powers afforded to ICE agents to track, detain, arrest and deport immigrants.

And just last week, the agency whose job it is to oversee green cards and citizenship has changed their mission statement. They have removed the line that defined America as a "nation of immigrants."

Lee Francis Cissna, the director of United States Citizenship and Immigration Services (USCIS), recently told employees in a letter that the statement was altered in order to "guide us in the years ahead."

The Intercept uncovered a shocking new story that details horrific abuses by ICE agents as they increase their patrols and arrests in immigrant communities.

In December 2017 ICE—U.S. Immigration and Customs Enforcement—attempted to deport 92 Somalis via charter plane. For some unknown reason other than "logistical issues," the persons on the plane were never unloaded upon arrival. Instead, they made another 24 hour flight directly back to the United States.

The stories that were told by the Somalis to the Intercept reporters upon return were horrific. They spoke of being shackled from head to toe: wrists, waists, and legs, for nearly 48 hours; that they were not allowed to use the restroom on the plane, but instead were forced to urinate in bottles on or on themselves.

They even accused some ICE officers of beating and threatening some passengers.

ICE authorities have reportedly denied their claims.

Two weeks later, the 92 Somalis sued ICE for "inhumane conditions and egregious abuse," and asked the courts to halt their deportation during this time.

Their complaint details even worse abuses by ICE agents.

"ICE agents wrapped some who protested, or just stood up to ask a question, in full-body restraints," reads the complaint. "ICE agents kicked, struck, or dragged detainees down the aisle of the plane, and subjected some to verbal abuse and threats."

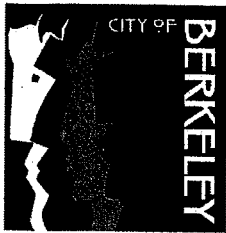
The lawsuit also argues that should the Somalis return to their home country, they could be “killed or harmed due to changed circumstances in Somalia created by the media coverage and notoriety of the aborted and abusive December 7 flight.”

On top of this nightmare, Intercept reports that all of these Somalis have been separated into two deportation centers as their lawyers attempt to fight their cases — Krome Detention Center and the Glades County Detention Center in Florida.

Lisa Lehner, an attorney at Americans for Immigrant Justice, alluded that she's seen the abuse with her own eyes. “They called them ‘niggers.’ They called them ‘boy.’ They’ve said things like, ‘We’re sending you boys back to the jungle,’” she told The Intercept.

“The guards and the administration up there at Glades, they think they’re immune. To me, it’s so brazen to be doing this,” she continued. “They know there’s a federal case. They know we’re up there all the time. They know there are investigators up there.”

Pro bono lawyers have reportedly teamed up to assist the Somalis in reopening their immigration cases. So far, an immigration court has agreed to reopen at least one of their cases. [Read the full report here.](#)



City Clerk Department

March 2, 2018

To: Commission Secretaries
From: Mark Numainville, City Clerk
Subject: Amendments to City Council Rules of Procedure and Order

Background

The City Council Rules of Procedure and Order govern the conduct of business by the City Council and its committees. The Agenda Committee is tasked with reviewing the Council meeting schedule and the management of the Council agenda.

Currently, the Rules of Procedure do not provide the Agenda Committee with adequate latitude to re-schedule items in order to better manage the workload of the Council and avoid overloaded agendas. The proposed changes described below are based on the discussion at the Agenda Committee meetings on February 13 and February 26 and direction to the City Manager by the Agenda Committee on February 26.

Please forward this information to your commissioners. The proposed changes will be considered by the City Council on March 27, 2018.

Proposed Amendments

The changes related to unfinished business are similar to the changes for commission reports in that it allows the Agenda Committee more discretion to manage agendas based on the ability of the council to likely complete the scheduled agenda. Unfinished business is currently scheduled to the next available agenda, and there is no provision to spread the items out over several meetings. The current rules often result in a snowball effect for council agendas and more and more unfinished items automatically rolling over. The amendment in Chapter II, Section F is proposed to address this issue. This amendment also requires conforming modifications to Ch. IV Section A.4. Similar language was removed from Chapter II, Section D due to redundancy.

When items from commissions are submitted to a Council agenda, the Agenda Committee has no authority to schedule the item for a later date. Often, several

2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-6900 • TDD: (510) 981-6903 • Fax: (510) 981-6901
E-Mail: clerk@cityofberkeley.info Website: <http://www.cityofberkeley.info/clerk>

G:\CLERK\MASTER.DOC\Council Rules of Procedure\2018-Jan-Feb Readoption\Council ROP Amendments Memo to Commissions 3-2-18.docx

commission items appear on a single agenda, which regularly results in unfavorable outcomes: 1) the item is heard very late at night, 2) the item is not heard at all, or 3) the item is held over to future date. All of these outcomes lead to frustration by commissioners and the public, and are not the best practice for considering important policy recommendations. The amendments in Chapter III, Section C.1.c.i are proposed to address this issue by allowing a commission item to be rescheduled within designated time limits.

At times, a detailed report from the City Manager is needed to provide additional analysis to the Council to supplement a complex or detailed commission recommendation. The current process does not provide adequate time for city staff to conduct the analysis and draft the report. Allowing additional time to schedule these items will result in a complete picture to the Council on the items under consideration. The amendments in Chapter III, Section C.1.c.ii are proposed to address this issue by allowing a commission item that required a companion report to be rescheduled within designated time limits.

The proposed changes are recommended to allow for better management of Council agenda to facilitate the conduct of Council business in a more public-friendly manner.

Attachment

If the City Manager determines that the matter should proceed notwithstanding the Agenda Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the referral recommendation of the Agenda Committee or revised items that have not been resubmitted to the Agenda Committee will automatically be placed on the Action Calendar.

c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. ~~While these items are~~ The content of commission items is not subject to review by the Agenda Committee.

i) For a commission item that does not require a companion report from the City Manager, the Agenda Committee may act on an agendized commission report in the following manner: elect to

1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.

3. Allow the item to proceed as submitted.

ii) For any commission report that requires a companion report, the Agenda Committee will schedule the item on a Council agenda for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.

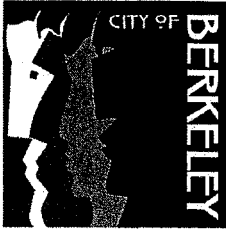
e)d) The Agenda Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E of the Rules of Procedures and Order.

2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

3. **Submission of Agenda Items.**

a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from



City Clerk Department

March 8, 2018

To: Mayor and Councilmembers
From: Mark Numainville, City Clerk
Subject: Referral Response: Gender Options on Commission Applications

This memorandum is in response to the City Manager referral adopted by the Council on February 13, 2018 sponsored by Councilmember Droste. The item was designated as a short-term referral by the City Manager and was completed March 5, 2018.

The City Clerk Department has expanded the demographic survey incorporated into the City's board and commission applications to include "nonbinary" and "prefer not to say" options. The updated applications are available to the public through the City's website and available to staff in Groupware at the links below:

Website: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Applications.aspx

Groupware: [S:\Groupware\City-Clerk\(MNUMAINVILLE\)\Commission Documents\Applications](S:\Groupware\City-Clerk(MNUMAINVILLE)\Commission Documents\Applications)

Please contact me if you have any questions.

Attachments:

1: Sample Expanded Demographic Survey

cc: Dee Williams-Ridley, City Manager
Jovan Grogan, Deputy City Manager
Commission Secretaries

Sample Expanded Demographic Survey for City of Berkeley Board and Commission Applications:

Please indicate gender: Male Female Nonbinary Prefer not to say

Please indicate whether you are currently a student: Yes No

Please indicate the racial / ethnic category which you most closely identify with below
(response optional - please check only one category):

- WHITE** (Not of Hispanic origin.): All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- BLACK** (Not of Hispanic origin.): All persons having origins in any of the Black racial groups of Africa.
- HISPANIC**: All persons of Mexican, Puerto Rican, Cuban, Central American, South American, or other Spanish culture or origin, regardless of race.
- ASIAN / PACIFIC ISLANDER**: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, and Samoa.
- AMERICAN INDIAN / ALASKAN NATIVE**: All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition. Please identify the tribe which you are affiliated with.
- OTHER / BI-RACIAL**: Persons who do not identify with any of the above categories or who have mixed or unknown racial/ethnic origins

Lee, Katherine

From: Lee, Katherine
Sent: Thursday, March 08, 2018 9:02 AM
To: Lee, Katherine
Subject: FW: a letter Blair Beekman. Wednesday, March 7, 2018. _____ A few thoughts from 2017, to continue into 2018.

From: bob tom [mailto:cranberrysauce23@gmail.com]
Sent: Wednesday, March 07, 2018 8:23 PM
Subject: Re: a letter Blair Beekman. Wednesday, March 7, 2018. _____ A few thoughts from 2017, to continue into 2018.

Sorry for the hour. I hope this letter about local democracy, can get through.
On Wed, Mar 7, 2018 at 1:55 PM, bob tom <cranberrysauce23@gmail.com> wrote:

Dear UASI staff, and regional approval board,

Items below, I talked about often, as a member of the public, as I attended most BAUASI regional meetings, in 2017. It is time to offer these subjects again, to review, remind, and address, for all of 2018

CBRNE Technology in 2018, and the future.

1. After a somewhat free pass, has been given to the people involved, in new CBRNE tech. ideas, the past few years, I hope they are beginning to identify, what its corporate greed, and simply purchasing technology, for its own sake, can be better understood.

Please remember, this should be the time, in learning the ideas, of what better social responsibility can be. As we are obviously, at a beginning, of new era, in peace, better reasoning, more open, communicative, trusting ways, local government can work, fifteen years after 9/11/01.

It is important to understand the concept, of the minimal use process, and the sharing of CBRNE tech. with a neighboring city, or county. This should always be considered, as a first option.

As this offers the ideas, of simpler city budgets. And the better ideas, of what can be streamlining, efficiency, better oversight and management.

And, an overall less risks. This includes health risks, to the people who will be hands on, with this CBRNE technology.

The CVE Program.

2. I hope the new, Countering Violent Extremism program, CVE, a new, more low key idea, as a data collecting program, is learning to talk with everyday people of local communities. And with the people of the mid-2000's, that helped define, the civil rights and civil protections, of the Muslim community, in the early days after 9/11/01.

Good thinking ideas, in human rights and civil protections, we are working with, to this day.

I hope, you can also learn to talk with, everyday activists of today, in the local neighborhood communities, of the Bay Area, to learn, what is happening now, like with ideas, in simple, good communication.

I hope you can take comfort, that it is dialogue, and good communication with a community, that is first. Then comes tools and technology ideas, like the CVE program, to help with this local process, on their terms, and their needs.

Federal Immigration Agencies in 2018.

3. The immigration issue, I hope is front and center in your work, on BAUASI issues. at this time. The ideas, to practice, safety, health, and welfare issues, needs to be first and foremost, in the work of federal ICE, HSI, and Custom Agencies, in local Bay Area communities, in 2018.

From the ICE raid process, to the follow up detention process, the ICE-HSI raid process, needs to return, to respecting human rights issues, and ideas of good civil rights. And as we are at a time, in how to better leave, the era of war, and the time of 9/11/01.

Openness, trust, good reasoning, and good communication, is what we all need to work through together, as local communities, at this time.

So I feel, progressive leadership, is important for UASI staff, at this time. And, to be able to offer, valuable insight, in human rights and civil rights issues. It is my hope, other federal agencies, have been surprised with these possibilities, and now may be politely interested, in learning these ideas.

And, in what can be the progressive thinking, of BAUASI.

Again, important to note, that can help, with these immigration questions, at this time. BAUASI, since around 2014, has been making, important, almost ground breaking, new commitments, to openness, cooperation, better communication, and even the ideas of peace, in leaving the time, of secretiveness and non-communication, in the days after 9/11/01.

Other newly staffed, federal agencies, may need this from BAUASI, at this time.

Please learn to understand, the unity there can be around immigration issues, at this time. It is an idea, not to further divide. Or work, with clever, new compromises. Or call people enemies or snakes. And in the current debate, that brakes should be put on, darker skinned immigration,

Overall, I feel it is time to begin to build, long term, unifying ideas, in north american immigration, migration, and refugee patterns.

Please understand, the good work going on, with the State of California, and with immigration issues.

And on the local level, the 'all down the line' approach, used by counties, like Santa Clara County. Where everyday people, advocacy, professionals, and local government, all work together, 'all down the line', to be sure, within their place, at the local level, no one will be picked up, in ICE raid sweeps.

It is a concept, that everybody at a county level, says no, to the federal ICE raid process. And from this, 'an everyone is accounted for' process. If someone is picked up, in an ICE raid, someone will find this person, the legal right to have a lawyer.

There is simply, a unifying future of immigration. That must be worked on. It includes, human and civil rights issues, not intended to lock people up.

To also note, please consider ideas, of the audit processes, as healthy, in the concepts of checks and balances, at this time. And, that can help offer, a more clear picture, how a local government, can work through its problems, and lack of communication.

The federal agency name - UASI.

4. And finally, I hope how to change the name of UASI, is being talked about, a bit more often, by your staff.

At lunch time, at coffee breaks, and in all the in-between time you have, during your busy days.

I have been bringing up this subject, for a year, and a half, now, in regional public meetings.

Its name, can bring up a subject, we should maturing from, in this country.

We have opened this box, and have seen something pretty horrific, and partially why, this name is being used.

To shine a light, and a time of war, and some who fought war, against ideals we did not like,

And in this country's grief of life, we have taken on the mantle of, ' the other ', and their ideals.

The current name UASI, is a reminder, of our past cynicism, and an acknowledgement, of the deep recesses, and the subconscious.

Along with, the shortcomings and failures, of some of the everyday people, of this country.

The name UASI, has officially shown a light, on a foreign country, from World War II, and its past mistakes.

Its name is to partially make light, of this countries, current troubles and worries, as well.

I would guess, we feel overall, cynical, horrible, and terrible. what we have done to ourselves as a country, since the early days, of 9/11/01.

I would really like to begin to think about, how to move on, to this country's own good ideals, and how this will create its future.

A new name for UASI, can reflect this.

I think changing the name UASI, would end some ideas of institutional racism, and an overall cynicism, many feel they become trapped, or stuck in. Or there is no way out of.

And finally, to joke, but to also be, ' thinking on a coffee break', maybe the new name, can reflect,

something of the healing work, efficiency, practicality, and mellowness, of a turkey vulture,

may be more important, than the eagle.

As both of these birds, can possibly be noticed, on the BAUASI emblem.

Good luck, in thinking of good names.

Sincerely,
Blair Beekman

