

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**Wednesday, May 23, 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**
 - a. Special Meeting of May 7, 2018
 - b. Regular Meeting of May 9, 2018
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**
 - a. Status of complaints; other items.
 - b. 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
 - b. Homeless Encampment Subcommittee
 - c. Commission Reform Subcommittee – possible dissolution

9. NEW BUSINESS (discussion & action)

Follow-up discussion on report and presentation from Center for Policing Equity at May 9, 2018 Commission meeting.

10. OLD BUSINESS (discussion & action)

- a. Establish subcommittee or other means to review and make recommendations on Lexipol policies from BPD.
- b. Proposed "Guiding Principles" for PRC adoption and other ideas related to addressing BPD staffing shortage.
From: Commissioner Matthews
- c. Assess BPD's After-Action reporting and response to Public Records Act Request.
From: Commissioner Prichett

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

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

13. ADJOURNMENT

Communications Disclaimer

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 Communication Access Information (A.R.1.12)

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (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

May 23, 2018

MINUTES

May 7, 2018 <i>Special Meeting Minutes</i>	Page 5
May 9, 2018 <i>Regular Meeting Minutes</i>	Page 11

AGENDA-RELATED

Item 6.b. – Prioritization of PRC Tasks in order of rank.	Page 15
Item 8. – PRC Subcommittees List updated 4-25-18.	Page 16
Item 9. – Article from the Berkeleyside, dated 5-11-18: Berkeley police stops show racial disparities – but what does that mean?	Page 17
Item 9. – Email communication from George Lippman, dated 5-10-18: clarification on BPD data portal and on the Black population in Berkeley.	Page 21
Item 10.a. – Excerpt from April 11, 2018 PRC Meeting Minutes: 9.b., Establish subcommittee or other means to review and make recommendations on Lexipol policies from BPD.	Page 25
Item 10.a. – Emailed list of 25 Lexipol Policies sent to PRC Officer Dec. 4, 2017, from BPD staff.	Page 26
Item 10.a. – BPD listing of Lexipol policies with corresponding BPD General Orders.	Page 27
Item 10.b. – Proposed PRC “Guiding Principles.”	Page 33
Item 10.c. – Email from PRC Commissioner Prichett to PRC Officer, dated Mar. 2, 2018: PRA Request: After Action Report 2-8-18.	Page 35

COMMUNICATION(S)

Proposed Charter Amendment to Establish a Police Commission, approved by Police Review Commission 5-7-18.	Page 57
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Proposed Charter Amendment to Establish a Police Commission,
approved by Police Review Commission 5-7-18 (redlined version).

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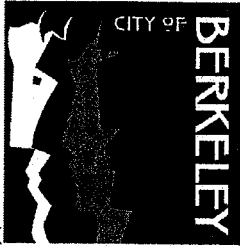
Consent Calendar Item, dated 5-15-18, from Councilmembers Linda
Maio, Susan Wengraf, Sophie Hahn, and Lori Droste, re: Establish the
City Council's tone and direction as the City moves forward with
improvements in the Police Department's and Police Review
Commission's policies and procedures.

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Free Community Event Flier: The State of Black Berkeley "Malcolm X
Brunch;" Saturday, May 19, 2018, 10:00 a.m. – 1:30 p.m.

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BN:mgm



X
Police Review Commission (PRC)

POLICE REVIEW COMMISSION
SPECIAL MEETING
MINUTES
(unapproved)

Monday, May 7, 2018
6:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY COMMISSIONER PEREZVELEZ AT 6:11 P.M.

Present: Commissioner Gwen Allamby
Commissioner Kitty Calavita
Commissioner George Perezvelez
Commissioner Andrea Prichett
Commissioner Ismail Ramsey
Commissioner Ari Yampolsky
Commissioner Victoria Legg (*temporary*)
Commissioner David Ritchie (*temporary*)

Absent: Commissioners Sahana Matthews (Chair), Terry Roberts, Michael Sherman

PRC Staff: Katherine J. Lee, PRC Officer; Byron Norris, PRC Investigator

BPD Staff: Chief Andy Greenwood; Capt. Rico Roller

2. APPROVAL OF AGENDA

Due to the absence of Chair Matthews and lack of a Vice-Chair, the Commission agreed to agendize the selection of an acting Chairperson to preside over this meeting only.

a. Selection of acting chair

The Commissioners agreed upon Commissioner George Perezvelez as acting Chairperson.

b. Approval of agenda

Motion to approve the agenda with the addition of public comment before every four sections of the proposed Charter amendment.

Moved/Seconded (Ritchie/Legg) **Motion Carried**

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

3. PUBLIC COMMENT

There were 8 speakers at this time and at two points during the Commission's discuss of Item #6.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of April 25, 2018

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

Ayes: Allamby, Calavita, Perezvelez, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: Prichett, Ramsey Absent: Matthews, Roberts, Sherman

5. CHAIR'S REPORT

No report.

6. OLD BUSINESS (discussion & action)

Recommendation from Commission Reform Subcommittee regarding a proposed Charter amendment to reform the structure for civilian oversight of police in response to the City Council's November 14, 2017 referral: continued review, possible revision, and approval for submission to the Council.

Motion to revise Section 14 to read as follows:

The Commission and its Executive Director may use the services of the City Attorney's Office for legal advice: the Commission may also seek the representational services of outside counsel when it deems necessary.

Moved/Seconded (Calavita/Legg)

Friendly amendment: to delete the word "representational."

Moved by Yampolsky, Accepted by Calavita and Legg

Motion, as amended, carried

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, Legg, and Ritchie.

Noes: Ramsey Abstain: None Absent: Matthews, Roberts, Sherman

By general consent, the Commission deleted subsection (b) of Section 15.

Motion to approve Section 16 by inserting a new subsection (b) as proposed by George Lippman.

Moved/Seconded (Prichett/Allamby)

Friendly amendment: to reword the beginning of the first paragraph of the new subsection so that it reads, "The Executive Director shall conduct any audit or review of Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also conduct any audit or review of the Department's policies and procedures, ..."

Moved by Ritchie; Accepted by Prichett and Allamby

Motion, as amended, carried

Ayes: Allamby, Calavita, Perezvelez, Prichett, and Ritchie.

Noes: Ramsey, Yampolsky Abstain: Legg Absent: Matthews, Roberts, Sherman

Motion to approve Section 17 as written.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

By general consent, the Commission reconsidered its prior approval of Section 17 by inserting, in subsection (a)(5), "and notification of discipline" following "investigations".

Motion to approve Section 18 with the following revisions: In subsection (a), reword the second sentence to read, "The Commission shall decide which complaints staff will conduct parallel investigations of, after receiving recommendations from its staff."; in subsection (b), last sentence, replace "it" with "s/he"; and reword subsection (c) to read, The Police Department shall inform Commission staff of its planned disposition before closing an investigation into a complaint.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to approve Section 19 with the following changes: In subsection (b), remove "have the authority to"; in subsection (c) add, at the end of the last sentence, "within 15 business days of receiving the appeal"; and in subsection (e), revise the first sentence to read, "The City Manager and Chief of Police may impose disciplinary action up to a period consistent with Government Code section 3304."

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to approve Section 20 with a revision to subsection (c) to include “at Commission proceedings” after “attendance”.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to approve Section 21 with a revision to substitute “shall” for “must” in the second sentence.

Moved/Seconded (Ritchie/Legg) **Motion Carried**

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to revise Section 22(b) to read as follows: “The Commission and City Manager will evaluate the Chief annually. If either party recommends the termination of the chief, the Council will decide.”

Moved/Seconded (Prichett/Calavita)

Calavita withdrew her second. **Motion fails for lack of second.**

Motion to revise Section 22(b) to read as follows: “Upon the recommendation of the Commission, it may propose dismissal of the Chief to the City Manager.”

Moved/Seconded (Calavita/Ritchie) **Motion Carried**

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, and Ritchie.

Noes: Ramsey, Legg Abstain: None Absent: Matthews, Roberts, Sherman

Motion to revise Section 22(a) by inserting “to five” between “two” and “candidates”.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to revise Section 22(a) to read as follows: “When the City Manager is in her final rounds of interviewing, the finalists shall come before the commission for an interview, after which the Commission will write up its recommendation for the City Manager’s consideration in making a decision.

Moved/Seconded (Legg/Yampolsky)

Substitute motion: to revise Section 22(a) to read as follows: “Upon the notice of vacancy of the position of Chief of Police, the City Manager shall engage with the Police Commission on the job requirements and application process. The Police Commission shall play active role in evaluation of candidates and final selection of the Chief of Police.”

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, Legg, and Ritchie.
Noes: Ramsey Abstain: None Absent: Matthews, Roberts,
Sherman

By general consent, the Commission agreed to revise Section 22 by substituting “dismissal” for “removal” in the heading and substituting “dismissing” for “removing” in the first sentence of the Section.

Motion to approve all of Section 22, as revised above.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, and Ritchie.

Noes: Ramsey, Legg Abstain: None Absent: Matthews, Roberts,
Sherman

Motion to approve Section 23 with revisions to subsection (a) to delete “a vote” with “to have input” at the end of the sentence, and to subsection (b) by inserting “members of” following “provide”.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, Legg, and Ritchie.

Noes: None Abstain: Ramsey Absent: Matthews, Roberts,
Sherman

Motion to approve Section 24 as written.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and
Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to approve Section 25 with the insertion of “written” before “reports in the heading.

Moved/Seconded (Ritchie/Legg) **Motion Carried**

Ayes: Allamby, Calavita, Perezvelez, Prichett, Ramsey, Yampolsky, Legg, and
Ritchie.

Noes: None Abstain: None Absent: Matthews, Roberts, Sherman

Motion to revise Section 26 to read as follows: “The Commission Chair and the Executive Director are allowed to attend and advise the City Manager and City Council on contract negotiations.”

Moved/Seconded (Perezvelez/Prichett)

Substitute motion: to revise Section 26 to read as follows: “The City Manager shall inform the Police Commission of any prospective changes discussed in contract negotiations that may directly affect the work, duties, or responsibilities of the Commission; and provide the Commission reasonable time to evaluate and respond to those proposals.”

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

Ayes: Allamby, Perezvelez, Prichett, Yampolsky, Legg, and Ritchie.
Noes: Ramsey Abstain: Calavita Absent: Matthews, Roberts, Sherman

By general consent, the Commission approved Section 27 as written.

By general consent, the Commission approved Section 28 as written.

By general consent, the Commission agreed to insert a new Section 29, proposed by Commissioner Perezvelez, to read as follows: "The Commission shall conduct a review of its processes every two years after the passage of the initiative in order to ascertain the efficacy of its process."

By general consent, the Commission approved original Section 29, Repeal of Ordinance No. 4,644-N.s., as Amended, as written.

By general consent, the Commission approved original Section 30, Severability, as written.

Motion to accept the recommendation of the Commission Reform Subcommittee for a proposed Charter amendment, as amended by the Commission, and to empower Chairperson and Vice-chairperson to meet with the PRC Officer to develop necessary points for Council report

Moved/Seconded (Perezvelez/Ritchie) Motion Carried

Ayes: Allamby, Calavita, Perezvelez, Prichett, Yampolsky, Legg, and Ritchie.

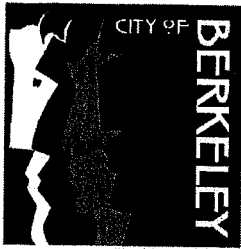
Noes: None Abstain: Ramsey Absent: Matthews, Roberts, Sherman

7. PUBLIC COMMENT

There were 2 speakers.

8. ADJOURNMENT

By general consent, the meeting was adjourned at 11:19 p.m.



Police Review Commission (PRC)

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

**Wednesday, May 9, 2018
7:00 P.M.**

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR MATTHEWS AT 7:12 P.M.

Present: Commissioner Sahana Matthews (Chair)
Commissioner Gwen Allamby
Commissioner Kitty Calavita
Commissioner George Perezvelez
Commissioner Andrea Prichett
Commissioner Ismail Ramsey
Commissioner Victoria Legg (*temporary*)
Commissioner David Ritchie (*temporary*)
Commissioner Mary Kay Lacey (*temporary*)

Absent: Commissioners Terry Roberts, Michael Sherman, Ari Yampolsky

PRC Staff: Katherine J. Lee, PRC Officer; Byron Norris, PRC Investigator

BPD Staff: Chief Andy Greenwood; Captains Dave Reece, Edward Spiller, and Rico Rolleri; Lieutenants Angela Hawk, Michael Durbin, Daniel Montgomery, and Kevin Schofield; Sergeants Rashawn Cummings; Officer Brandon Smith; Crime Analyst Rita De Lucchi; and Sean Ross (Berkeley Police Association).

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There was 1 speaker.

4. CHAIR'S REPORT

Chair Matthews thanked Victoria Legg for her service as a temporary commissioner. Ms. Legg, who announced that today would be her last meeting, expressed pleasure in having served on the commission.

Chair Matthews reported on her "rewarding and enlightening" experience attending the Center for Police Equity (CPE) Conference in Washington, D.C., and thanked the CPE and Chief Greenwood for the opportunity. The conference was a mix of police executives and community advocates coming together to discuss ways to achieve fair & equitable policing. The Chair acknowledged that BPD was singled out during the conference as having one of the lowest rates of bias in the nation.

5. PRC OFFICER'S REPORT

One new complaint was filed since the commission last met.

The Deputy City Manager approved funding for one PRC commissioner to attend the National Association of Civilian Oversight of Law Enforcement's (NACOLE) annual conference in St. Petersburg, Florida, September 30 to October 4, 2018.

PRC Officer Lee will be on vacation from May 17 to May 25; PRC Investigator Norris will fill in for her during this time, including staffing the May 23 commission meeting.

Two Berkeley High School students are filming today's commission meeting as part of a school project of their Law and Social Justice course.

6. CHIEF OF POLICE'S REPORT

Chief Greenwood forewent his usual report in lieu of the CPE Presentation on today's agenda. He also pledged to look at the recommendations from the CPE, commissioners, as well as his own department in determining how best to move forward on the community's concerns about biased policing.

7. ELECTION OF VICE-CHAIRPERSON (DISCUSSION & ACTION)

Nomination of George Perezvelez as PRC Vice-Chairperson

(There were no other nominations)

Moved/Seconded (Legg/Calavita) **Motion Carried**

Ayes: Allamby, Calavita, Matthews, Perezvelez, Prichett, Ramsey, Legg, Ritchie, and Lacey.

Noes: None Abstain: None Absent: Roberts, Sherman, Yampolsky

8. NEW BUSINESS (DISCUSSION & ACTION)

Presentation by the Center for Policing Equity, whose mission is to eliminate bias in policing, on its report analyzing BPD vehicle and pedestrian stops, and use-of-force data. During the two-hour discussion, commissioners consented to suspend the rules to allow members of the public to comment and to pose questions during the presentation.

The presenters were: Kimberly Burke, primary presenter; Krista Dunn, project manager; Chris Burbank, a vice-president of CPE and retired police chief of Salt Lake City, UT; and Jack Glaser, UC Berkeley professor.

9. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

None.

10. PUBLIC COMMENT

None.

11. ADJOURNMENT

By general consent, the meeting was adjourned at 9:30 p.m.

Prioritization of PRC Tasks

(shaded = done or awaiting response)

Overall rank or priority	Tasks in order of rank (lower rank = higher priority)	Status 5.16.2018	Average numerical rank (scale = 1 to 5)
1	-Body-Worn Camera Policy	Awaiting policy from BPD	1.625
2	-MOUs/Mutual Aid - NCRIC, Council Committee on UAS and NCRIC	PRC recommendations for this year done	1.625
3	-Police Accountability Reforms (Increase PRC power)	To Council for 6/12 meeting	1.750
4	-Fair & Impartial Policing - follow-up on recommendations	Council Task Force TBD. CPE report follow-up?	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	Done 3-28. No further action	2.750
10	-Review Lexipol policies	5.23 agenda	2.875
11	-Commendations of BPD personnel	Done 3-28	3.000
11	-BPD Accountability Plan for Training/Professional Development	Done. Ltr to CM 2-21. awaiting response	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 4-25-18**

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 Renewed 3-14-18	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
Commission Reform Formed 3-14-18	Allamby Perezvelez Roberts Sherman	Perezvelez	Chief Andrew Greenwood

Berkeleyside

CITY

Berkeley police stops show racial disparities — but what does that mean?

By Emilie Raguso, May 11, 2018, 7:32 p.m.



An analysis of Berkeley police data shows reasons for optimism and room to improve. Photo: Emilie Raguso

Black and Hispanic drivers and pedestrians stopped by police in Berkeley are searched “at much higher rates” than white ones, according to a report released this week by the Center for Policing Equity (CPE).

Researchers have taken a close look at racial disparities in police contacts by comparing the race of people stopped by police to Berkeley’s racial demographics. The CPE report also looks at racial differences in search, citation and arrest rates of people who are stopped. The analysis found that, despite the higher search rates, black and Hispanic individuals were about half as likely to be arrested afterward: Researchers say this raises questions about whether local police might reconsider aspects of how they do their work, and whether bias may be playing a role.

Representatives from the Center for Policing Equity told the city’s Police Review Commission on Wednesday night that the city has reason to be proud, however: Berkeley police traffic and

pedestrian stops showed the lowest racial disparities in the nation, among hundreds of agencies that have been studied.

“As our president said in front of a national conference ... Berkeley PD has fewer disparities than any of the 240 police departments that he’s seen through the National Justice Database project,” UC Berkeley PhD student Kimberly Burke told the PRC. “There are disparities in every institution in all contexts of the U.S. So it is completely reasonable that we should expect to see disparities in policing outcomes as well.”

Researchers said it’s also important not to equate observed disparities with discrimination or racial profiling.

“People tend to conflate the two ideas,” Burke said, “that if there’s disproportionality it is necessarily a product of racial bias. And that’s not always the case. And that’s something we’re trying to parse out in our analyses.”

The CPE analysis looked at Berkeley police stops of motorists, as well as use of force reports, from 2012 through 2016. Two years of pedestrian stop reports, from 2015 and 2016, also were analyzed.

The research found that black motorists were four times more likely to be searched than white ones, while Hispanic drivers were three times more likely to be searched. Researchers found that the higher search rates “are consistent with the possibility” that black and Hispanic people “were treated with greater suspicion by BPD officers.” About 20% of white people were arrested post-

search, compared to 10% of black individuals and 12% of Hispanic ones.

Researchers said they did not take probation or parole status into account, or analyze whether the police stops were in response to community reports vs. officer-initiated activity or investigative stops. But that type of data could come into play later. According to a 2010 report from the Alameda County Health Department, “nearly one out of every 100 males in Alameda County is on county probation. African American males are far more likely to be on county probation than other groups.” African American males also have the highest parole rate, “four to 11 times higher than other racial/ethnic groups,” the Health Department reported. People on probation and parole are generally subject to search as part of the conditions of their release.

Berkeley Police Chief Andrew Greenwood has committed to releasing stop data annually, and continuing to work closely with CPE to improve the data available and how it is analyzed.

The CPE report also looked at racial differences related to use of force and compared it to the city’s population. It found that black people make up only 8% of the city’s population, but composed 46% of the people subjected to force. (For context, BPD has tallied 105 use of force incidents, out of 223,878 calls, over a recent three year period: That means 0.047% of calls for service resulted in a documented use of force.)

UC Berkeley Professor Jack Glaser, who is working with the CPE team, said it’s important to remember that comparisons to population are the “crudest possible benchmarks,” and that “you cannot place a lot of confidence” in them. That’s because there’s no guarantee that those who are stopped, searched or arrested by police actually live in Berkeley.

Chief Greenwood, in response to community questions about the difference between Berkeley’s population and the hometowns of arrestees, said about 41% of people arrested in Berkeley, from 2012 through 2017, provided an address out of

town. Another 28% were listed as homeless, and the other 30% had Berkeley addresses. For 1% of the 14,363 arrests the city of residence was unknown. Out-of-towners got an even larger percentage of BPD’s citations: 54% compared to 32% of Berkeley residents.

A BPD analysis of its own arrest data from 2012 through 2017 found that about 50% of its arrests were of black people, followed by white people at 30% and Hispanic people at 12%. Arrests of Asian individuals and those identified as “other” were 8%. Year over year, the percentages for each racial group have varied little.

BPD also released data this week, in response to a Berkeleyside inquiry, about the demographics of its robbery calls. Robberies are the most common violent crime in Berkeley, with 364 reported last year. The vast majority of robberies are reported to police by community members who provide suspect descriptions when they can. Descriptions of robbery suspects, from 2015 through 2017, were 77% black, nearly 8% Hispanic, and 7% white.



A recent robbery call in downtown Berkeley. Photo: Emilie Raguso

One community member in attendance Wednesday night asked how the demographics of local crime might affect the data, or drive police stops. He said the report did not seem to account for that.

Professor Glaser pointed to the difference between crime reports, of a crime involving victims, and what he described as “discretionary

policing” — which may be more likely to be a factor in police stops.

“We don’t actually know who is committing the crime,” said Glaser. He said the racial differences in “yield rates” — that black and Hispanic people are more likely to be stopped and searched, but less likely to be arrested — could support “a much stronger inference of whether there is bias.”

He continued: “If everybody who’s being stopped has an equal probability of being in possession of drugs or weapons regardless of their race or ethnicity, then you’d expect the yield rates to be the same.... But it does appear, in the Berkeley data and in every department I’ve ever seen, that whites are being subjected to a higher threshold of suspiciousness in order to be searched.”

Next steps

The policing equity report included 13 recommendations for BPD to consider, going forward, to improve the data it collects and address disparities, too.

They include more robust data collection related to use of force, crime trends and neighborhood demographics, as well as better documentation of contraband found during searches. Researchers say BPD should also share more of its use of force data with the public: “In particular, we recommend that it collect and analyze data about whether ... and how the person resisted arrest, and about charges filed against persons involved in use of force incidents.”

The report also urges BPD to “continue to affirm” that egalitarian values are central to its mission, and to “cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities” to come up with collaborative reforms. That includes working with the PRC and other groups to review existing policies and find ways to improve.

“Berkeley appears to be doing better than most agencies, but it has work to do,” Glaser said

Wednesday.

Read the full CPE report. Learn more about the Center for Policing Equity and its National Justice Database project.

Greenwood said he’ll assess the recommendations in the CPE report, as well as recommendations made earlier this year by the PRC, and determine how to proceed.

“We are always seeking to improve,” he said in a memo earlier this week. “In the case of this report, that means looking for opportunities to improve equity in policing and guard against bias. Constitutional, fair and impartial policing are values that our department has long held, supported by policy and training for many years. We value diversity in our department and community. We train on recognizing and reducing bias, using de-escalation tactics, fair and impartial policing and crisis intervention skills. We do all this with the goal of building stronger relationships with the community we serve.”

Greenwood said Wednesday that the department is already looking at its use of force reporting to find ways to broaden it. He agreed with the research team that there is “a lot of potential for growth.” He said there are organizational obstacles, however, in terms of both resources and infrastructure.

“It’d be great to capture a whole bunch more data on every stop,” he said. But the question is, he continued, “How to even start doing that?”

“Police need to be giving data but also need to be doing their work,” he said. “So that’s a challenge.”

The city manager has said previously that she will report to the Berkeley City Council in September about the CPE and PRC reports, as well as other recommendations and ideas related to BPD that officials have put forward.

In April, the Berkeley City Council voted to create a new yearlong task force to study racial disparities in police stops to consider whether changes should be made. That task force has not been seated yet, however, and estimates put its creation perhaps around the time of the city manager's report.

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Lee, Katherine

From: J. George Lippman <george@lpc.org>
Sent: Thursday, May 10, 2018 12:48 PM
To: Lee, Katherine
Cc: Mansour Id-Deen; Winston; ELLIOT R HALPERN; Jack Glaser
Subject: clarification on BPD data portal and on the Black population in Berkeley

Follow Up Flag: Follow up
Flag Status: Flagged

Kathy,

I'd like to share these two clarifications with the Commission based on comments made in last night's PRC presentation on the CPE report.

1. Commissioner Prichett is correct that data on the BPD open portal is stale. That is, it began in January 2015 and ends as of April 30 2017, over a year ago.

This is a serious lapse that undermines the promised transparency of the department on this critical issue. It violates the spirit of the hard-won General Order B-4, "Fair and Impartial Policing," and flies in the face of two Council directives to move forward with analysis and action on racial disparities, taken on November 24, 2017 and again on April 24, 2018.

I urge the PRC Officer and Chair to ascertain from Chief Greenwood whether the halt to updating the public portal was an intentional decision, an inadvertent failure, or an issue of resources. If the latter, it is incumbent on the department and the commission to seek resources from the City to catch up and continue updating the public portal, which is crucial to establishing legitimacy and trust particularly with communities of color.

I'd also remind the Commission that it still has not received data that was shared with the CPE for its study. This is therefore non-confidential data, the lack of which hampers the Commission in fulfilling its mandate for policy oversight. Staff should determine whether it has access to the following data, and if not, the Commission should urgently request that the BPD deliver the following data to it, as it has to the CPE:

- a. vehicle stops from 2012 through 2014
- b. use of force data from 2012 through 2016
- b. crime data from 2012 through 2015

See explanation in the PRC report, "To Achieve Fairness and Impartiality: Report and Recommendations from the Berkeley Police Review Commission," on page 7:

"The 2015 Agreement between the BPD and the CPE calls for data analysis on '12-months' worth of pedestrian and vehicle stops using BPD's current data collection practices.' This scope of study is reflected in this report from the PRC. The CPE report, however, adds several other areas of study including **vehicle stops from 2012 through 2014, use of force data from 2012 through 2016, and crime data from 2012 through 2015**. This additional data cannot be analyzed by the PRC because the department has not shared it with the commission. The data given to the CPE should be given immediately to the PRC, as the civic commission responsible for advising the City on law enforcement and criminal justice."

2. The body discussed how low the African American population in Berkeley has diminished since the 2010 census figure of 10%. CPE references figures of both 8 and 8.2%, though 9% was thrown out last night. The PRC report stated 7.4%. This percentage figure is clearly central to the "numerator and denominator" discussion of racial disparities in stops.

Please see below for the source of the 7.4% number, which is the City of Berkeley Public Health Division.

George Lippman

Begin forwarded message:

From: "Ducos, Jose" <JDucos@cityofberkeley.info>
Subject: RE: Percentage of Black population in Berkeley
Date: November 6, 2017 at 11:12:42 AM PST
To: "J. George Lippman" <george@igc.org>
Cc: Vicki Alexander <alexandervicki20@gmail.com>

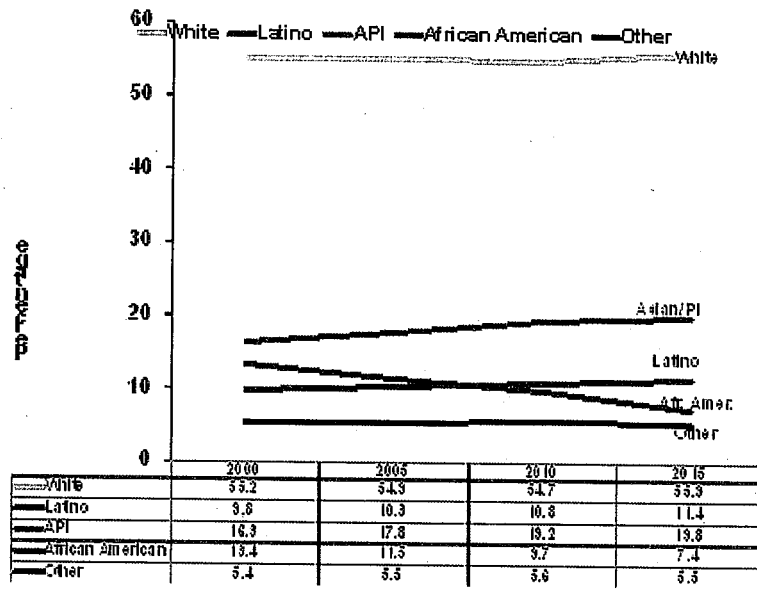
Hello George and thank you for your email. Please see the graphs below showing the race/ethnic distribution of Berkeley population. Please let me know if you have any questions.

Best,
José

Jose Ducos
City of Berkeley Public Health Division
1947 Center Street,
Berkeley, CA 94704
Phone (510) 981-5281
Fax (510) 981-5315
E-Mail: jducos@ci.berkeley.ca.us

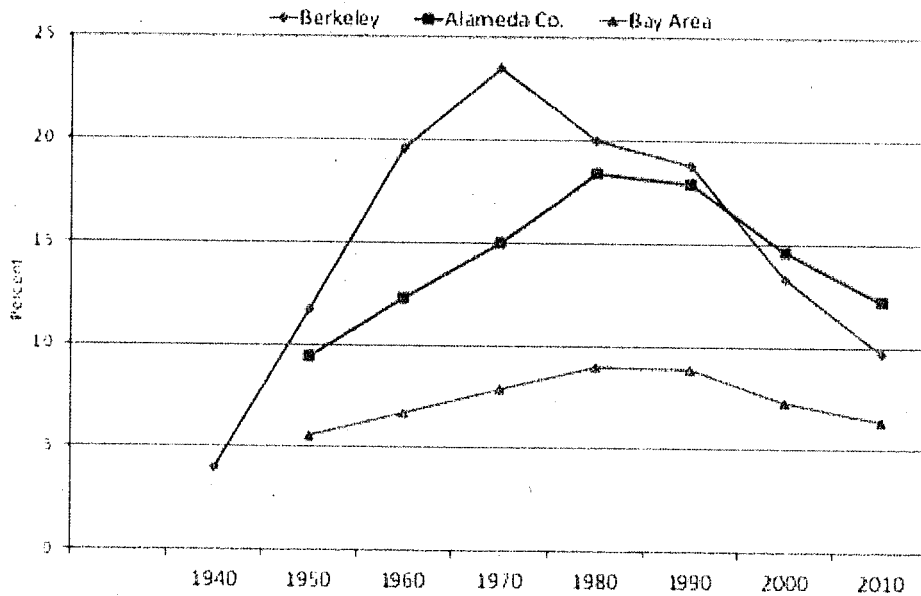
Please be aware that e-mail communication can be intercepted in transmission or misdirected. The information contained in this message may be privileged and confidential. If you are NOT the intended recipient, please notify the sender immediately with a copy to HIPAAPrivacy@cityofberkeley.info and destroy this message immediately.

Population Distribution by Race/Ethnicity, Berkeley 2000-2015



Source: City of Berkeley Public Health Division, Office of Epidemiology and Vital Statistics, U.S. Census Bureau

The African American Population as a Percentage of Total Population by Census Year City of Berkeley, 1940 to 2010



Source: Berkeley Public Health Division, U.S. Census Bureau, 1940-2010

9. OLD BUSINESS (discussion & action)

- a. Ways to address BPD staffing shortage.

(Considered with Item #10.a., "Guiding Principles" for the PRC.)

Motion to adopt the Guiding Principles.

Moved/Seconded (Matthews/Prichett)

By general consent the Commission agreed to postpone this item to the next meeting.

- b. Establish subcommittee or other means to review and make recommendations on Lexipol policies from BPD.

Motion to establish a subcommittee to review and make recommendations on Lexipol policies.

Moved/Seconded (Perezvelez/Allamby)

Substitute motion: That the Commissioners have a chance to look at the Lexipol policies and compare them to existing policies, determine how significant the changes are, and then choose a course of action based on what is found out.

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

Ayes: Allamby, Lippman, Prichett, and Sherman.

Noes: Perezvelez, Roberts Abstain: Matthews

Absent: Yampolsky

- c. Process for requesting information from BPD.

(Heard following Item #9.c.)

Motion to handle requests as follows: The PRC Officer will keep track of individual requests made during a meeting, and return those requests for discussion, prioritization and action in a standing agenda item at the following meeting.

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

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

Noes: None Abstain: None Absent: Prichett, Yampolsky

- d. Assess BPD's After-Action reporting and response to Public Records Act Request.

(Item postponed to the next meeting.)

- e. Review of General Order C-45, Police Chaplain Program

(Heard following Item #9.b.)

Motion to object to establishment of chaplain program and encourage the Chief to find other ways to provide emotional support to officers.

Moved (Prichett) **Motion failed for lack of second.**

- f. Outreach:

- i) Consider whether to have a table publicizing the PRC at the Berkeley Juneteenth Festival on Sunday, June 17, 2017.

Lee, Katherine

From: Speelman, Samantha M.
Sent: Monday, December 04, 2017 5:08 PM
To: Lee, Katherine
Subject: Lexipol Policies 1 of 3
Attachments: 101 Chief Executive Officer PRC.docx; 102 Oath of Office PRC.docx; 103 Policy Manual PRC.docx; 200 Organizational Structure PRC.docx; 204 Electronic Mail PRC.docx; 205 Administrative Communications PRC.docx; 206 Retiree Concealed Firearms PRC.docx; 302 Handcuffing and Restraints PRC.docx; 307 Vehicle Pursuits PRC.docx; 308 Canines PRC.docx

Follow Up Flag: Follow up
Flag Status: Completed

I'm sending you 25 of the Lexipol policies, they are out of order since others are in various stages of research and approval.

10 of 25

1	101	Chief Executive Officer
2	102	Oath of Office
3	103	Policy Manual
4	200	Organizational Structure and Responsibility
5	204	Electronic Mail
6	205	Administrative Communications
7	206	Retiree Concealed Firearms
8	302	Handcuffing
9	307	Vehicle Pursuits
10	308	Canines
11	309	Officer Response to Calls
12	310	Domestic Violence
13	311	Search and Seizure
14	312	Temporary Custody of Juveniles
15	313	Adult Abuse
16	314	Discriminatory Harassment
17	315	Child Abuse
18	318	Victim and Witness Assistance
19	319	Hate Crimes
20	320	Department Use of Social Media
21	323	Report Preparation
22	324	Media Relations
23	330	Death Investigation
24	331	Identity Theft
25	332	Communications with Persons with Disabilities

Lexipol #	Title	Associated GO
100	Law Enforcement Authority	A-01
101	Chief Executive Officer	
102	Oath of Office	
103	Policy Manual	P-18
200	Organizational Structure and Responsibility	D-02, d6, r4,u3
201	Special Orders	S-04
202	Emergency Management Plan	D-09
203	Training Policy	T-07
204	Electronic Mail	E-12
205	Administrative Communications	
206	Retiree Concealed Firearms	R-37
207	License to Carry a Firearm	C-03, c-00
208	Review Boards	R-03
209	Policy, Procedural and Informational Documents	P-23
210	BPD Forms	R-18
300	Use of Force	U-02, U-1
301	Use of Force Review Boards	R-03
302	Handcuffing	H-06
303	Control Devices and Techniques	F-02
304	Conducted Energy Device	F-02
305	Officer-Involved Shootings and Deaths	P-12
306	Firearms	F-02, F-5, h3, P47
307	Vehicle Pursuits	V-06
308	Canines	
309	Officer Response to Calls	
310	Domestic Violence	D-05
311	Search and Seizure	
312	Temporary Custody of Juveniles	I-15, J-18
313	Adult Abuse	
314	Discriminatory Harassment	H-07
315	Child Abuse	C-08
316	Missing Persons	M-01
317	Public Alerts	E-11
318	Victim and Witness Assistance	A-60
319	Hate Crimes	H-04
320	Department Use of Social Media	
321	Standards of Conduct	P-26
322	Information Technology Use	E-12
323	Report Preparation	C-07
324	Media Relations	P-29
325	Subpoenas and Court Appearances	C-62

326	Reserve Officers	R-33
327	Mutual Aid and Outside Agency Assist	M-02
328	Registered Offender Information	D-21, M6
329	Major Incident Notification	A-49
330	Death Investigation	E-09, O-1
331	Identity Theft	
332	Communications with Persons with Disabilities	T-19
333	Private Persons Arrest	A-50
334	Anti-Reproductive Rights Crimes Reporting	
335	Limited English Proficiency Services	
336	Mandatory School Employee Reporting	
337	Biological Samples	D-21
338	Chaplains	C-45
339	Public Safety Camera System	
340	Child and Dependent Adult Safety	
341	Volunteer Program	V-08
342	Service Animals	
343	Gun Violence Restraining Orders	
344	Off Duty Law Enforcement Action	
345	Native American Graves Protection and Repatriation	
346	Honor Guard	H-01
347	Firearms Training Unit	F-05
348	Youth Services	J-18
349	Tactical Rifle Operator	F-06
350	Public Appearances	P-16
351	Community Relations	
400	Patrol Function	
401	Racial or Bias-Based Profiling	B-04
402	Briefing Training	
403	Crime and Disaster Scene Integrity	C-52
404	Special Response Team	X-01
405	Ride Along Policy	
406	Hazardous Material Response	T-16
407	Hostage and Barricade Incidents	X-01
408	Response to Bomb Calls	B-03
409	Crisis Intervention Incidents	
410	Mental Illness Commitments	I-16
411	Cite and Release Policy	C-10
412	Foreign Diplomatic and Consular Representatives	
413	Rapid Response and Deployment	U-04, v4
414	Reporting Policy Activity Outside of Jurisdiction	
415	Immigration Violations	
416	Emergency Utility Service	

417	Aircraft Accidents	
418	Field Training Officer Program	F-03
419	Obtaining Air Support	
420	Detentions and Photographing Detainees	R-29
421	Criminal Organizations	
422	Mobile Audio Video - In Car	
423	Watch Commanders	
424	Mobile Data Terminal Use	
425	Portable Audio/Video Recorders	
426	Public Recording of Law Enforcement Activity	W-01
427	Medical Marijuana	
428	Bicycle Patrol Unit	
429	Foot Pursuit	N/A
430	Automated License Plate Readers (ALPRs)	
431	First Amendment Assemblies	C-64, c1
432	Civil Disputes	
433	Homeless Persons	
434	Suspicious Activity Reporting	N-17
435	Medical Aid and Response	
436	Situational Awareness Group	N-18
437	Special Investigations Unit	D-04
500	Traffic Function and Responsibility	E-14, T-03
501	Traffic Collision Reporting	T-16
502	Vehicle towing and Release	V-02
503	Vehicle Impound Hearings	V-02
504	Impaired Driving and Evidence Collection	A-53
505	Traffic Citations	J-18, M-04
506	Disabled Vehicles	T-18
507	72-Hour Parking Violations	V-02
508	Crossing Guard	A-02
600	Investigation and Prosecution	C-02, C-51, C-52
601	Sexual Assault Investigations	
602	Asset Forfeiture	A-61
603	Informants	D-04, S-8
604	Eyewitness Identification	
605	Brady Material Disclosure	
607	Warrant Service	S-06, w-04
608	Operations Planning and Deconfliction	D-04
609	Detective Bureau	D-02
610	Stolen Vehicle Investigation	V-5
611	Licensed Liquor Establishments, Conduct of	D-01
700	Department Owned and Personal Property	C-17, E-07
701	Personal Communication Devices	

702	Vehicle Maintenance	
703	Vehicle Use	V-01
704	Cash Handling, Security and Management	
705	Personal Protective Equipment	
706	Rescue Vehicle	
800	Crime Analysis	C-04
801	Communications Operations	T-01
802	Property and Evidence	P-66, P67, p65
803	Records Management	R-30
804	Restoration of Firearm Serial Numbers	
805	Records Maintenance and Release	R-23, R-23A, R-32, I-02
806	Protected Information	R-10
807	Computers and Digital Evidence	
808	Animal Control	A-31, A-32
809	Jeanne Clery Campus Security Act	
810	Computer Voice Stress Examinations	P-33
811	Burial Permits - Emergency	P-10
900	Temporary Custody of Adults	I-15, J1, A54
901	Custodial Searches	J-01, S-7
902	Prison Rape Elimination	
903	Transportation of Prisoners	T-02
1000	Recruitment and Selection	
1001	Evaluation of Employees	P-28
1002	Special and Temporary Duty Assignments, Application and Selection Procedures	P-15
1003	Grievance Procedure	G-02
1004	Anti-Retaliation	
1005	Reporting of Employee Convictions	
1006	Drug and Alcohol Free Workplace	D-19
1007	Sick Leave	S-05
1008	Communicable Diseases	H-05, P24
1009	Smoking and Tobacco Use	
1010	Personnel Complaints	P-26, R3
1011	Seat Belts	
1012	Body Armor	
1013	Personnel Files	
1014	Request for Change of Assignment	
1015	Employee Commendations	P-21
1016	Fitness for Duty	
1017	Meal Periods and Breaks	
1018	Lactation Break Policy	
1019	Payroll Record Procedures	

1020	Overtime Compensation Requests	D-15
1021	Outside Employment	P-20
1022	On Duty Injuries	P-24
1023	Personal Appearance Standards	
1024	Uniform Regulations	D-17, E-07
1025	Police/Sheriff Cadets	
1026	Nepotism and Conflicting Relationships	
1027	Department Badges	
1028	Temporary Modified-Duty Assignments	
1029	Performance History Audits	E-13
1030	Employee Speech, Expression and Social Networking	
1031	Illness and Injury Prevention	P-24
1032	Line of Duty Deaths	O-11
1033	Career Development Program	
1034	Critical Incident Stress Debrief	P-50
1035	Employee Absences	P-17
1037	Attendance - Conferences and Meetings	C-46

“Guiding Principles”

The Berkeley Police Review Commission (PRC) was established in order to strengthen trust between the BPD and Berkeley community. The PRC would like to emphasize our role in collaboration with the Department to reach this shared goal of trust.

Due to the current Berkeley Police Department (BPD) staffing crisis, the PRC adopts these guiding principles as a way of ending the lack of support that the Department receives from the PRC.

In order to strengthen the relationship between the BPD and PRC, the commissioners will:

- Make every effort to ask for Department input during discussions on items that affect Department policies and practices.
- Attend community and Department events that the Chief invites the commissioners to.
- Participate in ride-alongs and Department tours (to the extent the commissioners feel comfortable).
- Support the Department's staffing by reaching out to our community networks (to the extent applicable).

It is the Commission's hope that these principles will be followed in a way that promotes a better relationship between the PRC and Department and increases trust between the BPD and broader community.

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

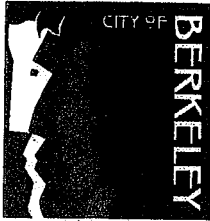
3. Copies of planning documents related to the removal of the encampment at the same location including but not limited to

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,

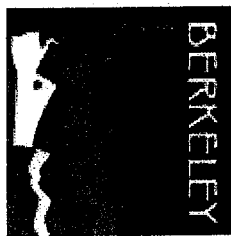
Farimah Brown
City Attorney

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

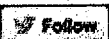
This email is being sent to the Mayor, Councilmembers, and all legislative staff.

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.



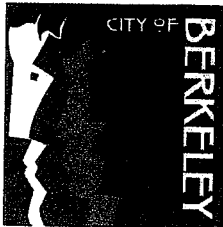
Jovan D. Grogan
Deputy City Manager
City of Berkeley
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
(510) 981-7014 / jgrogan@cityofberkeley.info



...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



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%20Manager/Level%203%20-%20General/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

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

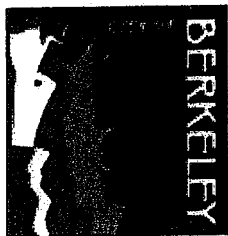
Thank you, Kevin

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

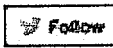
This email is being sent to the Mayor, Councilmembers, and all legislative staff.

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.

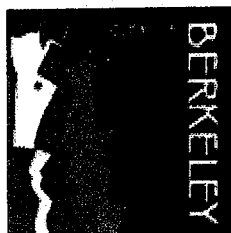
Thanks,
Erin

From: Grogan, Jovan
Sent: Wednesday, February 07, 2018 3:02 PM
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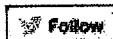
This email is being sent to the Mayor, Councilmembers, and all legislative staff.

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

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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: 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

CHARTER AMENDMENT TO ESTABLISH A POLICE COMMISSION

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1. The Charter of the City of Berkeley is amended to add Article XVIII, to read as follows:

Article XVIII. POLICE COMMISSION

Section 1. Establishment and purpose.

A Police Commission is hereby established in the City of Berkeley. The purpose of the Police Commission is to provide independent, objective, civilian oversight of the Berkeley Police Department and their interactions with any other law enforcement agencies operating in the City of Berkeley, by promoting public trust through police accountability and transparency, by ensuring that police policies and practices reflect the values of the local community, and by helping the Department obtain the resources and training necessary to carry out its duties.

Section 2. Powers and duties.

(a) The Police Commission has the following powers and duties:

(1) To advise and make recommendations to the public, City Council, and City Manager regarding all aspects of the operation of the Berkeley Police Department, including without limitation all written policies, practices, and procedures in relation to the Berkeley Police Department, and their interactions with any other law enforcement, intelligence, and military agencies operating in the City of Berkeley;

(2) To review and approve all Police Department policies, practices and procedures as further described below;

(3) To receive, investigate, and hear complaints against all employees of the Police Department, and to recommend discipline when misconduct is found;

(4) To review complaints against all employees of the Police Department filed with the Police Department, to select complaints for investigation or monitoring, and recommend discipline;

(5) To participate in the hiring of the Chief of Police and other sworn officers as further described below;

(6) To participate in the hiring and dismissal of Commission staff as further described below;

(7) To access records of City Departments, compel attendance of Police Department employees, and exercise the power of subpoena as necessary to carry out its functions and as further described below;

(8) To adopt rules and regulations necessary for the conduct of its business; and

(9) Any other powers and duties as the City Council may assign it.

Section 3. Independent agency; budget authority and allocation

(a) Notwithstanding Article VII of the Charter, the Police Commission and its staff shall be independent of the City Manager.

(b) The Commission is authorized to propose a budget to the City Council for its operations, and the Council shall allocate to the Police Commission a budget sufficient for the Commission and its staff to carry out the responsibilities stated herein.

Section 4. Composition of Police Commission; eligibility

The Police Commission shall be composed of nine Commissioners selected by the City Council.

(a) Each member of the Commission must:

(1) Be a resident of the City;

(2) Be of voting age;

(3) Not be an employee, officer, or contractor with the City; a current sworn police officer from any agency; or a current employee, official, or representative of an employee association representing sworn police officers.

(b) Desirable qualities of a Commissioner are familiarity with human resources, law, police procedures, or police oversight; or involvement in civil rights or community organizations.

Section 5. Commissioner selection.

(a) Candidates for the Commission must complete and file with the City Clerk an application form and an affidavit of residency required by Berkeley Municipal Code section 2.04.145. Commission vacancies will be widely advertised and publicly posted. The Mayor and each Councilmember will nominate one candidate from an applicant pool at a meeting of the City Council. Each individual nominee must be approved by a majority vote of the Council.

(b) The Council shall endeavor to establish a commission that is broadly inclusive and reflective of race, ethnicity, age, sexual orientation, economic status, neighborhoods, and various communities of interest in this City. Toward that end, in soliciting applications for Commissioner positions, the Executive Director of the Commission shall reach out to civic, community, and civil rights organizations, among others.

Section 6. Terms; term limits.

(a) Commissioner terms end four years after appointment, or upon the expiration of the nominating Councilmember's term, whichever is earlier. Commissioners are limited to serving eight consecutive years, and may be reappointed following a break in service of at least four years.

(b) To the extent not in conflict with subsections (a) above, the provisions of Berkeley Municipal Code Section 3.02.040, regarding commissioner term limits and the effect of interruption in service, apply.

Section 7. Conflicts of interest.

Commissioners will be subject to the requirements of the California Political Reform Act and other state and local conflict of interest codes.

Section 8. Expiration of term; termination; leaves of absence; removal.

(a) A Commissioner whose term has expired may continue to serve until a successor Commissioner is appointed, unless and until the sitting commissioner's term expires due to term limits.

(b) The term of a Commissioner who fails to remain eligible to serve on the commission (e.g., by moving out of the City of Berkeley, or becoming an employee of the City) expires automatically as of the date the reason for ineligibility arises.

(c) The provisions of Berkeley Municipal Code Section 3.02.020, establishing a termination procedure for absence from meetings, Section 3.02.030, leaves of absence, and Section 3.02.035, regarding alternate commissioners, apply to the Police Commission.

(d) A Commissioner may be removed only by a majority vote of the Council upon recommendation of the Commission. Such a recommendation must be made by a supermajority vote of seven Commissioners, and the only grounds for recommending removal are: conviction of a felony, substantial neglect of duty, or gross misconduct, while in office; inability to discharge the powers and duties of the office; or absence from six regular meetings in a calendar year except when the absence is excused in accordance with Berkeley Municipal Code Sec. 3.02.030.

Section 9. Commission Chairperson and Vice-Chairperson.

The Commission shall elect one of its members as chairperson and one as vice-chairperson, whose terms shall be one year each, or until their successor is elected. No chairperson is eligible to serve more than two consecutive terms, or portions thereof. Following election of the initial chairperson and vice-chairperson, the Commission shall elect subsequent officers each January.

Section 10. Commissioner stipends.

Each Commissioner is entitled to receive a stipend of \$100.00 for each regular and special full commission meeting attended, and \$20.00 per hour for each subcommittee meeting and Board of Inquiry (BOI) hearing attended as a member of the subcommittee or the BOI. However, the total stipend paid may not exceed \$500.00 per month per Commissioner.

Section 11. Commissioner training.

The Commission shall establish mandatory training requirements for Commissioners, with input from the Executive Director and Chief of Police.

Section 12. Commission meetings; quorum; rules of procedure; subcommittees.

(a) At the beginning of each calendar year, the Commission shall establish a regular meeting schedule consisting of at least 18 meetings. Special meetings may be called by the chairperson of the Commission or by a majority of the Commission.

(b) A majority of appointed Commissioners constitutes a quorum to conduct business, and a minimum of four affirmative votes is required to take any action.

(c) The Commission shall establish rules of procedure governing the conduct of its business.

(d) The Commission may establish subcommittees that it deems necessary to carry out its functions. The Chairperson shall appoint subcommittee members at a Commission meeting, and may include members of the public who express an interest in the business of the subcommittee. Public subcommittee members will serve without compensation. The Commission may establish further rules and procedures for the appointment of members of the public to subcommittees.

(e) On the petition of fifty or more residents in the City of Berkeley filed in the Office 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 the matters identified therein as the concerns 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 business days following the date that the petition is filed.

Section 13. Commission staff.

(a) The Commission shall hire an Executive Director, who shall serve at the pleasure of the Commission. The Executive Director shall serve as secretary to the Commission and carry out the work of the Commission as described herein, including, without limitation, day-to-day operations of the Commission office and staff, and performance appraisals and discipline of all subordinate employees.

(b) The Executive Director shall, with the Commission's consent, hire a Chief Investigator. The Executive Director may dismiss the Chief Investigator at will, with the Commission's consent.

(c) The Executive Director has the sole authority to hire and dismiss consultants, additional investigators, and all subordinate employees as needed.

(d) The powers in this Section 13 are conferred notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 199 of this Charter.

(e) The Commission and Executive Director may use the City's Human Resources Department for hiring, performance evaluation, discipline, and removal of employees.

Section 14. Legal counsel.

The Commission and its Executive Director may use the services of the City Attorney's Office for legal advice; the Commission may also seek the services of outside counsel when it deems necessary.

Section 15. Commission reports.

(a) The Executive Director shall issue an annual report to the public describing the Commission's activities during the year, and which shall include: a summary of the number, type, and disposition of complaints filed with the Commission; a summary of the number, type, and disposition of complaints filed with the Police Department that Commission staff has reviewed; policy investigations and reviews undertaken; and such other information as the Commission may request.

Section 16. Policy review and approval.

(a) The Commission may review police policies, practices, and procedures on its own motion or at the request of a member of the public or the Department. The Executive Director shall carry out any Commission directives required to fulfill this function.

(b) The Executive Director shall conduct any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also conduct any audit or review of the Department's policies and procedures, including any pattern of noncompliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties.

The Commission shall prepare an annual report, summarizing such reviews as the following:

1. The Department's and the Commission's processes and procedures for investigating alleged misconduct, and for determining the appropriate level of discipline for sustained findings of misconduct;
2. Trends and patterns regarding Department training and education, and the Department's use of any early warning system;
3. Training and/or policy issues that arise during the investigations of complaints;
4. Trends and patterns regarding discrimination or harassment based on race, ethnicity, national origin, gender, age, religion, sexual orientation/identity, or socio-economic status in civilian stops or other encounters; and Department compliance with the Responsibility to Report and Take Corrective/Investigative Action as described in BPD General Order B-4, Fair and Impartial Policing, paragraphs 4, 5, and 6; and
5. Trends and patterns regarding use of force and officer-involved shootings.

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

(c) Before taking effect, the Chief shall submit all new Departmental policies and revisions to existing policies to the Commission for review and approval. If the Police Department and the Commission are unable to reconcile their differences about a policy, the policy shall be sent to the City Council for a final decision.

Section 17. Complaints filed with the Commission.

(a) The Commission shall adopt regulations for handling complaints filed with the Commission from members of the public alleging misconduct by Police Department employees, and undertake investigations of complaints as it deems warranted. The regulations must include the following:

(1) A provision for mediation of complaints in lieu of an investigation;

(2) What constitutes a complainant;

(3) Boards of Inquiry (BOI) to hear and decide findings on allegations of misconduct, at which subject employees must appear to testify and answer questions from the BOI Commissioners;

(4) In making findings at a BOI, the standard of proof will be "preponderance of the evidence";

(5) The time limit for investigations and notification of discipline shall be one year, unless a Government Code section 3304(d) exception applies.

Section 18. Review of complaints filed with the Berkeley Police Department.

(a) The Police Department shall provide the Executive Director with copies of all newly-filed complaints filed with the Department. The Commission shall decide which complaints staff will conduct parallel investigations of, after receiving recommendations from its staff. If Commission staff conducts an investigation, the Department shall share with the Commission all evidence the Department collects during its investigation.

(b) For complaints that Commission staff do not select for investigation, the Executive Director shall have the authority to review and discuss those cases with the Department. If the Executive Director believes that the Commission should open an investigation, s/he may present the case to the Commission to approve an investigation.

(c) The Police Department shall inform Commission staff of its planned disposition before closing an investigation into a complaint.

Section 19. Involvement in discipline of Department employees

(a) If members of a Board of Inquiry make a sustained finding on an allegation against a subject employee, they shall also recommend disciplinary action to the Chief.

(b) After reviewing a Police Department investigation, the Executive Director shall advise the Commission of recommended disciplinary action in any sustained finding. The Commission may affirm, modify, or reject the recommendation, and its decision shall be submitted to the Chief.

(c) If the Chief proposes to impose a disciplinary action that differs from the recommendation of the BOI or the Commission, the Commission shall have the

opportunity to appeal the Chief's proposal to the City Manager. The City Manager shall make the final determination and explain his or her decision in writing to the Commission within 15 business days of the appeal.

(d) This Article does not prohibit the Chief of Police from investigating the conduct of a Police Department employee, or taking disciplinary or corrective action that is otherwise permitted by this Charter and not in conflict with this Article, when such action is warranted; and this Article does not limit or otherwise restrict the disciplinary powers vested in the City Manager and the Chief of Police under other provisions of this Charter, that are not in conflict with this Article.

(e) The City Manager and Chief of Police may impose disciplinary action up to a period consistent with Government Code section 3304. This Section nullifies and supersedes any agreements to the contrary.

Section 20. Access to records of City departments; compelling testimony and attendance.

(a) Notwithstanding Article VII, Section 28 of this Charter, all departments, officers, and employees of the City shall cooperate with and assist the Commission and its staff and, unless prohibited by state or federal law, produce all records and information the Commission or its staff requests for the purpose of carrying out its duties and functions. The records and information include without redaction or limitation: (1) records relevant to Police Department policies or practices, (2) personnel and disciplinary records of Police Department employees, and (3) Police Department investigative records. Responding departments, officers, or employees of the City shall comply promptly, but in no event later than 10 business days from the date of request.

(b) The Commission and its staff shall maintain the confidentiality of any records and information it receives to the extent required by state or federal law governing such records or information.

(c) The Commission may require the testimony or attendance at Commission proceedings of any member of the Police Department to carry out the Commission's responsibilities.

(d) The Commission is empowered to issue subpoenas to compel the production of books, papers, and documents, and the attendance of persons to take testimony, as needed to carry out its duties and functions; and to enforce subpoenas if necessary.

Section 21. Advice regarding Police Department budget.

The Commission is empowered to review and make recommendations to the Chief of Police regarding the Police Department budget, before and during development of his or her budget proposal to the City Manager. The Chief shall submit his or her final budget proposal to the Commission for review and recommendations at least 30 days before submitting it to the City Manager, but the Commission's failure to complete that review and make recommendations in a timely manner shall not delay the budget process.

Section 22. Hiring and dismissal of Chief of Police.

Notwithstanding Article VII, Section 28 of this Charter, the processes for hiring and dismissing the Chief of Police are as follows:

(a) Upon the notice of vacancy of the position of Chief of Police, the City Manager shall engage with the Police Commission on the job requirements and application process. The Police Commission shall play an active role in the evaluation of candidates and final selection of the Chief of Police.

(b) Upon the recommendation of the Commission, it may propose removal of the Chief to the City Manager.

Section 23. Hiring of subordinate Departmental staff.

(a) The Chief of Police shall include a member of the Commission on all oral boards for all command staff positions, and allow that Commission member to have input.

(b) The Chief shall provide members of the Commission with an opportunity to participate in oral boards or interviews for all non-command, sworn officer positions.

Section 24. Chief or command staff to attend Commission meetings.

The Chief of Police shall attend at least one regular Commission meeting per month for each month a regular meeting is held, and attend a minimum of 12 meetings per year. The Chief shall send a member of his or her command staff to any regular Commission meeting that the Chief does not attend.

Section 25. Berkeley Police Department written reports to the Commission.

The Chief of Police shall submit reports to the Commission on such subjects and at such intervals as the Commission, in consultation with the Chief, may prescribe. At least one report shall provide information on all use of force statistics, and the number of complaints filed with Internal Affairs, the allegations in each complaint, and the disposition of closed complaints, including any discipline imposed.

Section 26. Contract negotiations.

The City Manager shall inform the Police Commission of any prospective changes discussed in contract negotiations that may directly affect the work, duties, or responsibilities of the Commission; and provide the Commission reasonable time to evaluate and respond to those proposals.

Section 27. Commendation program.

The Commission shall establish a regular means of recognizing employees of the Police Department for instances of outstanding service to individuals, the community at large, or the Department.

Section 28. Transition from Police Review Commission to Police Commission.

(a) The Police Review Commission established by Ordinance No. 4,644-N.S., as amended, will continue in existence until its functions are transferred to the Police Commission, but no later than June 30, 2019.

(b) To assist in an orderly transition between the Police Review Commission and the Police Commission established by this Article, PRC staff shall serve as interim Police Commission staff until the Police Commission hires an Executive Director and the Executive Director hires subordinate employees.

(c) The Police Review Commission staff shall transfer all PRC files, records, books, publications, and documents of whatever kind to, and for the use and benefit of, the newly created Police Commission.

Section 29. Review of processes.

The Commission shall conduct a review of its processes every two years after the passage of the initiative in order to ascertain the efficacy of its processes.

Section 30. Repeal of Ordinance No. 4,644-N.S., as amended.

Ordinance No. 4,644-N.S. and all amendments thereto will cease to be operative and are repealed as of the date of the first meeting of the Police Commission established by this Article.

Section 31. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Article, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley declare that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Article, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

CHARTER AMENDMENT TO ESTABLISH A POLICE COMMISSION

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1. The Charter of the City of Berkeley is amended to add Article XVIII, to read as follows:

Article XVIII. POLICE COMMISSION

Section 1. Establishment and purpose.

A Police Commission is hereby established in the City of Berkeley. The purpose of the Police Commission is to provide independent, objective, civilian oversight of the Berkeley Police Department and their interactions with any other law enforcement agencies operating in the City of Berkeley, by promoting public trust through police accountability and transparency, by ensuring that police policies and practices reflect the values of the local community, and by helping the Department obtain the resources and training necessary to carry out its duties.

Section 2. Powers and duties.

(a) The Police Commission has the following powers and duties:

(1) To advise and make recommendations to the public, City Council, and City Manager regarding all aspects of the operation of the Berkeley Police Department, including without limitation all written policies, practices, and procedures in relation to the Berkeley Police Department, and their interactions with any other law enforcement, intelligence, and military agencies operating in the City of Berkeley;

(2) To review and approve all Police Department policies, practices and procedures as further described below;

(3) To receive, investigate, and hear complaints against all employees of the Police Department, and to recommend discipline when misconduct is found;

(4) To review complaints against all employees of the Police Department filed with the Police Department, to select complaints for investigation or monitoring, and recommend discipline;

(5) To participate in the hiring of the Chief of Police and other sworn officers as further described below;

(6) To participate in the hiring and dismissal of Commission staff as further described below;

(7) To access records of City Departments, compel attendance of Police Department employees, and exercise the power of subpoena as necessary to carry out its functions and as further described below;

(8) To adopt rules and regulations necessary for the conduct of its business; and

(9) Any other powers and duties as the City Council may assign it.

Section 3. Independent agency; budget authority and allocation

(a) Notwithstanding Article VII of the Charter, the Police Commission and its staff shall be independent of the City Manager.

(b) The Commission is authorized to propose a budget to the City Council for its operations, and the Council shall allocate to the Police Commission a budget sufficient for the Commission and its staff to carry out the responsibilities stated herein.

Section 4. Composition of Police Commission; eligibility

The Police Commission shall be composed of nine Commissioners selected by the City Council.

(a) Each member of the Commission must:

(1) Be a resident of the City;

(2) Be of voting age;

(3) Not be an officer of the City, employee of the City, or hold a officer, or contractor with the City; a current sworn police officer from any agency; or a current employee, official, or representative of an employee association representing sworn police officers.

(b) Desirable qualities of a Commissioner are familiarity with human resources, law, police procedures, or police oversight; or involvement in civil rights or community organizations.

Section 5. Commissioner selection.

(a) Candidates for the Commission must complete and file with the City Clerk an application form and an affidavit of residency required by Berkeley Municipal Code section 2.04.145. For the initial members of the Commission vacancies will be widely advertised and publicly posted. ~~+~~ The Mayor and each Councilmember will nominate one candidate from an applicant pool at a meeting of the City Council. ~~Each individual~~ nominees must be approved by a majority vote of the Council.

~~(b) Vacancies on the Commission for any unexpired term shall be filled as follows: The appropriate nominating Councilmember shall select a candidate from an existing or new pool of applicants, who must be approved by a majority vote of the Council.~~

~~(c) The Council shall endeavor to establish a commission that is broadly inclusive and reflective of race, ethnicity, age, sexual orientation, economic status, neighborhoods, and various communities of interest in this City. Toward that end, in soliciting applications for Commissioner positions, the Executive Director of the Commission shall reach out to civic, community, and civil rights organizations, among others.~~

Section 6. Terms; term limits.

(a) Commissioner terms end four years after appointment, or upon the expiration of the nominating Councilmember's term, whichever is earlier. Commissioners are limited

to serving eight consecutive years, and may be reappointed following a break in service of at least four years.

(b) To the extent not in conflict with subsections (a) above, the provisions of Berkeley Municipal Code Section 3.02.040, regarding commissioner term limits and the effect of interruption in service, apply.

Section 7. Conflicts of interest.

Commissioners will be subject to the requirements of the California Political Reform Act and other state and local conflict of interest codes.

Section 8. Expiration of term; termination; leaves of absence; removal.

(a) A Commissioner whose term has expired may continue to serve until a successor Commissioner is appointed, unless and until the sitting commissioner's term expires due to term limits.

(b) The term of a Commissioner who fails to remain eligible to serve on the commission (e.g., by moving out of the City of Berkeley, or becoming an employee of the City) expires automatically as of the date the reason for ineligibility arises.

(c) The provisions of Berkeley Municipal Code Section 3.02.020, establishing a termination procedure for absence from meetings, Section 3.02.030, leaves of absence, and Section 3.02.035, regarding alternate commissioners, apply to the Police Commission.

(d) A Commissioner may be removed only by a majority vote of the Council upon recommendation of the Commission. Such a recommendation must be made by a supermajority vote of seven Commissioners, and the only grounds for recommending removal are: conviction of a felony, substantial neglect of duty, or gross misconduct, while in office; inability to discharge the powers and duties of the office; or absence from six regular meetings in a calendar year except when the absence is excused in accordance with Berkeley Municipal Code Sec. 3.02.030.

Section 9. Commission Chairperson and Vice-Chairperson.

The Commission shall elect one of its members as chairperson and one as vice-chairperson, whose terms shall be one year each, or until their successor is elected. No chairperson is eligible to serve more than two consecutive terms, or portions thereof. Following election of the initial chairperson and vice-chairperson, the Commission shall elect subsequent officers each January.

Section 10. Commissioner stipends.

Each Commissioner is entitled to receive a stipend of ~~\$50.00~~ 100.00 for each regular and special full commission meeting attended, and \$20.00 per hour for each subcommittee meeting and Board of Inquiry (BOI) hearing attended as a member of the subcommittee or the BOI. However, the total stipend paid may not exceed \$500.00 per month per Commissioner.

Section 11. Commissioner training.

The Commission shall establish mandatory training requirements for Commissioners, with input from the Executive Director and Chief of Police.

Section 12. Commission meetings; quorum; rules of procedure; subcommittees.

(a) At the beginning of each calendar year, the Commission shall establish a regular meeting schedule consisting of at least 18 meetings. Special meetings may be called by the chairperson of the Commission or by a majority of the Commission.

(b) A majority of appointed Commissioners constitutes a quorum to conduct business, and a minimum of four affirmative votes is required to take any action.

(c) The Commission shall establish rules of procedure governing the conduct of its business.

(d) The Commission may establish subcommittees that it deems necessary to carry out its functions. The Chairperson shall appoint subcommittee members at a Commission meeting, and may include members of the public who express an interest in the business of the subcommittee. Public subcommittee members will serve without compensation. The Commission may establish further rules and procedures for the appointment of members of the public to subcommittees.

(e) On the petition of fifty or more residents in the City of Berkeley filed in the Office 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 the matters identified therein as the concerns 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 business days following the date that the petition is filed.

Section 13. Commission staff.

(a) The Commission shall hire an Executive Director, who shall serve at the pleasure of the Commission. The Executive Director shall serve as secretary to the Commission and carry out the work of the Commission as described herein, including, without limitation, day-to-day operations of the Commission office and staff, and performance appraisals and discipline of all subordinate employees.

(b) The Executive Director shall, with the Commission's consent, hire a Chief Investigator. The Executive Director may dismiss the Chief Investigator at will, with the Commission's consent.

(c) The Executive Director has the sole authority to hire and dismiss consultants, additional investigators, and all subordinate employees as needed.

(d) The powers in this Section 13 are conferred notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 199 of this Charter.

(e) The Commission and Executive Director ~~will~~ may use the City's Human Resources Department for hiring, performance evaluation, discipline, and removal of employees.

Section 14. Legal counsel.

The Commission and its Executive Director ~~shall~~ may use the services of the City Attorney's Office for legal advice; ~~except, however, that the Commission may also seek the opinion-services of outside counsel when the Commission determines that a matter is of such import that a second, independent opinion is warranted it deems necessary.~~

Section 15. Commission reports.

(a) The Executive Director shall issue an annual report to the public describing the Commission's activities during the year, and which shall include: a summary of the number, type, and disposition of complaints filed with the Commission; a summary of the number, type, and disposition of complaints filed with the Police Department that Commission staff has reviewed; policy investigations and reviews undertaken; and such other information as the Commission may request.

~~(b) The Executive Director shall issue a half-yearly report on the number, type, and disposition of complaints filed with the Commission; and the number, type, and disposition of complaints filed with the Police Department that Commission staff has reviewed.~~

Section 16. Policy review and approval.

(a) The Commission may review police policies, practices, and procedures on its own motion or at the request of a member of the public or the Department. The Executive Director shall carry out any Commission directives required to fulfill this function.

(b) The Executive Director shall conduct any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also conduct any audit or review of the Department's policies and procedures, including any pattern of noncompliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties.

The Commission shall prepare an annual report, summarizing such reviews as the following:

1. The Department's and the Commission's processes and procedures for investigating alleged misconduct, and for determining the appropriate level of discipline for sustained findings of misconduct;
2. Trends and patterns regarding Department training and education, and the Department's use of any early warning system;
3. Training and/or policy issues that arise during the investigations of complaints;
4. Trends and patterns regarding discrimination or harassment based on race, ethnicity, national origin, gender, age, religion, sexual orientation/identity, or socio-

economic status in civilian stops or other encounters; and Department compliance with the Responsibility to Report and Take Corrective/Investigative Action as described in BPD General Order B-4, Fair and Impartial Policing, paragraphs 4, 5, and 6; and

5. Trends and patterns regarding use of force and officer-involved shootings.

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

(c) Before taking effect, the Chief shall submit all new Departmental policies and revisions to existing policies to the Commission for review and approval. If the Police Department and the Commission are unable to reconcile their differences about a policy, the policy shall be sent to the City Council for a final decision.

Section 17. Complaints filed with the Commission.

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- (1) A provision for mediation of complaints in lieu of an investigation;
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(c) ~~Before closing an investigation into a complaint, t~~The Police Department shall inform Commission staff of its planned disposition of the complaintbefore closing an investigation into a complaint.

Section 19. Involvement in discipline of Department employees

(a) If members of a Board of Inquiry make a sustained finding on an allegation against a subject employee, they shall also recommend disciplinary action to the Chief.

(b) After reviewing a Police Department investigation, the Executive Director shall ~~have the authority to~~ advise the Commission of recommended disciplinary action in any sustained finding. The Commission may affirm, modify, or reject the recommendation, and its decision shall be submitted to the Chief.

(c) If the Chief proposes to impose a disciplinary action that differs from the recommendation of the BOI or the Commission, the Commission shall have the opportunity to appeal the Chief's proposal to the City Manager. The City Manager shall make the final determination and explain his or her decision in writing to the Commission within 15 business days of the appeal.

(d) This Article does not prohibit the Chief of Police from investigating the conduct of a Police Department employee, or taking disciplinary or corrective action that is otherwise permitted by this Charter and not in conflict with this Article, when such action is warranted; and this Article does not limit or otherwise restrict the disciplinary powers vested in the City Manager and the Chief of Police under other provisions of this Charter, that are not in conflict with this Article.

(e) The City Manager and Chief of Police may impose disciplinary action up to ~~one year after the date of the incident giving rise to the disciplinary action, or within one year of the date the City has knowledge of the incident giving rise to the disciplinary action~~a period consistent with Government Code section 3304. This Section nullifies and supersedes any agreements to the contrary.

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(a) Notwithstanding Article VII, Section 28 of this Charter, all departments, officers, and employees of the City shall cooperate with and assist the Commission and its staff and, unless prohibited by state or federal law, produce all records and information the Commission or its staff requests for the purpose of carrying out its duties and functions. The records and information include without redaction or limitation: (1) records relevant to Police Department policies or practices, (2) personnel and disciplinary records of Police Department employees, and (3) Police Department investigative records. Responding departments, officers, or employees of the City shall comply promptly, but in no event later than 10 business days from the date of request.

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(c) The Commission may require the testimony or attendance at Commission proceedings of any member of the Police Department to carry out the Commission's responsibilities.

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The Commission is empowered to review and make recommendations to the Chief of Police regarding the Police Department budget, before and during development of his or her budget proposal to the City Manager. The Chief ~~must~~ shall submit his or her final budget proposal to the Commission for review and recommendations at least 30 days before submitting it to the City Manager, but the Commission's failure to complete that review and make recommendations in a timely manner shall not delay the budget process.

Section 22. Hiring and removal ~~dismissal~~ of Chief of Police.

Notwithstanding Article VII, Section 28 of this Charter, the processes for hiring and ~~removing~~ dismissal the Chief of Police are as follows:

(a) ~~Upon the notice of vacancy of the position of Chief of Police, the Human Resources Department shall cooperate with the Commission to prepare a job announcement, describe requirements, and establish an application process. The Commission shall approve the application process, culminating in the Commission's selection of two candidates and transmittal of their names to the City Manager, Mayor, and Council. The Mayor shall appoint one of the candidates with the approval of the City Council. Upon the notice of vacancy of the position of Chief of Police, the City Manager shall engage with the Police Commission on the job requirements and application process. The Police Commission shall play an active role in the evaluation of candidates and final selection of the Chief of Police.~~

(b) ~~The Chief of Police may be removed by the Mayor with the Council's approval. Upon the recommendation of seven members of the Commission, it may propose removal of the Chief to the City Manager.~~

Section 23. Hiring of subordinate Departmental staff.

(a) The Chief of Police shall include a member of the Commission on all oral boards for all command staff positions, and allow that Commission member ~~a veto~~ have input.

(b) The Chief shall provide members of the Commission with an opportunity to participate in oral boards or interviews for all non-command, sworn officer positions.

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Section 26. Contract negotiations.

~~The Commission chairperson and vice chairperson, or the chairperson's designee for either, and the Executive Director are allowed to attend and participate in contract negotiations between the Berkeley Police Association and the City of Berkeley. The City Manager shall inform the Police Commission of any prospective changes discussed in contract negotiations that may directly affect the work, duties, or responsibilities of the Commission; and provide the Commission reasonable time to evaluate and respond to those proposals.~~

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(b) To assist in an orderly transition between the Police Review Commission and the Police Commission established by this Article, PRC staff shall serve as interim Police Commission staff until the Police Commission hires an Executive Director and the Executive Director hires subordinate employees.

(c) The Police Review Commission staff shall transfer all PRC files, records, books, publications, and documents of whatever kind to, and for the use and benefit of, the newly created Police Commission.

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~~Section 29.~~ Section 30. Repeal of Ordinance No. 4,644-N.S., as amended.

Ordinance No. 4,644-N.S. and all amendments thereto will cease to be operative and are repealed as of the date of the first meeting of the Police Commission established by this Article.

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If any word, phrase, sentence, part, section, subsection, or other portion of this Article, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley declare that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Article, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

Councilmembers Worthington & Harrison Proposed Track Change Amendments to
Councilmember Maio's Item 27

CONSENT CALENDAR

May 15, 2018

TO: Honorable Mayor and Members of the City Council
FROM: Councilmembers Linda Maio, Susan Wengraf, Sophie Hahn,
and Lori Droste
SUBJECT: Establish the City Council's tone and direction as the City moves forward
with improvements in the Police Department's and Police Review
Commission's policies and procedures.

RECOMMENDATION

That the Council clearly establish a positive and constructive tone for the public, the Police Review Commission (PRC), and staff. As we move forward to further advance fairness and accountability in policing, ~~that we~~ affirm the following:

1. Berkeley's Police Department (BPD) is one of the finest in the nation.¹
2. BPD has a long tradition of policing innovation, starting with the tenure of Chief August Vollmer.² Recent and current BPD leadership continues to honor this proud tradition.
3. Berkeley's police officers perform an invaluable civic duty, and courageously risk their lives to protect our community.
- 2.4. _____ The Police Department has been engaged in continuous improvement and commissioned the Center for Policing Equity (CPE) Draft Report for that purpose.
- 3.5. _____ The parties (Council, PRC, and others engaged) rely solely on factual data and refrain from promulgating data that is outdated and not been verified.

In addition, Council should take under advisement and solicit general policy suggestions from progressive criminologists in our community, such as has been provided by Dr. Barry Krisberg, a resident and national expert in criminology:

- a. The keys to effective policing are core principles of community policing, restorative justice and the sincere attempt to employ control strategies that are guided by the value of the least restrictive alternative consistent with public safety. Related to this is resistance to militarization of the department.
- b. The Department should have meaningful positive rewards for officers who meet the highest standards.
- c. Police morale is very important.
- d. The ~~D~~Due process, rights of citizens and police, should receive the highest levels of support.

¹ Center for Policing Equity Draft Report (<https://www.cityofberkeley.info/CPEDraftInterimReport.aspx>)
Page 1 of 2

² [www.cityofberkeley.info/Police/Home/History The Earliest Years 1905-1925](http://www.cityofberkeley.info/Police/Home/History%20The%20Earliest%20Years%201905-1925)

BACKGROUND

Berkeley's Police Department, widely considered one of the best in the nation (see Center for Police Equity draft report) is engaged in continuous improvement under the direction of Chief Greenwood. Toward that end, the Department solicited a study and report from an independent research group, The Center for Policing Equity, and we have received a draft report. A copy of the CPE's final report is attached.

~~The report contained some inaccurate outdated data and is in the process of being revised. Unfortunately, rather than wait for the Using data from CPE'S final report, some parties have promulgated incorrect outdated information from the is preferable to relying on the draft report, which is insupportable and has done damage to our ad doing so has impacted staff morale internal processes and staff morale. Moving forward, all parties ought to focus on developing constructive, good-faith solutions. Instead of proceeding in recognition of our Police Department's stellar reputation and efforts to engage in self improvement in a collaborative manner, several official and unofficial actions taken recently were not only inappropriate but also set a negative and combative tone in their conveyance.~~

~~The Police Review Commission has not included Chief Greenwood in discussions about how the changes they would like to make will result in a positive or quantitative difference in their processes and outcomes. On his part, the Chief Greenwood has shared the Department's principles in interacting with the community, each other, and which can be useful in the PRC's interactions as well:~~

- give people voice;
- be neutral in how you engage with people/situations;
- treat people with respect; and
- operate with transparency.

~~Throughout much of this process, much confusion and negativity has ensued from the mishandling of information and lack of collaboration. It would be helpful for the Council to take leadership in establishing a positive path forward, one that seeks to collaborate widely, works in concert with our Police Department, and bases our actions forward on facts and sound research, transparency, and respect. As is noted in point "c" above, police morale is very important and the degree to which the Council expresses its support of and confidence in our Police Department as we move forward is a message in itself.~~

ENVIRONMENTAL SUSTAINABILITY

No environmental sustainability impact.

FINANCIAL IMPLICATIONS

None.

CONTACT

Councilmember Linda Maio, District 1, 510-981-7110

Councilmember Susan Wengraf, District 6, 510-981-7160

FREE COMMUNITY EVENT

THE STATE OF BLACK BERKELEY MALCOLM X BRUNCH

- ASSOCIATION FOR THE ADVANCEMENT OF NEGROES/PEOPLE - BERKELEY (AANBP)
- AFRICAN AMERICAN/BLACK PROFESSIONALS & COMMUNITY NETWORK (AABPCN)
- BOARD OF CHILDREN OF AFRICAN DESCENT (BOCAD)
- HEALTHY BLACK FAMILIES, INC. (HBF)
- BLACK TERRITORY/ GROUP INC (BRG)
- BERKELEY JUNETEENTH CULTURAL CELEBRATIONS (BJCC)
- COUNCIL MEMBER BEN BARTLETT - DISTRICT 3
- AFRICAN AMERICAN TOBACCO CONTROL LEADERSHIP COUNCIL

We are Working to Eliminate Inequities, Disparities and Discrimination in Housing, Employment, Education, Health and Mental Health and Criminal Justice in the City of Berkeley!!!

IF YOU LIVE, WORK AND/OR CARE ABOUT BERKELEY
PLEASE ATTEND THIS EVENT!
There is Strength in Numbers
AABPCNETWORK@gmail.com
Call (510) 688-2319 or (510) 866-5697

DID YOU KNOW...

- AFRICAN AMERICANS AND LOW INCOME FAMILIES ARE BEING DISPLACED OUT OF BERKELEY AT AN ALARMING RATE
- DISPLACED WORKERS, EMPLOYMENT DISCRIMINATION AND FAVORITISM ARE STILL PROBLEMATIC AND THE BLACK WORKFORCE IN THE CITY IS DECREASING.
- BERKELEY UNIFIED SCHOOL DISTRICT ENROLLMENT OF BLACK STUDENTS IS AT AN ALL TIME LOW AND THERE IS STILL AN ACHIEVEMENT GAP
- AFRICAN AMERICANS STILL HAVE THE WORST HEALTH OUTCOMES IN BERKELEY.
- RACIAL PROFILING OF AFRICAN AMERICANS, ESPECIALLY YOUNG MEN, CONTINUES.

ALL ALLIES WELCOME TO ATTEND

SATURDAY, MAY 19, 2018
10:00 AM - 1:30 PM
South Berkeley Senior Center
2939 Ellis Street, Berkeley, CA 94708

