



**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING**

MONDAY, NOVEMBER 15, 2021

2:30 P.M.

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/85363307835>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **853 6330 7835**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record. City offices are currently closed and cannot accept written communications in person.

AGENDA

Roll Call

Public Comment

Review of Agendas

- 1. Approval of Minutes: November 1, 2021**
- 2. Review and Approve Draft Agenda:**
 - a. 11/30/21 – 6:00 p.m. Regular City Council Meeting
- 3. Selection of Item for the Berkeley Considers Online Engagement Portal**
- 4. Adjournments In Memory**

Scheduling

- 5. Council Worksessions Schedule**
- 6. Council Referrals to Agenda Committee for Scheduling**
- 7. Land Use Calendar**

Referred Items for Review

- 8. Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**
- 9. Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies**
- 10. Discussion of Changes to Rules of Procedure for Budget Referrals**

Unscheduled Items

- 11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**

Items for Future Agendas

- Discussion of items to be added to future agendas**

Adjournment – Next Meeting Monday, November 29, 2021

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**Additional items may be added to the draft agenda per Council Rules of Procedure.**

*Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items*

*Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee’s published agenda.*

*If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

*The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.*

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



**COMMUNICATION ACCESS INFORMATION:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

\* \* \*

I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 10, 2021.

Mark Numainville, City Clerk

**Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*



**BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE  
SPECIAL MEETING MINUTES**

**MONDAY, NOVEMBER 1, 2021**

**2:30 P.M.**

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Lori Droste

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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To join by phone: Dial **1-669-900-9128 or 1-877-853-5257 (Toll Free)** and Enter Meeting ID: **865 8882 7250**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized by the Chair.

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**Roll Call:** 2:34 p.m. All present.

**Public Comment** – 6 speakers

## **Review of Agendas**

1. **Approval of Minutes: October 25, 2021**  
**Action:** M/S/C (Wengraf/Arreguin) to approve the minutes of 10/25/21.  
**Vote:** All Ayes.
2. **Review and Approve Draft Agenda:**
  - a. 11/16/21 – 6:00 p.m. Regular City Council Meeting  
**Action:** M/S/C (Hahn/Arreguin) to approve the agenda of November 16, 2021 with the changes noted below.
    - *Item Added: Facebook Policies (Arreguin) – Councilmembers Bartlett, Wengraf, and Hahn added as co-sponsors.***Vote:** All Ayes.
3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
  - None Selected
4. **Adjournments In Memory** – None

## **Scheduling**

5. **Council Worksessions Schedule**
  - Public Works/Infrastructure schedule for 1/20/22
  - Civic Center Presentation schedule for Action Calendar item - TBD
6. **Council Referrals to Agenda Committee for Scheduling** – received and filed
7. **Land Use Calendar** – received and filed

## **Referred Items for Review**

8. **Discussion Regarding Impact of COVID-19 (novel coronavirus) on Meetings of Legislative Bodies**  
**Action:** Item continued to next meeting.
9. **Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies**  
**Action:** 2 speakers. Discussion various elements of return to in-person meetings including room capacity, mask requirements for the Council, dinner arrangements for the Council, and physical dividers on the dais.

**10. Discussion of Changes to Rules of Procedure for Budget Referrals**

**Action:** Discussion of possible legislative process changes to account for items that have a programmatic referral component and a budget referral component. Consideration of changing the Rules of Procedure to allow for review of policy committee track items and budget referrals by the Budget and Finance Committee and one other policy committee. Councilmember Hahn to consult with the City Manager and submit a written proposal for the next Agenda & Rules Committee meeting. Item continued to November 15, 2021.

**Unscheduled Items**

**11. Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**

**Items for Future Agendas**

- None

**Adjournment**

**Action:** M/S/C (Arreguin/Hahn) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 3:56 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on November 1, 2021.

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Mark Numainville  
City Clerk

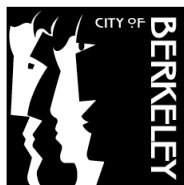
**Communications**

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## DRAFT AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, November 30, 2021  
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

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*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 822 5968 3632. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## Consent Calendar

- 1. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of October 5, 2021 (closed and special), October 12, 2021 (closed and regular), October 19, 2021 (special) and October 26, 2021 (closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 2. Grant Approval: San Francisco Foundation support for 100% affordable housing at BART stations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to apply for and if awarded, accept a \$50,000 grant from the San Francisco Foundation to support efforts to make the BART housing projects 100% affordable.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
- 3. MOU to implement Ronald V. Dellums Fair Chance Access to Housing Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to effectuate a Memorandum of Understanding (MOU) between the City of Berkeley and the City of Berkeley Rent Stabilization Board (Rent Board) to implement the Ronald V. Dellums Fair Chance Ordinance previously adopted by the Berkeley City Council.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
- 4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 30, 2021**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$340,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300

## Consent Calendar

- 5. Contract: Blaisdell's Business Products for HHCS Furniture**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract, and any amendments or extensions, with Blaisdell's Business Products for new office and classroom furniture for the North Berkeley Senior Center (NBSC). The contract will be in an amount not to exceed \$99,000 for the period January 1, 2022 through June 30, 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 6. Contract No. 32000094 Amendment: Youth Spirit Artworks Mental Health Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend contract No. 32000094 with vendor Youth Spirit Artworks (YSA) to provide a variety of mental health and case management supports for Transition Age Youth (TAY) through June 30, 2022 in an amount not to exceed \$527,046. This will extend the existing contract by one year and add \$210,046 in funding.  
**Financial Implications:** Measure P - \$210,046  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 7. Contract No. 32100178 Amendment: California Mental Health Services Authority Help@Hand Participation Agreement**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an Amendment to Contract No. 32100178 for the Help@Hand Participation Agreement with the California Mental Health Services Authority (CalMHSA) to increase the amount of local project funds by \$47,999 for a total amount not to exceed \$400,915 through June 30, 2024, and any amendments.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 8. Contract: Community Crisis Response Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute contracts and any amendments or extensions with Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), Options Recovery, and Women's Daytime Drop-in Center for Community Crisis Response Services, in an amount not to exceed \$1,200,000.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

- 9. Contract: Needle Exchange Emergency Distribution (NEED)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Needle Exchange Emergency Distribution (NEED) in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024.  
**Financial Implications:** General Fund - \$150,000  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 10. Grant Application: Cal Fire Urban and Community Forestry Grant Program (Trees Make Berkeley Better)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to submit a CAL FIRE Urban and Community Forestry tree planting grant application in the amount up to \$1,104,320; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 11. Berkeley Existing Buildings Electrification Strategy**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the Berkeley Existing Buildings Electrification Strategy, as described in Exhibit A.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 12. Cities Race to Zero Campaign: 2030 emission reduction target**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO<sub>2</sub>e, committing to reduce emissions 60.5% from 2018 levels by 2030.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 13. Contract No. 112219-1 Amendment: Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 112219-1 with Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance increasing the current contract amount of \$300,000 by \$300,000 for a total not to exceed amount of \$600,000 and extending the term through December 31, 2024.  
**Financial Implications:** Various Funds - \$300,000  
Contact: Liam Garland, Public Works, (510) 981-6300

## Consent Calendar

14. **Contract No. 32100081 Amendment: FirstCarbon Solutions, Inc. for California Environmental Quality Act Compliance for the Solid Waste & Recycling Transfer Station Replacement Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100081 with FirstCarbon Solutions, Inc. for the Solid Waste & Recycling Transfer Station Replacement Project to ensure compliance with the California Environmental Quality Act, increasing the current contract amount of \$500,000 by \$150,000 for a total not to exceed amount of \$650,000 and extending the contract term to June 30, 2022.  
**Financial Implications:** Zero Waste Fund - \$150,000  
Contact: Liam Garland, Public Works, (510) 981-6300
15. **Purchase Order: PB Loader Corporation for Two Chipper Trucks**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) Contract No. 052417-PBL bid procedures and authorizing the City Manager to execute a purchase order for two Chipper Trucks with PB Loader Corporation in an amount not to exceed \$305,900.  
**Financial Implications:** Equipment Replacement Fund - \$305,900  
Contact: Liam Garland, Public Works, (510) 981-6300

## Council Consent Items

16. **Budget Referral: Berkeley Age-Friendly Continuum**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Refer \$20,000 to the November 2021 Annual Appropriations Ordinance #1 process for the Berkeley Age-Friendly Continuum.  
**Financial Implications:** General Fund - \$20,000  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
17. **Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees**  
**From: Mayor Arreguin (Author)**  
**Recommendation:** Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a two-year term ending on January 1, 2024.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Council Consent Items

- 18. Budget Referral: Commitment to Habitat Recovery**  
**From: Councilmember Bartlett (Author), Mayor Arreguin (Author)**  
**Recommendation:** Refer to the AAO#1 Budget Process \$100,000 to support the recovery of Habitat and its many agency partners so it can ramp up to pre-pandemic levels and continue to provide its broad services to young children, their parents, and caregivers, and our communities most vulnerable families.  
**Financial Implications:** \$100,000  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
- 19. Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings** *(Reviewed by the Budget & Finance Policy Committee)*  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** 1. Adopt a Resolution establishing: a. a referral to Office of Energy and Sustainable Development (OESD) staff to design and launch a two-year Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program, using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with transition to zero-carbon plumbing, HVAC, cooking, and related electrical systems, with a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income; and b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community and labor groups, to provide input to staff and Council about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion. 2. Refer to the November, 2021 AAO budget process: a. \$1,500,000 of general fund monies from the American Rescue Plan Act allocation and other sources as appropriate as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.  
*Policy Committee Recommendation: On November 3, 2021 the Budget & Finance Policy Committee took the following action: M/S/C (Arreguin/Harrison) to send the item to Council with a qualified positive recommendation including the following amendments: Recommendation 2. That part of the recommended funding source is American Rescue Plan dollars and; Recommendation 1a. Modifying the end of the last sentence to “with a preference first for affordable housing projects and assisting households at or below 120% the area median income.”*  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

- 20. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23.306 (Accessory Dwelling Units)**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.  
**Financial Implications:** None  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 21. Bayer Healthcare LLC – Amended and Restated Development Agreement**  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and adopt the first reading of an Ordinance to approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400



## Action Calendar – Public Hearings

### 22. Amendments to the Berkeley Election Reform Act

#### From: Fair Campaign Practices Commission

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.

**Financial Implications:** None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

## Action Calendar – New Business

### 23. Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

#### From: City Manager

**Recommendation:** Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.

**Financial Implications:** None

Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000, Jennifer Louis, Police, (510) 981-5900

## Council Action Items

- 24. Budget Referral: Automated license plate readers for community safety improvement** *(Reviewed by the Public Safety Policy Committee)*  
**From: Councilmember Taplin (Author), Councilmember Droste (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations: Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; and refer to the FY 23-24 budget process cost of ALPRs. Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.  
*Policy Committee Recommendation: On November 1, 2021, the Public Safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 & 2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.*  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Action Calendar – Policy Committee Track Items

- 25. Crime Suppression Unit**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Refer to the City Manager the establishment of a Crime Suppression Unit (CSU) in the Berkeley Police Department.  
**Financial Implications:** Staff time  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Action Calendar – Policy Committee Track Items

- 26. Adopt an Ordinance Adding a New Chapter 12.01 to the Berkeley Municipal Code Establishing Emergency Greenhouse Gas Limits, Process for Updated Climate Action Plan, Monitoring, Evaluation, Reporting and Regional Collaboration**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** 1. Adopt an ordinance adding a new Chapter 12.01 to the Berkeley Municipal Code (BMC) establishing Emergency Greenhouse Gas Limits with an effective date of [ ], 2022.  
2. Refer to the FY23-24 Budget Process \$[ ] consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
- 27. Prioritizing Berkeley Unified School District Public Works Service Requests**  
**From: Councilmember Hahn (Author)**  
**Recommendation:** Refer to the City Manager to: 1. Work with the Berkeley Unified School District (BUSD) to create a system to better document, communicate, and prioritize Public Works service requests from BUSD schools and facilities; and 2. Establish protocols with BUSD for school principals to coordinate directly with Public Works staff to address school site-related concerns that fall under the City’s jurisdiction.  
**Financial Implications:** None  
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
- 28. Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided**  
**From: Councilmember Wengraf (Author)**  
**Recommendation:** Refer to the City Manager to implement steps to promote increased safety for pedestrians of all ages, including seniors and children, on streets lacking sidewalks. This item is requesting the installation of signage to minimize pedestrian-vehicular conflict points at uncontrolled intersections, and to increase driver awareness of pedestrian activity by posting speed limit signs and other signage as a means to improving safe pedestrian access to schools, neighborhood parks, USPS mailboxes, and school and AC Transit bus stops in areas without the benefit of sidewalks.  
In addition, this item requests that the City Manager explore the implementation of AB 43 that allows cities to take the safety of vulnerable users into consideration when setting local speed limits. This item requests that the City Manager exercise her authority under the California Vehicle Code to allow for lowering the speed limit to 15 or 20 mph in residential districts where the roadway is less than 25 feet wide.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## Information Reports

29. **City Council Short Term Referral Process – Quarterly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900
30. **FY 2021 Fourth Quarter Investment Report: Ended June 30, 2021**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300
31. **Condominium Conversion Program – Annual Report**  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
32. **Berkeley’s 2019 Community-Wide Greenhouse Gas Emissions Inventory**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Public Comment – Items Not Listed on the Agenda

### Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Communications to the City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City’s website at <http://www.cityofberkeley.info>.

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Office of the Mayor

CONSENT CALENDAR
November 30, 2021

To: Members of the City Council
 From: Mayor Jesse Arreguín
 Subject: Budget Referral: Berkeley Age-Friendly Continuum

RECOMMENDATION

Refer \$20,000 to the November 2021 Annual Appropriations Ordinance #1 process for the Berkeley Age-Friendly Continuum.

BACKGROUND

The goal of the Berkeley Continuum is to implement an integrated, replicable and citywide continuum of services and supports for older adults and people with disabilities as they navigate the transitions of aging. The Age-Friendly Berkeley Action Plan was published in December 2018, and is the culmination of several years of community and stakeholder input. Staff and community partners are now working to implement the plan. An internal cross-department steering committee has been appointed for the City and the Community Partners Team is also meeting. In 2019, the City of Berkeley was awarded the SCAN Foundation Innovation Award for the State of California for the Continuum's approach to preparing Berkeley for growth in the older population and for people with disabilities.

There are several programs that have been and are in the process of being implemented as a part of the Age-Friendly Continuum:

- The Gateway Program, a prevention/intervention program that helps older adults proactively plan for their aging experience. Three seniors from the community have been trained and are doing well with the visits. An evaluation has been completed and the coming year will focus on how to move this to a sustainable future.
- The project to create a senior portal for easy access to information is in contract with the county vendor and includes collaboration with the county, the Area Agency on Aging, the Berkeley Libraries and the Senior Center.
- The model service linked senior housing/community center project has left the gate and will continue to be developed over the next few years, and the Berkeley Home Match pilot with the University has met its targets and will continue.
-and several other projects are in process.

One of the four priority areas in the Age-Friendly Continuum is health and wellness. COVID-19 continues to be of great concern since it first arrived in the United States in early 2020. This virus is significantly deadlier to seniors, especially those of a more advanced age and/or with preexisting conditions. Approximately two thirds of deaths in Alameda County from COVID-19 were from residents over 70 years old. Thanks in part to Berkeley's aging services programs, we have been able to vaccinate almost all seniors over the past year. Beyond the health impacts of COVID-19, it also has had an economic and social impacts, in addition to limiting transportation options, which round up the other priority areas of the Age-Friendly Continuum. Continued funding of this program will allow us to further refine our approach to assisting the senior community during these difficult and unprecedented times. Last year, the City Council voted to allocate \$20,000 to the Age-Friendly Continuum during the FY21 budget update.

FINANCIAL IMPLICATIONS

\$20,000 from General Fund Excess Equity.

ENVIRONMENTAL SUSTAINABILITY

Berkeley Age-Friendly Continuum aims to improve the quality of life and the health and well-being of older adults

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7110



Office of the Mayor

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín

Subject: Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees

RECOMMENDATION

Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a two-year term ending on January 1, 2024.

BACKGROUND

Each city in Alameda County is required to appoint a resident to the Alameda County Mosquito Abatement District Board of Trustees. This term lasts for two years. The District has recently notified the City that Dr. P. Robert Beatty's term is expiring at the beginning of 2022.

Dr. Beatty has served as Berkeley's representative on the Board since April 2016, replacing longtime representative Dr. Jan Washburn, who became ineligible to be Berkeley's representative after moving to Oakland. Dr. Beatty is one of fourteen members of the Board, and just one of two scientists. As an infectious disease immunologist, Dr. Beatty has studied mosquitoes worldwide and provided invaluable expertise and information to the Board on dengue, Zika and other mosquito borne diseases. He has taught immunology and infectious disease classes for 20 years in the Department of Molecular and Cellular Biology at UC Berkeley.

FINANCIAL IMPLICATIONS

None for the City of Berkeley. Trustees receive a stipend of \$100 per month paid for by the Alameda County Mosquito Abatement District.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

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

REAPPOINTING DR. P. ROBERT BEATTY AS THE CITY OF BERKELEY'S REPRESENTATIVE TO THE ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT BOARD OF TRUSTEES

WHEREAS, Dr. P. Robert Beatty has served on the Board of Trustees of the Alameda County Mosquito Abatement District since 2016; and

WHEREAS, Dr. Beatty is an infectious disease immunologist who has taught immunology and infectious disease classes for the past 20 years in the Department of Molecular and Cellular Biology at UC Berkeley; and

WHEREAS, during his term on the Board of Trustees, Dr. Beatty has provided invaluable expertise and information to the Board on Zika and other mosquito borne diseases.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Dr. P. Robert Beatty is hereby reappointed as the City of Berkeley's representative to the Alameda County Mosquito Abatement District Board of Trustees for the term commencing on January 1, 2022 ending January 1, 2024.

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett and Mayor Jesse Arreguín (Authors)
 Subject: Budget Referral: Commitment to Habitot Recovery

RECOMMENDATION

Refer to the AAO#1 Budget Process \$100,000 to support the recovery of Habitot and its many agency partners so it can ramp up to pre-pandemic levels and continue to provide its broad services to young children, their parents, and caregivers, and our communities most vulnerable families.

BACKGROUND

Pre-pandemic, for 22 years, Habitot consistently supported itself with an annual budget of about \$700,000. Sixty (60%) percent of Habitot's revenue was earned from memberships, admissions, and fees, with 40% contributed from grants and donations from foundations, corporate sponsors, government, individual donations, and in-kind services. The City of Berkeley has historically contributed 1% of Habitot's annual budget as one of its community service providers and art grant recipients.

Habitot was closed by State order, March 16, 2020, and overnight, lost nearly 100% of its earned income as well as some of its contributors. Habitot also lost its museum space in downtown Berkeley due to building sales and had to break its \$15,000/month lease at its new museum space due to the lost revenue. It received a Cal Relief grant of \$15,000 in 2020 and PPP loans which have been fully expended by retaining staff and paying for minimal operating expenses. Like most children's museums, Habitot was not eligible for Shuttered Venue Operators relief created for arts and culture organizations. The City of Berkeley provided a \$24,000 continuity grant in 2020 and a \$6,794 Civic Arts grant in 2021.

Through 2020-21, the worst year of the pandemic, Habitot pivoted to virtual programming delivering weekly "Habitot-at-Home" activities to an online audience of 4,500 families; distributing hundreds of play and learning kits through social service agency partners to the most hard-hit families in our community; and recently, presenting pop-up events with mobile exhibits in Berkeley City Parks. Sliding scale donation tickets for summer-fall pop-up events sold-out with long waiting lists; over 700 people attended the first three events. It has proven that in-person, outdoor events, and virtual programming can address some of the learning loss and months of social isolation the pandemic has caused.

Children's museums will be the last arts and culture organizations to recover their audiences and financial stability because their core audience remains unvaccinated. All children visiting children's museums are under 12 years of age, and *most are under 5 years old — in Habitot's case, 100% of child visitors are under 5*. Vaccinations for this age group are unlikely to be available any sooner than spring 2022. Even with a vaccine, the roll-out will be slow and parents of young children are likely to remain cautious about visiting indoor children's museums at pre-pandemic levels.

In the meantime, Habitot is ramping up for more in-person community events in 2022, expanding virtual programming with a hands-on kit component; and is looking for temporary exhibit space that will provide a consistent children's museum experience. Meanwhile board and staff work towards re-opening Habitot in a new, permanent location at a more appropriate post-pandemic location.

Since the exhaustion of early relief funds and with the reality that earned revenue remains a fraction of what it once was, Habitot will run a deficit. In order to continue to provide its historic services to the community, the projected budget gap must be closed to remain in a position to reopen when a new facility is found.

RATIONALE FOR RECOMMENDATION

Habitot Children’s Museum is the only children’s discovery museum in the Bay Area’s “East Bay.” Since 1998, Habitot has filled a niche for new parents, grandparents, caregivers, preschool teachers, and social service agencies seeking creative and enriching experiences for young children, ages 0-5, as well as parenting support and community connection. Underlying Habitot’s mission—to *help the broad community of parents and caregivers raise curious, creative, and confident children*—is the knowledge that in the first years of life, stimulating experiences and nurturing, supportive adults are crucially important to building curious minds and lifelong learners. Habitot is a nonprofit, 501(c)3 educational organization.

Habitot’s audience consists of families with 0-5-year-old children, primarily from a 1,600 square mile region encompassing Alameda and Contra Costa Counties, with a combined population of over 2.5 million. Though small relative to other Bay Area museums, over the past 22 years, Habitot has welcomed a socio-economically and racially diverse audience of more than 1.5 million visitors, about 60,000 per year. Sixty-six percent of Habitot visitors identify as multiracial/persons of color, and only 20% are considered upper income. Approximately 30% of visitors are from Berkeley and over 7,500 Berkeley families have been a member.

Its services address a critical need in the East Bay. Fifty-six percent (56%) of children entering kindergarten are not ready or are only partially ready, according to Alameda County First 5’s School Readiness Assessment. Alameda County First 5 formally recognized museum visitation as a “key strategy“ for promoting school readiness for children under five, and their commissioned research indicates that museum visits have a measurable impact on academic readiness. For many children, especially children in underserved families, the COVID-19 pandemic has exacerbated learning delays and even resulted in learning losses. The need is now even greater for Habitot to deliver child and family experiences that enrich lives, promote learning through play, rebuild strong social connections, and add to community well-being.

Before the pandemic, museum programs and administration were implemented by a 30-member staff, half of whom were UC-Berkeley financial aid work-study students handling floor and reception services. Since its closure in March 2020, Habitot has retained two full-time staff (executive, and managing director) and five part-time staff fulfilling membership, grants, fundraising, social media, and art/educational program duties.

Habitot’s founder has served as executive director since opening and ensures ongoing fulfillment of the vision, retains institutional memory and donor relationships; and manages the team. Habitot has completed a full financial audit every few years and financial reviews in between and an independent financial consultant monitors internal controls and oversees its accounting. No significant deficiencies in financial management or internal controls have been found. The Treasurer and Finance Committee prepare and monitor organizational and capital budgets, lead financing goals, ensure external and internal financial reporting and financial compliance. Habitot does not use long-term credit to finance operations and has no debt other than a revolving credit card debt.

Key Initiatives

- *Advocating for Early Childhood Learning through Play* – publicly demonstrating to adults through exhibits and programs that young children learn best through play, and that children become socially skilled and emotionally healthy from play
- *Supporting Preschool Arts* – cultivating children’s natural creativity and imagination from the earliest years with opportunities to create art and by presenting enriching cultural performances from musicians, dancers, storytellers, and singers
- *Fostering Parenting Education* — increasing parent/caregiver understanding of early childhood development and successful parenting to enhance parent-child bonding and family well-being so that children thrive

- *Building Community* — serving as a center for community engagement, parent-to-parent connection, and supportive caregiver networks.

Key Programs

Year-round, free access programs ensure that 6,000 vulnerable families (teen parents, homeless children, foster families, children with special needs, immigrants, refugees, formerly incarcerated parents, and low-income families in general) find welcome, inclusion, and family support at Habitot each year.

- *Art Studio* is a year-round, drop-in program, included with admission, offering a changing variety of age-appropriate, creative, ‘process-not-product’ art-making experiences, including sculpture, painting, and mixed media led by experienced art educators.
- *Hands-on Exhibits* designed for small hands and bodies, and the unique interests of young children in learning about their world, be it a grocery store, a rocketship, or an animal clinic; parent hand-outs are available on how to activate learning in each exhibit area.
- *Early Childhood Safety Campaign* an annual event, since 1999, includes car seat inspections leveraging community resources such as Berkeley Police and Firefighters and the Berkeley Public Health Department to attend a safety fair to educate and demonstrate to parents and caregivers how to keep young children safe from preventable accidents, the #1 cause of injury and death among children under six, according to the American Academy of Pediatrics.
- *Community Access* by participating in Museums for All (which gives free/discounted admission to EBT cardholders), Blue Star Families (which gives free/discounted admission to active military and veterans and their families), and Discover & Go (which gives free admission passes through public libraries), Habitot ensures a wide and diverse audience. In addition, Habitot offers scholarship Memberships to low-income families and presents individual, free admission “Open House” events to families with children with disabilities, foster and adoptive care families, children in the child welfare system, formerly incarcerated parents, their children, and others. Children experiencing homelessness can schedule an all-inclusive birthday party at Habitot and during the pandemic, Habitot provided *Birthday-in-a-Box kits* to ten East Bay family shelters (including three in Berkeley) with enough supplies for 120 birthday children’s parties.
- *Multicultural and Other Events* with input from representative community members, Habitot presents celebrations of diverse cultural events such as Dia de Los Muertos, Diwali, Indigenous People’s Day, Nowruz and others. Habitot presents a month-long Black History Month in February, and Pride Month in June (both were virtual during the pandemic).
- *Preschool Teachers Make a Difference Awards* for seven years, Habitot invited nominations for outstanding preschool teachers in the Bay Area, arranged for judges to select ten winners each year, solicited prizes for teachers, and held well-attended awards ceremonies for families and friends of winners. Over 500 nominations were received, 24 judges were involved, and 70 teachers received awards. (The program is looking for a new sponsor).

FINANCIAL IMPLICATIONS

\$100,000 from excess revenue allocations through the AAO#1 process. The City of Berkeley stands to benefit from Habitot’s recovery. Research by the Association of Children’s Museums found that every \$1 dollar spent at children’s museums created \$3.67 in jobs, salaries, related industries, and contributions to the local economy.

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Councilmember Ben Bartlett 510-981-7130
James Chang 510-981-7131



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Subject: Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

RECOMMENDATION

1. Adopt a Resolution establishing:
 - a. a referral to Office of Energy and Sustainable Development (OESD) staff to design and launch a two-year Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program, using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with transition to zero-carbon plumbing, HVAC, cooking, and related electrical systems, with a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income; and
 - b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community and labor groups, to provide input to staff and Council about eligible *categories* of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion.
2. Refer to the November, 2021 AAO budget process:
 - a. \$1,500,000 of general fund monies from the American Rescue Plan Act allocation and other sources as appropriate as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

POLICY COMMITTEE RECCOMENDATION

Action: 15 speakers. M/S/C (Arreguín/Harrison) to send the item to Council with a qualified positive recommendation including the following amendments:

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

Recommendation 2. That part of the recommended funding source is American Rescue Plan dollars and;

Recommendation 1a. Modifying the end of the last sentence to “with a preference first for affordable housing projects and assisting households at or below 120% the area median income.”

Vote: Ayes – Harrison, Arreguín; Noes – None; Abstain – Droste; Absent - None.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The world is facing a grave climate emergency, requiring municipalities to rapidly transition towards zero carbon economy by 2030. Transitioning Berkeley’s economy will require significant investment on the part of both government and residents. It is in the public interest to establish a direct install financial incentive and “just transition” program using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with the transition to zero-carbon buildings. This item establishes the general scope of a two-year Existing Building Electrification Incentive Program Pilot and refers to staff to design an equitable program with \$1,500,000 for FY22, inclusive of staffing costs, and contingent on the availability of excess equity, from the General Fund. It also asks the Energy (or successor) Commission and FITES Committee, in consultation with community groups, to provide input to staff and Council on at least an annual basis about categories of fund expenditures that would provide the most benefit for lower-income households, maximize equitable emissions reduction impacts, and support residential construction contractors who will reliably perform high-quality work and provide high-road careers for workers. The establishment of this program is consistent with staff and Council goals and budgetary priorities.

BACKGROUND

According to the best available science, a 50% reduction in emissions must happen worldwide by 2030 or earlier in order to delay extremely catastrophic warming. To meet the U.N.’s global 2050 target to keep emissions as close as possible to 1.5 degrees Celsius, wealthy nations and cities must approach zero by 2030.¹

¹ IPCC, 2018: Summary for Policymakers. In: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. *World Meteorological Organization, Geneva, Switzerland, 32 pp.* <https://www.ipcc.ch/sr15/chapter/spm/>.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

As a result of the scientific and economic realities of climate change, and despite the people of Berkeley’s average relative wealth, it is not realistic to expect the owners and renters of the city’s approximately 46,000 residential housing units to electrify their buildings in a decade without significant government co-investment. Low-carbon technology can often be out of reach of many lower-income households and, without direct assistance, many will be left behind. Transitioning Berkeley’s economy will require significant investment on the part of both residents and the government. Following Berkeley’s 2019 landmark prohibition on natural gas infrastructure, staff have released a Draft Berkeley Existing Buildings Electrification Strategy that is currently unfunded. Although the City recently invested \$600,000 to seed the Climate Equity Action Fund, the funding is extremely limited and may not be enough for certain electrification retrofit projects.

Additional investments would significantly lower Berkeley’s carbon emissions, at least 37% of which are from buildings, and provide residents with a plethora of health and safety benefits that will likely outweigh upfront costs. The program can be crafted in a way that supports good paying jobs, for example including unionized contractors, workforce development and local hire requirements. The transition to a zero-carbon city thus has the potential to uplift both workers and residents.

Existing Buildings Electrification Strategy

In January 2021, the City’s Office of Energy and Sustainable Development reported to the Energy Commission that the cost of electrifying the City’s entire low-rise building stock (approximately 36,000 units, or 90% of all Berkeley buildings and 65% of floor area) would be between \$700 and \$880 million. An additional \$120 million is needed for efficiency improvements and solar.

Item 9 - Communications
Energy Commission
January 27, 2021
1/27/2021

Draft Total Costs

Approximate total modeled costs for converting Berkeley’s low-rise housing stock today:

- Covers 36,000 1-3 floor homes (90% of all Berkeley buildings and 65% of floor area)
- \$280-430 Million more than business-as-usual gas replacements (no solar or envelope improvements)
- Additional \$220-660 Million for envelope efficiency and solar PV

	No Solar	Minimum Solar (Offset)	Maximum Solar (Net Zero Energy)
Economy Appliances	\$700 Million	\$930 Million	\$1.2 Billion
Mid-Tier Appliances	\$880 Million	\$1 Billion	\$1.2 Billion
Mid-Tier + Envelope Improvements	\$1 Billion	\$1.2 Billion	\$1.4 Billion

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

Table 3-4. Average Results for All Measure Packages

#	Electrification Package	Energy Bill Savings (\$/yr)	Energy Bill Savings (%)	Gross Cost (\$)	Incremental Cost (\$)	Incremental Cost with Current Incentives (\$)	Incremental Cost with Incentives + Financing (\$)
1.1	Economy Appliances	-\$540	-33%	\$19,870	\$7,930	\$7,930	\$12,290
1.2	Economy Appliances + Offset Solar	\$540	33%	\$26,160	\$14,220	\$14,220	\$5,610
1.3	Economy Appliances + NZE Solar	\$1,480	89%	\$32,270	\$20,330	\$20,330	\$1,470
2.1	Mid-Tier Appliances	\$5	0%	\$24,750	\$12,110	\$9,910	\$9,880
2.2	Mid-Tier Appliances + Offset Solar	\$590	35%	\$28,200	\$15,560	\$13,360	\$6,090
2.3	Mid-Tier Appliances + NZE Solar	\$1,510	91%	\$34,270	\$21,630	\$19,430	\$1,700
3.1	Mid-Tier Appliances + Envelope	\$90	5%	\$29,320	\$16,690	\$13,240	\$12,540
3.2	Mid-Tier Appliances + Envelope + Offset Solar	\$600	36%	\$32,350	\$19,720	\$16,720	\$9,470
3.3	Mid-Tier Appliances + Envelope + NZE Solar	\$1,510	91%	\$38,410	\$25,780	\$22,320	\$4,520

Note: Modeled costs are averages and electrification costs may be higher or lower depending on individual building characteristics

Cleary, this relatively modest pilot program paired with the Climate Equity Action Fund would only make a small dent in the City’s retrofit challenge, perhaps facilitating 400-500 retrofits per year. However, the success of this pilot program will likely spur the Council and residents to seek additional federal, state and local funds to expand the program in subsequent years. The expertise and lessons learned through this pilot will help guide future efforts aimed at closing the 46,000 gas-powered residential unit challenge.

Since 2018, the Council has explored opportunities to increase public investment in building electrification retrofits. Councilmember Harrison’s November 27, 2018 referral, following the passage of the Climate Emergency Declaration, requested that the City Manager draft an ordinance expanding eligibility for the existing Seismic Transfer Tax Rebate Program to include electrification and other resiliency measures. Staff subsequently presented the draft ordinance to Council in July of 2020 at the outset of the COVID-19 pandemic with a recommendation to take no action for a year due to COVID-19-related fiscal uncertainty, and the item was held over at the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES).

At the same time, staff also presented to FITES a related referral to design a companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements to low-income residents. FITES and Council agreed to move the Resilient Homes Equity Pilot Program design and research process forward in November, 2020. The program remains underfunded.

In early 2021, Councilmember Harrison’s office and the FITES Committee worked with City staff to explore opportunities to fund retrofits through general fund transfer tax

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revenues and establishing a cap on total and per beneficiary allocations. In working with the City Manager, Councilmember Harrison concluded that while the existing transfer tax rebate system is a good vehicle for allocating at point of sale, it does not necessarily provide funding for existing property owners who may need to replace a broken appliance or who want to make voluntary retrofits. A better vehicle is a two-year direct install pilot; this requires fewer staff resources to administer and builds on significant staff experience and expertise administering incentive programs.

This item is a companion to the Seismic Transfer Tax Rebate model in the form of a budget referral and resolution establishing two-year pilot incentive program funded via general fund allocations, which are currently partially funded by transfer tax revenue.

Existing Building Electrification Direct Install Incentive and Just Transition Program Pilot

This item proposes a direct install incentive and Just Transition pilot program that is consistent with recent workforce-focused building decarbonization developments initiatives at the state, regional and local levels that benefit labor, minimize cost, and maximize climate benefits.

On February 22, 2021 the California Workforce Development Board announced a \$8.9 million grant as part of the High Road Training Partnership (HRTTP) for “sector-based workforce development projects in several industries and areas that are critical to the state’s strategy for a just recovery from the COVID-19 pandemic and economic crisis while addressing climate change and community resilience.”² According to the California Workforce Development Board, “high road” employers include those firms “that compete based on quality of product and service achieved through innovation and investment in human capital, and can thus generate family-supporting jobs where workers have agency and voice.”³

Bay Area-based Rising Sun Center for Opportunity received \$600,000 from the grant to launch a “High Road to Residential Building Decarbonization” project to convene more than 20 Bay Area cities, government agencies, unions, employers, and advisors.⁴ The City of Berkeley along with the Construction Trades Workforce Initiative (CTWI), the

² California Workforce Development Board, “CWDB Announces Grants to Invest in Building Back Better with Equity, Climate and Jobs, February 22, 2021, https://cwdb.ca.gov/wp-content/uploads/sites/43/2021/03/CWDB-PressRelease-HRTP-Open-FINAL-021821_ACCESSIBLE.pdf

³ California Workforce Development Board, “High Road Training Partnerships,” Rising Sun Center for Opportunity, “Rising Sun Convenes Partnership to Promote Equitable Job Access in the Bay Area’s Post-Carbon Economy,” March 29, 2021, <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>.

⁴ <https://risingsunopp.org/wp-content/uploads/Rising-Sun-HRTP-Press-Release.pdf>.

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non-profit arm of the Building & Construction Trades Councils of Alameda and Contra Costa Counties, were invited to participate in ongoing discussions about ensuring equitable access to high-road jobs in the building decarbonization industry.

To date, these and other ongoing collaborative efforts have been extremely productive—in May 2021 CTWI and the Alameda County Building Trades Council provided helpful feedback and recommendations to the City’s OESD staff regarding the City’s Existing Buildings Electrification Strategy. However, the state grant did not include funding to do the physical work of electrification retrofits. Significantly, CTWI and Trades Council committed to:

“...supporting the City of Berkeley in its goals of reducing greenhouse gas emissions while ensuring that people who live and work in Berkeley—especially those from historically disadvantaged populations—have access to high-road, family-sustaining careers in union construction associated with existing building electrification and decarbonization.”⁵

In addition, their key recommendations to the City of Berkeley’s building electrification strategy include:

1. Address decarbonization overall—building electrification as well as energy efficiency measures—when planning strategies for a “Just Transition” in consultation with all crafts affected, including but not limited to Sheet Metal, Electricians, Carpenters, Plumbers and Pipefitters.
2. Create programs and identify funding sources to incentivize Berkeley property owners to replace, upgrade and install systems that will achieve energy efficiency goals.
3. Require the use of pre-qualified residential construction contractors who will reliably perform high-quality work and provide high-road careers for workers.
4. Link disadvantaged Berkeley residents to training programs that prepare them to enter and succeed in union construction careers by working with and budgeting for ongoing City funding for local Multi-Craft Core Curriculum (MC3) workforce partners, school districts/community colleges and CBOs to develop and sustain a long-term pipeline of work in the residential building retrofit market that carries high-road labor standards.
5. Develop public education campaigns and resources to promote new City programs and the benefits of energy efficient systems and appliances; provide

⁵ CTWI Policy Recommendations City of Berkeley Existing Buildings Electrification Strategy.

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information on systems and requirements; and link property owners to a list of pre-qualified contractors.

Since this item was deferred to the November AAO following the June 2021 budget process, Councilmember Harrison’s office has engaged with the CTWI and the Trades to expand the item to incorporate specific recommendations to further refine the proposed incentive program and to enhance benefits to workers and residents.

This Budget Referral and Resolution now support each of the above CTWI and Trades recommendations.

With respect to recommendations 1-3, the \$1.5 million budget allocation would create a “direct install” incentive program. Direct install programs eliminate the need for households to find and manage their own contractors, and therefore can achieve significant cost savings. They also equitably eliminate or reduce the amount of upfront money needed by property owners to conduct retrofits, and eliminate the need to retroactively apply or wait for rebates (e.g., at tax time etc.). For example, the Sacramento Municipal Utility District (SMUD) recently reported the following significant advantages of direct install strategies to the California Energy Commission:

“SMUD has achieved significant societal cost savings by using direct installation in low-income single-family homes. For example, SMUD’s average low-income direct installation cost for a heat pump water heater is \$2,200 whereas for our market rate program, in which SMUD incentivizes \$2,500 and the customer is responsible for hiring a contractor, the average total cost is close to \$3,800. The cost savings may be even greater if the direct-install contractor is able to go door-to-door and convert multiple adjacent homes. Direct installation has only been used for low-income programs to date but could be equally beneficial when applied to any home or neighborhood. While labor costs associated with direct installation can be greater given prevailing wage considerations, direct installation can nevertheless be cost-competitive for the utility in sufficient volume.”⁶

Further, OESD’s draft electrification strategy recommends direct install programs because they streamline permitting and lower barriers to residents:

“One of the major hurdles many community members face is lack of knowledge regarding incentives and rebates for electric equipment. When an appliance like a hot water heater breaks, there is rarely time to conduct extensive research on the programs available. This action would tie these resources directly to the permit for the appliance. When a permit is pulled for a heat pump hot water heater, that incentive would be given directly to the installer. This would lower the upfront costs for consumers and further incentivize electrification. Furthermore, this action would help remove the procedural inequities currently experienced by marginalized communities who

⁶ Sacramento Municipal Utility District, “SMUD Comments on Building Decarbonization and Energy Efficiency,” 21-IEPR-06 and Building Decarbonization, July 27, 2021, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=239016&DocumentContentId=72448>

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may not have the time to conduct research or resources to pay the full price of the equipment while they wait for rebates to arrive.”⁷

Such a direct install program could also include energy efficiency upgrades if paired with utility-based and regional incentives for insulation and other building envelope improvement programs potentially employing the labor of additional trades.

Importantly for workers, the direct install program would incorporate pre-qualified contractors meeting minimum quality and labor standards, similar to the City’s existing project labor agreements. The City would also achieve economies of scale on permitting and inspection processes and ensure workers are properly trained and licensed/certified. Staff should consider the following pre-qualification requirements:

1. Certification that the contractor is in compliance with all applicable licensing, bonding, and insurance requirements;
2. Certification that the Contractor participates in, makes training fund contributions to, and sponsors apprenticeships from a state-approved apprenticeship program that partners with an MC3 pre-apprenticeship program;
3. Certification that the contractor provides family health benefits and pension benefits to its workers;
4. Certification that the contractor has not been convicted of, fined, or penalized for any violation of wage, labor, safety, or building standard requirements within the last five years;
5. Certification that no surety firm has had to complete a contract or pay for completion of a contract on behalf of the contractor or subcontractor within the last five years;
6. Certification that the contractor has not had any licenses revoked within the past five years;
7. Certification that the contractor is not ineligible to bid, be awarded or subcontract on a public works project pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7;
8. Certification that the contractor has not been cited for any serious, willful or repeat OSHA violations within the last five years as defined under Title 8 of the California Code of Regulations.
9. Certification that the contractor has a Better Business Bureau rating of “B” or higher.

⁷ OESD, Draft Existing Buildings Electrification Strategy, April, 2021, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Draft_Berkeley_Existing_Bldg_Electrification_Strategy_20210415.pdf

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With respect to recommendation 4, the Resolution also refers to staff to design the program in consultation with labor partners to facilitate apprenticeship opportunities for Berkeley residents, including historically disadvantaged populations. The program would be integrated into the City’s website and existing communications channels pursuant to recommendation 5.

The item also supports the concept of “just transition” off fossil fuels and towards a zero-carbon economy. According to a report by the Climate Equity Network, a just transition includes moving away from fossil fuels “in a manner that protects workers and communities economically dependent on the fossil fuel industry” and involves “those who have historically been excluded from the jobs and economic benefits of the extractive economy and expand the populations who have access to future jobs and economic opportunities.”⁸

While the City of Berkeley and Alameda County are not known for their petroleum extraction industries, the Alameda County Building Trades include Pipefitters, who stand to lose natural gas infrastructure installation and maintenance jobs over time as part of the City’s implementation of the natural gas prohibition (BMC 12.80) ordinance and other electrification initiatives. A 2019 UCLA Luskin Institute study found that 3,100-3,600 jobs statewide could be lost as a result of new construction electrification policies alone. Meanwhile, the study estimated a statewide increase of 64,232-104,060 building electrification jobs, including retrofits.⁹ By partnering with organized labor through this pilot program, the City can help support impacted workers new work opportunities and workforce development opportunities, including the electrification of existing buildings.

In addition, this item supports expanding opportunities to historically excluded populations in Berkeley through labor apprenticeship programs that recruit directly from impacted populations. It also would provide electrification benefits to lower and moderate-income residents with a preference for those at or below 120% of the Area Median Income.

Budgetary Opportunities

Many economic and public health indicators suggest that the City is entering a more optimistic phase in the pandemic, to include the influx of substantial—but temporary—

⁸ The Climate Equity Network, “A Roadmap to an Equitable Low-carbon Future: Four Pillars for a Just Transition, April, 2019,

https://dornsife.usc.edu/assets/sites/242/docs/Just_Transition_Final_Report_2019.pdf

⁹ UCLA Luskin Center, “California Building Decarbonization: Workforce Needs and Recommendations,” November, 2019, https://innovation.luskin.ucla.edu/wp-content/uploads/2019/11/California_Building_Decarbonization.pdf.

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federal stimulus monies through the 2021 American Rescue Plan Act and the anticipation of a fairly rapid rebound in revenues to pre-pandemic levels. Transfer tax revenues for FY21 are estimated at \$20 million (compared with \$20 million in FY 19) and the city expects to receive a one-time two-year allocation of approximately \$66 million from the 2021 American Rescue Plan Act.

As a result, it is in the public interest to revisit the July 2020 item to see how the City can best move forward with providing residents with critical greenhouse gas reduction incentives in order to address our larger and longer-term crisis: climate change.

According to recent 2020 transfer tax data from OESD, on average between 2014-2019, 845 residential units were transferred per year, generating approximately an average of \$4.6 million total per year in eligible rebates for the Seismic Transfer Tax Program. The city has approximately 46,000 occupied housing units, with the vast majority being gas-powered.

Currently, the Council approved amount in transfer tax revenues is allocated to the General Fund (as in the past, at \$12.5 million) and some portion is typically set aside for capital projects (generally at \$2 million). For the first year of this pilot program this item proposes to allocate a total of \$1.5 million in excess Transfer Tax equity which would be inclusive of staff’s administrative costs.¹⁰ On adoption of this proposal, total transfer tax expenditures would amount to approximately \$17 million, including the \$12.5 million typically allocated to the General Fund programs and the \$2 million to capital programs.

While the program will ultimately be designed by OESD staff through administrative regulation, this item also includes a resolution officially establishing the program and providing general parameters for how staff should allocate the proposed \$1.5 million retrofit fund. This program and the \$1.5 million allocation were originally included as a line item in the Planning & Development Department’s Fiscal Year 2022 proposed budget.

New property owners are most likely to remodel their units shortly completing the purchase. Thus, the Draft Berkeley Existing Buildings Electrification Strategy recommends allocating some portion of the fund for transferees of residential properties within two years of point of sale. The City is also exploring opportunities to adopt certain mandatory electrification requirements for transferees of new buildings through its BESO program.

¹⁰ This amount would be in addition to the separate \$600,000 Climate Equity Action incentive fund proposed by Councilmember Harrison, Mayor Arreguín, and Councilmembers Taplin and Robinson.

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Equitably supporting existing property owners and renters whose appliances, e.g., their water heater, break down suddenly, and those who wish to embark upon voluntary electrification projects to include new appliances, electrical work (e.g., panel upgrades) are also elements of the Building Electrification strategy. This part of the program would be similar to Marin County’s Electrify Marin program which provides residents with income-qualified incentives for building electrification and panel upgrades. Since 2019, Marin has disbursed over \$100,000 in rebates.

Electrify Marin		
Appliance Type	Standard Rebate	Income Qualified Rebate
Heat Pump Water Heater	\$1,000	\$2,000
Heat Pump Space Heater		
Central Heat Pump	\$1,000	\$4,500
Mini-Split Heat Pump	\$800	\$3,000
Induction Cooking		
Range (Cooktop & Oven)	\$500	\$500
Cooktop only	\$250	\$250
Service Panel Upgrade	\$500	\$1,200

These incentives would be paired with rebates available through BayRen and EBCE, which are helpful but fall far short of the actual cost. For example, BayRen and EBCE offer \$2,000 for water heaters, which typically cost approximately \$5,000-\$10,000 when one includes the cost of potential electrical and panel upgrades. Berkeley’s incentive program is also needed to pay for space heating electrification, and needed panel and other electrical upgrades for which there are currently no incentives. Electrical, panel and space heating upgrades are typically the most expensive part of any electrification project.

Staff have indicated that they believe an additional incentive of approximately \$2,500 per property owner would be significant to persuade many property owners to electrify.

Alternatives Considered

FITES discussed whether to expand this program beyond building electrification to include fire safety and resilience upgrades. However, at this time, fire programs have separate revenue sources and greenhouse gas reduction is a top priority given the need to reduce emissions to near zero by 2030 per the 2018 IPCC report. For example, fire safety measures have received generous support from the voters through Measure FF, whereas climate is still severely underfunded. In addition, global warming is one of the chief causes of increased fire threats.

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FINANCIAL IMPLICATIONS

This item would result in a one-time investment of \$1,500,000 from excess equity to provide initial funding for a two-year Existing Building Electrification Incentive Program Pilot to assist property owners and renters with the transition to a zero-carbon economy. This investment includes staff costs to run the program and to provide support for implementation of the Berkeley Existing Building Electrification Strategy (BEBES): a temporary 2-year FTE, estimated at \$200,000 per year, for a total of \$400,000.

ENVIRONMENTAL SUSTAINABILITY

Supporting incentives for building decarbonization will complement and accelerate Berkeley’s ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan, Climate Emergency Declaration, and Existing Building Electrification Strategy.

CONTACT PERSON

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

ATTACHMENTS

1. Resolution

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

RESOLUTION ESTABLISHING A PILOT EXISTING BUILDING ELECTRIFICATION
INSTALLATION INCENTIVES AND JUST TRANSITION PILOT PROGRAM

WHEREAS, the world is facing a grave climate emergency, requiring municipalities to rapidly transition towards a zero-carbon economy by 2030; and

WHEREAS, transitioning Berkeley's economy will require significant investment on the part of both government and residents as staff have estimated that converting Berkeley's approximately 46,000 residential housing units will likely cost hundreds of millions of dollars; and

WHEREAS, low-carbon technology and infrastructure can often be out of reach for many households and, without direct assistance, many will be left behind; and

WHEREAS, moderate and lower-income communities are most impacted by global climate change and have the least financial ability to address it; and

WHEREAS, City's Draft Existing Building Electrification Strategy cites the importance of ensuring equity in access to carbon-free technology; and

WHEREAS, by partnering with labor the City of Berkeley can cost effectively meet its goals of reducing greenhouse gas emissions while supporting elements of a just transition such as ensuring that people who live and work in Berkeley—especially those from historically disadvantaged populations—have access to high-road, family-sustaining careers in union construction associated with existing building electrification; and

WHEREAS, the program would help support Pipefitters and other tradespeople who may be acutely impacted by Berkeley's building electrification policies; and

WHEREAS, direct install programs using pre-qualified contractors meeting quality and labor standards eliminate the need for households to find and manage their own contractors, and therefore can achieve significant cost savings and socioeconomic benefits; and

WHEREAS, it is in the public interest to establish a two-year Existing Building Electrification Direct Install and Just Transition Incentive Program to assist residents with transitioning from a carbon-based city; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager establish an Existing Building Electrification Installation Incentives and Just Transition Program to invest in zero-carbon plumbing, HVAC, cooking, and related electrical system retrofits as follows, to be further defined by staff:

1. a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income such as:

- a. transferees of residential property to include appliance retrofits and electrical upgrades as appropriate;
 - b. existing residential property owners and renters, including rent-controlled tenants, pursuing electrification retrofits or replacing broken or outdated appliances, to include electrical upgrades as appropriate.
2. a nexus with high-road jobs, including:
- a. use of pre-qualified residential construction contractors that will reliably perform high-quality work and provide high-road careers for workers and meet minimum labor standards;
 - b. consideration of leveraging other local, regional, state or federal climate or energy efficiency incentives, such as building efficiency, to maximize climate benefits and to include other crafts, including but not limited to Sheet Metal, Electricians, Carpenters, Plumbers and Pipefitters;
 - c. linking Berkeley residents who are disadvantaged or disproportionately impacted by climate and environmental injustices to training programs (including apprenticeships) that prepare them to enter and succeed in union construction careers by working with and budgeting for ongoing City funding for local Multi-Craft Core Curriculum (MC3) workforce partners, school districts/community colleges and CBOs to develop and sustain a long-term pipeline of work in the residential building retrofit market that carries high-road labor standards.

BE IT FURTHER RESOLVED that the Berkeley Energy Commission, or successor, and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee, in consultation with community groups, provide input to staff and Council on at least an annual basis about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households.

BE IT FURTHER AND FINALLY RESOLVED that any unexpended funds shall carry over from year to year.



Fair Campaign Practices Commission

PUBLIC HEARING
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Jedidiah Tsang, Chair, Fair Campaign Practices Commission

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission

Subject: Public Hearing: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.

FISCAL IMPACTS OF RECOMMENDATION

None. The City's public financing program is paid for by the Fair Elections Fund, a special, dedicated, non-lapsing fund established by the City Charter. (Charter section 6.2.) The Fair Elections Fund currently has a balance of approximately \$1.4 million and is allocated \$4.65 per City resident each year. For FY 2023, allocations are expected to be \$578,613. The Fair Elections Fund is sufficiently funded to cover the expected matching fund expenditures for the 2022 election cycle, including matching funds which would be disbursed to candidates for the offices added to the public financing program by this amendment.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Election Reform Act (BERA) were approved by the Fair Campaign Practices Commission at its regular meeting of September 16, 2021.

Action: M/S/C (Newman/Humbert) to adopt BERA amendments proposed by MapLight, with amendment changing proposed aggregate amount of Fair Elections funds a participating Rent Stabilization Board candidate may receive in an election cycle from \$5,000 to \$8,000.

Vote: Ayes: Blome, Ching, Hernandez, Humbert, Hynes, Newman, O'Donnell, Saginor, Tsang; Noes: none; Abstain: none; Absent: none.)

Action: M/S/C (Tsang/O'Donnell) to adopt BERA amendments proposed by staff clarifying requirements for returning unspent Fair Elections funds and requesting return of funds after unspent funds have been repaid, with clarifying changes.

Vote: Ayes: Blome, Ching, Hernandez, Humbert, Hynes, Newman, O'Donnell, Saginor, Tsang; Noes: none; Abstain: none; Absent: none.)

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

BMC § 2.12.560 requires that after each of the first two election cycles that occur after implementation of the Fair Elections Act, the FCPC shall review the Fair Elections program and make recommendations to Council for policy changes to improve and refine the program. Necessary amendments were identified and implemented following the 2018 election cycle, and additional issues were raised by staff and participating committees during and after the 2020 election cycle. The FCPC determined that in order to best assist candidates and committees with conforming to the requirements of BERA and the very specific restrictions and requirements of the Public Finance Program additional amendments to BERA are needed.

At its September 16, 2021 meeting, the FCPC approved the attached ordinance which makes the following changes to BERA:

1. Public financing for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner

This proposed ordinance expands the Berkeley Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program. Under current law, only candidates for Mayor and City Council may participate in the Fair Elections program. The proposed ordinance specifies that a candidate for Auditor, School Director, or Rent Stabilization Board Commissioner is eligible to participate in the Fair Elections program if the candidate meets the requirements to hold the office sought as provided in the City of Berkeley Charter. The proposed ordinance also provides a maximum aggregate amount of Fair Elections funds per election of \$20,000 for candidates for Auditor; \$20,000 for candidates for School Director; and \$8,000 for candidates for Rent Stabilization Board Commissioner. Under the proposed ordinance, the maximum aggregate amounts of Fair Elections funds for candidates for Mayor and Councilmember are adjusted to the current amounts as provided by Fair Campaign Practices Commission (FCPC) regulation.

2. Further clarifies the use of Fair Elections funds

This proposed ordinance also specifies that a candidate participating in the Fair Elections program must use Fair Elections funds and contributions for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle. Current law requires only that a participating candidate use Fair Elections funds and contributions for direct campaign purposes. Under the proposed ordinance, a participating candidate is also prohibited from using Fair Elections funds and contributions to pay a business in which the candidate or candidate's immediate family member has a ten percent ownership interest.

3. Clarifies the requirements for returning unspent Fair Elections funds

In the 2020 election, several candidates did not follow the required timeline for submitting unspent funds as required by BMC § 2.12.505.H. Participating candidates were sent a letter after the election reminding them of the deadline and requesting a draft Form 460 showing an ending cash balance that matched the amount on the check submitted for unspent funds. Of the ten participating candidates, one initially submitted a draft Form 460 with a closing balancing that did not match the amount of the check, one candidate took three months to return their unspent funds, and one has yet to submit documentation verifying the correct amount to be returned. Neither BERA nor the Public Finance Program Supplemental Guide provided a clear process for returning unspent funds; additionally, there is no specific guidance regarding candidates who participate in the program but do not ultimately qualify for the ballot. The Supplemental Guide has been updated to clarify the administrative process; further amendments to BERA are needed to underscore the requirements and to confirm that non-compliance is a violation of BERA.

4. Adds a new process for requesting return of previously repaid Fair Elections funds

Several months after returning their unspent Fair Elections funds, two committees notified the City Clerk Department that they had received invoices from a vendor who had not yet billed them. The committees requested return of a portion of unspent funds to pay the invoices. Absent specific guidance, the City Clerk Department consulted the City Attorney's Office and agreed to accommodate the requests for the 2020 election. However, staff believe that going forward, such requests should be considered on a case-by-case basis by the FCPC given the unique circumstances of each request and the possibility of campaign reporting violations.

5. Requires the FCPC to make a cost of living adjustment to the contribution limit to City candidates in January of each odd-numbered year

The proposed ordinance amends BMC § 2.12.415 to require the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the Fair Elections funds and contribution limits are adjusted for participating candidates.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

The proposed BERA amendments will expand the public financing program to all City elected offices and improve the administration of the public financing program.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the recommendations in this report.

CONTACT PERSON

Jedidiah Tsang, Chair, Fair Campaign Practices Commission, (510) 981-6998
Samuel Harvey, Commission Secretary, Fair Campaign Practices Commission (510) 981-6998

Attachments:

1. Ordinance amending BERA
2. FCPC September 16, 2021 Meeting Report and Attachments

ORDINANCE NO. _____

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 2.12.415 is amended to read as follows:

2.12.415 Persons other than candidate--Maximum permitted amount.

No person other than a candidate shall make and no campaign treasurer shall solicit or accept any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to such candidate to exceed two hundred fifty dollars. The Commission shall adjust the dollar amount in this Section for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year. For purposes of this section single election is a primary, general, special, runoff or recall election.

Section 2. That Berkeley Municipal Code Section 2.12.495 is amended to read as follows:

2.12.495 Offices covered.

Candidates for the offices of Mayor and, City Council, Auditor, Board of Education, and Rent Stabilization Board shall be eligible to participate in the public campaign financing program established by this chapter.

Section 3. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

2.12.500 Eligibility for Fair Elections campaign funding.

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the City a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of

the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office sought:

a) For the office of Mayor or Councilmember, Auditor, or School Director, the requirements as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley; or

b) For the office of Commissioner of the Rent Stabilization Board, the requirements as set forth in Section 121 of Article XVII of the Charter of the City of Berkeley.

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.

4) Maintain such records of receipts and expenditures as required by the Commission;

5) Obtain and furnish to the Commission or City staff any information they may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;

6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.

7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);

8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.

9) Not accept loans from any source.

10) The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

B. At the earliest practicable time after a candidate files with the City a written application for certification as a participating candidate, the City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid.

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section 2.12.235.

D. If the City or Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates.

Section 4. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

2.12.505 Fair Elections fund payments.

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1) \$129,000 for a candidate running for the office of Mayor;
- 2) \$43,000 for a candidate running for the office of City Council;
- 3) \$20,000 for a candidate running for the office of Auditor;

4) \$20,000 for a candidate running for the office of Board of Education;

5) \$8,000 for a candidate running for the office of Rent Stabilization Board.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon

receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. 1) Unspent campaign funds of any Participating Candidate who does not remain qualify a candidate for the until ballot at the election for which they the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City within 30 (thirty) days of the determination on the qualification of the candidate. All funds returned under this paragraph must be accompanied by any required supporting documentation.

2) Any campaign or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3) All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.

4) The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

I. Any request by a Participating Candidate for a refund of any amount of unspent campaign funds previously repaid to the City, for a qualified campaign expenditure or other permissible campaign purpose, shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund within 45 days of receipt.

Section 5. That Berkeley Municipal Code Section 2.12.530 is amended to read as follows:

2.12.530 Use of Fair Elections funds.

A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle.

B. A participating candidate shall not use Fair Elections funds or contributions for:

1) Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;

2) The candidate's personal support or compensation to the candidate or ~~the~~ the candidate's family, or a business in which the candidate or candidate's immediate family member has a ten (10) percent or greater ownership interest;

3) Indirect campaign purposes, including but not limited to:

a) Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;

b) Capital assets having a value in excess of five hundred dollars (\$500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;

c) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;

d) An independent expenditure as defined in Berkeley Municipal Code Section 2.12.142 as may be amended;

e) Any payment or transfer for which compensating value is not received;

C. The term "Contribution" is defined in 2.12.100 and includes "Qualified Contributions" as defined in 2.12.167 and contributions from non-residents of Berkeley as described in 2.12.500.A.7.

D. The dollar amounts in Section 2.12.530.B.3.b may be adjusted for cost-of-living changes by the Commission through regulation, pursuant to Section 2.12.545.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the regulation of officeholder accounts.

The hearing will be held on November 30, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **November 18, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.


Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@cityofberkeley.info for further information.

Published: November 19, 2021 – The Berkeley Voice

Pursuant to Berkeley Municipal Code section 2.12.051

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on November 18, 2021.

  
\_\_\_\_\_  
Mark Numainville, City Clerk







City Clerk Department

September 16, 2021

To: Members, Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

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BMC 2.12.560 requires that after each of the first two election cycles that occur after implementation of the Fair Elections Act, the Fair Campaign Practices Commission shall review the Fair Elections program and make recommendations to Council for policy changes to improve and refine the program. Necessary amendments were identified and implemented following the 2018 election cycle, and additional issues were raised by staff and participating committees during and after the 2020 election cycle. In order to best assist candidates and committees with conforming to the requirements of BERA and the very specific restrictions and requirements of the Public Finance Program, additional amendments to BERA and to the FCPC Regulations are needed.

Additionally, representatives from MapLight, the original sponsors of the Fair Elections Act of 2016, have proposed the inclusion of the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner to the Public Finance Program, and have proposed amendments further clarifying the use of Fair Elections funds. These are discussed further in the accompanying memo.

Attachments:

1. MapLight - Summary of Proposed Changes
2. MapLight - City of Berkeley Campaign Expenditures 2014-2020
3. MapLight - Fair Elections Budget Projections
4. MapLight - Draft Ordinance Amendments
5. Staff - Summary of Proposed Changes
6. Staff - Draft Ordinance Amendments

**MapLight****Summary of Proposed Changes**

This proposed ordinance expands the Berkeley Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program. Under current law, only candidates for Mayor and City Council may participate in the Fair Elections program. The proposed ordinance specifies that a candidate for Auditor, School Director, or Rent Stabilization Board Commissioner is eligible to participate in the Fair Elections program if the candidate meets the requirements to hold the office sought as provided in the City of Berkeley Charter. The proposed ordinance also provides a maximum aggregate amount of Fair Elections funds per election of \$20,000 for candidates for Auditor; \$20,000 for candidates for School Director; and \$5,000 for candidates for Rent Stabilization Board Commissioner. Under the proposed ordinance, the maximum aggregate amounts of Fair Elections funds for candidates for Mayor and Councilmember are adjusted to the current amounts as provided by Fair Campaign Practices Commission (FCPC) regulation – this provision should be reviewed to ensure that if the ordinance is passed, the amounts for Mayor and Councilmember do not revert back to the original \$120,000 and \$40,000, respectively.

This proposed ordinance also specifies that a candidate participating in the Fair Elections program must use Fair Elections funds and contributions for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle. Current law requires only that a participating candidate use Fair Elections funds and contributions for direct campaign purposes. Under the proposed ordinance, a participating candidate is also prohibited from using Fair Elections funds and contributions to pay a business in which the candidate or candidate's immediate family member has a ten percent ownership interest. As amended by the proposed ordinance, this provision includes both the terms "family" and "immediate family" and leaves them undefined; this provision should be reviewed to ensure that it is clear which family members are included in the provision's restrictions and provide definitions if necessary. For consistency, both references could be changed to "immediate family" so that the restrictions of the provision apply to the same group of family members.

Finally, the proposed ordinance requires the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the Fair Elections funds and contribution limits are adjusted for participating candidates.

**Section-by-Section**

Section 1. This section requires the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the contribution limit and Fair Elections funds limits are adjusted for participating candidates.

Section 2. This section expands the Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program.

Section 3. This section specifies that candidates for Auditor, School Director, and Rent Stabilization Board Commissioner must meet the candidacy requirements for their respective offices as provided in the City of Berkeley Charter in order to be eligible to participate in the Fair Elections program.

Section 4. This section updates the maximum aggregate amounts of Fair Elections funds that a candidate for Mayor or City Council may receive and establishes maximum aggregate amounts of Fair Elections funds that a candidate for Auditor, School Director, and Rent Stabilization Board Commissioner may receive.

Section 5. Under this section, a participating candidate is required to use Fair Elections funding only for direct campaign purposes that further the participating candidate's own campaign for the relevant office and election cycle. In addition, this section prohibits a candidate from spending Fair Elections funding at a business in which the candidate or candidate's immediate family member has a 10 percent or greater ownership interest.

**CITY OF BERKELEY CAMPAIGN EXPENDITURES 2014-2020****for Auditor, Rent Board, and School Board**

Data collected from the City of Berkeley's Public Portal for Lobbyist and Campaign Finance Disclosure by MapLight, a nonprofit research organization.

Candidates with less than \$500 in total expenditures were excluded from this dataset.

Winning candidates are indicated by an asterisk\*

**2014**


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| <b>Office Sought</b>     | <b>Candidate</b>  | <b>Total Expenditures</b> |
|--------------------------|-------------------|---------------------------|
| Auditor                  | Anne-Marie Hogan* | \$ 2,639                  |
| Rent Stabilization Board | James Chang*      | \$ 2,092                  |
| Rent Stabilization Board | John Selawsky*    | \$ 1,894                  |
| Rent Stabilization Board | Jesse Townley*    | \$ 1,705                  |
| Rent Stabilization Board | Katherine Harr*   | \$ 1,553                  |
| Rent Stabilization Board | Paola Laverde*    | \$ 1,110                  |
| School Board Trustee     | Ty Alper*         | \$ 48,298                 |
| School Board Trustee     | Julie Sinai       | \$ 30,220                 |
| School Board Trustee     | Joshua Daniels*   | \$ 22,430                 |
| School Board Trustee     | Karen Hemphill*   | \$ 11,533                 |

**Independent Expenditures**

No independent expenditures found for the above contests.

**2016**

| <b>Office Sought</b>     | <b>Candidate</b>      | <b>Expenditures</b> |
|--------------------------|-----------------------|---------------------|
| Rent Stabilization Board | Judy Hunt             | \$ 7,991            |
| Rent Stabilization Board | Christina Murphy*     | \$ 6,846            |
| Rent Stabilization Board | Leah Simon-Weisberg*  | \$ 5,615            |
| Rent Stabilization Board | Igor Tregub*          | \$ 5,110            |
| Rent Stabilization Board | Alejandro Soto-Vigil* | \$ 4,013            |
| Rent Stabilization Board | Nathan Wollman        | \$ 3,551            |
| School Board Trustee     | Judy Appel*           | \$ 5,342            |
| School Board Trustee     | Beatriz Leyva-Cutler* | \$ 1,301            |
| School Board Trustee     | Abdur Sikder          | \$ 1,069            |

**Independent Expenditures**

| <b>Committee</b>          | <b>Candidate</b>     | <b>Support or Oppc</b> | <b>Total Expenditures</b> | <b>Office Sought</b>     |
|---------------------------|----------------------|------------------------|---------------------------|--------------------------|
| Berkeley Working Families | Alejandro Soto-Vigil | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Christina Murphy     | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Igor Tregub          | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Leah Simon-Weisberg  | support                | 734                       | Rent Stabilization Board |

**2018**

| <b>Office Sought</b>     | <b>Candidate</b>   | <b>Total Expenditures</b> |
|--------------------------|--------------------|---------------------------|
| Auditor                  | Jennifer Wong*     | \$ 24,875                 |
| Auditor                  | Vladislav Davidzon | \$ 14,714                 |
| Auditor                  | John Selawsky      | \$ 1,970                  |
| Rent Stabilization Board | James Chang*       | \$ 9,749                  |
| Rent Stabilization Board | Judy Hunt          | \$ 5,161                  |
| Rent Stabilization Board | Maria Poblet*      | \$ 2,089                  |
| Rent Stabilization Board | John Selawsky*     | \$ 1,970                  |
| Rent Stabilization Board | Solomon Alpert*    | \$ 1,959                  |
| Rent Stabilization Board | Paola Laverde*     | \$ 1,844                  |
| School Board Trustee     | Ty Alper*          | \$ 37,567                 |
| School Board Trustee     | Julie Sinai*       | \$ 29,767                 |
| School Board Trustee     | Ka'Dijah Brown*    | \$ 10,594                 |
| School Board Trustee     | Lea Baechler-Brabo | \$ 500                    |

**Independent Expenditures**

| <b>Committee</b>                  | <b>Candidate</b> | <b>Support or Opp</b> | <b>Total Expenditures</b> | <b>Office Sought</b> |
|-----------------------------------|------------------|-----------------------|---------------------------|----------------------|
| California Federation Of Teachers | Jule Sinai       | support               | 2,420                     | School Board         |
| California Federation Of Teachers | Ka'Dijah Brown   | support               | 2,420                     | School Board         |
| California Federation Of Teachers | Ty Alper         | support               | 2,420                     | School Board         |

**2020**

| <b>Office Sought</b>     | <b>Candidate</b>     | <b>Total Expenditures</b> |
|--------------------------|----------------------|---------------------------|
| Rent Stabilization Board | Andy Kelley*         | \$ 16,104                 |
| Rent Stabilization Board | Bahman Ahmadi        | \$ 13,600                 |
| Rent Stabilization Board | Soulmaz Panahi       | \$ 11,970                 |
| Rent Stabilization Board | Dan McDunn           | \$ 8,756                  |
| Rent Stabilization Board | Leah Simon-Weisberg* | \$ 8,646                  |
| Rent Stabilization Board | Wendy Hood           | \$ 7,638                  |
| Rent Stabilization Board | Carole Marasovic     | \$ 6,762                  |
| Rent Stabilization Board | Pawel Moldenhawer    | \$ 5,823                  |
| Rent Stabilization Board | Timothy Johnson*     | \$ 4,848                  |
| Rent Stabilization Board | Mari Mendonca*       | \$ 4,547                  |
| Rent Stabilization Board | Dominique Walker*    | \$ 4,115                  |
| School Board Trustee     | Ana Vasudeo*         | \$ 23,061                 |
| School Board Trustee     | Laura Babbit*        | \$ 12,291                 |
| School Board Trustee     | Michael Chang        | \$ 16,503                 |
| School Board Trustee     | Jose Bedolla         | \$ 3,371                  |
| School Board Trustee     | Esfandiar Imani      | \$ 2,732                  |

**Independent Expenditures**

| <b>Committee</b>                      | <b>Candidate</b>    | <b>Support or Oppose</b> | <b>Expenditures</b> | <b>Office Sought</b>     |
|---------------------------------------|---------------------|--------------------------|---------------------|--------------------------|
| National Association Of Realtors Fund | Bahman Ahmadi       | support                  | 54,143              | Rent Stabilization Board |
| National Association Of Realtors Fund | Dan McDunn          | support                  | 17,791              | Rent Stabilization Board |
| National Association Of Realtors Fund | Soulmaz Panahi      | support                  | 17,791              | Rent Stabilization Board |
| National Association Of Realtors Fund | Wendy Saenz Hood Ne | support                  | 17,791              | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Pawel Moldenhawer   | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Wendy Saenz Hood Ne | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Dan McDunn          | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Soulmaz Panahi      | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Bahman Ahmadi       | support                  | 5,756               | Rent Stabilization Board |

**Budget Projections - Fair Elections Program Proposed Expansion**

prepared by MapLight

Current balance in Fair Elections Fund: about \$1,400,000

Most recent annual allocation to Fair Elections Fund: \$505,000

Total allocated to Fair Elections Fund each 4-year election cycle: about \$2,020,000

Total disbursed from Fair Elections Fund for 2018: \$295,288

Total disbursed from Fair Elections Fund for 2020: \$299,454

*Source for above figures: City Clerk's office*

| Office                                 | Maximum public funding per candidate (proposed) | 2013-2020 average # of candidates per 4-year election cycle | Moderate estimate | High estimate     |
|----------------------------------------|-------------------------------------------------|-------------------------------------------------------------|-------------------|-------------------|
| Auditor                                | \$ 20,000                                       | 2                                                           | \$ 40,000         | \$ 60,000         |
| School Board Trustee                   | \$ 20,000                                       | 8                                                           | \$ 160,000        | \$ 240,000        |
| Rent Stabilization Bd.                 | \$ 5,000                                        | 14                                                          | \$ 70,000         | \$ 105,000        |
| <b>Total per 4-year election cycle</b> |                                                 |                                                             | <b>\$ 270,000</b> | <b>\$ 405,000</b> |

Moderate estimate: Same number of candidates as historical average, all candidates receive maximum public funding.

High estimate: 1.5X as many candidates as historical average, all candidates receive maximum public funding.

**Budget projection with proposed expansion--every 4 years:**

|                                                  |    |           |                                  |
|--------------------------------------------------|----|-----------|----------------------------------|
| Allocation to Fair Elections fund                | \$ | 2,020,000 |                                  |
| Disbursed from Fund: Administrative costs        | \$ | (290,000) | set by statute                   |
| Disbursed from Fund: Mayor and Council           | \$ | (594,742) | based on disbursements 2017-2020 |
| Disbursed from Fund: Auditor, School Bd, Rent Bd | \$ | (270,000) | based on moderate estimate       |
| Remaining in Fund after disbursement             | \$ | 865,258   |                                  |

Conclusion: The Fair Elections program is already funded at a sufficient level to support expansion.  
No new funding allocation is needed to implement the proposed expansion.

*Source for historical number of candidates: MapLight analysis of candidate filings  
Candidates with less than \$500 in total expenditures were excluded from this data.*



ORDINANCE NO. \_\_\_\_\_

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 2.12.415 is amended to read as follows:

**2.12.415 Persons other than candidate--Maximum permitted amount.**

No person other than a candidate shall make and no campaign treasurer shall solicit or accept any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to such candidate to exceed two hundred fifty dollars. The Commission shall adjust the dollar amount in this Section for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year. For purposes of this section single election is a primary, general, special, runoff or recall election.

Section 2. That Berkeley Municipal Code Section 2.12.495 is amended to read as follows:

**2.12.495 Offices covered.**

Candidates for the offices of Mayor ~~and~~, City Council, Auditor, Board of Education, and Rent Stabilization Board shall be eligible to participate in the public campaign financing program established by this chapter.

Section 3. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

**2.12.500 Eligibility for Fair Elections campaign funding.**

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the City a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office sought:

a) For the office of Mayor or Councilmember, Auditor, or School Director, the requirements as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley; or

b) For the office of Commissioner of the Rent Stabilization Board, the requirements as set forth in Section 121 of Article XVII of the Charter of the City of Berkeley.

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.

4) Maintain such records of receipts and expenditures as required by the Commission;

5) Obtain and furnish to the Commission or City staff any information they may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;

6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.

7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);

8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.

9) Not accept loans from any source.

10) The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

B. At the earliest practicable time after a candidate files with the City a written application for certification as a participating candidate, the City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid.

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section 2.12.235.

D. If the City or Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates.

Section 4. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1) \$129,000 for a candidate running for the office of Mayor;
- 2) \$43,000 for a candidate running for the office of City Council;
- 3) \$20,000 for a candidate running for the office of Auditor;

4) \$20,000 for a candidate running for the office of Board of Education;

5) \$5,000 for a candidate running for the office of Rent Stabilization Board.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon

receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election.

Section 5. That Berkeley Municipal Code Section 2.12.530 is amended to read as follows:

**2.12.530 Use of Fair Elections funds.**

A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle.

B. A participating candidate shall not use Fair Elections funds or contributions for:

1) Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;

2) The candidate's personal support or compensation to the candidate ~~or~~ the candidate's family, or a business in which the candidate or candidate's immediate family member has a ten (10) percent or greater ownership interest;

3) Indirect campaign purposes, including but not limited to:

a) Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;

b) Capital assets having a value in excess of five hundred dollars (\$500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;

c) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;

d) An independent expenditure as defined in Berkeley Municipal Code Section 2.12.142 as may be amended;

e) Any payment or transfer for which compensating value is not received;

C. The term "Contribution" is defined in 2.12.100 and includes "Qualified Contributions" as defined in 2.12.167 and contributions from non-residents of Berkeley as described in 2.12.500.A.7.

D. The dollar amounts in Section 2.12.530.B.3.b may be adjusted for cost-of-living changes by the Commission through regulation, pursuant to Section 2.12.545.



City Clerk Department

September 16, 2021

To: Members, Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Staff Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

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## 1. Clarification of requirements for returning unspent funds after the election

In the 2020 election, several candidates did not follow the required timeline for submitting unspent funds as required by BMC 2.12.505.H. Participating candidates were sent a letter after the election reminding them of the deadline and requesting a draft Form 460 showing an ending cash balance that matched the amount on the check submitted for unspent funds. Of the ten participating candidates, one initially submitted a draft 460 with a closing balance that did not match the amount of the check, one candidate took three months to return their unspent funds, and one has yet to submit documentation verifying the correct amount to be returned. Neither BERA nor the Public Finance Program Supplemental Guide provided a clear process for returning unspent funds; additionally, there is no specific guidance regarding candidates who participate in the program but do not ultimately qualify for the ballot. The Supplemental Guide has been updated to clarify the administrative process; further amendments to BERA are needed to underscore the requirements and to confirm that non-compliance is a violation of BERA.

Proposed Remedy: Amend BERA 2.12.505.H as follows:

H. 1) Unspent ~~campaign~~ funds of any Participating Candidate who does not ~~remain qualify a candidate for the~~ until ballot at the election for which ~~they the funds~~ were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City within 30 (thirty) days of the determination on the qualification of the candidate. All funds returned under this paragraph must be accompanied by any required supporting documentation.

Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

2) Any campaign ~~or such~~ funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3) All unspent campaign funds returned to the City shall be deposited into the Fair Elections Fund pursuant to the City Charter.

4) The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

**2. Add new process for requesting return of funds after unspent funds were repaid**

Several months after returning their unspent funds, two committees notified the City Clerk Department that they had received invoices from a vendor who had not yet billed them. The committees requested return of a portion of unspent funds to pay the invoices. Absent specific guidance regarding this matter, the City Clerk Department consulted with the City Attorney's Office and agreed to accommodate the requests for the 2020 election. However, staff believe that going forward, such requests should be considered on a case-by-case basis by the Commission given the unique circumstances of each request and the possibility of campaign reporting violations.

Proposed Remedy: Amend BERA 2.12.505 as follows:

I. Any request by a Participating Candidate for a refund of unspent campaign funds previously repaid to the City shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund within 45 days of receipt.



Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

**3. Require additional reporting for expenditures falling under more than one payment code as provided by the state disclosure form**

Many types of purchases by campaign committees fall under more than one payment category as defined by the state, although the electronic filing system used by most candidates does not allow for the entry of more than one code. In order to provide voters a clear picture of what is actually being purchased, an entry in the description field of the transaction would be required.

Proposed Remedy: Amend BERA 2.12.280 as follows:

I. If a single entry for goods, services, facilities, or items of value reported as received or purchased in a campaign statement falls under more than one payment code provided by the state disclosure form, a description of the goods, services, facilities, or items of value must be provided.

## ORDINANCE NO. #,###-N.S.

## AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

- 1) \$120,000 for a candidate running for the office of Mayor;
- 2) \$40,000 for a candidate running for the office of City Council.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. 1) Unspent campaign funds of any Participating Candidate who does not remain qualify a candidate for the until ballot at the election for which they the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City within 30 (thirty) days of the determination on the qualification of the candidate. All funds returned under this paragraph must be accompanied by any required supporting documentation.

2) Any campaign or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3) All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.

4) The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

I. Any request by a Participating Candidate for a refund of unspent campaign funds previously repaid to the City shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund with 45 days of receipt.

Section 2. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.280 Campaign statement--Information required.**

Each campaign statement required by this article shall contain the following information:

A. Under the heading "receipts," the total amount of contributions received, and under the heading "expenditures," the total amount of expenditures made during the period covered by the campaign statement and cumulative amount of such totals;

B. The total amount of contributions received during the period covered by the campaign statement from persons who have given fifty dollars or more;

C. The total amount of contributions received during the period covered by the campaign statement from persons who have given less than fifty dollars;

D. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received fifty dollars or more;

E. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received less than fifty dollars;

F. The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;

G. The full name of each person from whom a contribution or contributions totalling fifty dollars or more has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed, the amount which he or she contributed, the date on which each contribution was received during the period covered by the campaign statement, and the cumulative amount he or she contributed. In the case of committees which are listed as contributors, the campaign statement shall also contain the full name and street address of the treasurer of the committee. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated in regard to the lender, together with the date and amount of the loan, and if the loan has been repaid, the date of payment and by whom paid;

H. The full name and street address of each person to whom an expenditure or expenditures totalling fifty dollars or more has been made, together with the amount of each separate expenditure to each person during the period covered by the campaign statement; a brief description of the consideration for which the expenditure was made; the full name and street address of the person providing the consideration for which an expenditure was made if different from the payee; and in the case of committees which are listed, the full name and street address of the treasurer of the committee;

I. If a single entry for goods, services, facilities, or items of value reported as received or purchased in a campaign statement falls under more than one payment code provided by the state disclosure form, a description of the goods, services, facilities, or items of value must be provided.

J. In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each such candidate or measure;

J.K. The full name, residential and business address and telephone number of the filer or, in the case of a campaign statement filed by a committee, the name and telephone number of the committee and the committee's street address;

K.L. In a campaign statement filed by a candidate, the full name and street address of any committee, of which he or she has knowledge, which has received contributions or made expenditures on behalf of his or her candidacy, along with the full name, street address and telephone number of the treasurer of such committee.





Action CALENDAR  
DATE: November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Vice Mayor Droste (co-sponsor), Councilmember Wengraf (co-sponsor)

Subject: Budget referral: Automated license plate readers for community safety improvement

#### RECOMMENDATION

That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:

- Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; **and refer to the FY 23-24 budget process cost of ALPRs.**
- Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

#### POLICY COMMITTEE RECOMMENDATION

On November 1, 2021, the Public safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 &

2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

## CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department's 2019/2020 Crime Report, Berkeley has seen marked increases in aggravated assault, homicides, auto theft and larceny over the past two years.<sup>1</sup> While the overall crime rate remained relatively flat, specific categories of property crimes increased sharply—especially vehicle thefts, which increased by 66% in 2020. Homicides decreased to zero in 2021, but reports of gunfire and auto theft increased.

Currently, the police department's Parking Enforcement Bureau uses Automated License Plate Readers (ALPRs)<sup>2</sup> for time zone parking and scofflaw enforcement, replacing the practice of physically "chalking" car tires, but ALPR technology has not been implemented in the city for other law enforcement purposes. According to the City Manager's 2020 Surveillance Technology Report, there were an average of 12,059 successful license plate "reads" per day in the month of September, 2020. From October 2019 to October 2020, there were 44,068 "hits" detecting a positive violation, roughly 25% (14,945) of which resulted in enforcement by citation issuance.<sup>3</sup>

Pursuant to Berkeley Municipal Code Chapter 2.99 Section 2.99.070, the City Manager's office is required to report on surveillance technology on an annual basis.

## BACKGROUND

According to a 2018 study<sup>4</sup> by the Center for Policing Equity, Black people comprise only 8% of Berkeley's population, but a disproportionate 46% of people subject to police uses of force. In light of this evidence, and in the wake of the national outcry over the death of George Floyd, the City Council adopted a resolution<sup>5</sup> on July 14, 2020 directing the City Manager in part to "identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments."

Some research has found that ALPRs contribute to marginal improvements in public safety outcomes with respect to vehicle thefts and traffic safety. The use of LPR technology has

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/10\\_Oct/Documents/2020-10-13\\_Presentations\\_Item\\_19\\_\\_Pres\\_Police\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/Documents/2020-10-13_Presentations_Item_19__Pres_Police_pdf.aspx)

<sup>2</sup>

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/11\\_Nov/Documents/2020-11-10\\_Item\\_19\\_Resolution\\_Accepting\\_the\\_Surveillance.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/11_Nov/Documents/2020-11-10_Item_19_Resolution_Accepting_the_Surveillance.aspx)

<sup>4</sup> Buchanan, K.S., Pouget, E., Goff, P.A. (2018). *The Science of Justice: Berkeley Police Department. Center for Policing Equity*. Retrieved from <https://www.berkeleyside.org/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-14\\_Item\\_18d\\_Transform\\_Community\\_Safety\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-14_Item_18d_Transform_Community_Safety_pdf.aspx)



increased significantly in law enforcement agencies across the US in the past decade, but outcomes have been inconsistently tracked, which limits available research.<sup>6</sup> One qualitative case study found that criminal investigators adapted LPR technology to a broader range of investigative work, such as rapid responses and corroborating suspect alibis.<sup>7</sup>

An analysis of a randomized control trial in the City of Vallejo found that ALPRs attached to police vehicles enabled a 140% increase in detection of stolen vehicles, while arrests were more efficient with stationary ALPRs in fixed locations.<sup>8</sup> A study on LPR technology in Mesa, AZ found that LPRs resulted in an eightfold increase in the number of plates scanned, more positive scans, arrests and recovery of stolen vehicles, and a reduction in calls for drug offenses. However, the study did not find a statistically significant reduction in vehicle thefts in hot spots compared to manual checks, possibly because the presence of law enforcement officers performing manual checks had a more preventative effect.<sup>9</sup> Another study of the Charlotte-Mecklenburg Police Department found that “LPR use may have contributed to modest improvements in case closures for auto theft and robbery”—the former in the long term, and the latter both short- and long term.<sup>10</sup>

According to recent analysis by the National Highway Traffic Safety Administration, one law enforcement agency found that drivers with suspended, revoked, or restricted licenses were 2.2 times more likely to be involved in serious or fatal crashes than other drivers, and that identifying these drivers with ALPRs “could affect traffic safety positively by targeting violator vehicles that are more prone to crash risk.”<sup>11</sup> A quasi-experimental survey of data from Buffalo, NY found a reduction in violent crime and traffic accidents associated with roadblocks using LPRs.<sup>12</sup>

### RATIONALE FOR RECOMMENDATION

Reimagining public safety necessitates significant improvements in public safety outcomes, including practical solutions to traffic safety and property crime. California law currently

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<sup>6</sup> Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). The rapid diffusion of license plate readers in US law enforcement agencies. *Policing: An International Journal*, (42)3, pp. 376-393. <https://doi.org/10.1108/PIJPSM-04-2018-0054>

<sup>7</sup> James J. Willis, Christopher Koper & Cynthia Lum (2018). The Adaptation of License-plate Readers for Investigative Purposes: Police Technology and Innovation Re-invention, *Justice Quarterly*, 35:4, 614-638, DOI: 10.1080/07418825.2017.1329936

<sup>8</sup> Potts, J. (2018). Research in brief: assessing the effectiveness of automatic license plate readers. *POLICE CHIEF*. Retrieved from <http://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

<sup>9</sup> Taylor, B., Koper, C. S., & Woods, D. J. (2012). Combatting auto theft in Arizona: A randomized experiment with license plate recognition technology. *Criminal Justice Review*, 37, 24-50.

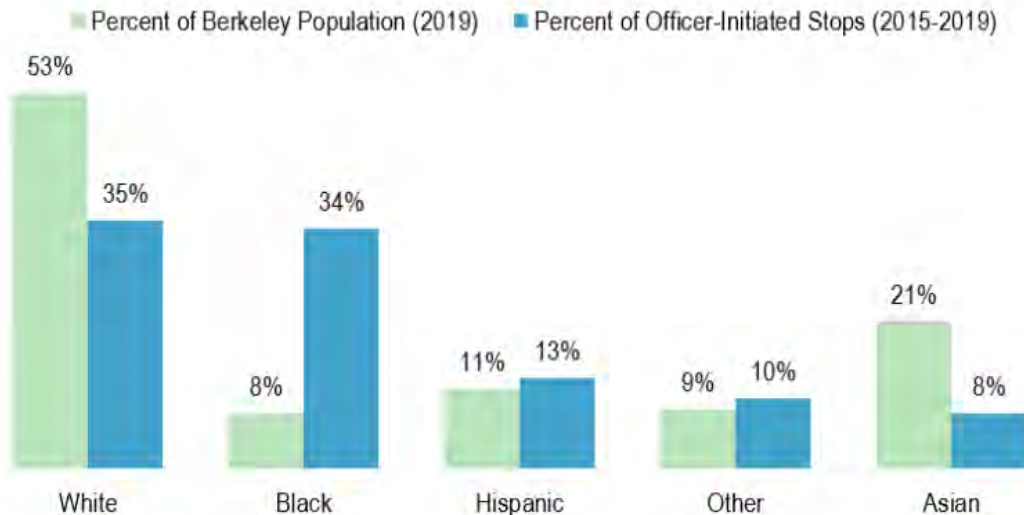
<sup>10</sup> Koper, C. S., & Lum, C. (2019). The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations. *Police Quarterly*, 22(3), 305–329. <https://doi.org/10.1177/1098611119828039>

<sup>11</sup> Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D. (2021). State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes. Retrieved from [https://rosap.ntl.bts.gov/view/dot/55586/dot\\_55586\\_DS1.pdf](https://rosap.ntl.bts.gov/view/dot/55586/dot_55586_DS1.pdf)

<sup>12</sup> Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. *Secur J* 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>

preempts municipalities from transferring traffic enforcement to civilian duties or automated speed cameras.

While auto thefts in Berkeley increased by 64% from 2019 to 2020, and increased 54% year-over-year in the first half of 2021<sup>13</sup>, a 2021 City Auditor analysis<sup>14</sup> of the Berkeley Police Department found that Officer-Initiated Stops disproportionately target Black and Latino drivers relative to their share of the city’s population.



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor’s analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

ALPRs therefore present an opportunity to reduce property crimes and improve traffic safety while also reducing civilian encounters with police officers conducting ad hoc traffic enforcement, which the 2021 audit found to have a significant racial bias against Black and Latino drivers. ALPRs could make enforcement more fair, impartial, and effective.

In 2015, the Berkeley Police Department used ALPR technology on a mobile trailer to investigate five attempted kidnappings by Willard Middle School.<sup>15</sup>

However, ALPR data storage gives rise to several privacy concerns. In *Carpenter v. United States*, the U.S. Supreme Court ruled that accessing location data tracking an individual’s

<sup>13</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/10\\_Oct/Documents/2021-10-19\\_Item\\_01\\_BPD\\_Annual\\_Report\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx)

<sup>14</sup> Berkeley City Auditor. (2021, Apr. 22). Data Analysis of the City of Berkeley’s Police Response. Retrieved from [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf)

<sup>15</sup> Raguso, E. (2015, Oct. 30). Berkeley police use license plate reader in kidnapping attempt investigations. Berkeleyside. Retrieved from <https://www.berkeleyside.org/2015/10/30/berkeley-police-use-license-plate-reader-in-kidnapping-attempt-investigation>

movements from their cell phone constitutes a search under the Fourth Amendment and requires a search warrant.<sup>16</sup> While ALPR scans are subject to reasonableness standards for searches under Fourth Amendment jurisprudence, state courts have found that ALPR alerts are sufficient to establish a reasonable suspicion, though there are situations that require further intervention to establish reasonableness or avoid error.<sup>17</sup>

In *Neal v. Fairfax County Police Department*, the Virginia Supreme Court ruled that GPS data and images associated with license plate numbers were private personal information (PPI), but license plate numbers themselves stored in ALPR databases were not.<sup>18</sup> The California Supreme Court has also underscored such a distinction between “bulk data collection” of license plate numbers that did not “produce records of investigations” for particular crimes.<sup>19</sup> By contrast, U.S. Supreme Court Justice Sotomayor argued in *United States v. Jones* that government agencies collecting “private aspects of identity” could be “susceptible to abuse.”<sup>20</sup> This calls into question the so-called third party doctrine of the Fourth Amendment—the longstanding precedent that individuals may be reasonably considered to waive their right to privacy and assume any information provided to third parties may eventually be accessed by the government—given the vast array of information government agencies can now access through surveillance technology. To carefully balance privacy and policing efficacy under this new paradigm, Newell (2013) recommends strictly limiting data retention for non-“hit” scans, and maintaining anonymized ALPR data subject to public disclosure laws.<sup>21</sup>

California Vehicle Code Section 2413(b) restricts the California Highway Patrol (CHP)’s retention LPR data for 60 days unless it is being used as evidence in a felony investigation. Subsection (c) restricts the distribution of this data strictly to law enforcement agencies or officers and “only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.”

In 2015, Senate Bill 34 imposed additional security and privacy requirements on the use of ALPR data.<sup>22</sup> Unfortunately, a State Auditor report in 2020 surveying four local law enforcement agencies in California found that ALPR policies were out of compliance with SB34, retained images for far longer than needed or allowed, and had no processes in place to safeguard local compliance. For example, the State Auditor “did not find evidence that the agencies had always

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<sup>16</sup> *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

<sup>17</sup> Fash, L. (2018). Automated License Plate Readers: The Difficult Balance of Solving Crime and Protecting Individual Privacy. *Md. L. Rev. Endnotes*, 78, 63.

<sup>18</sup> *Neal v. Fairfax County Police Dept.*, 812 S.E.2d 444, 295 Va. 334 (2018).

<sup>19</sup> *Am. Civil Liberties Union Found. of S. Cal. v. Super. Ct. of L.A. Cty.*, 400 P.3d 432 (Cal. 2017).

<sup>20</sup> *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring);

<sup>21</sup> Newell, B. C. (2013). Local law enforcement jumps on the big data bandwagon: Automated license plate recognition systems, information privacy, and access to government information. *Me. L. Rev.*, 66, 397.

<sup>22</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB34](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34)

determined whether an entity receiving shared images had a right and a need to access the images or even that the entity was a public agency.”<sup>23</sup>

In 2018, a lawsuit by the American Civil Liberties Union of Northern California revealed that Immigration and Customs Enforcement (ICE) had purchased access to private databases containing ALPR data with 5 billion individual data points for civil immigration enforcement, and had obtained ALPR data from over 80 local law enforcement agencies.<sup>24</sup> However, in 2017, Senate Bill 54 greatly restricted the ability of California law enforcement agencies to share information with ICE.<sup>25</sup>

Berkeley Parking Enforcement uses PCS Mobile ALPR units using Genentech ALPR technology regulated by BPD Administrative Order #001-2016, which limits storage of reads to 30 days and hits to 365 days. Images of reads are not stored on the server, and data may only be used for legitimate law enforcement purposes. Police Departments in the cities of Vallejo and Piedmont utilize the Flock Safety Operating System, which comes with a transparency portal listing permitted and prohibited uses, data storage, access provided to outside agencies, numbers of hits and scans, and other relevant metadata.<sup>26,27</sup>

#### ALTERNATIVES CONSIDERED

1. Gun buyback programs have not demonstrated significant efficacy except in limited circumstances within more holistic community-based violence prevention programs.<sup>28</sup>
2. With the stalling of Assembly Bill 550<sup>29</sup> in this year’s legislative session, automated speeding cameras are not currently permitted in the state of California.
3. On October 27, 2020, the City Council referred to the Community Engagement Process for Reimagining Public Safety the creation of a Group Violence Intervention Program (GVI), or “Operation Ceasefire,” that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence. Current staffing capacity in the City Manager’s office is insufficient to develop such a program before the process is complete.

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<sup>23</sup> Howle, E.M. (2020). Automated License Plate Readers: To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects. *Auditor of the State of California*. Retrieved from <https://www.auditor.ca.gov/reports/2019-118/index.html>

<sup>24</sup> Talla, V. (2019). Documents Reveal ICE Using Driver Location Data From Local Police for Deportations. *ACLU Northern California*. Retrieved from <https://www.aclunc.org/blog/documents-reveal-ice-using-driver-location-data-local-police-deportations>

<sup>25</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54)

<sup>26</sup> <https://transparency.flocksafety.com/vallejo-ca-pd>

<sup>27</sup> <https://transparency.flocksafety.com/vallejo-ca-pd>

<sup>28</sup> Makarios, M. D., & Pratt, T. C. (2012). The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis. *Crime & Delinquency*, 58(2), 222–244. <https://doi.org/10.1177/0011128708321321>.

<sup>29</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB550](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB550)

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

In 2017, an amendment to Contract No. 9977<sup>30</sup> from the City Manager's Office itemized a unit cost of \$78,363 for each ALPR system. Costs for this referral may be different because this contract was only for mobile ALPRs used for parking enforcement, not in fixed locations or mobile trailers.

CONTACT

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ATTACHMENTS

1. City of Vallejo ALPR Policy,
2. City of Alameda,
3. City of Emeryville,
4. City of Hayward,
5. City of Oakland,
6. City of Piedmont,
7. City of Richmond,
8. City of San Leandro.

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<sup>30</sup>[https://ci.berkeley.ca.us/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-11\\_Item\\_13\\_Contract\\_No\\_9977\\_Amendment.aspx](https://ci.berkeley.ca.us/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_13_Contract_No_9977_Amendment.aspx)

Policy

## 426

# Automated License Plate Readers (ALPRs)

### 426.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage, and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 426.2 DEFINITIONS

- (a) **Automated License Plate Reader (ALPR):** A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) **ALPR Operator:** Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) **ALPR Administrator:** The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) **Hot List:** A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) **Vehicles of Interest:** Including, but not limited to vehicles which are reported as stolen; display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) **Detection:** Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
- (g) **Hit:** Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

### 426.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates along with the vehicle make, model, color and unique identifiers through the Vallejo Police Department's ALPR's system and the vendor's vehicle identification technology. The technology is used by the Vallejo Police Department to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Department Information Technology Manager. The Department Information Technology Manager will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### **426.3.1 ALPR ADMINISTRATOR**

The Investigations Bureau Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring that procedures are followed for system operators and to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation is maintained. Continually working with the Custodian of Records on the retention and destruction of ALPR data.
- (f) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **426.4 OPERATIONS**

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation; reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm

that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDC or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)

- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

(1) **Verification of status on a Hot List.** An officer must receive confirmation, from a Vallejo Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) **Visual verification of license plate number.** Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR



Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

(h) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

**Permitted/Impermissible Uses.** The ALPR system, and all data collected, is the property of the Vallejo Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

- (1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- (2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- (3) Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
- (4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
- (5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

#### **426.4 DATA COLLECTION AND RETENTION**

The Investigations Bureau Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for no longer than one year, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

ALPR vendor, Flock Safety will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. Flock Safety will purge their data at the end of the 30 days of storage. However, this will not preclude VPD from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Vallejo retention schedule mentioned above or outlined elsewhere.

Restrictions on use of ALPR Data: Information gathered or collected, and records retained by Flock Safety cameras or any other VPD ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

#### **426.5 ACCOUNTABILITY and SAFEGUARDS**

All data will be closely safeguarded and protected by both procedural and technological means. The Vallejo Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All non-law enforcement requests for access to stored ALPR data shall be processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (e) Every ALPR Detection Browsing Inquiry must be documented by either the associated Vallejo Police case number or incident number, and/or a reason for the inquiry.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **426.6 POLICY**

The policy of the Vallejo Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

#### **462.7 ALPR DATA DETECTION BROWSING AUDITS**

It is the responsibility of the Professional Standards Division (PSD) Lieutenant or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least once during each calendar year. The Department will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding six-month period and determine if each inquiry meets the requirements established in policy section 462.5(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by PSD.

#### **426.8 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

- (a) The agency makes a written request for the ALPR data that includes:
  - (1) The name of the agency.
  - (2) The name of the person requesting.
  - (3) The intended purpose of obtaining the information.

- (b) The request is reviewed by the Chief of Police or the authorized designee and approved before the request is fulfilled.
- (c) The Chief of Police or the authorized designee will consider the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq), before approving the release of ALPR data. The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).
- (d) The approved request is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **426.9 TRAINING**

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for officers utilizing the Automated License Plate Reader (ALPR) system. This policy will further establish guidelines for the deployment and actions permissible when using the system. The policy shall remain in effect until it is superseded, amended, or withdrawn.

(a) An ALPR system is a computer-based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by local, state, and federal law enforcement agencies, including the National Crime Information Center ("NCIC"), and generates an alert when there is a hit. The ALPR system identifies license plates and will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes per the Federal Driver's Privacy Protection Act, and as set forth in this Policy, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the State of California Department of Motor Vehicle (DMV) database.

(b) It shall be the policy of this Agency that all Department members abide by the policy and its procedures set forth when using the ALPR system, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law abiding citizens.

(c) The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on-going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen or unregistered motor vehicles.

(d) The Department shall utilize hot lists which further the above specified goals of the ALPR system, where there is a legitimate and specific law enforcement reason for identifying a vehicle associated with an outstanding arrest warrant, vehicles related to missing persons investigations, vehicles associated with AMBER Alerts, stolen vehicles, vehicles that are reasonably believed to be involved in the commission of a crime, vehicles which are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the

## *Automated License Plate Readers (ALPRs)*

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revoked or suspended list, vehicles with expired registrations, vehicles registered to persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements, vehicles registered to persons wanted by a law enforcement agency who are of interest in a specific investigation, or vehicles registered to persons who are on any watch list issued by a State or Federal agency responsible for homeland security when information has been received concerning a specific individual.

### **462.2 DEFINITIONS**

ALPR – Automated License Plate Recognition System, or Automated License Plate Reader

ALPR System – The system in its entirety, including all ALPR cameras, software, and collected data

Alert – An audible and/or visual signal activated upon the read of a license plate by the ALPR system that has NOT BEEN VISUALLY VERIFIED by the officer against the photo in the ALPR system.

Tentative Hit – An alert by the ALPR system that HAS BEEN VISUALLY VERIFIED by the officer against the ALPR hotlist and photo but HAS NOT BEEN VALIDATED by the officer or dispatch as a live query transaction OR CONFIRMED AS VALID with the original entering agency.

Live Query Transaction – A hit by the ALPR system that HAS BEEN VALIDATED as active but HAS NOT BEEN CONFIRMED as valid by the entering agency.

Confirmation (Confirmed Hit) – A hit by the ALPR system that HAS BEEN CONFIRMED as valid and active by the original entering agency through secondary check.

Hotlist – Data files extracted from law enforcement databases which contain listings of stolen license plates, stolen vehicles, wanted persons, and other vehicles/persons actively being sought by a law enforcement agency such as Amber/Silver Alert vehicles/persons. These data extracts are generally facilitated numerous times per day in an effort to provide current data.

### **462.3 PROCEDURES**

#### **(a) Management**

The Alameda Police Department, by and through the Chief of Police, is solely responsible for the day-to-day operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief of Police shall assign Department personnel to operate and manage the ALPR system on a day-to-day basis.

The Chief of Police, through his or her designee, shall ensure that the ALPR system is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.

#### **(b) Operations**

## *Automated License Plate Readers (ALPRs)*

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1. Installation and Functioning. ALPR cameras may be mounted on a marked cruiser or unmarked vehicle. ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Alameda Police Department. Scanned data files collected by the system will, on an ongoing basis, be automatically uploaded from the ALPR camera to the Department's ALPR database.

2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. These sources may include:

- NCIC Stolen Vehicle files, as available;
- NCIC Stolen plates and Stolen Canadian plates, as available;
- NCIC Wanted persons, as available;
- NCIC Missing or Endangered person files, as available;
- NCIC Supervised Release (Federal Probationers), as available;
- NCIC Nationwide Domestic Violence Protection Orders, as available;
- NCIC Violent Gang and Terrorist Organization File, as available;
- NCIC Sexual Offender;
- DMV Records of Suspended/Revoked Registrations.

3. Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data. A routine check to ensure the equipment is working properly should be done at the beginning of each shift by the user logging into the system.

5. Auditing and Oversight. To ensure proper oversight into the use of the system and adherence to this policy, all activities (plate detections, queries, reports, etc.) are automatically recorded by the system for auditing purposes. System audits shall be conducted by the Inspectional Services Section supervisor at least every six months during the first two years subsequent to implementation and no less than annually thereafter. The audit report shall include an explanation regarding any data retained longer than six months (e.g. data retained as evidence in a criminal case).

6. Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.

The following uses of the ALPR system are specifically prohibited:

### *Automated License Plate Readers (ALPRs)*

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- a. **Invasion of Privacy:** Except when done pursuant to a court order such as a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- b. **Harassment or Intimidation:** It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- c. **Personal Use:** It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

7. **Required Steps Preliminary to Police Action.** Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:

- a. **Verification of current status on hot list.** An officer must receive confirmation, from someone or some system within the Department that the license plate is still stolen, wanted, or otherwise of interest before proceeding.
- b. **Visual verification of license plate number.** Officers shall visually verify that the license plate on the vehicle of interest matches identically with the image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding with a traffic stop.

8. **Use in Connection With Serious Crimes/Incidents.** Use of the ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT, or other major crime or incident.

#### **(c) Database Access and Privacy Concerns**

1. The ALPR system database and software resides in a data center featuring full redundancy and access controls. The data remains property of the Alameda Police Department, and is managed according to this Policy.
2. The ALPR system is governed by the Permitted/Impermissible Uses as outlined in this Policy.



### *Automated License Plate Readers (ALPRs)*

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3. The ALPR data contains no Personally Identifiable Information (PII) that may be used to connect license plate detection to an individual. It is only with permissible purpose that an investigator may make this connection (using other systems) and this access is already governed by the Federal Driver's Privacy Protection Act (DPPA).
4. All investigative queries into collected ALPR data are logged by user and available for auditing and review by the Department as outlined in this Policy.

**(d) Data Retention**

All data and images gathered by an ALPR are for the official use of the Alameda Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this Department may be used and shared with prosecutors or others only as permitted by law. All ALPR data downloaded to the server will be stored for a period of six months, and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances, the applicable data should be downloaded from the server onto portable media and booked into evidence.

## Automated License Plate Readers (ALPRs)

### 429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 429.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Emeryville Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Professional Services and Standards Division Captain. The Professional Services and Standards Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 429.2.1 ALPR ADMINISTRATOR

[The Professional Services and Standards Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §1798.90.51; Civil Code §1798.90.53:](#)

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the departments website.

### 429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

### *Automated License Plate Readers (ALPRs)*

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **429.4 DATA COLLECTION AND RETENTION**

The Professional Services and Standards Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **429.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Emeryville Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

### *Automated License Plate Readers (ALPRs)*

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- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **429.6 POLICY**

The policy of the Emeryville Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

#### **429.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Professional Services and Standards Division Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **429.8 TRAINING**

The Professional Services Officer should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## Automated License Plate Readers (ALPRs)

### 429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

#### 429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

### 429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 429.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

Examples of authorized purposes include but are not limited to:

1. Locating stolen, wanted and subject of investigation vehicles;
2. Locating and apprehending individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
3. Locating witnesses and victims of violent crime;
4. Locating missing children and elderly individuals, including responding to Amber and Silver Alerts;
5. Supporting local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
6. Protecting participants at special events; and
7. Protecting critical infrastructure sites.

*Automated License Plate Readers (ALPRs)*

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(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

(e) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

**429.4 ALPR AUTHORIZED USERS AND TRAINING**

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) The following classifications are authorized to be trained in the use of the ALPR system:

1. Duly sworn peace officers
2. Professional staff whose duties require or call for the use of the system or data; examples: Community Service Officers (assigned to investigative positions) or Crime Analysts

(c) Training in the use of the system shall consist of:

1. Privacy and civil liberties protections;
2. Legal authorities, developments and issues involving the use of ALPR Data and technology;
3. Current HPD Policy regarding appropriate use of ALPR Systems;
4. Technical, physical, administrative and procedural measures to protect the security of ALPR Data against unauthorized access or use; and
5. Practical exercises in the use of the ALPR system.

**429.5 ALPR DATA COLLECTION, RETENTION AND DISSEMINATION**

Information collected by ALPR is categorized as one of two types.

(a) **DETECTIONS:** Detections are the records including images and data (date, time and location) gathered by ALPR field units.

(b) **HITS:** Are the notices from the system alerting the operator of a match between the license plate captured and a listing on one of the hot lists.

*Automated License Plate Readers (ALPRs)*

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(c) RETENTION OF DATA: All data and images gathered by an ALPR are for the official use of the Hayward Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Support Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

All ALPR HIT records are maintained indefinitely.

(d) DISSEMINATION: The Hayward Police Department may disseminate ALPR data to any government entity with an authorized law enforcement or public safety purpose for access to such data. The Hayward Police Department assumes no responsibility or liability for the acts or omissions of other agencies in making use of the ALPR data properly disseminated. Though the Hayward Police Department will make every reasonable effort to ensure the quality of shared ALPR Data and hotlists, it cannot make absolute guarantees of the accuracy of information provided.

**429.6 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data:

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

*Automated License Plate Readers (ALPRs)*

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(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted on a regular basis.

**429.7 REVISIONS**

Enacted: March 31, 2015



## Automated License Plate Readers (ALPRs)

### 430.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 430.2 POLICY

The policy of the Oakland Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 430.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Oakland Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Deputy Chief. The Deputy Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 430.3.1 ALPR ADMINISTRATOR

The Bureau of Services Deputy Chief shall be the administrator of ALPR program, and shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §§ 1798.90.51 through 1798.90.53:

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title of the current designee overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

### *Automated License Plate Readers (ALPRs)*

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- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **430.4 ALPR USERS**

Personnel authorized to use ALPR equipment or access information collected through the use of such equipment shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated sergeants, officers, police service technicians, and parking enforcement personnel unless otherwise authorized.

#### **430.5 PURPOSES FOR ACCESSING AND USING ALPR INFORMATION**

Use of an ALPR is restricted to the purposes outlined below. The title of the official custodian of the ALPR system, responsible for implementing this section, is the ALPR Coordinator.

Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) An ALPR shall only be used for official law enforcement business.
- (e) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **430.6 DATA COLLECTION AND RETENTION**

The Bureau of Services Deputy Chief is responsible for ensuring systems and processes are in place for the proper collection, accuracy and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server shall be stored for six months. Thereafter, ALPR data shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence.

### *Automated License Plate Readers (ALPRs)*

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#### **430.7 SYSTEM MONITORING AND SECURITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Oakland Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by username, license number or other data elements used in the search, name, date, time and purpose (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits shall be conducted on a regular basis by the Bureau of Services. The purpose of these audits is to ensure the accuracy of ALPR Information and correct data errors.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **430.8 RELEASING OR SHARING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Deputy Chief or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **430.9 TRAINING**

The Training Section shall ensure that members receive department-approved training for those authorized to use or access the ALPR system and shall maintain a record of all completed trainings. (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Training requirements for employees authorized in ALPR Users Section include completion of training by the ALPR Coordinator or appropriate subject matter experts as designated by the Oakland Police Department. Such training shall include:

- Applicable federal and state law
- Applicable policy

*Automated License Plate Readers (ALPRs)*

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- Memoranda of understanding
- Functionality of equipment
- Accessing data
- Safeguarding password information and data
- Sharing of data
- Reporting breaches
- Implementing post-breach procedures

Training updates are required annually.

## Automated License Plate Readers (ALPRs)

### 438.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 438.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Piedmont Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Operations Commander. The Administration Operations Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 438.2.1 ALPR ADMINISTRATOR

The Administration Operations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

### 438.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

### *Automated License Plate Readers (ALPRs)*

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- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **438.4 DATA COLLECTION AND RETENTION**

The Administration Operations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or there is a reason to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **438.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Piedmont Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

## *Automated License Plate Readers (ALPRs)*

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- (c) The Support Services Division Commander will be responsible for directing and ensuring that ALPR system audits are conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

### **438.6 AUTHORIZED DESIGNEE FOR CERTAIN ALPR SERVICES**

The Chief of Police may enter into an agreement with another law enforcement agency or authority, through contract or memorandum of understanding, to receive, provide, or share ALPR services that meet the minimum standards of this policy.

### **438.7 TRAINING**

Only persons trained in the use of the ALPR system, including its privacy and civil liberties protections, shall be allowed access to the ALPR data. Training shall consist of:

- Legal authorities, developments, and issues involving the use of ALPR data and technology
- Current policy regarding appropriate use of ALPR systems
- Evolution of ALPR and related technologies, including new capabilities and associated risks
- Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use
- Practical exercises in the use of the current ALPR system

Training shall be updated as technological, legal, and other changes that affect the use of the ALPR system occur. In no case shall a person utilize the ALPR system if he/she has not completed training in more than a year.

### **438.8 POLICY**

The policy of the Piedmont Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### **438.9 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

Any requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Department personnel who receive requests for ALPR data will accept the request in accordance with our Records Maintenance and Release Policy and forward the request to the Support Services Division Commander.

*Automated License Plate Readers (ALPRs)*

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**438.10 TRAINING**

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).



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## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Richmond Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

### 462.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Administration Division Commander. The Administration Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 462.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) Absent exigent circumstances, the officer shall verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

### 462.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Richmond Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

# Richmond Police Department

## Policy Manual

### *Automated License Plate Readers (ALPRs)*

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The Administration supervisor is responsible to ensure proper collection and retention of ALPR data.

All ALPR data downloaded to the server will be stored for ninety (90) days, and thereafter will be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **462.5 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Richmond Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Supervisor and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.

## Automated License Plate Readers (ALPRs)

### 418.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 418.2 POLICY

The policy of the San Leandro Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

In accordance with a Memorandum of Understanding (MOU) between the San Leandro Police Department and the Northern California Regional Intelligence Center (NCRIC), the Department shall work in cooperation and coordination with NCRIC in providing a standardized approach and method of collecting and sharing ALPR systems' data.

### 418.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Leandro Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Captain, or his/her designee. The Bureau of Services Captain, or his/her designee, will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.

#### 418.3.1 ALPR ADMINISTRATOR

The Bureau of Services Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

### *Automated License Plate Readers (ALPRs)*

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- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **418.4 OPERATIONS**

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

##### **418.4.1 AUTHORIZED PURPOSES, COLLECTION, AND USE OF ALPR DATA**

Sworn peace officers with a need and right to know may utilize ALPR technology for the following reasons, but are not limited to:

- (a) Locate stolen, wanted, and subject of investigation vehicles.
- (b) Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement.
- (c) Locate witnesses and victims of violent crime.
- (d) Locate missing children and elderly individuals, including responding to Amber and Silver Alerts.

### *Automated License Plate Readers (ALPRs)*

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- (e) Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes.
- (f) Protect participants at local events.
- (g) Protect critical infrastructure sites.

#### **418.5 ALPR DATA COLLECTION AND RETENTION**

The City of San Leandro Information Technology division is responsible for ensuring the collection of ALPR data is transferred from department vehicles to the Northern California Regional Intelligence Center (NCRIC) server on an automatic basis, transferring immediately upon utilization of the system.

All data and images gathered by an ALPR are for the official use only, and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this NCRIC may be used and shared with prosecutors or others only as permitted by law.

All ALPR data downloaded to the NCRIC server shall be stored for one year (Government Code § 34090.6) and thereafter will be purged on the 366th day unless it has become, or it is reasonable to believe it will become evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the NCRIC server onto portable media and booked into evidence.

#### **418.6 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means by NCRIC. The San Leandro Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted by the ALPR Administrator on a quarterly basis.
- (d) The ALPR Administrator shall report any errors to NCRIC for correction.

#### **418.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:

### *Automated License Plate Readers (ALPRs)*

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1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **418.8 TRAINING**

The Professional Standards and Training Unit should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53). This training shall be consistent with the training outlined in the NCRIC ALPR Policy.

#### **418.9 NCRIC ALPR POLICY**

[NCRIC ALPR Policy](#)



CONSENT CALENDAR  
Nov. 30, 2021

***Public Safety Committee***

To: Honorable Mayor and Members of the City Council  
From: Councilmember Taplin, Councilmember Wengraf (co-sponsor)  
Subject: Crime Suppression Unit

RECOMMENDATION

Refer to the City Manager the establishment of a Crime Suppression Unit (CSU) in the Berkeley Police Department.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Establishing a Crime Suppression Unit is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

According to the City's 2020/First Half of 2021 Crime Report, there were:

- 40 confirmed shooting incidents in 2020 versus 28 in 2019.
- 38 confirmed shooting incidents in the first nine months of 2021 versus 26 incidents in the same timeframe in 2020.
- Auto Thefts increased 64% from 492 cases in 2019 to 805 in 2020. Auto Thefts increased 52% from 339 cases in 2020 to 514 during the same timeframe in 2021.
- Aggravated Assaults increased 20% in 2020, with 210 reports, compared to 175 in 2019. Aggravated Assaults decreased 13% in 2021, with 96 reports, compared to 111 in the same timeframe in 2020.
- Burglaries increased by 3% in 2020, with 797 reports as compared to 771 reports in 2019. Residential burglaries increased by 8% while commercial burglaries decreased by 7%.

While Part One Violent Crime decreased by 13% (81 crimes) and Part One Property Crimes decreased by 11% (738 crimes), the aforementioned categories of crimes saw marked increases.<sup>1</sup> Despite these trends, 87% of all reported uses of force in 2021 resulted in neither injury nor complaint of pain. From October 2020 to September 2021,

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/10\\_Oct/Documents/2021-10-19\\_Item\\_01\\_BPD\\_Annual\\_Report\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx)

searches conducted by BPD saw a 44.23% yield rate, recovering 135 weapons and 31 firearms.

According to the Berkeley Police Department, Berkeley had 34 accidental deaths in 2020, of which 10 were from fentanyl (29.4%) whereas in Alameda County there were 732 accidental deaths, of which 138 were from fentanyl (18.8%). These deaths do not include poly drug incidents where fentanyl was present with other drugs.

In October 2021, the Berkeley Police Department had 149 officers on the roster, not including officers out due to injury or other types of leave. This is a lower level than in 2017-2018, when the department experienced a “staffing crisis.”<sup>2</sup> In 2017, the Department was forced to disband its Special Enforcement Unit (known elsewhere as a Crime Suppression Unit) due to insufficient staffing.

## BACKGROUND

Contemporary proposals for police reform include best practices for law enforcement officers focused on solving crimes. The draft Reimagining Public Safety Final Report<sup>3</sup> includes the following description of the SARA model for Problem Oriented Policing (Scanning, Analysis, Response, Assessment):

*The Scanning, Analysis, Response, and Assessment (SARA) model was created in Virginia in 1987 to facilitate the problem-oriented policing procedure. The cornerstone of this model is a priority on outcomes; the model outlines four steps that are necessary for a proper police response to problems within their jurisdictions. To ensure proper implementation, a significant facet of this method is that officers must be ready to build trust between the community and the police department through the establishment of interpersonal relationships.*

*Scanning. This step consists of pinpointing and then triaging repeated issues that necessitate a response from the police department. Frequent problems that occur in the community are given priority. Relevant outcomes of the problem are matched to their corresponding cause. For example, examining which properties in a given area have the highest number of calls for service in a year or given time period is an important initial step in the SARA model.*

*Analysis. Here, law enforcement officers examine the root causes of the issue, community sentiment regarding the problem, and gather needed contextual data. This step also involves assessing the status quo response to the problem and identifying the shortcomings of that strategy. Ultimately, the cause of the problem and potential solutions are determined during this phase.*

*Response. Officers utilize collected data to ascertain potential intervention strategies. When determining strategies, a thorough review of implemented interventions in different areas with comparable issues is critical. Once a strategy is*

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<sup>2</sup> Raguso, E. (2021, Oct. 20). Officials vow to increase police staffing, with available officers at historic low. *Berkeleyside*. Retrieved Nov. 1, 2021 from <https://www.berkeleyside.org/2021/10/20/berkeley-police-staffing-increase-city-council-crime-report>.

<sup>3</sup> <https://berkeley-rps.org/wp-content/uploads/2021/10/New-and-Emerging-Report-10.29.21-FNL-2.0.pdf>



*selected, clear goals must also be established. Execution of the chosen plan is the last part of this step.*

*Assess. After a plan is implemented and officers have attempted to address a problem, the police department must analyze the efficacy of their strategy. Continued evaluation of the intervention is necessary to guarantee lasting success. Alternatives or additions to the strategy are considered as well.*

*Many police departments have incorporated the SARA model into their interventions. In San Diego, the police department reported that a trolley station was the location of gang fights, violent crimes, and narcotic activity. A squad of officers collected information to show the local transit board that the design of the station contributed to crime. Based on the information provided by the officers, the transit board agreed to provide funds to redesign the station.*

The Berkeley Police Department has a long history of targeting high-level crimes with a Special Investigations Bureau (SIB) and Special Enforcement Unit (SEU). The Special Investigations Bureau dates back to the early 1960s, when the unit was only staffed with 2 officers. The mission and goals of the Special Investigations Bureau has evolved over the years.

In the 1960s, the Special Investigations Bureau was responsible for coordinating investigations into gambling, prostitution, alcoholic beverage, and narcotic offenses that were prevalent in the community in that era. In 1968, the BPD Special Investigations Bureau logged over 2,000 narcotics arrests. This was a year that saw collaboration with the State Bureau of Narcotics Enforcement (Formerly known as Bureau of Narcotics Enforcement, which disbanded in 2012), and the Federal Bureau of Narcotics and Dangerous Drug Control (the predecessor agency to the Drug Enforcement Agency).

In the 1970s, the Special Investigations Bureau quantified their successes by the street value of narcotics seized. In the early 70's nearly every year the Bureau would seize roughly a million dollars in illicit narcotics. In 1983, Annual Crime Reports begin to highlight the growing presence of open-air drug markets with individuals congregated on street corners selling narcotics. In 1987 the Annual Report mentions the rapid increase in the use and sales of crack cocaine, most notably in South and West Berkeley. In April of 1987, the Berkeley Police Department's Drug Task Force (DTF) was created. During this time, nearly all of the actions taken by DTF were based on calls from citizens. The Special Investigations Bureau augmented DTF by serving over 110 search warrants. 1989, the department completed a reorganization, which now included the Special Enforcement Unit, which contained a SEU commander, Special Investigations Bureau which had a Sergeant and six detectives, a Narcotics Admin Unit which contained an Inspector (supervisor) and two detectives, and two DTF teams, both containing a Sergeant and six officers. This unit was fully staffed with 25 Berkeley Police Officers.

In the early 1990s, the SEU began to focus on drug "hot spots" wherein their approach was more narrowly focused. The Unit also now moved more towards a community-based response with the creation of the Citizens Against Rock Sales (C.A.R.S) which was a successful partnership with community members seeking an improved quality of

life. 1993 SEU members partnered with Community and Merchant Associations to help take back their communities, this included cleaning up the streets, and graffiti abatement. This effort helped mobilize and unify the community and police efforts to confront these challenging times.

In the 2000s, the Special Investigations Bureau (SIB) detectives began relying on confidential reliable informants to further narcotic investigations. By 2001, the SEU was staffed with one Lieutenant, one administrative Sergeant, three field Sergeants, and nine officers for a total of 14 BPD Officers, down from the 25 officers in 1989.

After 2010, the SEU further reduced staffing to a Lieutenant, one officer in Narcotics Admin, SIB Sergeant and three detectives, DTF Sergeant, and four officers for a total of 11 officers. During the next seven years, the SIB would continue to target the drug dealers, and work to disrupt the supply of narcotics that were feeding Berkeley drug users. However, detectives quickly adapted to the reality that drug dealers would often be involved in other crimes that would further exploit unsuspecting victims, often in various types of fraud. By 2015, the DTF only had one Sergeant and two officers, and the narcotics admin was staffed with one officer. Eventually the DTF was disbanded in 2016. In 2017 the last SIB Sergeant and two detectives were loaned to robbery, property crimes, and sex crimes as SIB was completely disbanded. After this, the entire SEU was no longer in existence. The Berkeley Police Department currently does not have staffing resources to conduct special investigations to address violent crime and drug trafficking as it did before, despite shootings and drug overdoses rising.

Pursuant to Article VII Section 28(c) of the Charter of the City of Berkeley, the City Manager has the authority to establish a Special Enforcement or Crime Suppression Unit in the Berkeley Police Department.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

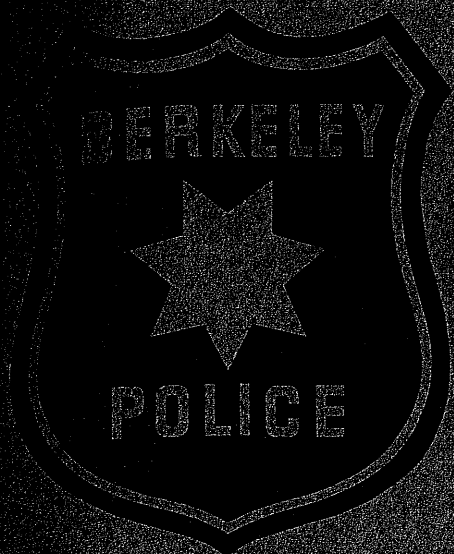
#### CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

#### Attachments:

1: Annual Reports from Berkeley Police Department





# ANNUAL REPORT



**1967**

**TABLE 4**  
**DISTRIBUTION OF PERSONNEL BY ACTIVITY**  
**AS OF DECEMBER 31st**  
**1963-1967**

|                               | 1963       |            | 1964       |            | 1965       |            | 1966       |            | 1967       |            |
|-------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
|                               | Authorized | Actual     | Authorized | Actual     | Authorized | Actual     | Authorized | Actual     | Authorized | Actual     |
| Chief of Police               | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          |
| Personnel & Training          | 3          | 3          | 3          | 3          | 4          | 4          | 4          | 4          | 6          | 6          |
| Community Relations           |            |            |            |            |            |            |            |            | 2          | 2          |
| Police Reserves               | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          |
| Trainees-Aides (1)            |            |            |            |            |            |            | 2          | 2          | 10         | 9          |
| Inspectors Bureau             | 14         | 14         | 14         | 14         | 16         | 14         | 17         | 16         | 17         | 17         |
| Juvenile Bureau               | 7          | 7          | 7          | 7          | 7          | 7          | 7          | 7          | 7          | 7          |
| Special Investigations Bureau | 2          | 2          | 2          | 2          | 2          | 2          | 2          | 2          | 2          | 2          |
| Patrol                        | 84         | 84         | 84         | 83         | 94         | 89         | 94         | 90         | 94         | 90         |
| Traffic                       | 8          | 8          | 8          | 8          | 8          | 8          | 8          | 9          | 8          | 8          |
| Warrant Bureau                | 3          | 2          | 3          | 3          | 5          | 5          | 6          | 6          | 7          | 7          |
| Report Transcription Bureau   |            |            |            |            |            |            |            |            | 6          | 6          |
| Animal Shelter                | 4          | 4          | 4          | 4          | 4          | 4          | 4          | 4          | 4          | 4          |
| Record Bureau                 | 26         | 26         | 26         | 26         | 26         | 26         | 28         | 25         | 28         | 28         |
| Identification Bureau         | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          | 1          |
| <b>TOTAL</b>                  | <b>155</b> | <b>154</b> | <b>155</b> | <b>154</b> | <b>170</b> | <b>163</b> | <b>176</b> | <b>169</b> | <b>193</b> | <b>188</b> |

(1) These are career-oriented civilian positions. Each works half time.

**TABLE 5**  
**APPOINTMENTS, RESIGNATIONS, RETIREMENTS, MILITARY LEAVES**  
**1963 - 1967**  
**(Civilian Personnel Excluded)**

|                            | 1963 | 1964 | 1965 | 1966 | 1967 |
|----------------------------|------|------|------|------|------|
| Appointed and Reinstated   | 26   | 17   | 27   | 29   | 27   |
| Resigned                   | 15   | 15   | 15   | 17   | 15   |
| Retired                    | 0    | 3    | 3    | 8    | 5    |
| On Extended Military Leave | 1    | 1    | 1    | 1    | 1    |
| On Pension                 | 37   | 38   | 40   | 47   | 48   |
| Died                       | 0    | 0    | 1    | 0    | 1    |



# ANNUAL REPORT



**1968**

## DETECTIVE DIVISION

The Detective Division's complement of 27 sworn members and 3 civilians is divided into three main bureaus: The Inspectors Bureau, the Special Investigations Bureau and the Juvenile Bureau.

### Inspectors Bureau

The Inspectors Bureau is comprised of experienced specialists who coordinate felony investigations and provide expert assistance to beat officers in a variety of criminal matters. The Inspectors also maintain liaison with other law enforcement agencies on all levels and provide warning bulletins to Patrol Division officers and local merchants.

Since criminal investigation in the Berkeley Police Department is a team effort between several divisions, separate statistics are not maintained by the Inspectors Bureau. However, it has become obvious that the increase in major crime during the past few years has had a dramatic effect on the workload of the various details. An example of this increase was the sharp rise in arsons and bombings in the area during 1968 which forced the division into originating a new detail to coordinate these specialized investigations.

### Special Investigations Bureau

The Special Investigations Bureau is responsible for coordinating all investigations involving gambling, prostitution, alcoholic beverage and narcotic violations. Because of the continuing local problem with the latter crimes, most of the unit's time was devoted to narcotic enforcement.

The situation is vividly illustrated by the 2,069 narcotics arrests recorded in 1968, an increase of 94% over the 1,059 arrests for similar crimes in 1967.

We should acknowledge the excellent cooperation and support we received during the year from the State Bureau of Narcotics Enforcement and the Federal Bureau of Narcotics and Dangerous Drug Control. Without the assistance of these two agencies, our personnel would have been unable to efficiently handle the increased volume.

### Juvenile Bureau

The Juvenile Bureau handles the disposition of juvenile offenders, develops community programs, acts as liaison with the Juvenile Court and Juvenile Probation Department, and works closely with the schools and other public and private agencies who are concerned with youth.

There were 3,818 juveniles processed during the year; an increase of 25% over 1967. Narcotics-related offenses and runaways showed the largest increases.

The investigation of major crime during the year resulted in the arrest of 2,567 persons. Of these, 1,344 or 52.4% were juveniles.

**berkeley  
police  
annual  
report  
1970**



departmental orders; maintaining cooperative relationships with other agencies concerned with juvenile matters; presentation of cases in Juvenile Court; coordination with other divisions of the Department working with juvenile cases; providing individual treatment in the disposition of juvenile offenders; the care and custody of women prisoners; providing adequate consultation services in certain cases involving women and girls; and the investigation of applicants for juvenile dance permits.

Because of the large numbers of crime problems occurring in Berkeley associated with the numerous transient juveniles who come to our attention, a department-wide effort was made during the summer months to return runaways migrating to this City. During 1970, 1,198 runaway youths were apprehended in Berkeley with 498, 41.6%, apprehended during the summer months. An additional 323 juveniles who were determined not to be runaways were apprehended and returned home at the request of their parents.

Juvenile narcotic arrests have decreased 33.2% from 1969. For the first time in 10 years the number of juvenile offenders has decreased. The number of juveniles apprehended increased progressively from 1,693 in 1961 to 4,582 in 1969. In 1970 the number decreased to 4,521.

Members of the Juvenile Bureau are active in many city, county and state committees having mutual interest in the problems of youth. Working closely with the Community Relations Bureau, they participate in the school program in which each school in the City is assigned a visiting officer. The two Bureaus have also conducted numerous field and camping trips for children of Berkeley. (These trips were totally staffed and financed by members of the Police Department.)

**SPECIAL INVESTIGATIONS BUREAU:** The Special Investigations Bureau is supervised by a Director with the working rank of Inspector, who is responsible to the Captain of Detectives. He is assisted by three patrolmen.

This Bureau is charged with the responsibility of controlling vice, including narcotics, prostitution, gambling and liquor laws, and the development of information which will lead to the successful prosecution of offenses in these categories.

Narcotic and dangerous drug offenses decreased from 2,994 in 1969 to 1,978 in 1970. The Special Investigations Bureau worked in close cooperation with the State Bureau of Narcotics Enforcement and the Federal Bureau of Narcotic and Dangerous Drug Control. This combined effort resulted in the confiscation of 61 grams of peyote, 244 grams of heroin, 715 grams of cocaine, 813,568 grams of marijuana, 11,701 grams of hashish, 185,485 units of LSD and 7.603 units of dangerous drugs, having an estimated street value \$1,534,586. In addition, several laboratories were seized and major dealers and suppliers arrested.

The Special Investigations Bureau also participated with allied agencies in investigations which terminated outside the City of Berkeley. One example was during the month of October when arrests of persons responsible for a large statewide operation resulted in the seizure of \$4,000,000 worth of drugs.

The amount of narcotics confiscated, the laboratories closed and the arrest of major dealers and suppliers have been contributing factors to the decrease in narcotic and dangerous drug offenses in the City of Berkeley in 1970.

PRESS OFFICER: During the year of 1970, a Departmental Press Officer was assigned to the Detective Division. He is responsible for maintaining liaison with, and providing information for, the news media pertaining to Police Department investigations and activities.

**BERKELEY  
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ANNUAL  
REPORT  
1971**

The incidence of burglary in 1971 is also of major concern. A record 3,005 residential and 1,142 commercial burglaries were processed by the Burglary Detail. The City Planning Department indicates that there was a total of 47,771 housing units in the City. These figures indicate that one out of every 16 housing units in the City was victim of burglary during 1971.

### JUVENILE BUREAU

The functions of the Juvenile Bureau include the review, evaluation and disposition of all cases involving juvenile offenders; the planning and implementation of juvenile delinquency prevention programs; liaison and coordination with other agencies engaged in the juvenile justice system; the care and custody of women prisoners; the counseling and supervision of youthful offenders, and assistance to and cooperation with other organizations concerned with the welfare of juveniles.

The declining trend of incidents involving juvenile offenders noted initially in 1970 continued through 1971, resulting in a reduction of 14% over the previous year. It is also encouraging to note that the number of juvenile drug offenders decreased most markedly.

Of considerable influence to the trend noted above was the Police-Teacher Summer Delinquency Program, an effort made possible by a Law Enforcement Administration grant administered through the California Council on Criminal Justice.

This 11-week program utilized the services of six Berkeley schoolteachers working as juvenile service assistants under the direction of the Juvenile Bureau. The objective of the program was to prevent delinquent behavior and juvenile recidivism. The juvenile service assistants visited juveniles in recreational settings, counseled youngsters who had been apprehended on minor offenses, arbitrated neighborhood problems involving community youth, and assisted in the disposition of juvenile offenders, including parental contact and counseling.

In addition to the Juvenile Service Assistant Program, a two-man uniformed school patrol was reinstated in December, 1971. The two-man detail brings the police officer closer to the youth of the community by making frequent and positive contacts with young people on or in the vicinity of school campuses.

### SPECIAL INVESTIGATIONS BUREAU

This bureau is charged with investigating violations of narcotic, prostitution, gambling and liquor laws, and the development of information which will lead to the successful prosecution of offenses in those categories.

Narcotic and dangerous drug offenses decreased from 1,978 in 1970 to 1,554 in 1971. However, with the exception of marijuana and hashish, volume seizures of narcotics and dangerous drugs increased in all categories. Working in close cooperation with

the State Bureau of Narcotics Enforcement, the Federal Bureau of Narcotics and Dangerous Drugs, and the Bureau of Customs the Special Investigations Bureau confiscated, in street value, approximately \$1,290,120 in narcotics and dangerous drugs during 1971. The quantity seized in 1971 compared to 1970 is as follows:

| <u>Drug</u> | <u>1971</u>   | <u>1970</u>   |
|-------------|---------------|---------------|
| Peyote      | 28,302 grams  | 61 grams      |
| Heroin      | 1,293 grams   | 244 grams     |
| Cocaine     | 956 grams     | 715 grams     |
| LSD         | 335,822 units | 185,485 units |

In addition to the seizures, several manufacturing laboratories were closed, and a number of major dealers and suppliers were arrested and successfully prosecuted.

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1972**

The Juvenile Bureau established a program which offered more than one thousand young offenders the opportunity of having their juvenile record destroyed. The bureau's files were searched for those juveniles who had been taken into custody on only one occasion for an offense which was disposed of in an informal manner. The parents of these young people were then sent letters which informed them that their child's police record would be destroyed in its entirety upon their request. As a result, 1242 letters were mailed to parents and a total of 441 juveniles had their police records destroyed. This procedure was later altered so that a first offender, who had his case disposed of informally, will have his record destroyed automatically at the end of one year without request of the parent if there are no additional offenses.

Special Investigations Bureau

The Special Investigations Bureau is charged with investigating violations of laws concerning narcotics, prostitution, gambling and liquor as well as the development of information which will lead to the successful prosecution of offenses in these categories.

Although there was a decrease of total cases in all categories, in the area of narcotics and dangerous drugs there was a marked increase in the amount of hard narcotics seized.

It is the Special Investigations Bureau's goal to identify, arrest and prosecute the major suppliers of narcotics as opposed to the street dealers. The manifestation of this strategy is borne out by the increase in the amount of narcotics and drugs seized as indicated in the charts below.

COMPARATIVE REPORT  
VOLUME SEIZED  
NARCOTICS

| <u>Year</u> | <u>Heroin<br/>grams</u> | <u>Cocaine<br/>grams</u> | <u>Marijuana<br/>pounds</u> | <u>Hasish<br/>grams</u> | <u>L.S.D.<br/>units</u> | <u>Dang.<br/>Drugs<br/>Units</u> |
|-------------|-------------------------|--------------------------|-----------------------------|-------------------------|-------------------------|----------------------------------|
| 1970        | 244.00                  | 715.00                   | 1,792.33                    | 11,701.80               | 185,485.00              | 7,603.00                         |
| 1971        | 1,293.00                | 956.70                   | 613.00                      | 8,866.50                | 335,822.00              | 9,175.00                         |
| 1972        | 3,867.50                | 2,191.30                 | 981.33                      | 8,302.50                | 238,195.00              | 11,610.00                        |

COMPARATIVE REPORT  
STREET VALUE  
NARCOTICS

| <u>1970</u>    | <u>1971</u>  | <u>1972</u>    |
|----------------|--------------|----------------|
| \$1,100,432.40 | \$895,798.80 | \$1,024,359.70 |

2

BERKELEY

POLICE

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1973**



between apprehension and adjudication, the full effect of our burglary control activities may not be fully realized until calendar year 1974.

As the program developed, public awareness and home security activities became points of major emphasis. Initial efforts focused on providing project publicity through the news media and on conducting community workshops. During the year, Crime-Specific Bureau officers attended forty such meetings throughout the City to discuss specific burglary problems as well as general security measures with residents. Officers displayed various security devices obtained from lock distributors, distributed crime prevention literature, and showed an excellent burglary prevention film titled "Invitations to Burglary."

Using grant resources, the department's Operation Identification program was expanded significantly during the summer months. Ten college students were employed to canvass high burglary areas door-to-door, engraving valuables, distributing security literature and providing window decals. During the three-month period, 2,989 homes received this service. One student was retained to continue the program through June 1974. Significantly, several local insurance groups announced premium reductions to home-owners enrolled in the Operation Identification program.

A public information display, purchased through grant funds, was installed opposite the public counter of the Hall of Justice. Located in an area frequented daily by the public, the exhibit is stocked with displays of home and small business security devices, public awareness hand-outs and Operation Identification information. The display emphasizes the relative ease with which the above crime prevention measures can be employed.

The "Good Neighborhood Program," a citizen awareness project initiated and operated by a local community group, was introduced in Berkeley during the summer of 1973. The program seeks to bring neighbors together in an effort to protect their communities from crime. While not sponsoring the Good Neighborhood Program directly, the department strongly endorses its efforts. Through the Crime-Specific grant funds, extensive promotional literature and home security materials have been provided to the program and officers have, upon request, made numerous appearances at Good Neighborhood block meetings.

The goal of the Special Investigations Bureau, within the Crime-Specific Bureau, is to identify, arrest and prosecute the major suppliers of narcotics as a means of diminishing both the narcotic traffic in this community and the frequency of drug related burglaries. Evidence of their success in arresting major suppliers and seizing large amounts of hard narcotics is shown in the comparative charts on page 25.

COMPARATIVE REPORT  
VOLUME SEIZED  
NARCOTICS

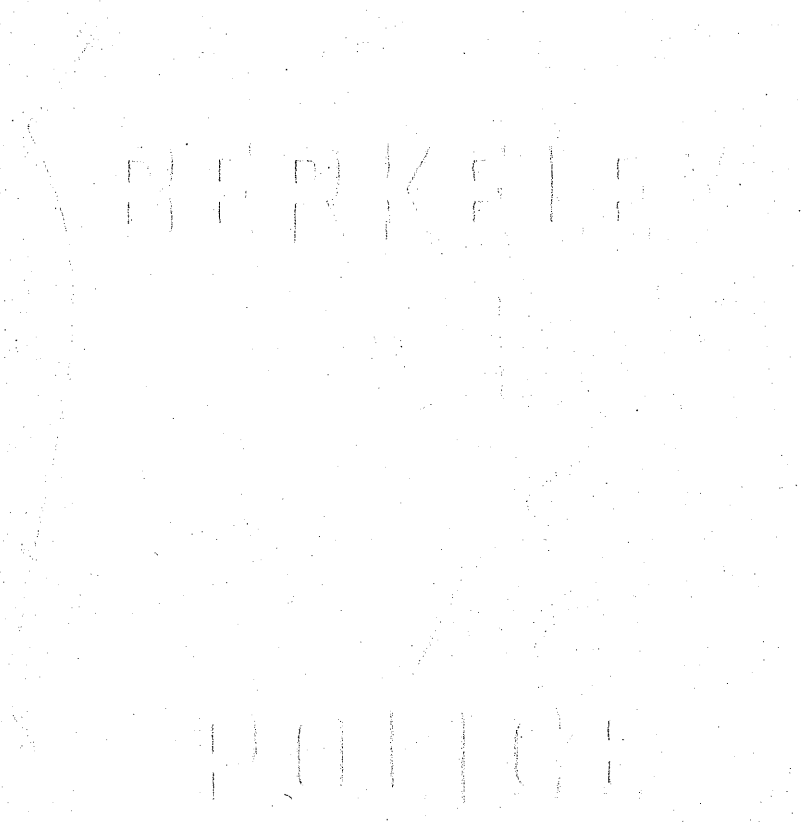
| Year | Heroin<br>grams | Cocaine<br>grams | Marijuana<br>pounds | Hashish<br>grams | L.S.D.<br>units | Dang. Drugs<br>units |
|------|-----------------|------------------|---------------------|------------------|-----------------|----------------------|
| 1971 | 1,293.00        | 956.70           | 613.00              | 8,866.50         | 335,822.00      | 9,175.00             |
| 1972 | 3,867.50        | 1,293.00         | 981.33              | 8,302.50         | 238,195.00      | 11,610.00            |
| 1973 | 5,265.10        | 3,509.20         | 98.30               | 125.76           | 65,563.00       | 6,810.00             |

COMPARATIVE REPORT  
STREET VALUE  
NARCOTICS

|                 | 1971         | 1972         | 1973         |
|-----------------|--------------|--------------|--------------|
| Heroin          | \$ 51,712.00 | \$154,700.00 | \$210,604.00 |
| Cocaine         | 47,835.00    | 109,565.00   | 175,460.00   |
| Methadrine      | -0-          | -0-          | 3,967.50     |
| L.S.D.          | 503,733.00   | 357,292.50   | 98,344.50    |
| Dangerous Drugs | 2,293.00     | 2,902.50     | 2,476.25     |
| Marijuana       | 191,520.00   | 314,025.60   | 31,452.00    |
| Hashish         | 44,332.50    | 41,512.50    | 628.80       |
| Peyote          | 11,320.80    | 203.20       | 78.40        |

It is hoped that through vigorous investigation of burglary involvement by arrested narcotics users and equally vigorous investigations of narcotics involvement by arrested burglars and persons possessing stolen property, a reduction can be made in the incident rate of these distinct but interrelated types of offenses.

When the Federal funding for this program expires on June 30, 1974, this unit will not be disbanded back into its separate parts. Rather, because of its success, it will become a Bureau within the Detective Division. Next year's annual report will reflect the Detective Division as being comprised of three Bureaus which will be the Inspectors Bureau, the Juvenile Bureau and the Crime-Specific Bureau.



**BERKELEY  
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1974**

Special Investigations Bureau

The Special Investigations Bureau investigates violations involving illicit drug activity, prostitution, gambling, and liquor laws.

Nineteen seventy four was the most productive year in the history of the Bureau. Nearly 100 per cent of the Bureau's efforts were directed towards conducting narcotics and dangerous drug investigations involving major suppliers. Financial assistance was provided by the Federal Drug Enforcement Administration Task Force. The conviction rate for sales cases was 100 per cent: 16 major narcotics and dangerous drug suppliers were convicted and sentenced to the Department of Corrections. In contrast, during 1973, no narcotic or dangerous drug dealer was committed to the Department of Corrections.

The Special Investigations Bureau goal in 1974 was to identify, arrest and prosecute the major suppliers of hard narcotics and dangerous drugs as opposed to the small street dealers. The following charts fully show that the goal was achieved.

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED IN 1974

| <u>Year</u> | <u>Heroin<br/>grams</u> | <u>Cocaine<br/>grams</u> | <u>Mari-<br/>juana<br/>pounds</u> | <u>Hashish<br/>grams</u> | <u>LSD<br/>units</u> | <u>Dangerous<br/>Drugs<br/>units</u> |
|-------------|-------------------------|--------------------------|-----------------------------------|--------------------------|----------------------|--------------------------------------|
| 1972        | 3,867.50                | 2,191.30                 | 981.33                            | 8,302.50                 | 238,195.00           | 11,610.00                            |
| 1973        | 5,265.10                | 3,509.20                 | 98.28                             | 125.70                   | 65,563.00            | 6,810.00                             |
| 1974        | 22,245.70               | 13,007.00                | 56.73                             | 256.60                   | 32,731.00            | 62,716.00                            |

STREET VALUE OF NARCOTICS AND DANGEROUS DRUGS SEIZED

| <u>1972</u>  | <u>1973</u>  | <u>1974</u>    |
|--------------|--------------|----------------|
| \$980,952.10 | \$522,257.30 | \$1,626,567.00 |

**BERKELEY  
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1975**



The Press Officer, also a member of the Inspectors Bureau, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the Police Department.

During 1975 the primary effort of the Inspectors Bureau was to provide maximum emphasis upon investigations of violent crimes against persons; i.e., homicide, aggravated assault, rape and robbery, and burglary. These are the "High Fear Crimes" which have shown an 18% increase over the past five years (1971 through 1975). While robbery offenses increased only 5% during 1975, homicide (up 30%), rape (up 36%), aggravated assault (up 24%), rose dramatically. Only burglary, the most commonly reported offense, dropped and this reduction was only 2%.

Special Investigations Bureau

The Special Investigations Bureau investigates violations involving illicit drug activity, prostitution, gambling, and liquor laws.

The main thrust of the Special Investigations Bureau in 1975 was to identify, arrest and prosecute major suppliers of narcotics and dangerous drugs. The elimination of the Federal Drug Enforcement Administration Task Force in Spring, 1975, dealt a crippling blow to this program when our major source of "buy money" was all but eliminated. Even with the obstacle, the following charts reflect the fine work done by this Bureau.

| Year | Heroin<br>grams | Cocaine<br>grams | Mari-<br>juana<br>pounds | Hashish<br>grams | LSD<br>units | Dangerous<br>Drugs<br>units |
|------|-----------------|------------------|--------------------------|------------------|--------------|-----------------------------|
| 1972 | 3,867.50        | 2,191.30         | 981.33                   | 8,302.50         | 238,195.00   | 11,610.00                   |
| 1973 | 5,265.10        | 3,509.20         | 98.28                    | 125.70           | 65,563.00    | 6,810.00                    |
| 1974 | 22,245.70       | 13,007.00        | 56.73                    | 256.60           | 32,731.00    | 62,716.00                   |
| 1975 | 14,586.24       | 12,798.30        | 376.75                   | 80.20            | 9,044.00     | 4,851.00                    |

| 1972         | 1973         | 1974           | 1975           |
|--------------|--------------|----------------|----------------|
| \$980,952.10 | \$522,257.30 | \$1,626,567.00 | \$1,180,032.00 |

A problem new to Berkeley appeared along University Avenue in 1975. Prostitutes in varying numbers began to ply their trade. Acting upon complaints of citizens and neighborhood groups, the Special Investigations Bureau vigorously began to enforce the prostitution laws. Through their efforts, coupled with the assistance of Patrol Division officers assigned to the area, and with the cooperation of local residents and merchants, the problem has been reduced substantially.

### Juvenile Bureau

The Juvenile Bureau is responsible for review, evaluation and departmental disposition of all juvenile offenders; innovating, planning, and implementing delinquency programs; coordination and liaison with other agencies involved in juvenile justice process, counseling and supervision of youthful offenders, coordination of activities involving the Big Brother, Big Sister and Firefighter Big Brother Programs, and providing assistance to and cooperating with other organizations working in behalf of youth.

Juvenile arrests increased by 2.7% over 1974. Of the 1,558 individuals involved in 2,063 arrests, 566 or 36.3% were non-residents.

Diversion of juveniles from the justice system continued to be Bureau policy. During 1975, 960 youths were diverted into local programs or were given other non-judicial dispositions as compared to the 879 youths diverted during 1974. Of these, 700 were first-time offenders.

Diversion activities involving Berkeley youths and administered by the Bureau during 1975 included overnight camping trips to the Golden Gate National Recreation Area, the Ice Follies, Angel Island picnics, the Nutcracker Ballet, a three-day camping trip in the Santa Cruz Mountains, the Junior Grand National Rodeo and a rafting trip on the Stanislaus River.

Juvenile Bureau personnel attended training sessions dealing with the diagnosis, classification and treatment of juveniles; learning disabilities and delinquent behavior; legal problems in law enforcement; and a seminar presented by the Psychotherapy Institute dealing with long-term counseling for troubled persons.

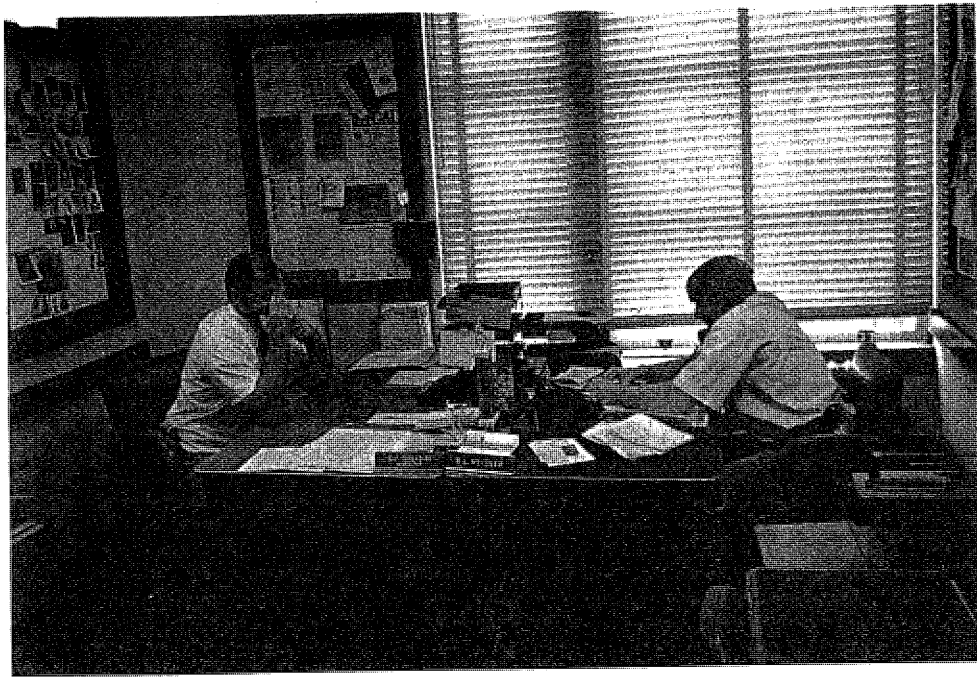




*Sgt. Galt*



**BERKELEY POLICE  
ANNUAL REPORT  
1976**



stolen property investigations; the Theft Detail, responsible for grand theft, bunco and fraud investigations and the inspection of second-hand establishments; the Auto Detail, responsible for the investigation of vehicle theft, auto burglary, thefts from vehicles, and felony offenses involving drunk driving and hit-run driving; the Forgery Detail, responsible for investigation and case preparation in matters of forgery, bad checks and counterfeiting, and credit card offenses; the Fugitive Detail, responsible for the service of felony warrants, escape and jail breaking investigations, parole violations and extraditions; and the General Works Detail, responsible for arson, organized crime investigations and investigations involving explosive devices.

The Press Officer, also a member of the Inspectors Bureau, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the Police Department.

The Special Investigations Bureau is responsible for the investigation of violations involving illicit drug activity, prostitution, and gambling and liquor laws.

For the past several years, the main emphasis of the Special Investigations Bureau has been in the identification and arrest of major

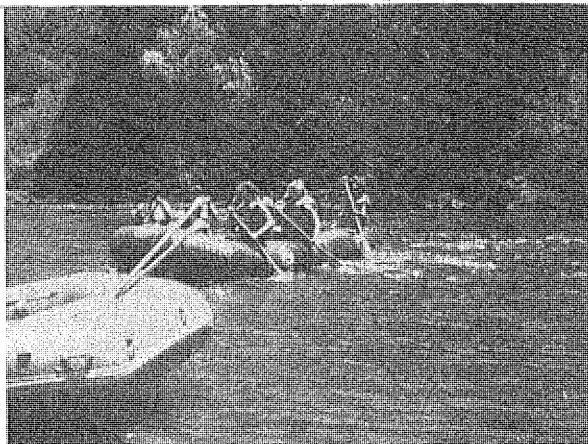
narcotics dealers. The elimination of the Federal Drug Enforcement Administration's Task Force in 1975 served to change the emphasis of the Bureau's enforcement effort from one involving "buy programs" to one where the service of search warrants is more readily utilized. The latter enforcement tool does not require an extensive financial base to operate, but likewise it is not as effective. This is clearly reflected in the volume of narcotics seized over the past several years.

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED  
1973 THROUGH 1976

| Year | Heroin<br>Grams | Cocaine<br>Grams | Mari-<br>juana<br>Pounds | Hashish | LSD<br>Units | Dangerous<br>Drugs<br>Units |
|------|-----------------|------------------|--------------------------|---------|--------------|-----------------------------|
| 1973 | 5,265.10        | 3,509.20         | 98.28                    | 125.70  | 65,563.00    | 6,810.00                    |
| 1974 | 22,245.70       | 13,007.00        | 56.73                    | 256.60  | 32,731.00    | 62,716.00                   |
| 1975 | 14,586.24       | 12,798.30        | 376.75                   | 80.20   | 9,044.00     | 4,851.00                    |
| 1976 | 4,012.10        | 2,899.40         | 144.10                   | 836.90  | 4,656.00     | 31,919.00                   |

Prostitution related activity was another area of enforcement receiving increased attention during 1976. During the past eighteen months the lower section of University Avenue has established itself as a "Prostitution Strip." Enforcement efforts have been enhanced as personnel considerations allowed. The enforcement effort is clearly reflected in the arrest statistics over the past several years.

| Year | Persons Arrested | Offenses |
|------|------------------|----------|
| 1974 | 10               | 16       |
| 1975 | 17               | 39       |
| 1976 | 248              | 372      |



The Juvenile Bureau is responsible for review, evaluation and departmental disposition of all juvenile offenders; innovating, planning and implementing delinquency programs; coordination and liaison with other agencies involved in the juvenile justice process, counseling and supervision of youthful offenders, coordination of activities

# BERKELEY POLICE DEPARTMENT



## ANNUAL REPORT 1977

The Press Officer, also a member of the Inspectors Bureau, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the Police Department.

The Special Investigations Bureau is responsible for investigation of violations involving illicit drug activity, prostitution, gambling and liquor laws.

Over the years the main emphasis of the Special Investigations Bureau has been in the identification and arrest of major narcotics dealers. However, in late 1976 and in all of 1977 the main emphasis had to be diverted to enforcement of laws relating to prostitution. The diversion of emphasis is clearly reflected in the volume of narcotics and dangerous drugs seized over the past three years.

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED  
1975 THROUGH 1977

| Year | Heroin<br>Grams | Cocaine<br>Grams | Mari-<br>juana<br>Pounds | Hashish<br>Grams | LSD<br>Units | Dangerous<br>Drugs<br>Units |
|------|-----------------|------------------|--------------------------|------------------|--------------|-----------------------------|
| 1975 | 14,586.24       | 12,798.30        | 376.75                   | 80.20            | 9,044.00     | 4,851.00                    |
| 1976 | 4,012.10        | 2,899.40         | 144.10                   | 836.90           | 4,656.00     | 31,919.00                   |
| 1977 | 393.30          | 2,064.00         | 32.44                    | 239.00           | 14,457.00    | 1,192.00                    |

Street prostitution along the lower section of University Avenue became a major concern of the Police Department and community groups and resulted in an almost total commitment by the Special Investigations Bureau to the problem. Special Investigations Bureau personnel made a total of 400 separate arrests for soliciting there in 1977, but arrests alone were not enough to stop the influx of prostitutes. Substantial deterrence was provided by uniformed officers assigned to walk in the area and by citizen groups which also walked in the area seeking to prevent "customers" and solicitors from conversing. Major assistance in abating the problem was provided by the Berkeley-Albany Municipal Court which speedily processed the arrests and dealt with the persons found guilty. By the end of the year the problem was eliminated. The increase in prostitution is clearly seen in a review of arrest statistics covering the past three years.

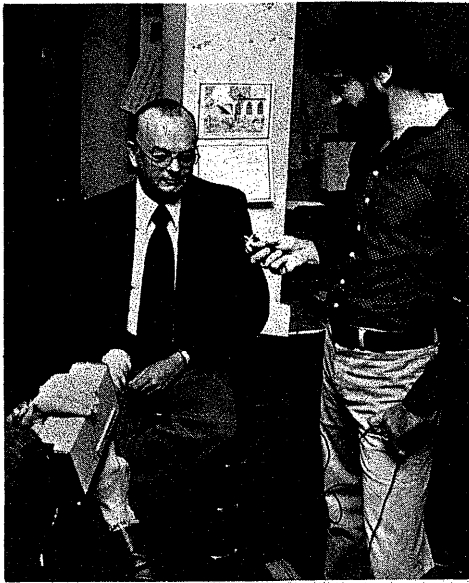
| Year | Persons Arrested<br>For Soliciting | Offenses<br>Charged |
|------|------------------------------------|---------------------|
| 1975 | 17                                 | 39                  |
| 1976 | 248                                | 372                 |
| 1977 | 400                                | 616                 |

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# BERKELEY POLICE DEPARTMENT

## ANNUAL REPORT 1978

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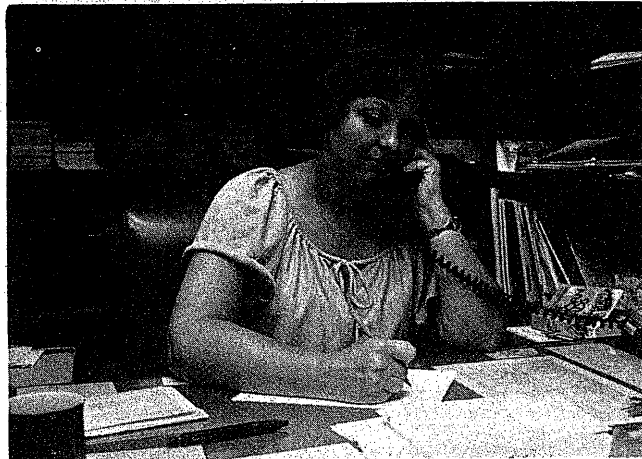


The Press Officer, also a member of the Inspectors Bureau, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the Police Department.

Several organizational changes occurred during the year. The Lieutenant assigned as the Director of the Juvenile Bureau was transferred in July to the newly established Communications Bureau of the Service Division. In July the Fugitive Detail was transferred to the Service Division and combined with the Warrant Bureau.

In April a woman officer was assigned as the Departmental Coordinator of Victim Services and Domestic Violence investigations. In addition this person serves as liaison to a number of community agencies.

The Special Investigations Bureau is responsible for investigation of violations involving illicit drug activity, prostitution, gambling and liquor laws.



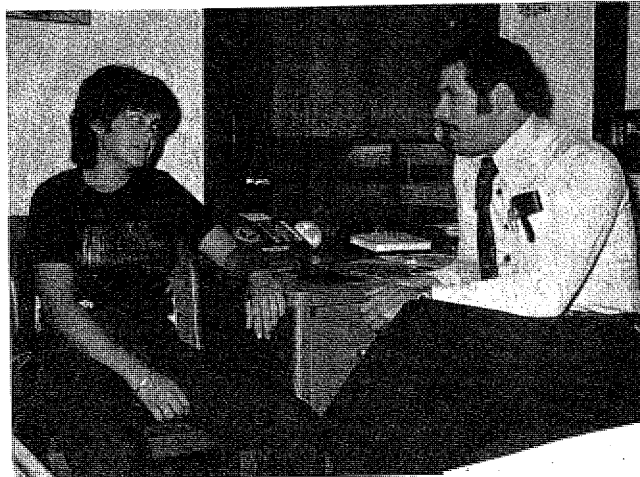
The attention given to street prostitution along lower University Avenue in 1977 continued this past year; however, there was a dramatic decrease in the number of prostitution arrests made. The continued cooperation of the Berkeley-Albany Municipal Court was a contributing factor in this reduction.

| <u>YEAR</u> | <u>PERSONS ARRESTED FOR SOLICITING</u> | <u>OFFENSES CHARGED</u> |
|-------------|----------------------------------------|-------------------------|
| 1976        | 248                                    | 372                     |
| 1977        | 400                                    | 616                     |
| 1978        | 60                                     | 114                     |

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED  
1976 THROUGH 1978

| Year | Heroin Grams | Cocaine Grams | Marijuana Pounds | Hashish Grams | LSD Units | Dangerous Drugs Units |
|------|--------------|---------------|------------------|---------------|-----------|-----------------------|
| 1976 | 4,012.10     | 2,899.40      | 144.10           | 836.90        | 4,656.00  | 31,919.00             |
| 1977 | 393.30       | 2,064.00      | 32.44            | 239.00        | 1,445.00  | 1,192.00              |
| 1978 | 4,480.00     | 157.00        | 29.18            | 519.00        | 80,173.00 | 258.00                |

The Juvenile Bureau is responsible for the review, evaluation and Departmental disposition of all juvenile offenders; innovating, planning and implementing delinquency prevention programs; liaison and coordination with other agencies involved in the juvenile justice process; counseling and supervision of youthful offenders; and providing assistance to and cooperating with other organizations working in behalf of youth.



During 1978 juvenile arrests totaled 1,553 offenders, down 3.9% from the previous year. Rather dramatic decreases were noted in the area of arrests for burglary, sexual offenses and narcotic related offenses, with some increase in the arrest statistics in the areas of assaults, petty theft and auto theft.

Diversion of juveniles from the juvenile justice system continued to be a high priority for Bureau personnel. Of the 1,553 youngsters referred to the Juvenile Bureau through police contacts, 47% were diverted into Departmental or community programs as an alternative to being placed in the juvenile justice system. Such referrals to community agencies generally provide for direct and more productive involvement with the problems that confront youngsters and contribute to their criminality.





# BERKELEY POLICE DEPARTMENT



## ANNUAL REPORT 1979

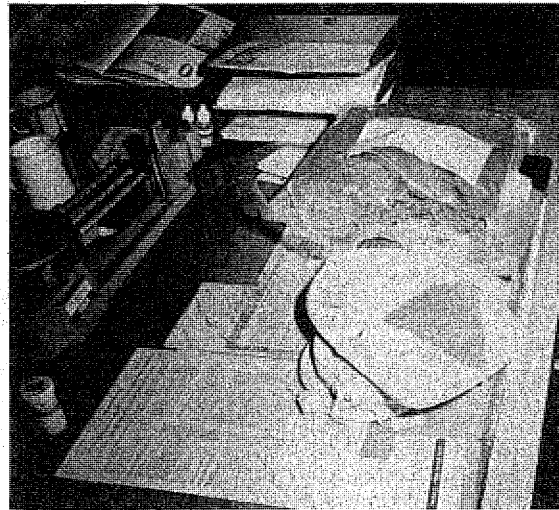
matters of forgery, bad checks and counterfeiting, and credit card offenses; and the General Works Detail, responsible for arson, escape and jail breaking investigations, organized crime investigations, and investigations involving explosive devices.



The Press Officer, also a member of the Inspectors Bureau, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the Police Department.

The Special Investigations Bureau is responsible for investigation of violations involving illicit drug activity, prostitution, gambling and liquor laws.

The attention given to street prostitutes along lower University Avenue continued this past year, and the dramatic decrease in the number of prostitution arrests noted last year also continued through 1979. The close cooperation of the Berkeley-Albany Municipal Court was a contributing factor in this reduction.



| <u>YEAR</u> | <u>PERSONS ARRESTED FOR SOLICITING</u> | <u>OFFENSES CHARGED</u> |
|-------------|----------------------------------------|-------------------------|
| 1976        | 248                                    | 372                     |
| 1977        | 400                                    | 616                     |
| 1978        | 60                                     | 114                     |
| 1979        | 71                                     | 123                     |

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED  
1976 THROUGH 1978

| <u>Year</u> | <u>Heroin Grams</u> | <u>Cocaine Grams</u> | <u>Marijuana Pounds</u> | <u>Hashish Grams</u> | <u>LSD Units</u> | <u>Dangerous Drugs Units</u> |
|-------------|---------------------|----------------------|-------------------------|----------------------|------------------|------------------------------|
| 1976        | 4,012.10            | 2,899.40             | 144.10                  | 836.90               | 4,656.00         | 31,919.00                    |
| 1977        | 393.30              | 2,064.00             | 32.44                   | 239.00               | 1,445.00         | 1,192.00                     |
| 1978        | 4,480.00            | 157.00               | 29.18                   | 519.00               | 80,173.00        | 258.00                       |
| 1979        | 491.40              | 414.50               | 249.18                  | 816.00               | 29,729.00        | 497.00                       |

The Juvenile Bureau is responsible for the review, evaluation and Departmental disposition of all juvenile offenders; innovation, planning and implementing delinquency prevention programs; liaison and coordination with other agencies involved in the juvenile justice process; counselling and supervision of youthful offenders; and providing assistance to and cooperating with other organizations working in behalf of youth.



# **BERKELEY POLICE DEPARTMENT**



## **ANNUAL REPORT 1980**

chant's Warning Bulletin; Property Crimes Detail, responsible for burglary, grand theft (except auto and bunco), stolen property, arson, bombs and explosives, public auctions and rummage sales, and assistance and relief to other Detective Division Details; and the Misdemeanor Detail, responsible for all misdemeanor crimes except where otherwise delineated, and auto burglary.

The Crime Prevention Detail works in conjunction with the Press/Crime Analysis Officer. This combined unit, which reports directly to the Captain of the Detective Division, maintains liaison with and provides information to the news media regarding police investigations and other functions and programs of the police department and is responsible for the preparation of the Crime Analysis Bulletin.

The Special Investigation Bureau is responsible for investigation of violations involving illicit drug activity, prostitution, gambling and liquor laws.

The attention given to street prostitutes along lower University Avenue continued this past year, and the dramatic decrease in the number of prostitution arrests noted last year also continued through 1980. The close cooperation of the Berkeley-Albany Municipal Court was a contributing factor in this reduction.

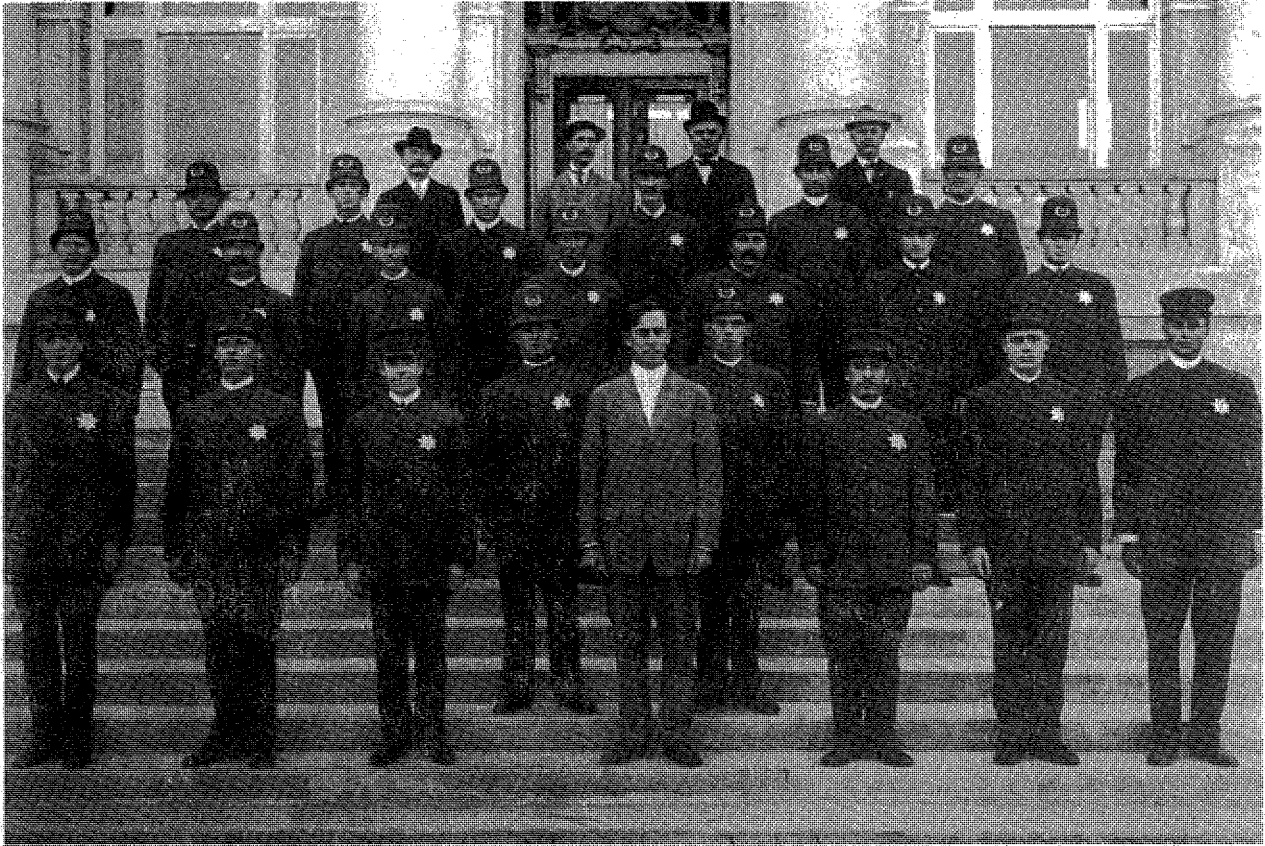
| <u>YEAR</u> | <u>PERSONS ARRESTED FOR SOLICITING</u> | <u>OFFENSES CHARGED</u> |
|-------------|----------------------------------------|-------------------------|
| 1976        | 248                                    | 372                     |
| 1977        | 400                                    | 616                     |
| 1978        | 60                                     | 114                     |
| 1979        | 71                                     | 123                     |
| 1980        | 44                                     | 75                      |

VOLUME OF NARCOTICS AND DANGEROUS DRUGS SEIZED  
1976 THROUGH 1980

| <u>Year</u> | <u>Heroin Grams</u> | <u>Cocaine Grams</u> | <u>Marijuana Pounds</u> | <u>Hashish Grams</u> | <u>LSD Units</u> | <u>Dangerous Drugs Units</u> |
|-------------|---------------------|----------------------|-------------------------|----------------------|------------------|------------------------------|
| 1976        | 4,012.10            | 2,899.40             | 144.10                  | 836.90               | 4,656.00         | 31,919.00                    |
| 1977        | 393.30              | 2,064.00             | 32.44                   | 239.00               | 1,445.00         | 1,192.00                     |
| 1978        | 4,480.00            | 157.00               | 29.18                   | 519.00               | 80,173.00        | 258.00                       |
| 1979        | 491.40              | 414.50               | 249.18                  | 816.00               | 29,729.00        | 497.00                       |
| 1980        | 132.80              | 466.70               | 439.09                  | 16,483.25            | 133,738.00       | 3,009.00                     |

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B  
1981

# BERKELEY POLICE DEPARTMENT



CHIEF AUGUST VOLLMER  
AND  
THE BERKELEY POLICE DEPARTMENT  
1910

# ANNUAL REPORT 1981

"a confidant and good friend during these four not altogether pleasant years. So Larry, I have to say it in print and you know who I am.

"Your eternally grateful friend -Thanks and God bless you."

The Crime Prevention Detail is the Department's liaison to neighborhood groups. The two officer Detail addresses numerous community meetings and also conducts commercial and residential crime prevention inspections. The Press Officer maintains liaison with and provides information to the news media regarding all areas of the Police Department. During the year many positive reports and features about the Department and its members have been published and broadcast. The Press Officer is also responsible for the Department's Crime Analysis Bulletin.

The Special Investigations Bureau is responsible for investigations involving illicit drug activity, prostitution, gambling and liquor laws. Special attention has been given to the drug problems in the Telegraph Avenue and Sacramento Street areas. As a result of several drug buy programs instituted in the fall of this year, over 42 drug dealers have been arrested for the sales of various narcotics. At present over one-half of these drug dealers have pled guilty with the remainder awaiting trial. Those convicted have received sentences ranging from probation to state prison. Continued attention has been given to street prostitutes along lower University Avenue, as well as other parts of Berkeley, to insure that this does not become a problem again.

| <u>YEAR</u> | <u>PERSONS ARRESTED FOR SOLICITING</u> | <u>OFFENSES CHARGED</u> |
|-------------|----------------------------------------|-------------------------|
| 1977        | 400                                    | 616                     |
| 1978        | 60                                     | 114                     |
| 1979        | 71                                     | 123                     |
| 1980        | 44                                     | 75                      |
| 1981        | 39                                     | 66                      |

*[Handwritten signature]*

# BERKELEY POLICE DEPARTMENT



## ANNUAL REPORT 1982



--these range from talking to Berkeley High School classes and providing information on drugs, to Juvenile Bureau procedures and legal rights, to officer appearances at preschool and elementary schools using puppets, to meeting with parent-teacher associations, to addressing fellow professionals in the area of child abuse. Juvenile Bureau personnel are not only charged with counselling arrested youths but they also investigate crimes in which children are victims of such crimes as molestation. The latter has been a serious problem in Berkeley, and several child molesters with numerous victims have been arrested in the last year.

As a result of vigorous involvement with the community and personal concern, several current and former officers of the Juvenile Bureau have become nationally recognized experts in the area of child abuse.



SPECIAL INVESTIGATIONS BUREAU

Narcotics and vice activities in this city are handled by the Special Investigations Bureau. Special attention on drug dealing has focused again on the Telegraph Avenue and Sacramento Street areas. A buy program in the Telegraph Avenue area resulted in the arrest of numerous street dealers. Another buy program in the Sacramento Street area and West Berkeley resulted in the arrest of heroin and cocaine dealers. Once again, successful drug investigations, arrests and prosecution required the extensive cooperation and use of law enforcement from other neighboring jurisdictions. The Special Investigations Bureau has also started a program of tracking all persons arrested through the court system and also seeking restitution for narcotics purchases so that the money can be recycled and utilized in other cases.

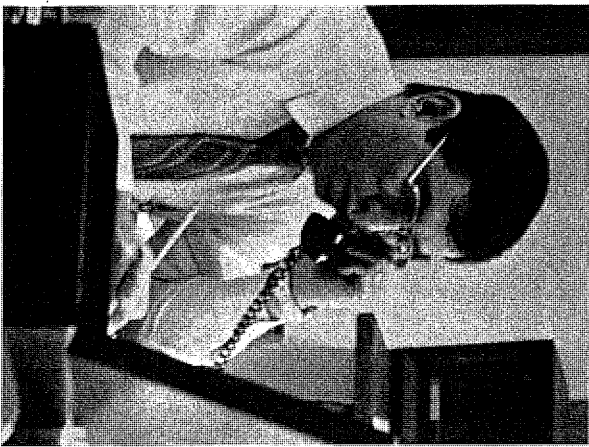
Street prostitution along the lower University Avenue area continued to be a problem. This threat was met with increased arrests and successful prosecution of street prostitutes and their customers.

CRIME PREVENTION DETAIL

The Crime Prevention Detail is the Department's liaison to neighborhood groups and citizens and has been increased in strength. The two officer Detail is now staffed with an additional Secretary and a Police Aide. This increase in staffing, along with increased support activity funding, is made possible by a Community Crime



# Annual Report 1983



*Inspector Dan Wulke*

gated over 3000 incidents of crime related property loss. Out of this effort, a number of active and prolific burglars were identified and arrested, ending several extended burglary series. One case concluded in the arrest of a man who was responsible for over 100 burglaries in the south campus area. Exhaustive work by detectives led not only to the closure of 70 identifiable offenses but also to a cooperative relationship with the burglar which yielded valuable information on other active burglars and East Bay fencing operations.

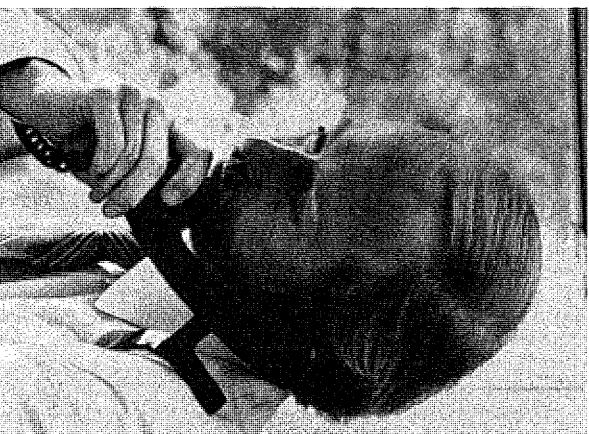
The Special Investigations Bureau is responsible for investigations involving illicit drug activity, prostitution, gambling, and liquor law violations. Drug use and addiction is closely related to many other types of criminal activity. It places a heavy financial and social burden on the community in terms of loss

26.



*Officer Carl Bartlett  
conducts a fingerprint comparison*

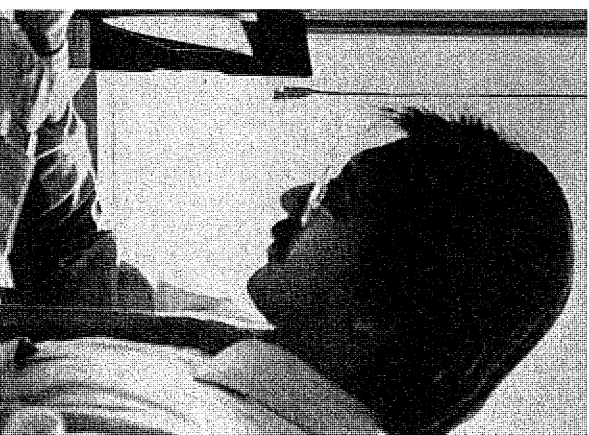
of human productivity, loss of property from theft and burglary by addicts, increased violent crime, expensive rehabilitation programs, and cost of drug enforcement. Because of this, the Bureau's efforts have a significant effect on the investigative, enforcement, and preventive effort of the entire Department. During 1983 the Bureau addressed two major problems. The first was the increased incidence of loosely organized gangs of young people taking over street corners and residential neighborhoods to sell drugs. In conjunction with increased Foot-Patrol presence, undercover officers were used to implement several extended buy-programs which resulted in numerous arrests of street dealers. The second problem concerned street prostitution along University Avenue. Increased activity along this major arterial prompted increased enforcement efforts directed at pimps,



*Officer Dave Masters  
of the Homicide Detail*

prostitutes, and male customers alike. These efforts resulted in the arrest of 275 individuals, including 80 male customers, for prostitution offenses.

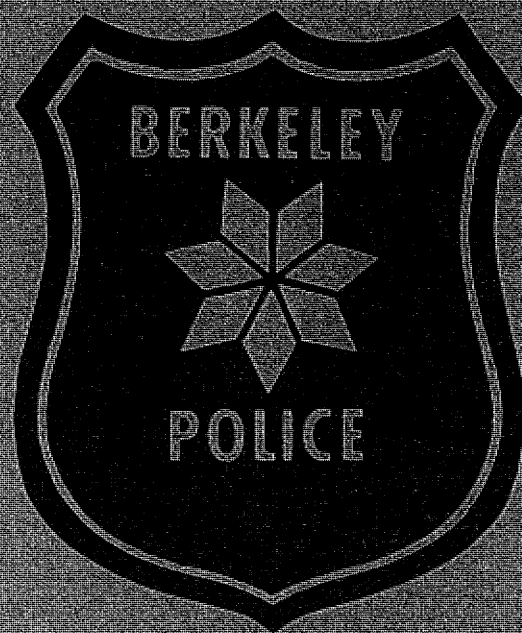
The Juvenile Bureau is responsible for the review, evaluation, and Departmental disposition of all juvenile offenses. In addition, the Bureau plans, develops, and implements various delinquency prevention programs tailored to the needs of the community. It also maintains active cooperative relationships with other agencies variously involved with the juvenile justice process. The Bureau supervises and counsels juvenile offenders and conducts all follow-up investigations involving crimes of child abuse, child neglect, child abandonment, child stealing and juvenile missing persons. Bureau personnel also have the responsibility for the service of juvenile court warrants.



*Officer Jay Patel  
of the Property Crimes Detail*

One of the major goals of the Juvenile Bureau has been the diversion of youngsters out of the Juvenile Justice System and into either private or community based youth programs or counseling. Success in this effort has led to a consistent reduction in the number of juvenile offenses and offenders. A 3 year grant program, scheduled to begin in the Spring of 1984 will add three counselors to the Bureau staff with the expectation of not only expanding the Bureau's investigative capacity but also increasing the diversion rate past the present 50% level.

# BERKELEY POLICE DEPARTMENT



# ANNUAL REPORT 1985



# 1986 ANNUAL REPORT

## DETECTIVE DIVISION

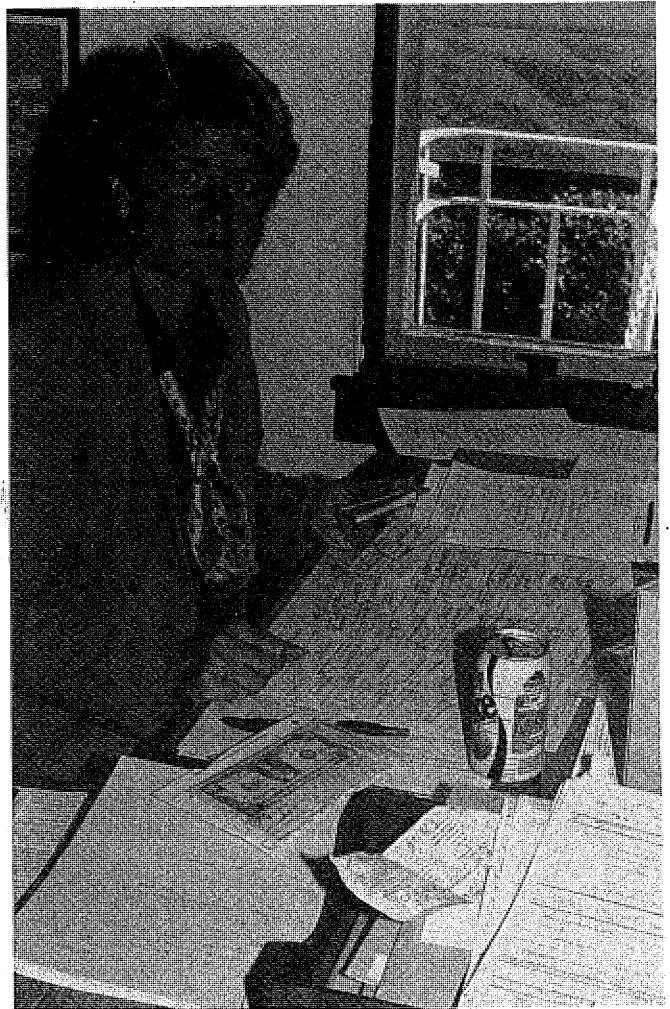
The function of the Detective Division is to coordinate and to extend the investigation of all felony complaints to insure optimum results in identifying, apprehending and convicting criminals and recovering stolen property. The Detective Division was commanded by a Captain with the assistance of eight Inspectors and 23 authorized positions. These special assignments are made available to patrol officers who desire the experience of increasing their investigative techniques. It is a two year assignment after which they return to Patrol Division better able to carry out investigation in the field. The Detective Division is comprised of the Juvenile Bureau, the Special Investigations Bureau and the Inspectors Bureau which consists of:

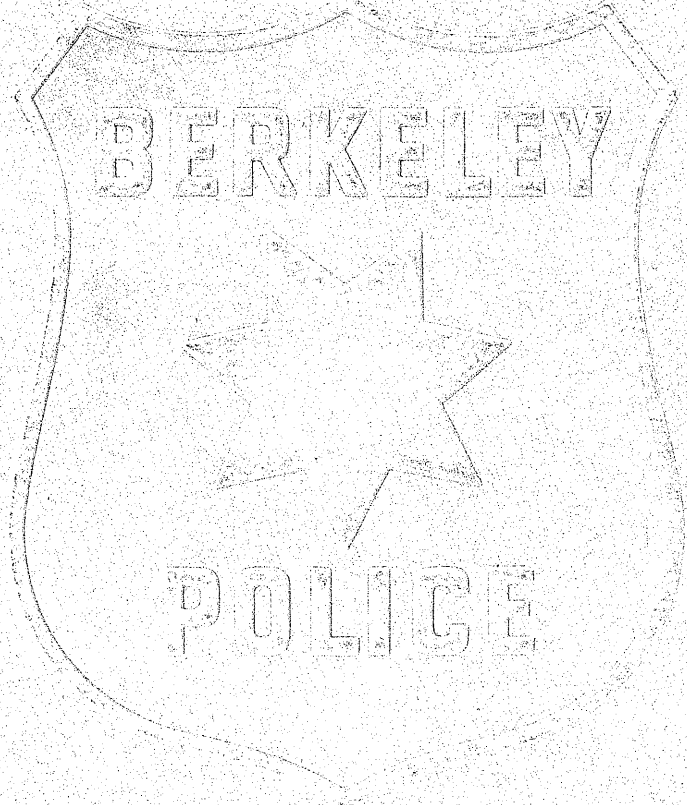
- Homicide Detail: responsible for homicides, felony assaults, and missing persons. The detail achieved a closure rate of 93% in 1986.
- Sex Crimes Detail: responsible for rape cases, felony sex offense investigations and coordination of cases involving misdemeanor sex offenses. The detail achieved a closure rate of 75.4%, 25% over the goal set in the Performance Management Plan. Although 1986 shows an increase over 1985, the past four years represent the lowest frequency of reported rape in the City of Berkeley since 1966. If we were to add together the total rape statistics for the past two years (104), it would be equivalent to any one year's statistics between 1969 and 1979. In other words rape has been reduced by 50 percent in the last seven years.

One explanation for our rape reduction is that the City of Berkeley has been able to consistently identify, arrest and successfully prosecute the serial rapist.

- Robbery Detail: responsible for robbery, purse snatch, bribery, extortion, kidnapping, and illegal weapon investigation had a closure rate of 27%, two percent over the established goal.
- Property Crimes Detail: responsible for residential and commercial burglary and receiving and/or possession of stolen property and arson had a closure rate of 17.5%, two percent higher than its stated goal.
- Fraud/Forgery Detail: responsible for credit card fraud, forgery, bad checks, grand theft, bunco, and fraud investigation. The detail experienced an average caseload increase of 38% over 1985 and was still able to increase the closure rate in four of the eight categories for which it is responsible.
- Auto Detail: responsible for the investigation of vehicle theft exceeded its closure goal by 4% by closing 19% of its cases.
- The Special Investigations Bureau handles what is normally referred to as "vice", alcohol violations (selling to minors), prostitution and the increasing drug problem. 598 persons were arrested for a variety of drug offenses and 455 persons, both prostitutes and "johns" were arrested for prostitution.
- The Juvenile Bureau is responsible for review, evaluation and departmental disposition of all juvenile offenders. The Bureau works closely with the schools to coordinate activities and participated in several grants this year. Officer Frank Onciano worked with DAPP

(Drug Abuse Prevention Program) in conjunction with the Berkeley Unified School District. Approximately 1500 students in grades 4-6 were reached in a series of six sessions on drug abuse. Twenty students were referred for counseling at the high school level and at least ten community presentations were made. 1986 ended the three year Juvenile Diversion Program. The goal of this program was to divert youth from the probation system and provide one on one counseling to decrease recidivism. The goal was to decrease recidivism by five percent which was exceeded as 14.5% of the youth remain outside the system. The Juvenile Bureau also participated in PACT (Parents and Children Together), SARB (School Attendance Review Board), and managed the Salvation Army vouchers to help families in need.





# 1987 Annual Report

**Special Investigations Bureau**

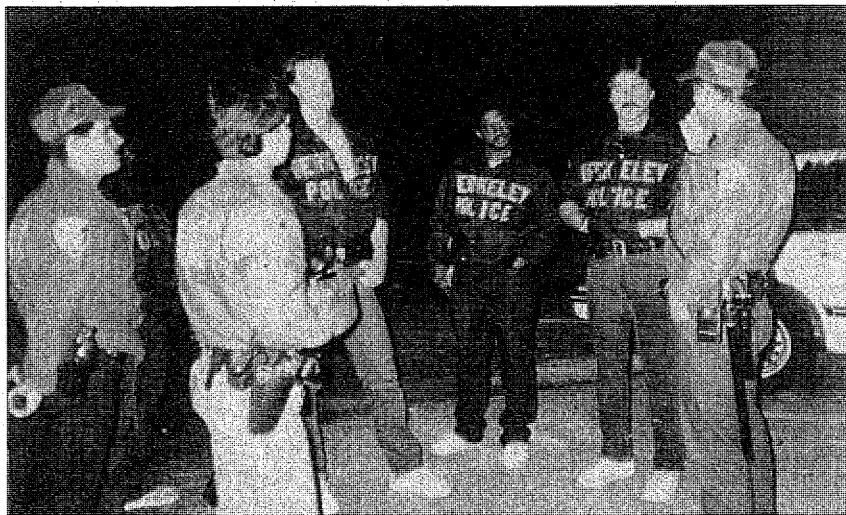
1987 saw the continuing escalation of rock cocaine or "crack" use and sales in south and west Berkeley and an attendant increase in drug related violence. This rapid increase in the use and sales of "crack" is singularly responsible for the decline in the quality of life and the rapid decline in the feeling of public safety in previously stable neighborhoods. Almost overnight it seemed an influx of drug dealers and users shattered the traditional peace in our community. Many have suggested that this one national tragedy is responsible for the lost future of an entire generation of young people and the rapid decay of others.

The national tragedy that "crack" has presented is a tremendous burden to the criminal justice system which is responsible for processing those arrested and charged with narcotics violations. The police department has had to devote in excess of 20% of all law enforcement and service resources directly to combat "crack". Once the defendant is arrested, the District Attorney must scratch out drug prosecution time in a system already overburdened with crimes against persons and property. If the accused is convicted and sentenced, it is to an already overcrowded correction system with no room to spare at either the county jail level or in the state prison system. The greatest frustration for the criminal justice system and the community alike is the early release of a prisoner because his or her space is needed for a more serious offender. This is not the message that our society needs to send to "crack" users and sellers.

After several years of seeking solutions there is still no clear answer to the problem. Some have suggested that interdiction at our borders is the most effective strategy while others are supporting direct intervention at the source of it all, South American countries that produce the coca leaves. What we have found here in Berkeley is that neighborhood support and cooperation with the police department has been extremely effective in controlling the problem and minimizing its disastrous effects. Using the strength of the Neighborhood Watch Program, residents have kept a continuous supply of current drug related information streaming into the drug enforcement units in the police department. Information is investigated and direct action is taken when at all possible.

In April, 1987, the Drug Task Force was formed to directly combat the elusive street drug seller. By using such tactics as narcotics buys and immediate arrest, long term buy programs, surveillance in neighborhoods and search warrants for houses, we have been able to make a significant impact in many neighborhoods. Nearly all of the actions that we take are based on phone calls to us by concerned citizens. By calling frequently and providing current information we are able to deal directly with a specific situation and, hopefully, remove it before it causes greater damage to the surrounding area.

In 1987 the Berkeley Police Department, Special Investigations Bureau, served in excess of 110 narcotics search warrants in local houses. Overall, narcotics arrests were up by a startling 70% from 1986.



**The Drug Task Force utilizes resources from the Police Reserves and University of California Police as well as the Berkeley Police Department.**

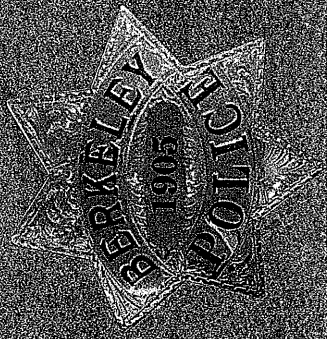




POLICE



**BERKELEY POLICE**  
**MOBILE SUBSTATION**



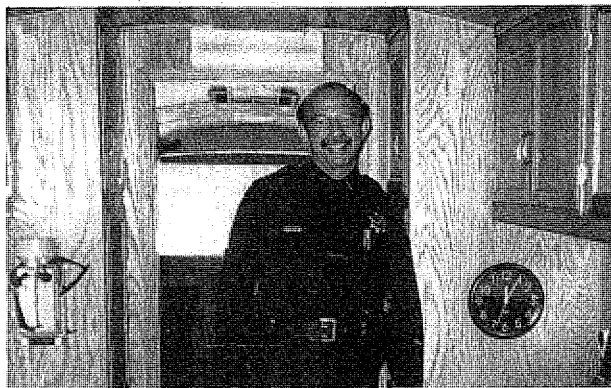
# 1989 Annual Report

# SPECIAL ENFORCEMENT UNIT

In January 1989, a Department reorganization was completed, establishing the Special Enforcement Unit (SEU). The purpose of this change was to increase the effectiveness of the Police Department in responding to the drug trafficking problem in Berkeley. The SEU includes: two Drug Task Force Teams which respond to complaints of drug dealing on the streets, operate the Berkeley Police Mobile Substation and conduct buy-bust operations; the Special Investigations Bureau who work undercover narcotics operations and enforce prostitution laws; and the Administrative Unit which is responsible for developing intelligence on criminal activity, arranging for the service of felony warrants and processing asset forfeiture cases.

This Unit mounted a full scale assault on the drug problem in Berkeley. Nearly fifty thousand dollars in drug asset forfeiture monies will be returned to the City as a result of seizures made by the SEU during 1989. Arrest numbers more than doubled those of 1988, including 150 mid-level drug dealers and 124 prostitution arrests. Working closely with both the Housing Authority and the Joint City Services Task Force, the SEU assisted in closing twenty-one (21) houses where drug dealing was occurring. These numbers do not tell the whole story, in that many individuals involved in drug trafficking have either moved on or ended their involvement for fear of losing their Section 8 certificate.

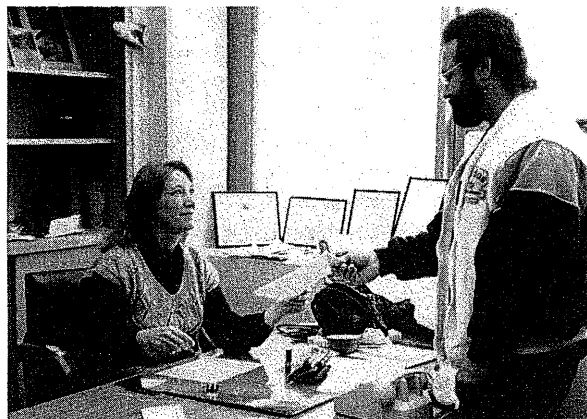
Overall, SEU has had a very successful year combating Berkeley's drug problem. With more work ahead, the Unit will continue to rely on new and innovative ideas as well as the assistance of citizens to continue the fight against drugs.



Chief Nelson inspects the interior of the Berkeley Mobile SubStation.



The Special Investigation Bureau (SIB) was established in January in responses to Berkeley's growing drug crisis. SIB team members (front row, L-R) Sgt. Allen Yuen and Officer Larry Wallace. Back row, L-R are Officers Roosevelt Brown, Jim Marargorie and Garen Nielsen.



Special Investigations Bureau Officer, Garen Nielsen, receives search warrant from Berkeley-Albany Municipal Court Judge, Honorable Julie Conger.

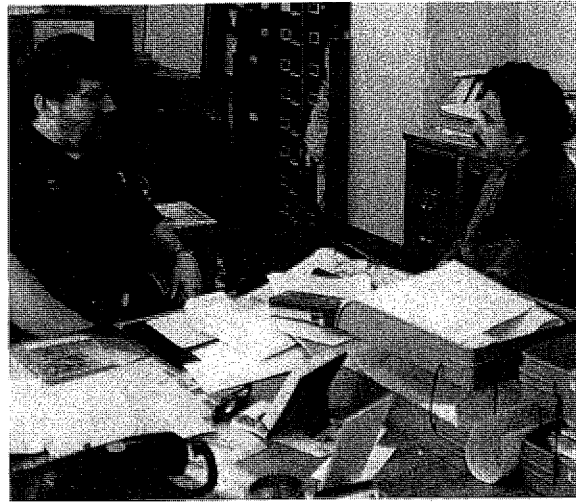


Sgt. Yuen and Officers Wallace and Marangoni enroute to serve search warrants for narcotics. A total of 233 search warrants were served in 1989 compared to 80 search warrants in 1988.

the Department has purchased a large radar display console which displays exact speed of passing vehicles to drivers. The device is being used to educate drivers by making them more aware of the speed problem and their contribution to it.

Patrol Officers issued 582 mechanical citations, 18,756 hazardous moving citations and 92,607 parking citations for a total of 111,945 during the year. Traffic Bureau personnel answered numerous phone inquiries throughout the year involving issues related to automobiles, motorcycles, mopeds, bicycles, licensing, insurance requirements, parking and other areas of concern.

At year's end, the Traffic Bureau looks back at a year of hard work well done and looks forward to a new year of increased services to the citizens of Berkeley through safer streets.

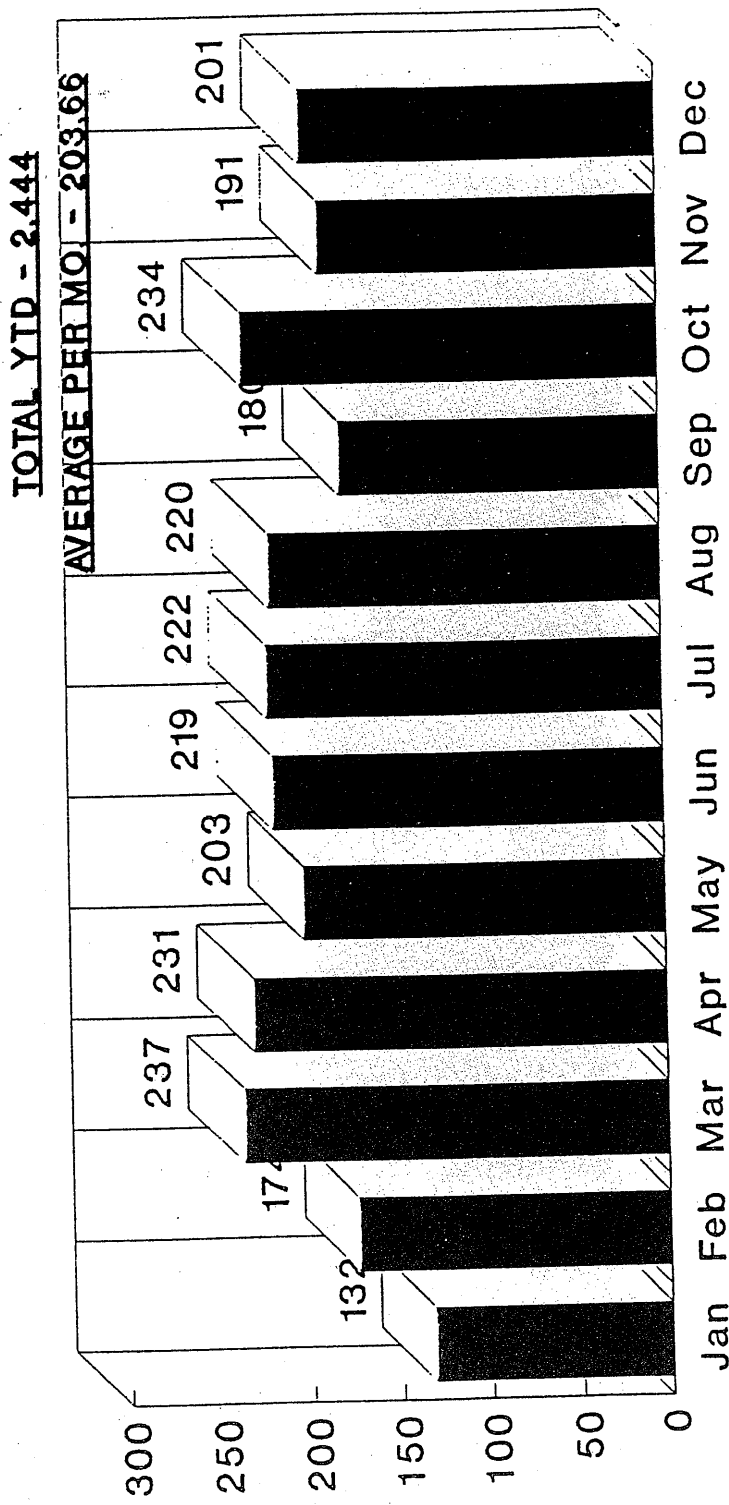


Informal Tow Hearing conducted by Traffic Sergeant Bud Stone.



Drug Task Force at work: Officer Gary Romano uses high temperature cutting torch to effect entry to a drug house, while Officers Rosie Brown, with sledge hammer, and Garen Nielsen assist.

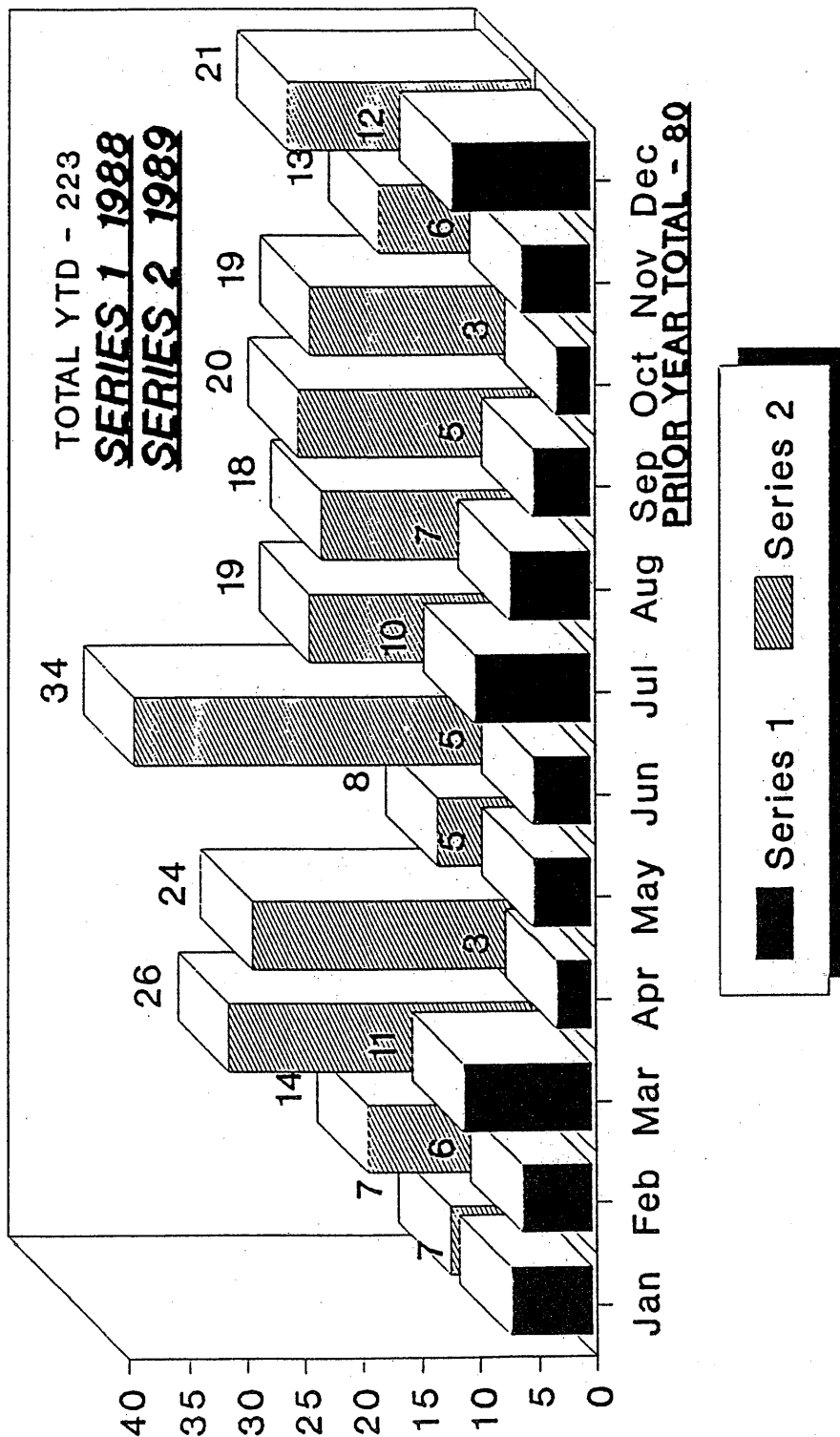
# SPECIAL ENFORCEMENT UNIT MONTHLY ARRESTS



Series 1

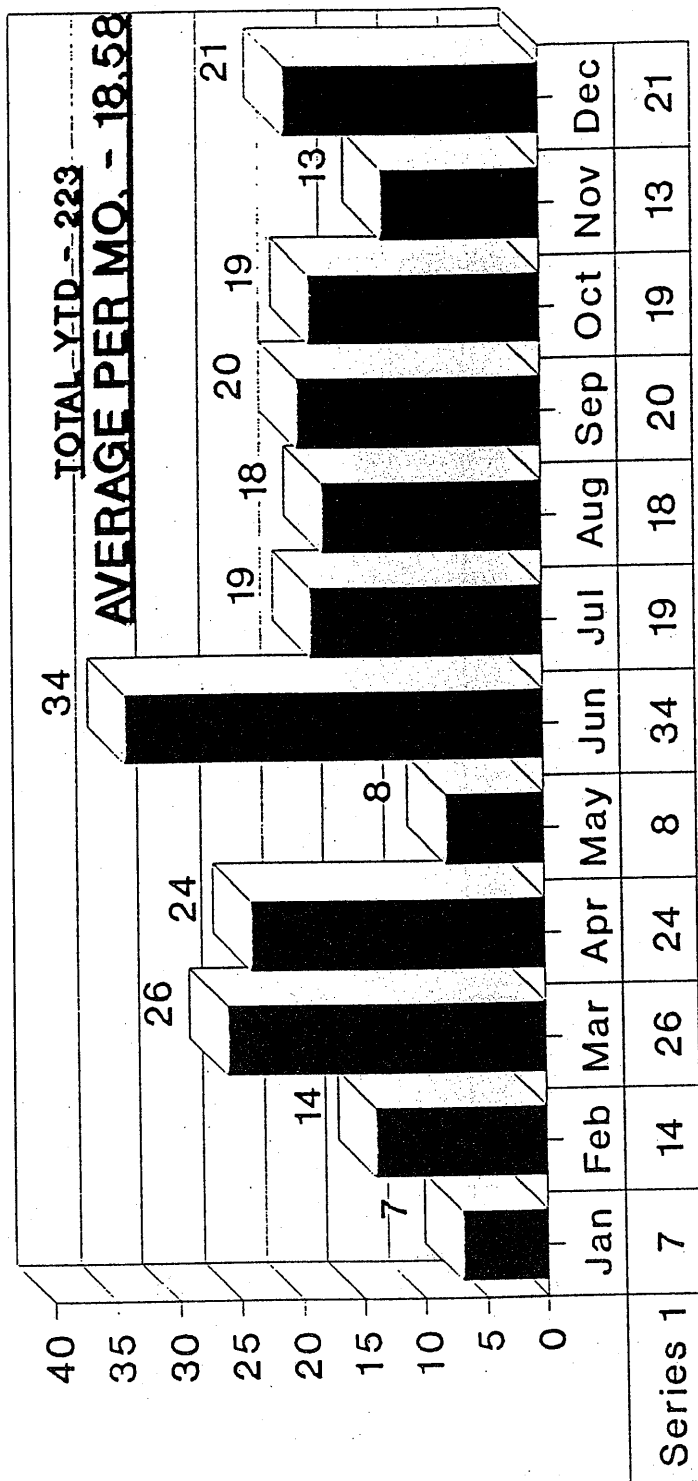
1989

# SPECIAL ENFORCEMENT UNIT SEARCH WARRANTS EXECUTED



Year 1989

# SPECIAL ENFORCEMENT SEARCH WARRANTS EXECUTED



YEAR 1989

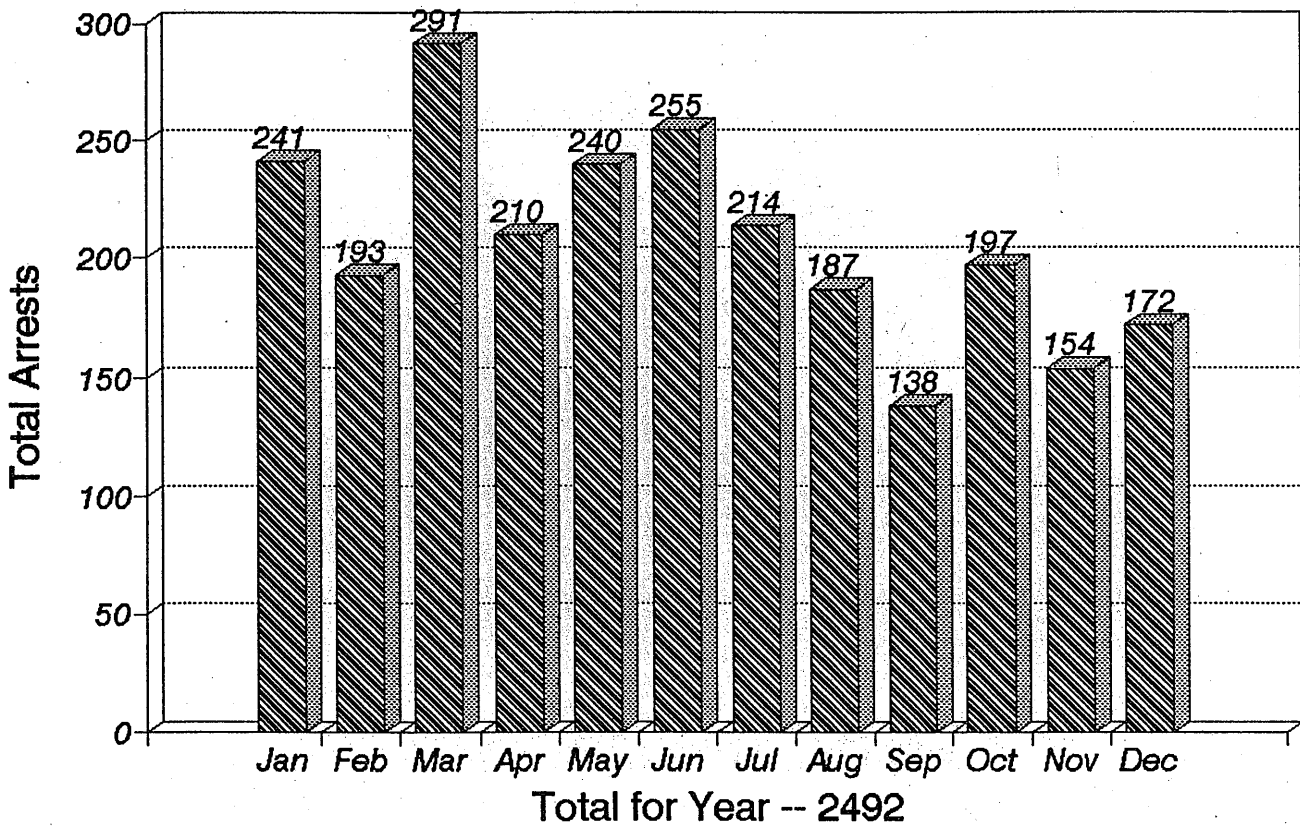
HALL



# 1990 Annual Report

# SPECIAL ENFORCEMENT UNIT

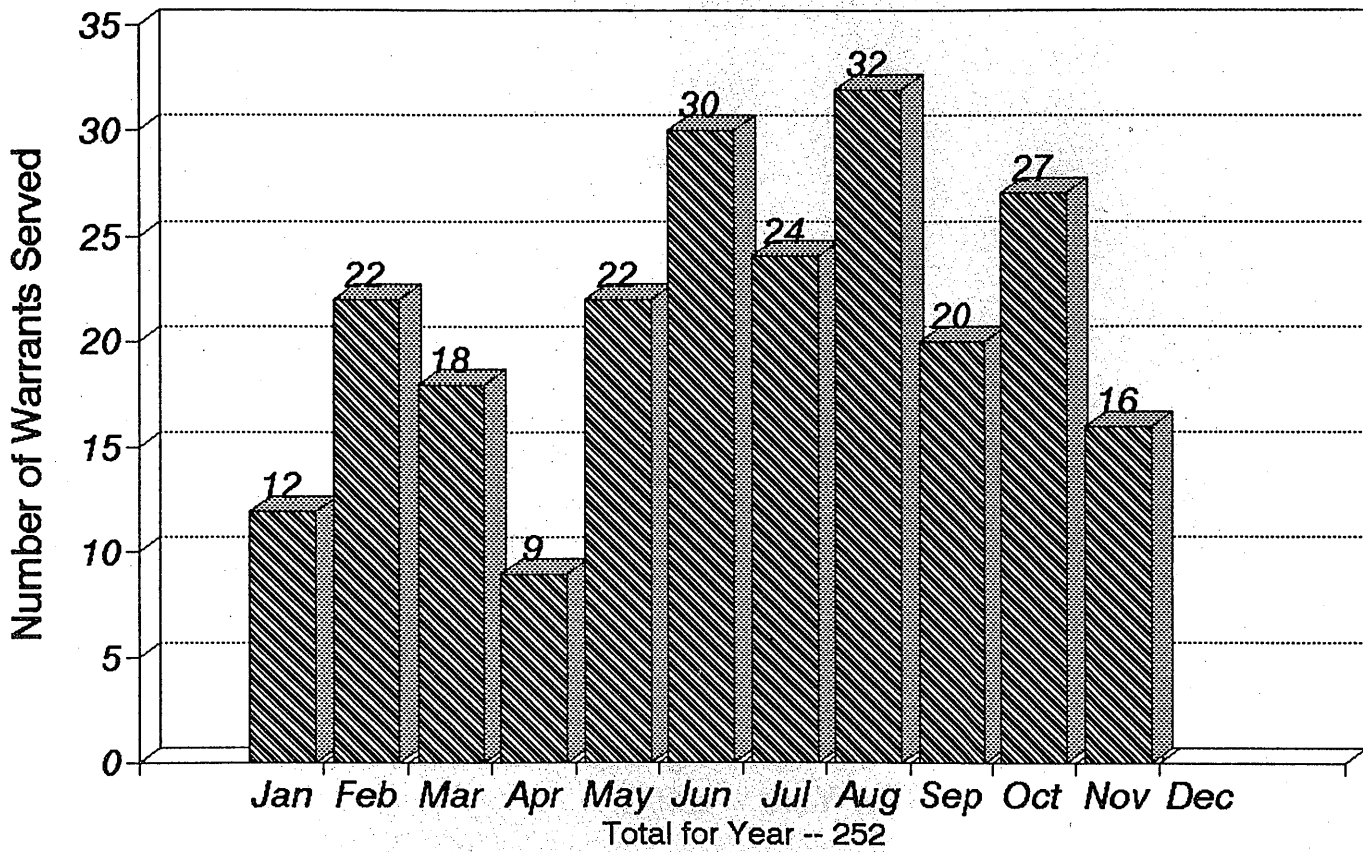
## MONTHLY ARRESTS - 1990



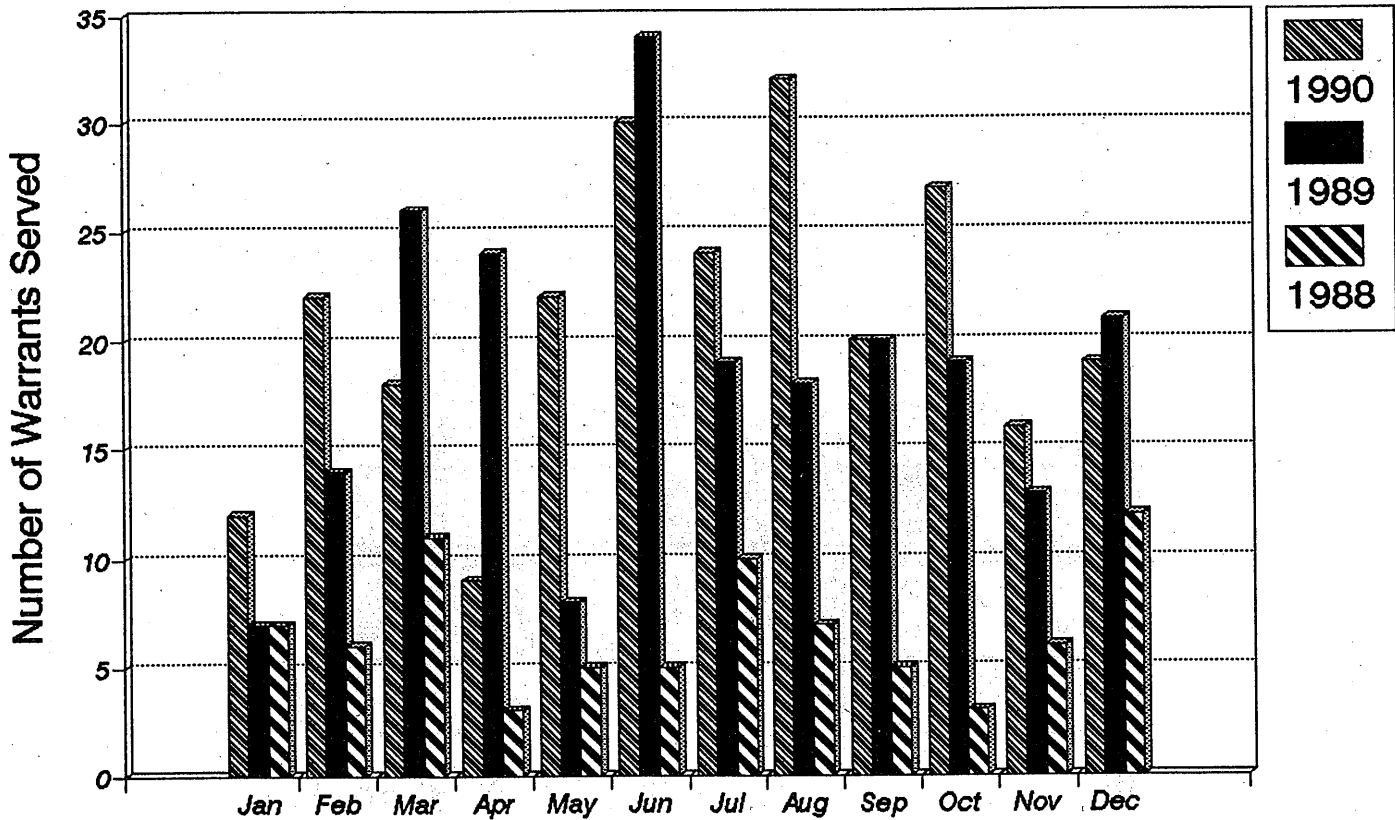


# SPECIAL ENFORCEMENT UNIT

## SEARCH WARRANTS EXECUTED - 1990



# SPECIAL ENFORCEMENT UNIT SEARCH WARRANTS EXECUTED



Foot Patrol officers have the ability to concentrate their efforts in a smaller area, facilitating direct contact with merchants and the ability to respond to their needs for service quickly on a more personal level. Foot Patrol is "pro-active policing," resulting in a savings of time and money for the citizens and the City.

Residents and merchants have praised the efforts of Foot Patrol officers patrolling their area. They are not only pleased with the high visibility of foot patrol, but also of the manner in which the officers handle incidents and treat people.

**Barricaded Subject Hostage Negotiation Team**

The Berkeley Police Department's Barricaded Subject Hostage Negotiation Team (BSHNT) is comprised of 43 active members from all ranks, who serve in one of four elements: Field Command, Negotiator, Tactical, and Support Services. All members are volunteers, going through an application and selection process.

The Team has many responsibilities, including handling barricaded subject situations (with and without hostages), protective service details, and the service of high risk or dangerous search and arrest warrants.

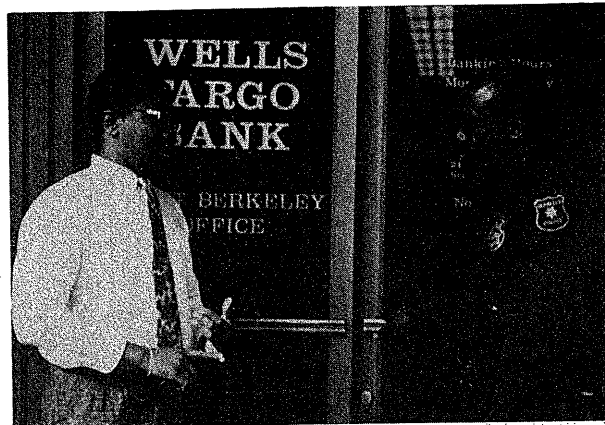
Since its formation, the unit has been involved in 43 operations. Over the years, many of the training and tactical techniques researched and used by the Team, have been incorporated in the Department's training and patrol functions, greatly augmenting those areas.

Team members participate in extensive monthly training, including weapons proficiency, tactical operations and movement, negotiations philosophy, and incident critiques. Training is facilitated through lectures, video training tape review, video taping of individual training for critique, and use of outside training areas.

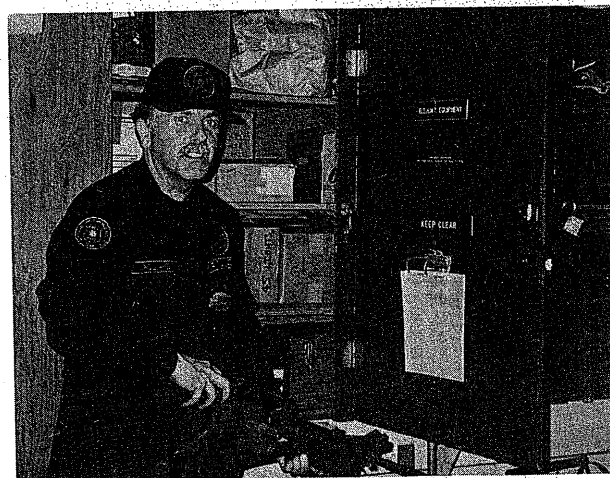
The Team's efforts and successes in dealing with special operations, as well as participation in outside training programs, have allowed the Department to achieve a very respected position in the law enforcement community.

**Special Enforcement Unit**

The Berkeley Police Department's mission is to protect life and property, prevent crime, arrest criminal offenders, and improve the quality of life throughout the community by placing primary emphasis on the suppression of drug trafficking and related offenses. The



Foot Patrol Officer Michael Meredith, as part of his San Pablo Avenue patrol in Southwest Berkeley, confers with an officer of the bank.



Sergeant Michael Holland coordinates the Barricaded Subject/Hostage Negotiation Team (BSHNT)



Members of the Barricaded Subject/Hostage Negotiation Team's tactical element, Field Support Unit

message to offenders is loud and clear — this City **will not tolerate** people using streets and invading our neighborhoods to buy or sell drugs.

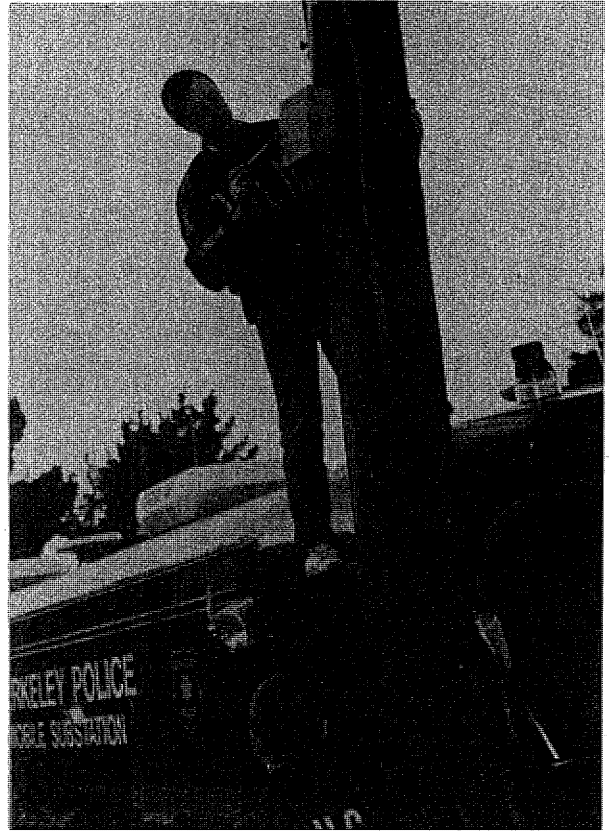
The major responsibility for the suppression of drug trafficking rests with the officers assigned to the Special Enforcement Unit (SEU). The SEU is comprised of two Drug Task Force (DTF) teams, a Special Investigations Bureau (SIB) and an Administrative Narcotics Section.

The Drug Task Force Teams provide daily response to complaints of drug dealing on the streets, operate the Berkeley Police Mobile Substation and conduct buy-bust operations. Special Investigations Bureau personnel work undercover narcotics operations and enforce prostitution laws. The Administrative Section is responsible for developing intelligence on criminal activity, arranging for the service of felony warrants and processing asset forfeiture cases.

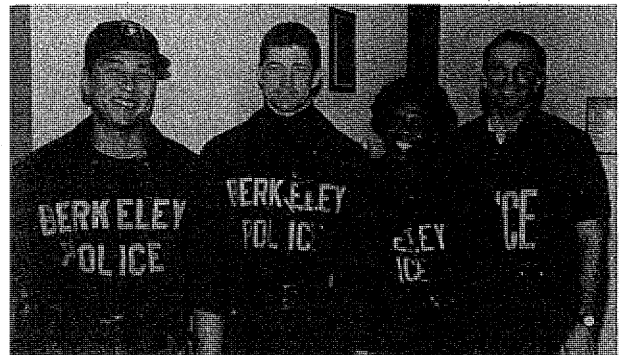
Established in January 1989, as the result of a Departmental reorganization, the SEU has continuously mounted a full scale assault on the drug problem in Berkeley. More than \$250,000 in assets were seized by the SEU through drug asset forfeitures during 1990. A percentage of these assets will be distributed to the City, pending successful litigation in the courts. The SEU made 2,492 arrests and served 252 residential narcotics search warrants during the year.

Several innovative techniques were incorporated into our drug abuse abatement strategies during 1990. One technique involves a "reverse sting" program wherein undercover officers sell pseudo-crack cocaine to buyers who are immediately arrested. Another technique involves the greater utilization of surveillance by Drug Task Force officers on street level drug operations, thereby providing a greater assurance of solid arrests.

Close coordination with other City, State and Federal agencies is critical in dealing with the complexities of the drug predicament. Significant resources, in both personnel and money, are required for a comprehensive counter-attack. To that end, in November 1990, an SIB officer was assigned to the State Bureau of Narcotics Enforcement Crack Down Team Task Force. This cooperative effort provides additional resources from the State level, allowing trafficking in Berkeley to be addressed at the top and mid-range, as well as at the retail street level.

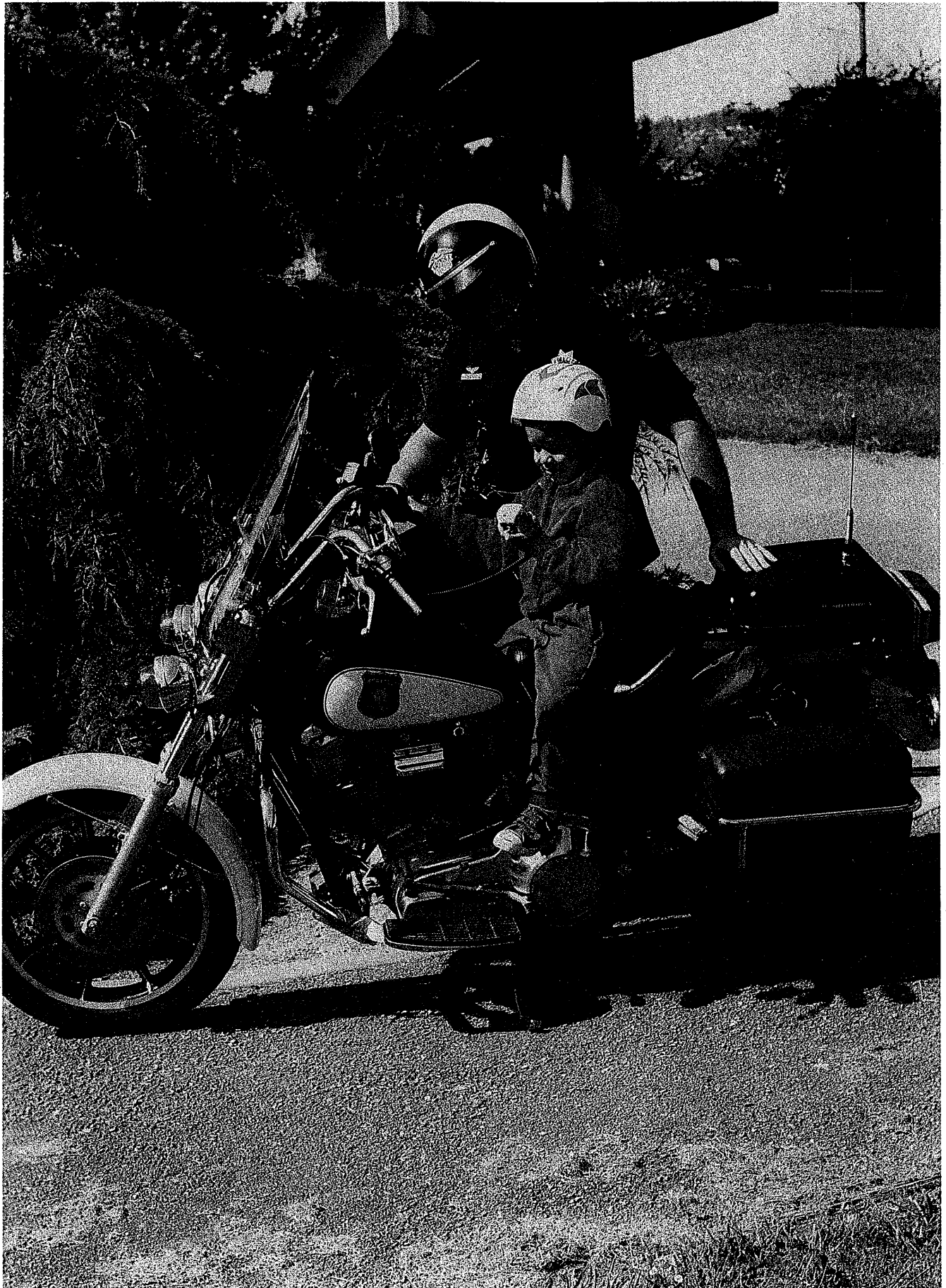


Lieutenant Pat Phelps of the Special Enforcement Unit (SEU) connects telephone lines for the Berkeley Police Mobile Substation.



Members of the SEU Drug Task Force include (left to right): Officers George Kim; Harry Stern; Trina Erby, and Sergeant Alec Boga.

# Berkeley Police Department



## 1991 Annual Report

## SPECIAL ENFORCEMENT UNIT

The mission of the Special Enforcement Unit (SEU) is to improve the quality of life throughout the community by suppressing drug trafficking and related offenses. The SEU is comprised of two Drug Task Force (DTF) teams, the Special Investigations Bureau (SIB) and an Administrative Narcotics Section.

The Drug Task Force Teams provide daily response to complaints of drug dealing on the streets, operate the Berkeley Police Mobile Substation and conduct "buy-bust" operations. Special Investigations Bureau personnel work undercover narcotics operations and enforce prostitution laws. The Administrative Section is responsible for developing intelligence on criminal activity, arranging for the service of felony warrants, processing asset forfeiture cases and processing narcotics evidence.

The SEU has continuously mounted a full scale assault on the drug problem in Berkeley. The unit made 1402 narcotics related arrests, served 223 residential narcotics search warrants and was awarded more than \$300,000.00 in drug asset forfeitures during the year.

SEU personnel placed an increased emphasis on surveillance tactics in all of the drug "hot spots" throughout the year. This technique involves undercover officers positioning themselves in strategic locations, in order to observe street level drug transactions. Buyers are arrested after leaving the area by uniformed officers. The dealer is also arrested upon completion of the program. This tactic establishes solid court cases and therefore, successful prosecutions.

Throughout the year SEU conducted many "buy/bust" programs in targeted "hot spots". These operations involve undercover officers making hand to hand purchases of narcotics from dealers. After the purchase is made, cover officers move in and arrest the dealers.

"Buy/bust" and surveillance programs resulted in over 120 dealers being arrested during the year. Surveillance programs alone also resulted in the arrest of scores of "buyers".

Several "reverse sting" operations were conducted by SEU during 1991. This tactic utilizes undercover officers posing as street level drug dealers in targeted areas. Buyers were arrested after they attempted to buy pseudo narcotics from the officers. Over 60 "buyers" were arrested in these operations during the year.

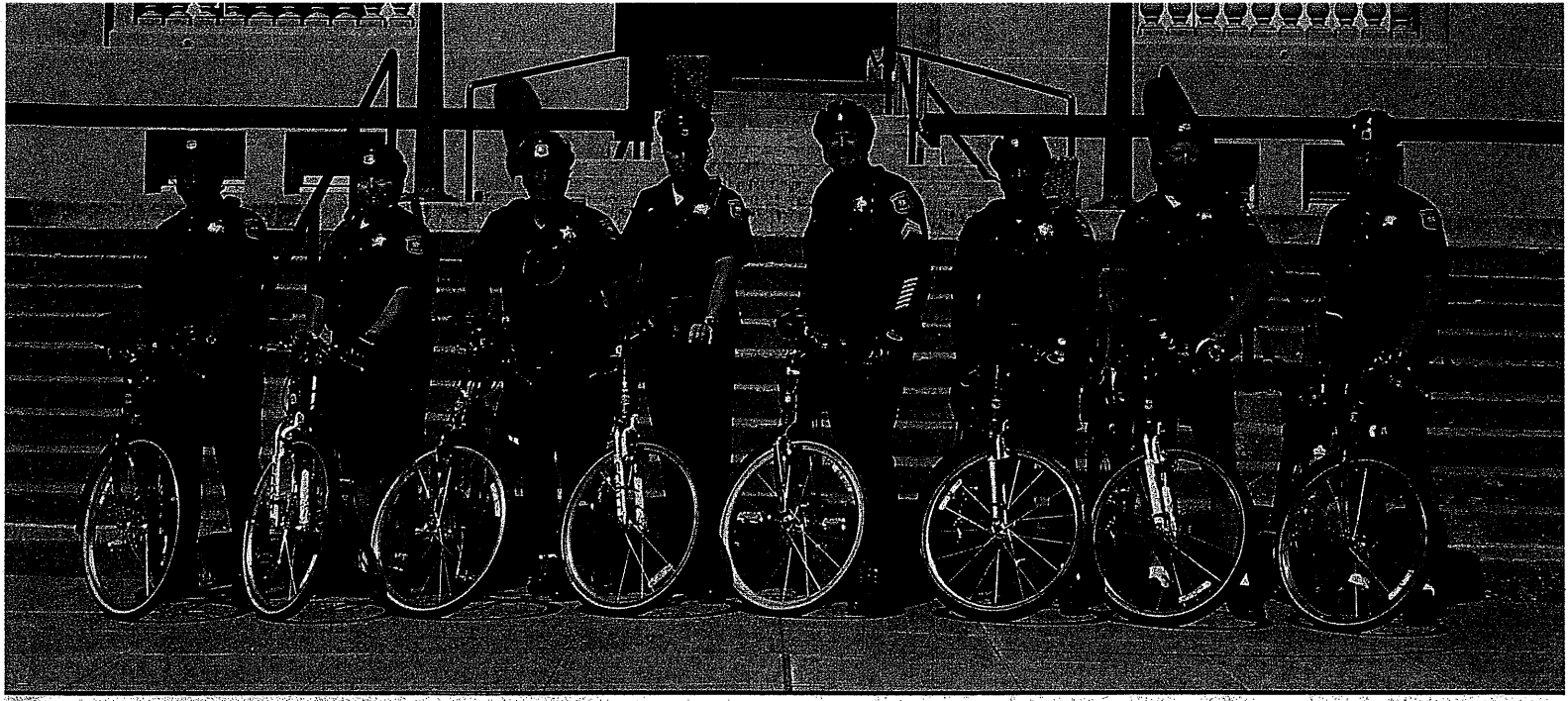
SEU ran five "Safe Block" operations during the year. This program involves staffing the Mobile Substation 24 hours a day for a week at a time in a drug trafficking "hot spot". The substation increases the police presence in the troubled location. By using the substation as a base of operations for foot and bicycle patrols we are able to deter drug trafficking and reduce the level of fear among residents in the area. At the end of each week's program, a barbecue sponsored by the SEU is held to encourage community organization and participation in Neighborhood Watch and P.A.C. programs.

A benefit of the "Safe Block" program is the general lowering of crime rates and increased order maintenance in the areas of concentration.

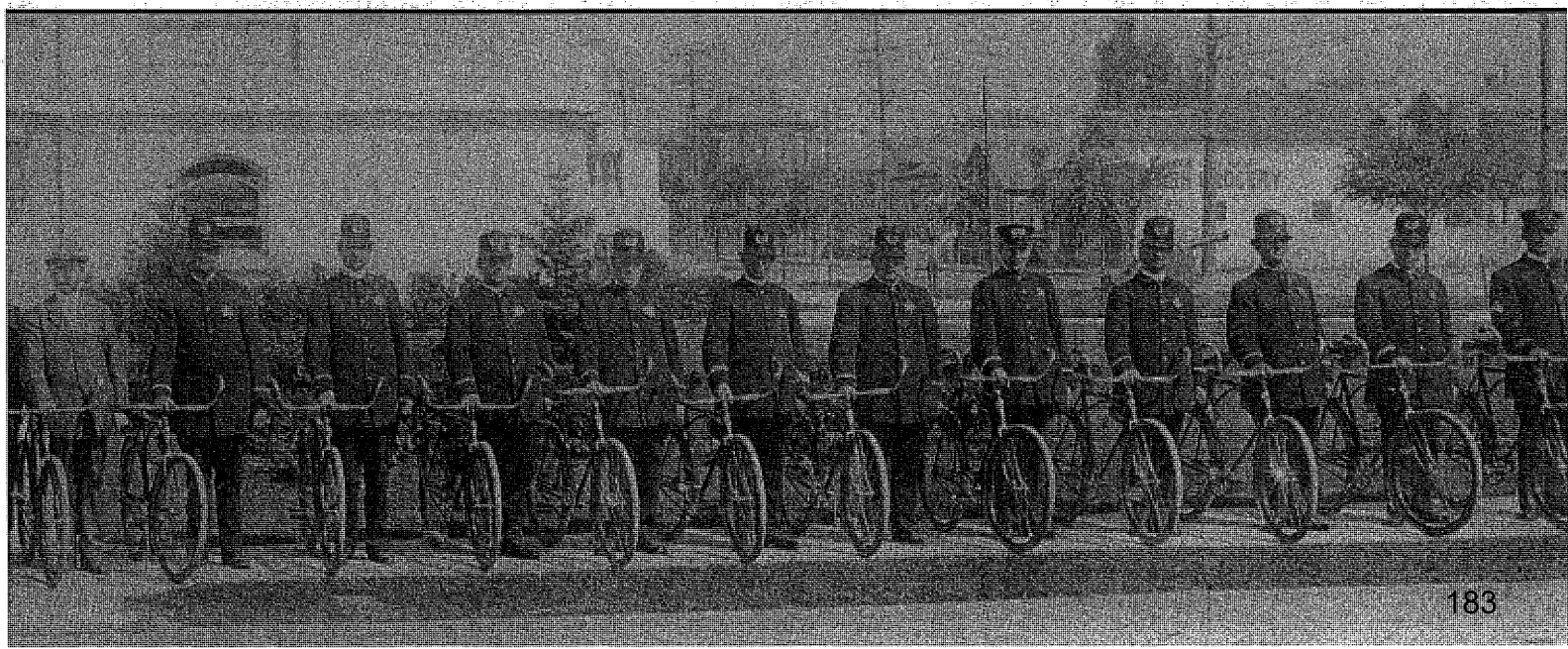
When not being utilized on a "Safe Block" program, the substation was randomly placed in trouble spots on an average of 3 or 4 times a week during DTF hours of operation.

In mid-September the **OPERATION C.A.R.S.** (Citizens Against Rock Sales) program was implemented in a neighborhood afflicted with street level drug trafficking. This program is a joint venture between the neighborhood group, the SEU and the Community Services Bureau. In this program, signs are posted in targeted neighborhoods by the Public Works Department informing potential drug buyers that their vehicle license plate information will be forwarded to the Police Department. Residents are asked to record this information on postcards whenever motorists are seen pulling over to the side of the street and engaging in what appears to be drug activity. This program utilizes a self-addressed postage-paid postcard that asks for the type and location of the suspected drug transaction, the color, model and license plate number of the vehicle and a physical description of the vehicle's occupants. The resident mails the card to the Berkeley Police Department which issues a cautionary letter to the vehicle's registered owner. The cautionary letter informs the owner that his or her car was seen in a location that is noted for narcotics activity and that criminal prosecution will be initiated if a police investigation determines that a purchase or sale of narcotics occurred.

During the course of the year, SEU continued to work with the Coordinated City Services Task Force to gain landlord and tenant support in housing complexes experiencing street level drug trafficking. For example, with landlord authorization, officers frequently cited dealers for trespassing in and around apartment complexes where they have no legitimate business.



# 1992 ANNUAL REPORT



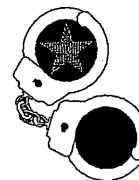
## SPECIAL ENFORCEMENT UNIT

The Special Enforcement Unit is comprised of two Drug Task Force (DTF) teams, the Special Investigations Bureau (SIB) and an Administrative Narcotics Section. The mission of the SEU is to improve the quality of life throughout the community by suppressing drug trafficking and related offenses. In 1992, the Department made 1,907 arrests for narcotics violations; 1,188 of those arrests were made by SEU personnel.

The SEU started the year by finishing the "1500 Fairview Street Project." Efforts to identify and arrest drug traffickers in this area consisted of buy/bust and buy/let-go programs, covert surveillance operations, search warrants, reverse stings and use of the mobile substation and bicycle patrols. During the course of this project, 28 persons were arrested for narcotics offenses. Eight search warrants were served resulting in the seizure of \$85,000 and an expensive automobile as asset forfeitures. The resources expended in this endeavor successfully curtailed drug trafficking in the 1500 block of Fairview Street.

A multi-phase plan for attacking drug trafficking in the Ward, Oregon, Russell and California (W.O.R.C.) area was implemented in May. This 4-phase plan utilized many of the same programs used for the 1500 block of Fairview. The increased police presence associated with W.O.R.C. interrupted the patterns and normal business activity of the dealers and buyers and prevented efforts to re-establish sales activities.

The W.O.R.C. program resulted in the indictment of 50 individuals by the Alameda County Grand Jury for street level drug dealing. Utilizing the Grand Jury for these types of offenses was a "first" and because it eliminates the preliminary examination process, SEU was able to protect the identity of the undercover buy officers and not have to divulge details of the operation for a longer period of time. Ten of those indicted by the Grand Jury were prosecuted through the District Attorney's major offender program.



The W.O.R.C. investigation resulted in search warrant service on 24 residences, 5 vehicles, 4 storage lockers, 2 bank safe deposit boxes and a combination of 8 utility companies and credit card companies. Drug arrests increased by 39% and COPS calls decreased by 54%. Over \$34,000 (estimated street value) of cocaine was confiscated and over \$33,000 in cash/property was seized.

During 1992 an officer was assigned to an LSD Task Force administered by the Federal Drug Enforcement Administration (DEA). This concentrated on street level arrests for possession and/or sales of LSD in the South Campus area. Numerous buy/bust, buy/let-go and surveillance operations were conducted in the South Campus area with over 100 dealers arrested in 1992 as a result of these efforts.

Seven "Safeblock" programs were conducted in 1992. This program involves parking the mobile substation in a targeted drug hot spot and staffing it 24 hours a day for a week. Officers utilizing the substation as a base of operations provided bicycle and foot patrol at various times during the day. The program is extremely popular with the community and serves to reduce the level of fear created by drug trafficking. At the end of the week, neighbors attended SEU sponsored block parties where bicycle licensing was provided free of charge for neighborhood juveniles.

The SEU continued to work throughout the year with the Coordinated City Services (CCS) Task Force to abate narcotics trafficking at targeted problem properties. Additionally, the SEU recently assisted in the development of an Injunctions Against Drug Dealers Program. The program encourages property owners to petition Superior Court to seek injunctions prohibiting documented drug dealers from coming on or near properties afflicted with street level drug dealing. Both programs, in addition to being valuable in abating drug dealing in several locations in the City, exemplify clear and impressive victories over what were considered insidious and entrenched community problems.

During the course of the year SEU officers continued their intensive enforcement efforts to arrest both prostitutes and their customers in response to the burgeoning problem along the San Pablo Avenue corridor. One hundred and forty four prostitutes and customers were arrested in 1992 as the result of undercover operations.

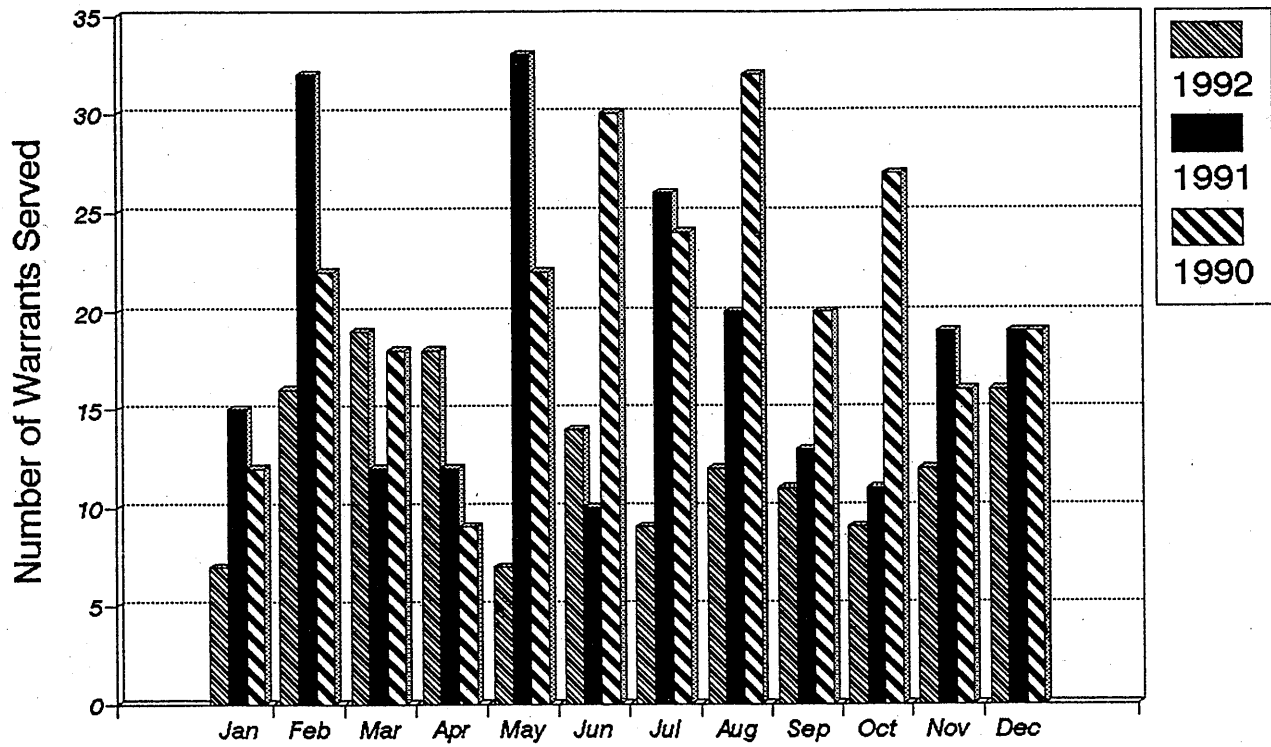
Through the involvement of citizen groups, schools, businesses and neighborhood-based organizations, the SEU is continually doing its part to improve the quality of life for Berkeley's residents. We believe that 1993 will be an even better year and look forward to continued cooperation with the citizens we serve.



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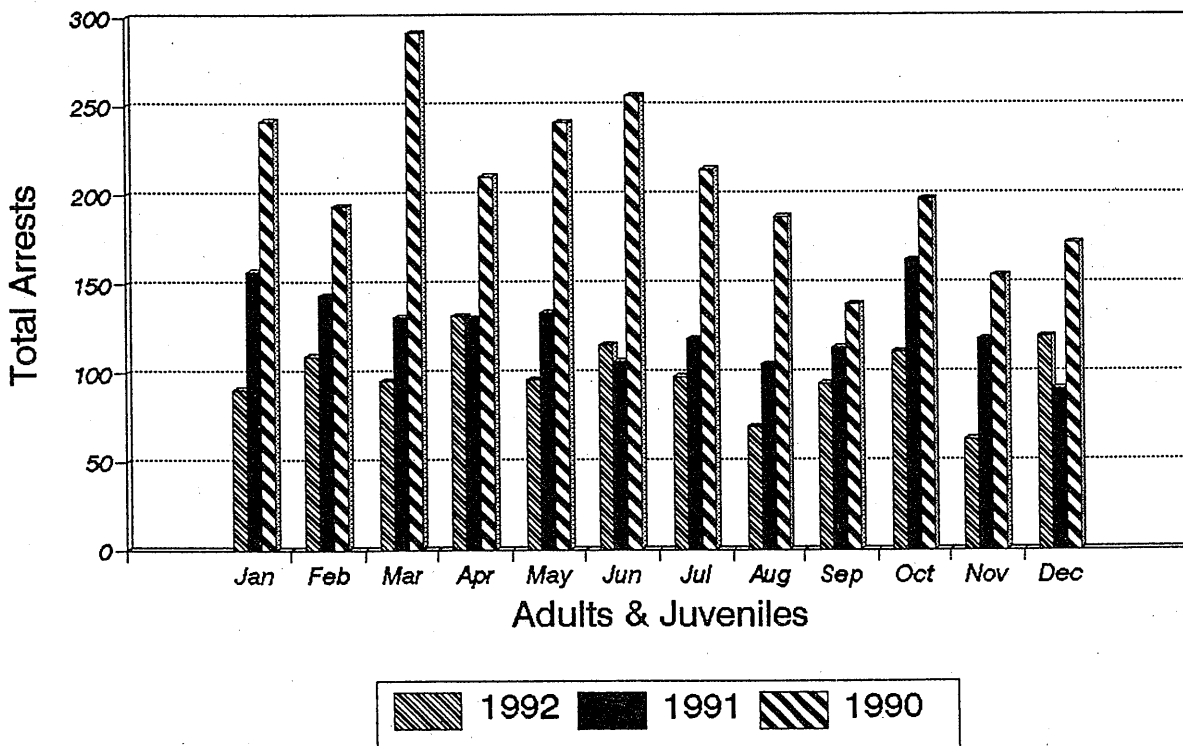
# S.E.U. Search Warrants Served

## 1990-1992



# S.E.U. Monthly Arrests

## 1990-1992



# Berkeley Police Department 1993 Annual Report



*Protecting & Serving Our Community*

## SPECIAL ENFORCEMENT UNIT

The Special Enforcement Unit (SEU) is comprised of two Drug Task Force (DTF) teams, the Special Investigations Bureau (SIB), and an Administrative Narcotics Section. The mission of the SEU is to improve the quality of life throughout the community by suppressing drug trafficking and related vice activities.

During 1993 the duties and responsibilities of the DTF and SIB were intertwined so that members of both units worked closer together sharing functions that were traditionally separate. As DTF officers, who in the past were used exclusively as street suppression units, became involved in certain covert activities that in the past were the sole function of SIB, SEU operations improved and the overall operation of SEU became more efficient.

Such modifications in the unit were also necessitated by the ever increasing demands placed on officers to address a more complex legal system as well as more intelligent and more cautious criminals. As a result of these revisions in the operations, the SEU accounted for a total of 1,368 arrests for the year, an increase of over 200 from the previous year, and an increase in the charging rate which held at 89% during 1993.

Many diverse tactics were employed by SEU officers throughout the year to identify, apprehend, and convict drug traffickers. Such covert operations such as buy/bust programs, concealed surveillances, reverse stings, buy/let-go campaigns, and search warrants provided a great deal of success in the drug enforcement effort. More covert activities such as DTF patrols, the Mobile Substation, and bicycle patrols contributed to the overall endeavor.

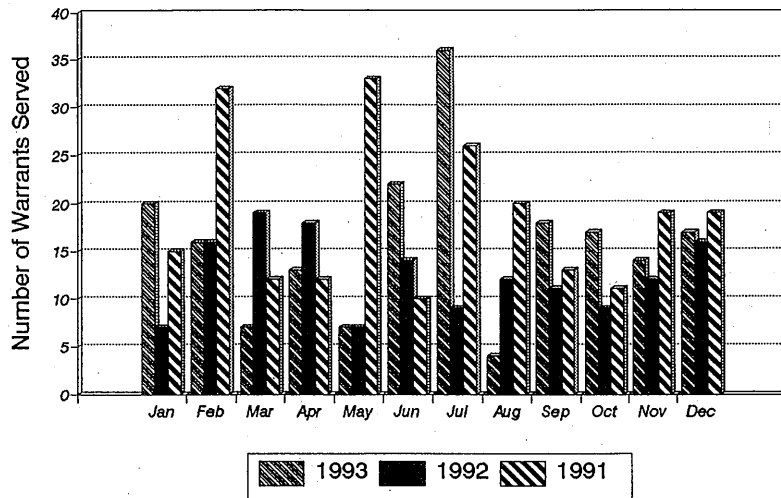
As part of the overt operations exercised by SEU during the year were activities conducted during the first three days of each month. Recognizing that drug activity was most active during this three day period, SEU received significant assistance from the Patrol Division, Support Services Division, and the Traffic Division in the Drug Mitigation Deployment Plan. Using the Mobile Substation as a base of operations, officers provided motorcycle, bicycle, and foot patrol in the identified drug areas. Emphasis was placed on creating an increased police presence rather than arrests and convictions.

The SEU continued to work closely throughout the year with the Coordinated City Services Task Force (CCSTF) and Partnership Against Crime (PAC) to abate narcotics trafficking and vice activities at targeted problem properties.

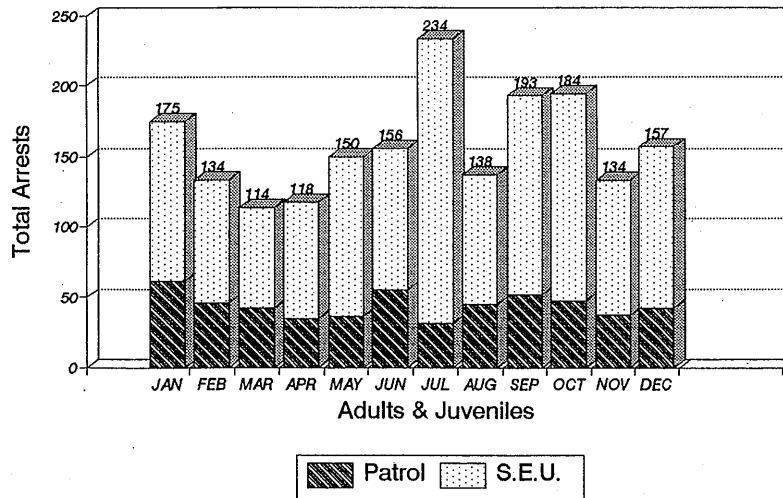
During 1993, and in a departure from traditional law enforcement efforts at addressing the drug problem, officers assigned to the Special Enforcement Unit assisted in the organization of several general clean up campaigns in conjunction with the newly formed Sacramento Street Merchants Association. Targeting the Sacramento Street corridor between Dwight Way and Alcatraz Avenue, SEU officers volunteered their time to remove graffiti and pick up, bag, and haul away unsightly trash and litter. The officers worked alongside merchants, community volunteers and youth workers to improve the physical appearance of this main thoroughfare. Anxious to take back their neighborhoods from graffiti vandals, the public's response was positive and encouraging.

This community involved policing effort integrated the community with the police in the fight against graffiti and urban blight. It involved Neighborhood Watch groups, home owner groups, families, business owners and other civic organizations. Working together, volunteers and police officers demonstrated an extraordinary example of civic pride. In a ripple effect, the painting and trash removal prompted further removal of abandoned furniture, the cleanup of trash from vacant lots and the removal of weeds, sending a clear signal that graffiti and vandalism will not be tolerated. This endeavor had the net effect of not only mobilizing the community into a united front but also of strengthening the relationship between the police and the community they serve.

### S.E.U. Search Warrants Served 1991-1993



### Berkeley Police Department Drug Arrests 1993



# Berkeley Police Department 1994 Annual Report



*Protecting & Serving Our Community*

SPECIAL ENFORCEMENT UNIT

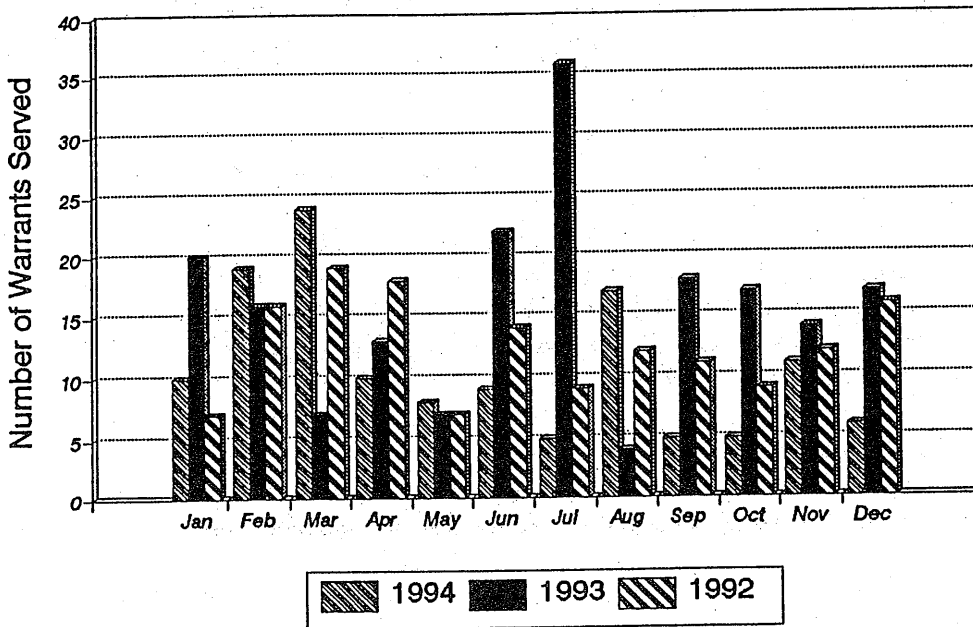
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During 1994 the duties and responsibilities of the DTF and SIB were intertwined so that members of both units worked closer together, sharing functions that were traditionally separate. As DTF officers, who in the past were used exclusively as street suppression units, became involved in certain covert activities that in the past were the sole function of SIB, SEU operations improved and the overall operation of SEU became more efficient.

Such modifications in the unit were also necessitated by the ever increasing demands placed on officers to address a more complex legal system as well as more intelligent and cautious criminals. As a result of these revisions in the operations, the SEU accounted for a total of 1450 arrests for the year, an increase of nearly 100 from 1993 and a charging rate which remained at nearly 90%, a level established in 1993.

Many diverse tactics were employed by SEU officers throughout the year to identify, apprehend, and convict drug traffickers. Covert operations such as buy/bust programs, undercover surveillances, reverse stings, buy/walk campaigns, and search warrants provided a great deal of success in the drug enforcement effort. Other overt activities such as DTF patrols, the mobile substation, and bicycle patrols also contributed to the overall endeavor.

### S.E.U. Search Warrants Served 1992-1994

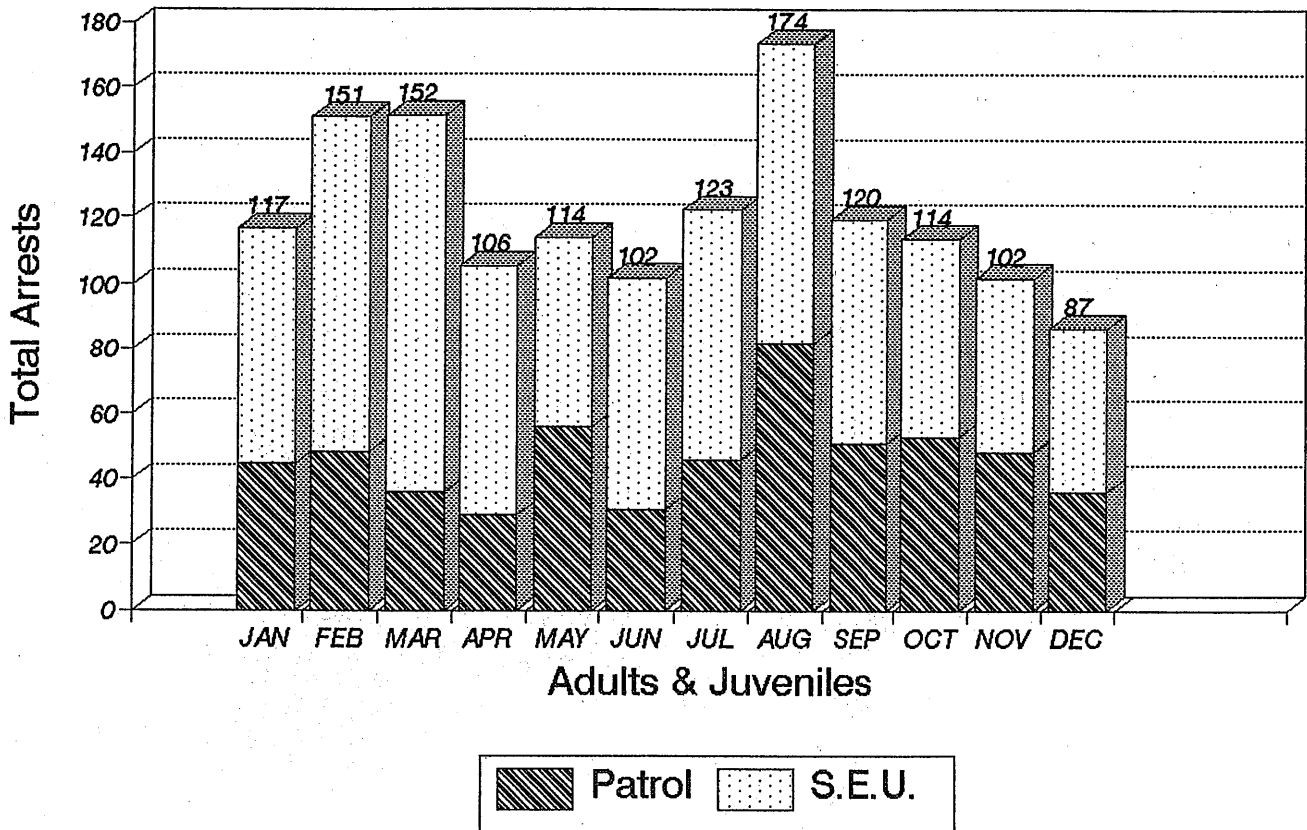


As part of the overt operations exercised by SEU during the year were activities conducted during the first three days of each month. Recognizing that drug activity was most active during this three day period, SEU received significant assistance from the Patrol, Support Services, and Traffic Divisions in the Drug Mitigation Deployment Plan. Using the Mobile Substation as a base of operations, officers provided motorcycle, bicycle, and foot patrol in the identified drug areas. Emphasis was placed on creating an increased police presence as well as arrests and convictions.

Berkeley Police Department

The SEU continued to work closely throughout the year with the Coordinated City Services Task Force (CCSTF) and Partnership Against Crime (PAC) to abate narcotics trafficking and vice activities at targeted problem properties.

# Berkeley Police Department Drug Arrests 1994



## 1995 Annual Report

# Join the domestic peace corps.

1968 recruitment poster



And help bring about domestic peace.

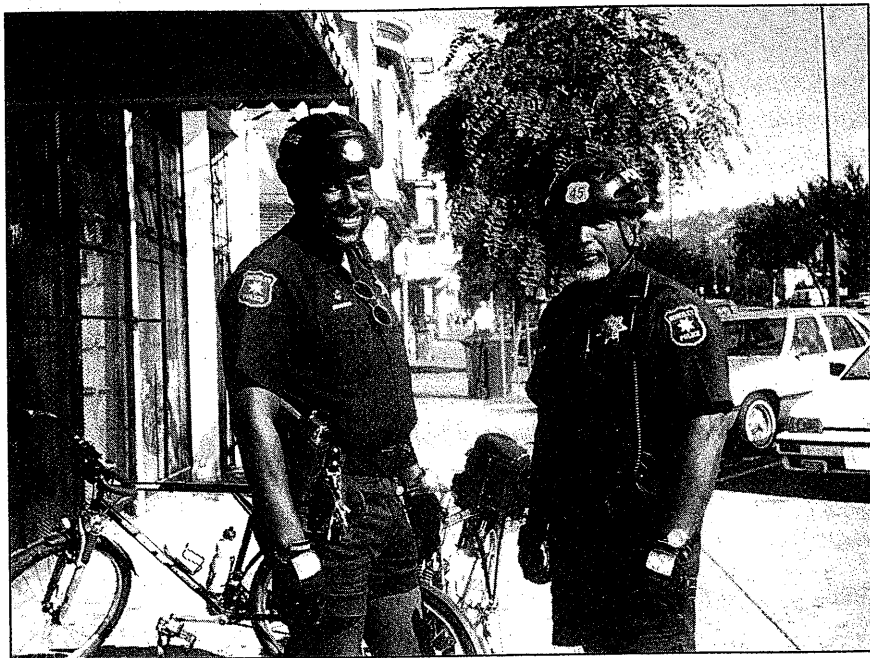
If you think you have integrity, if you think you have a desire to help people, if you think you have the strength and intelligence to solve some of the problems our cities are experiencing, join one of the nation's most progressive police departments. And find out if you really have it. You also need two years of college (some of our patrolmen have their Masters) and a lot of courage. We have 40 tough jobs for 40 gentle men. Starting salary: \$782 per month.

To apply, write the Director of Personnel,  
2100 Grove Street, Berkeley, CA 94704.  
An equal opportunity employer.

Service is timeless



**Residential Bike Patrol:** Through collaboration with the Public Works Department, 21 bicycles, bike racks and a work station were acquired through a Bay Area Air Quality Management grant. Approximately 45 additional officers were trained so that they could take bikes on their beat and patrol residential areas. Neighborhood reactions were very positive.



One of the great CIP successes during the year was a project known informally as "Parkwatch." Conceived as a means of reducing violence in and about People's Park and the surrounding area, this project not only involved the Berkeley Police, but also included the U.C. Police, Berkeley Mental Health, Homeless Outreach, and the Public Works Department. Nearly a thousand arrests and citations were made or issued for violations in and about the park, ranging from alcohol-related offenses to assaults and robberies. Numerous people were referred to services that could help them, such as Homeless Outreach. The results of the project were obvious - People's Park could once again be enjoyed by the entire community.

### POLICE RESERVES

The Police Reserve Unit consists of 41 dedicated citizens who volunteer their time and effort for the betterment of the community. Aside from the general patrol duties they share with the regular sworn officers, Police Reserve Officers handle special events year round, respond to emergency situations such as hazardous materials spills and major criminal events, provide special enforcement to suppress thefts of recyclables and provide weekend patrols of the Berkeley Marina area.

The Police Reserve Officers contributed 10,100 hours to the City of Berkeley during 1995.

### SPECIAL ENFORCEMENT UNIT

The SEU has continued to mount a full-scale offensive against narcotic offenders during 1995. Since its inception in 1988, the SEU has made 10,528 arrests, served 1,312 search warrants, and seized \$598,044.02 narcotics-related assets.

In 1995, the SEU continued vigorous enforcement with 626 arrests, 114 search warrants, and the seizure of over \$57,000 in cash from narcotics traffickers. In 1995, the Department as a whole made 1,226 narcotics-related arrests.

Commanded by a lieutenant, the Special Enforcement Unit is comprised of a Special Investigations Bureau (SIB), two uniformed Drug Task Force (DTF) teams, and an Administrative Narcotics Unit. One SIB officer was assigned full time to the Alameda County Narcotics Task Force (ACNTF) the entire year.

SIB:

Under the supervision of a sergeant, the four officers assigned to the Special Investigations Bureau work in an "undercover" capacity and have primary responsibility for the investigation of major narcotics offenders, prostitution, liquor law violations and gambling. In 1995, 37 arrests were made for prostitution, with most complaints and arrests occurring along Berkeley's San Pablo Avenue. A successful element of the prostitution enforcement program has been the issuance of "Stay-away Orders" to convicted offenders.

As part of the Community Involved Policing effort, individual SIB officers are frequently assigned specific locations brought to SEU's attention by neighborhood groups or the Coordinated City Services Task Force. Officers work with area residents to identify and arrest suspected dealers, prepare and serve search warrants, and work with property owners and the Berkeley Housing Authority to terminate rental agreements or initiate eviction proceedings against offenders in subsidized housing units.

In 1995, the SEU participated in the State of California Alcoholic Beverage Control's GALE Project (Grant Assistance to Local Law Enforcement Agencies). The SIB conducted several programs to investigate licensed liquor establishments which were suspected of selling liquor to minors. Administrative action was sought from the ABC when six licensed businesses sold alcohol to underage Police Aides used as decoys.

DTF:

Two sergeants and 11 officers staff the two, uniformed Drug Task Force (DTF) teams. Although primarily assigned to patrol drug "hot spots" and respond to in-progress calls of drug activity, DTF officers have also taken an active role in covert surveillance, preparing and executing search warrants and handling, individually or as a "team", Community Involved Policing projects.

"The Cops":

An important element of drug enforcement efforts in Berkeley is the continued use of "THE COPS" telephone number, whereby citizens may report - anonymously, if desired - suspected drug activity. The Police Department logged 616 such calls in 1995. Drug Task Force teams have primary responsibility for "COPS" calls and give them a high priority.

Administrative Narcotics:

Throughout 1995, the Administrative Narcotics Unit was staffed by one inspector and one officer. The unit has numerous administrative responsibilities including preparation of daily, weekly and monthly reports, gathering, analyzing and disseminating narcotics-related information to other units in the Department, maintaining close liaison with the District Attorney's Office regarding SEU arrests, conducting asset forfeiture investigations, and maintenance, analysis and related paperwork for all narcotic evidence seized by the Berkeley Police Department.

The Administrative Narcotics Unit is provided with court probation records by the local court, with conditions of probation (search waivers and stay-away orders) for every convicted narcotics offender and prostitute. The compiled information is placed on a Court Probation list which is regularly updated and widely distributed to SEU officers, beat officers and other special units. This has proven to be an effective investigative tool and has been very valuable in reducing prostitution and street corner drug activity.

Narcotics sales have evolved in such a way that has increased the degree of prosecutorial difficulty. In an almost predictable economic model, the once bountiful street level trafficking moved away from its traditionally high profile "open air" position on the street to one that was more passive and clandestine. The SEU was right on top of the change and modified its enforcement configuration so enforcement efforts never faltered. The unit went into a complex mode of electronic surveillance and covert "buys" that were submitted to the Grand Jury for adjudication with an amazingly high conviction rate.

### Grand Jury Programs:

Three "Grand Jury" programs were conducted in 1995, bringing the total number to ten such operations conducted in recent years. Two programs were citywide efforts which targeted specific problem areas throughout the city. The city-wide programs resulted in the Grand Jury indictment of 76 individuals for sales of narcotics. A third program specifically targeted Peoples' Park and the surrounding area and resulted in Grand Jury indictments and local Court warrants for an additional 75 suspects.

Although time and resource consuming, these programs have sustained a charging rate of 90.1% from the local Court and 100% from the Grand Jury. Because of the existence and quality of photographic and sound recordings, the overwhelming majority of those arrested plead guilty, thus avoiding court and overtime costs usually associated with lengthy trials.

In doing this, the SEU went to the use of cutting edge electronic technology that has made the unit very sought after for instruction by other agencies. The Director of the National Law Enforcement Technology Institute invited the SEU to conduct a special surveillance seminar at its next convention on this "Star Wars" type of technology.

### COMMUNITY SERVICES BUREAU

The Community Services Bureau (CSB) is staffed by a sergeant, two officers, a Police Service Assistant, the City Manager's Neighborhood Services Liaison and the Executive Director of the Berkeley Boosters Association. Civilian volunteers, Police Explorers and Police Aides also assist in the CSB functions providing much needed support.

### Programs and Services:

The Community Services Bureau works toward serving the concerns of Berkeley residents and merchants, identifying needs and solving problems under the auspices of Community Involved Policing. The following programs and services are offered to the community:

- Neighborhood Watch Program
- Business Watch Program
- Partnership Against Crime (PAC) programs
- Citizen Academy
- Youth Academy
- Crime Prevention presentations
- Home/Business Security Surveys
- Are you OK?  
(computerized home alert program for seniors)
- Operation I.D. (lending engravers)
- "McGruff" (the Crime Watch Dog)
- "Billy Booster" (the Police Robot)
- Crime Prevention Library (video tapes, brochures)
- Vacation Notification Program
- Crime Statistics
- Environmental Impact Reports
- Participation in community events:
  - "Christmas is April"
  - "Juneteenth"
  - "Solano Stroll"
  - "West Berkeley Summer Fair"
  - "Cinco de Mayo"
  - "National Night Out"
  - "Hall of Health Safety Fair"
- Berkeley Boosters  
(after school/summer youth programs)
- Explorers  
(Law Enforcement youth career development)

# Annual Report

1996



**Berkeley Police Department**

## POLICE RESERVES

The Berkeley Police Reserves was formed in 1941 to assist the department in providing for the needs of expanded police services to the community. The Police Reserves has been, and continues to be, an integral part of the department.

The 34 reserve officers gave over 8,000 hours of personal time during the year. They perform a variety of law enforcement duties, primarily working special events and providing security in the Marina. They continue to contribute immensely to the health and safety of our community by focusing on service and providing a safe and secure community for the citizens of Berkeley.

## SPECIAL ENFORCEMENT UNIT

Formed in 1988, the Special Enforcement Unit (SEU) has continued to be an effective program combining uniformed, plainclothes and support personnel into an efficacious element spearheading department efforts directed toward drugs and drug-related crime. In 1996, SEU personnel made 780 adult and 69 juvenile arrests, served 163 narcotics search warrants, and seized \$63,974 pursuant to state asset forfeiture laws.

The SEU is commanded by a lieutenant who directs three specialized units: the Special Investigations Bureau (SIB), two Drug Task Force teams (DTF1/DTF2), and an Administrative Narcotics Unit.

### The Special Investigations Bureau

SIB personnel work in a plainclothes "undercover" capacity. Although their primary focus is the investigation of major narcotics offenders, SIB officers also investigate prostitution, gambling and liquor law violations. A newly added responsibility is the enforcement of laws directed toward sales of tobacco products to minors.

As part of the department's Community Involved Policing efforts, individual SIB officers are assigned to specific problem areas or addresses as they become known. Citizens and property owners often provide officers with surveillance locations to use when identifying suspected dealers. In many cases, the arrest of a drug offender leads to further cooperative efforts with property owners and the Berkeley Housing Authority to terminate rental agreements or initiate eviction proceedings against offenders in City-subsidized housing.

SIB personnel closely monitor prostitution activity, which, in Berkeley, typically occurs along busy San Pablo Avenue, a major thoroughfare traversing the commercial area of the city. In 1996, 28 arrests were made for prostitution. In follow-up to those arrests, the local court issued "Stay Away Orders" prohibiting convicted offenders from returning to San Pablo Avenue or its adjoining side streets.

Using asset forfeiture funds, the SEU has acquired a large inventory of modern surveillance equipment which allows the unit to photograph, videotape or tape record drug sales. These tools have been instrumental to the ten, highly-successful Grand Jury Indictment Programs previously conducted by the SEU. For that reason, officers assigned to the SIB are skilled in the use of this equipment and preparation of video and photographic evidence for use in prosecution of drug cases.

### Drug Task Force

Typically, each DTF team consists of one sergeant and four officers who wear distinctively marked, black utility uniforms. DTF members, known throughout the street-level drug community as "TAZ," are the "first responders" to reports of drug activity and are primarily assigned to patrol areas where drugs and drug-related violence are problematic. DTF officers also take an active role in search warrant preparation, informant development, surveillances, and community projects which concern drug matters.

In 1996, DTF officers added bicycles as an effective tool in combating drug sales in residential neighborhoods. When local street-level dealers became so accustomed to DTF personnel and their vehicles, officers turned to bicycles as a non-traditional method of patrol and response to calls. DTF officers found that the bicycles allowed them to quickly and quietly approach problem areas which heretofore made traditional patrol difficult.

DTF officers have a high priority responsibility to respond quickly to "THE-COPS" telephone line tips, in which citizens report - anonymously if desired - in progress drug activity. This well-established program yields many arrests, the identification of numerous drug sellers and buyers, and provides valuable community contacts and resources which aid in special programs conducted by the SEU. Over 800 "Cops Calls" were documented in 1996.

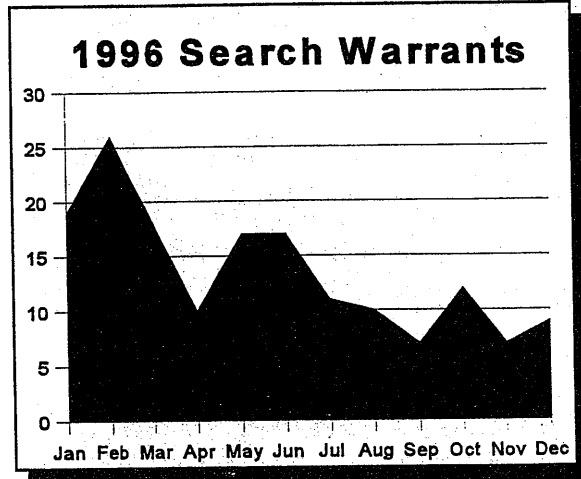
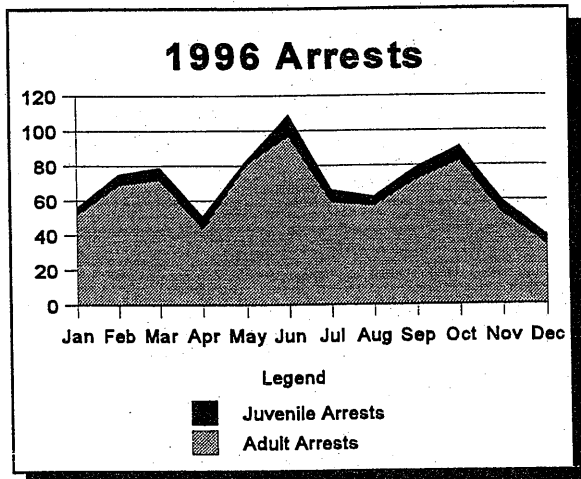
Administrative Narcotics Unit

The Administrative Narcotics Unit performs a multitude of support functions which contribute to the overall success of the SEU. The unit gathers drug-related information to create a database used for the preparation of daily and monthly reports, crime analysis studies and statistical evaluations.

The Administrative Narcotics Unit conducts asset forfeiture investigations and works closely with the Asset Forfeiture Unit of the Alameda County District Attorney's Office. The Administrative Unit superintends the various financial accounts in which asset forfeiture monies are deposited and provides quarterly reports detailing all monetary transactions.

Administrative unit officers are responsible for all narcotics evidence. This includes records management, lab analysis, security and the ultimate destruction of narcotics evidence. In 1996, the Administrative Narcotics Unit handled the destruction of 200 pounds of controlled substances.

An important duty of the Administrative Narcotics Unit is its role as liaison with the local District Attorney's Office concerning SEU arrests and reports. Each case is discussed with the prosecutor's office to identify potential deficiencies. When problems are noted, further investigation is done to insure prosecution. SEU officers are given continual feedback concerning investigations and case preparation, a worthwhile effort which has historically contributed to an annual charging rate of approximately 90% for SEU cases.



Based upon a nomination made by the Alameda County District Attorney's Office, SEU was presented the Western States Information Network (WSIN) Narcotic Agency of the Year Award for California Region II in early 1996. This prestigious award is given annually to agencies which exemplify the cooperation necessary for effective narcotic enforcement, and for the string of successful Grand Jury Indictment Programs conducted by the SEU.

# Annual Report

1997



**Berkeley Police Department**

## SPECIAL ENFORCEMENT UNIT

In nearly ten years of operation, the Special Enforcement Unit has developed a formidable track record in narcotics enforcement. Due to the dedication of the officers assigned and to its specialty operations, the unit continues to stay up with the criminal competition and constantly develops new strategies to interdict narcotics related crime. The Special Enforcement Investigations Bureau is the appendage that conducts covert operations and the Drug Task Force street team provides high visibility enforcement.

In 1997 this unit was restructured with one of the Drug Task Force street teams being reassigned to staff the newly formed Special Response Team. This bold move was instituted to diversify and adapt our staffing configuration to new demands that were developing. The flexibility that we were able to achieve enabled the Special Response Team to enforce drug laws, while also allowing them to branch off to work on specialty problems.

The philosophy of the unit revolved around four points: education, enforcement, treatment and responsibility. This provided the unit with a focus in planning strategies and conducting operations. It was found that a vigorous enforcement program was needed to make the other components attractive to the people targeted. Treatment was made available through the Berkeley Mental health Department and we constantly encouraged people we contacted to take advantage of any and all educational opportunities available to them. We stressed that the ultimate responsibility for life and individual circumstances rests with the individual.

We implemented a "jump start" program at Willard junior High School, which emphasized building self esteem through performing complex mathematical computations, memorizing languages and historical dates without resorting to paper and pencil. We also sponsored an aerobics class, hoping to bolster physical health and relationships with police while honoring academic achievement.

In 1997, 1,204 drug-related arrests were made by the police department. 35% of these were made by SEU. Of those, 96% were charged by the district Attorney's Office. Most offenders not charged had their probation or parole status revoked, and they went back to jail.

Officers arrested a notable Methamphetamine dealer and manufacturer in the south campus area after finding an active chemical laboratory. We seized the lab and \$2,000 cash.

SEU conducted a very labor-intensive two-month surveillance that culminated in the arrest of 36 drug dealers along the Bancroft Corridor. They received lengthy jail terms because of the meticulous work and coordinating with the District Attorney's Office.

This year also saw the problem of prostitution resurface along the San Pablo Corridor. SEU conducted several operations resulting in the arrest of both prostitutes and their male customers. With these monthly sting operations, we noticed a great decrease in some of the ancillary crimes related to prostitution such as robbery, assault, rape and theft.



**Cocoon theory** - This is a special method of community empowerment to eradicate persistent drug-related activities in residential areas. After a suspected location was targeted and identified as being a "probable" location for drug sales and/or use, we passed out leaflets to residents around it to create a viewing gallery of the target location. These concerned citizens would then become observers for the police and report suspicious activity via THE-COPS, a dedicated telephone line. Information so received got priority response and simultaneously created a data base that was used by our unit when conducting covert operations. This information provided up-to-date data about such variables as the day of the week and time of day of the drug activity.

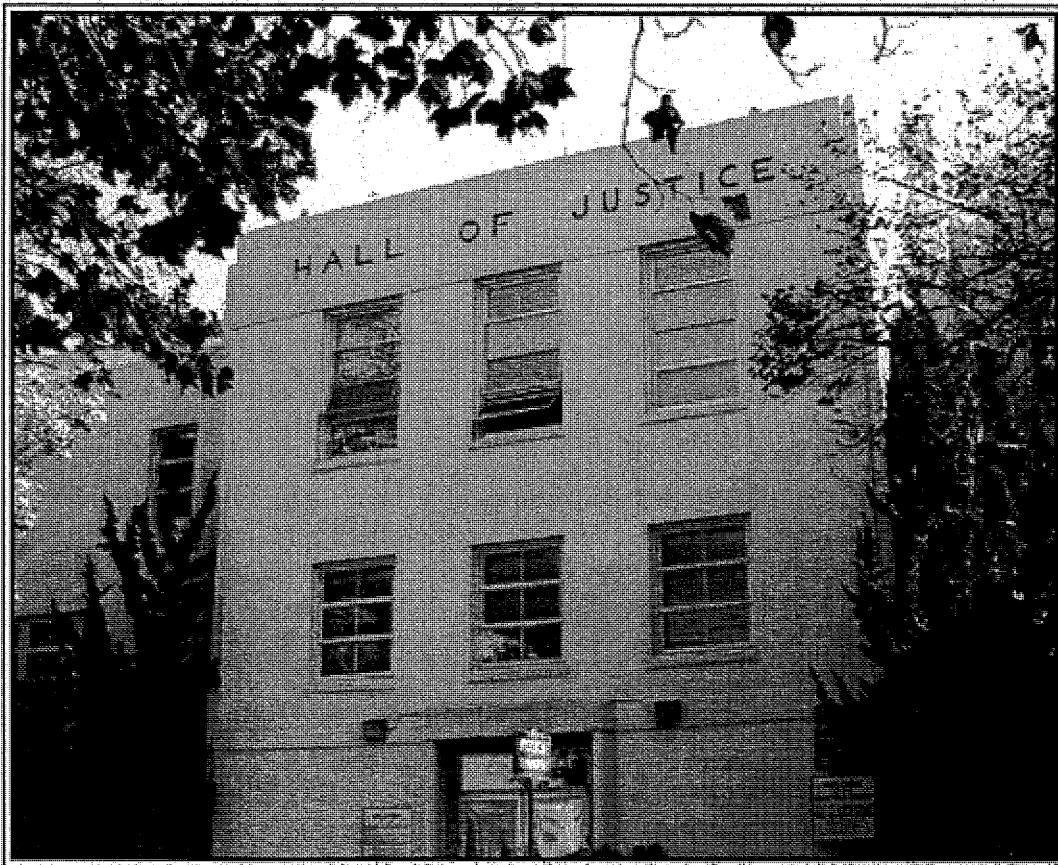
**Street Closure** - The "broken window" theory maintains that individuals will act out role expectations; ergo, if a community has debris and litter strewn about, the community will suffer a loss of self esteem and tend to become apathetic about various negative aspects of life there. On the other hand, when trash is cleaned up and properties are maintained, the community collectively sees itself in a much more positive light and acts accordingly. From this, SEU conceived of and developed a "street closure" tactic.

The first experiment occurred in the 1500-1600 blocks of Alcatraz. In conjunction with the community and other city agencies, that section of the street was blocked off and thoroughly cleaned up. Trash receptacles were provided, along with various city volunteers from all departments. We held a block party at the end, with contests and prizes for children. Asset forfeiture money was used to provide scholarships to local karate studios for children living in that target area. The event was a success and a strong statement to the local drug dealers that the community had every intention of reclaiming their street. We intend to take this strategy to any other place in the city where similar problems arise.

Though the Special Enforcement Unit is the prime narcotics enforcement unit in the department, there are also specialty assignments that we can perform. This year we provided security for Vice President Al Gore. We were first responders to many felony in-progress calls, often apprehending the suspect before he/she could flee. During the course of the year, this unit arrested some of the notable suspects of robbery, car-jacking and murder. This unit also served the department's high-risk search warrants.

In 1997, SEU implemented a "spring offensive." We served search warrants, walked the heavy drug-dealing areas, passed out flyers and police baseball cards, vigorously enforced traffic laws, conducted "knock and talks" and arrested many probation and parole violators. We worked with the neighboring police agencies of Albany and Oakland to address our mutual border problems so as to maintain continuity of narcotics enforcement in the entire tri-city area. The SEU Commander held a seat on the Coordinated City Services Task Force, with the goal of channeling all city resources in the direction necessary to make the community a safe one.

# **BERKELEY POLICE DEPARTMENT**



## **ANNUAL REPORT 1999**

### **SPECIAL ENFORCEMENT UNIT**

The mission of the Special Enforcement Unit (SEU) is to improve the quality of life throughout the community by suppressing drug trafficking and drug related offenses. The SEU includes the Special Investigations Bureau (SIB), Drug Task Force Teams (DTF), and an Administrative Narcotics Section. During 1999, our officers made 385 adult and juvenile arrests and served 45 search warrants for narcotics related offenses.

We worked closely with Crime Analysis and other Detective Bureau Units to identify problems and to develop and share information about our common criminal population. In cooperation with those Units, we devised and carried out programs that addressed identified problems. This cooperative effort resulted in a reduction in crime and an improvement in the quality of life for Berkeley residents.

The Unit remains committed to youth and student programs. We recognize that our enforcement efforts involving juveniles provide us an opportunity to both educate and encourage youth to take personal responsibility for their actions. If we are successful in these contacts, we can help guide young people toward a life of adult responsibility and away from criminal enterprise. That would be a true service to the community.

### **ANIMAL SERVICES UNIT**

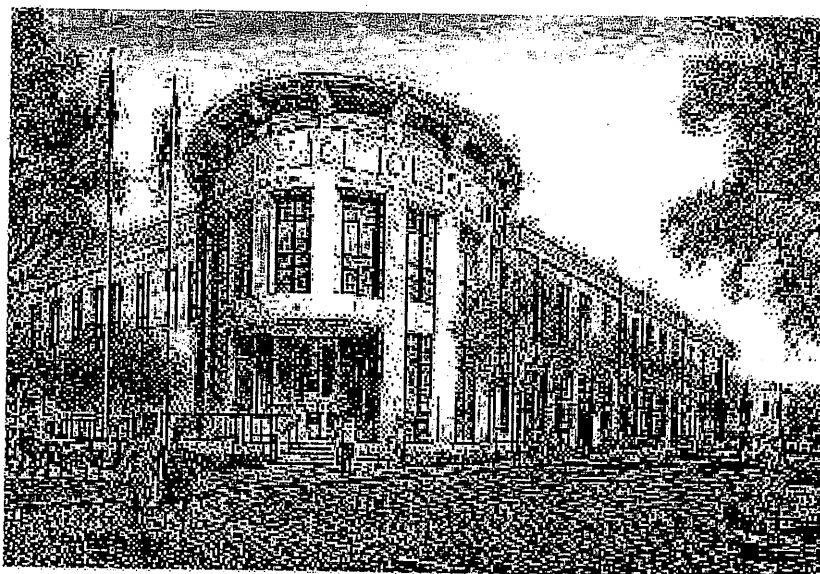
The Unit operates the Animal Shelter and provides animal control services in the field. The Unit is directed by a Sergeant, and has one non-sworn supervisor and eight Animal Control Officers. AC Officers enforce Animal Code Regulations, both in defense of animals and to protect the community from unsafe animals. AC Officers investigate animal bite and cruelty cases, issue licenses, and operate the Shelter.

The goal of the Shelter is to find homes for as many adoptable pets as possible. The Shelter serves as a kennel for stray, abandoned, impounded, and unwanted animals. The Shelter houses animals from Berkeley and for contract cities, including San Leandro, Albany, Emeryville, and Piedmont.

The Shelter has an active Volunteer Program, with over forty volunteers. Volunteers participate in our dog walking and cat socialization programs and operate the Mobile Pet Adoption Program at local pet food stores. The Shelter also participates in the Cable TV Channel 25 program "Great Pets", which features pets available for adoption, as well as helpful tips regarding animal behavior and safety. Additional information about the Animal Control Unit, the Shelter, and the Volunteer Program can be found by clicking "Animal Shelter" on the Department's Internet site:  
[www.berkeleypolice.org](http://www.berkeleypolice.org).



Ronald T. Tsukamoto Public Safety Building  
2100 Martin Luther King Jr. Way  
Berkeley, CA. 94704-1109  
(510) 981-5900



# 2000

## Annual Report

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B e r k e l e y P o l i c e

# 2000

## division activities

### Jail Operations

City jail operation include bookings, citing prisoners out of custody, transporting of prisoners, processing criminal registrants, overseeing attorney visits, and nighttime vehicle release.

The facility is used as a temporary holding facility for prisoners for up to 96 hours after arrest, pending transfer to another facility, release from custody, or court arraignment. The jail's capacity, as determined by the State Board of Corrections, is 38 inmates. The State Board of Corrections, Berkeley Fire Department and the City Health Department review the jail annually to ensure compliance with all mandated minimum standards for local detention facilities.

Staffing at the jail includes a Sergeant and civilian Police Service Assistants. Senior Police Service Assistants are responsible for supervising each shift. Police Service Assistants must complete a 176 hours, state-mandated corrections course within one year of hire. Thereafter, Police Service Assistants must complete 24 hours of annual training.

### PATROL DIVISION

*Patrol Teams provide response to calls for service, conduct investigations, and provide for arrests, citations, and proactive police problem solving that threaten quality of life in the community. A Patrol Captain heads the Division.*

## Support Services

## Patrol

### Special Enforcement Unit

The mission of the Special Enforcement Unit (SEU) is to suppress drug trafficking and drug-related offenses. The SEU includes the Special Investigations Bureau (SIB), Drug Task Force Teams (DTF), and an Administrative Narcotics Section.

Over 200 narcotics-related surveillances were conducted throughout the drug "hot spots" in the City during 2000. Numerous confidential investigations were conducted and personnel also put together prostitution stings, and "John" programs.

Numerous large-scale operations targeted this year included the areas of the Waterfront, Fairview/ Adeline Avenue, Shattuck Avenue Corridor, 63<sup>rd</sup>/ Market Street and the 1200 block of Haskell Street. Confidential Reliable Informants were utilized in obtaining information for search warrants and other non-drug related crimes. SEU played a major role in combating the street level violence plaguing the Sacramento Street corridor in the year 2000.

The Unit also serves as the City's certified experts in the possession for sales, and sales of cocaine, cocaine base, heroin, methamphetamines and marijuana.

There is one Lieutenant, one Special Investigations Bureau Sergeant, one Inspector, two Drug Task Force Sergeants, and six Officers staffing this Unit.

Ronald T. Tsukamoto Public Safety Building  
2100 Martin Luther King Jr. Way  
Berkeley, CA. 94704-1109  
(510) 981-5900

# Berkeley Police Department



## 2001 Annual Report

### *Our Mission...*

*In partnership with a culturally diverse community, the Berkeley Police Department is committed to the effective suppression of crime and drug related activity, and to providing a safe and secure environment through vigorous law enforcement. The Department will strive to identify and solve problems that threaten the quality of life in our community.*

## **Patrol Division**

### **Patrol Teams**

Patrol teams provide response to calls for service, conduct investigations, and provide for arrests, citations, and proactive police problem solving for issues that threaten the quality of life in the community. A captain heads the Division, which is staffed with four lieutenants, 14 sergeants, and 80 police officers.

### **Special Enforcement Unit**

The mission of the Special Enforcement Unit (SEU) is to improve the quality of life throughout the community by suppressing drug trafficking and drug-related offenses. The SEU includes the Special Investigations Bureau (SIB), Drug Task Force Teams (DTF), and an Administrative Narcotics Section. This unit is staffed with one lieutenant, one administrative sergeant, three field sergeants, and nine officers.

Using various interdiction methods, SEU was able to make almost 400 arrests for drug-related offenses, serve 70 search warrants and conduct nearly 40 parole and probation searches. In addition, over \$22,000 in cash was seized under State and Federal asset forfeiture guidelines.

### **Crowd Management Team**

The Berkeley Police Department Crowd Management Team (CMT) is a specialized group of officers who have been selected for training in both crowd management and crowd control situations. The purpose of the unit is to preserve the rights of those who wish to exercise their first amendment rights by peaceful demonstration, as well as those who may be adversely affected by the activity.

The team works with those individuals or groups who wish to peaceably march, assemble, carry signs, make speeches, or participate in any other lawful activity designed to express political, religious, or social opinions.

During the last year CMT was activated for numerous events, both planned and spontaneous. Major events included the Critical Mass/Take Back the Streets Demonstrations, May Day, 4th of July celebration, Bayer Lab Demonstration, and the Solano Stroll. There are currently 35 officers of all ranks assigned to the unit and training is conducted on a monthly basis.

CMT is also working on a mobile deployment plan or Mobile Field Force, in accordance with State and County procedures. This includes securing equipment, vehicles, and updating tactics to cope with modern day demonstrations.



**BERKELEY POLICE DEPARTMENT  
ANNUAL REPORT - 2002**





## **SPECIAL ENFORCEMENT UNIT**

The Special Enforcement Unit (SEU) is commanded by a lieutenant who directs three specialized details: the Special Investigations Bureau (SIB), two Drug Task Force teams (DTF1/DTF2), and an Administrative Narcotics Unit.

The mission of the Special Enforcement Unit (SEU) is to improve the quality of life throughout the community by suppressing drug trafficking and related offences. During 2002, SEU officers made 463 adult and juvenile arrests for criminal offenses and had 95% of those charged by the District Attorney. They served 139 narcotics search warrants/ probation and parole searches.

SEU formulated programs to address these issues and enlist the assistance of appropriate City agencies to work with us. They were successful in the closing of a liquor store that allowed drug dealing on its premises. They worked with other liquor storeowners, forming partnerships in which those owners discouraged loitering and kept their properties free of trash. SEU also worked with neighborhood groups and property owners to evict drug dealers and their confederates, and to maintain the appearance of their properties.

### **The Special Investigations Bureau**

SIB personnel work in a plainclothes "undercover" capacity. Although their primary focus is the investigation of major narcotics offenders, SIB officers also investigate prostitution, gambling and liquor law violations.

As part of the Department's Community Involved Policing efforts, individual SIB officers are assigned to specific problem areas or addresses, as they become known. Citizens and property owners often provide officers with surveillance locations to use when identifying suspected dealers. In many cases, the arrest of a drug offender leads to further cooperative efforts with property owners and the Berkeley Housing Authority to terminate rental agreements or initiate eviction proceedings against offenders in City-subsidized housing.

### **Drug Task Force**

Typically, each DTF team consists of one sergeant and three officers who wear distinctively marked, black utility uniforms. DTF members, known throughout the street-level drug community as "TAZ," are the "first responders" to reports of drug activity and are the primarily assigned to patrol areas where drugs and drug-related violence are problematic.

DTF officers also take an active role in search warrant preparation, information development, surveillances, and community projects concerning drug matters. DTF officers have a high priority responsibility to respond quickly to "THE COPS" telephone line tips, in which citizens report anonymously if desired in progress drug activity. This

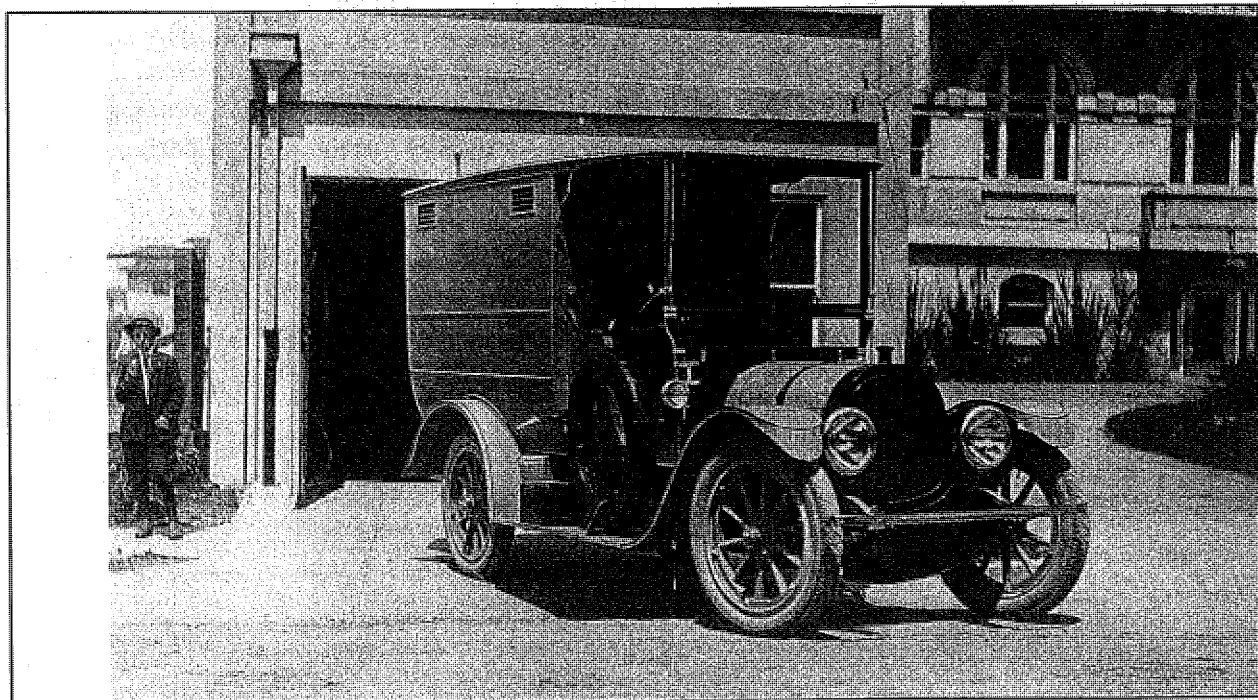
well established program yields many arrests, identifies the numerous drug sellers and buyers, and provides valuable community contacts and resources.

### **Administrative Narcotics Unit**

The Administrative Narcotics Unit performs a multitude of support functions, which contribute to the overall success of the SEU. The unit gathers drug-related information to create a database used for the preparation of daily and monthly reports, crime analysis studies and statistical evaluations.

The Administrative Unit Sergeant is responsible for all narcotics evidence. This includes records management, lab analysis, security and the ultimate destruction of narcotics evidence.

The Administrative Narcotics Unit conducts asset forfeiture investigations and works closely with the Asset Forfeiture Unit of the Alameda County District Attorney's Office.





Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Adopt an Ordinance Adding a New Chapter 12.01 to the Berkeley Municipal Code Establishing Emergency Greenhouse Gas Limits, Process for Updated Climate Action Plan, Monitoring, Evaluation, Reporting and Regional Collaboration

RECOMMENDATION

1. Adopt an ordinance adding a new Chapter 12.01 to the Berkeley Municipal Code (BMC) establishing Emergency Greenhouse Gas Limits with an effective date of [redacted], 2022.
2. Refer to the FY23-24 Budget Process \$[redacted] consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Scientific evidence indicates that between the industrial period of 1850 and 2021, economic systems, namely state and free-market forms of capital accumulation and economic growth have increased global atmospheric carbon dioxide levels to a staggering 418 parts per million (ppm), beyond the established planetary boundary of 350 ppm, and warmed global average temperature by approximately 1.1 degrees Celsius. Available scientific evidence indicates there is no 'safe' level of warming beyond 350 ppm, only gradations of risk with respect to habitability.

Berkeley is already experiencing unprecedented negative effects of warming associated with 1 degree of warming, and current global growth trends and policies could push humanity past 1.5 degrees by mid-century, leading to a devastating 2-4 degrees by the end of the century. The 'Global North,' which includes Berkeley, has far exceeded its fair share of the emissions comprising and exceeding the boundary, and must reduce its emissions rapidly and justly.

The City of Berkeley has engaged with the issue of global warming for at least three decades and has unquestionably been a leader in certain climate actions. Yet, in light of the current gravity of the climate emergency, current strategies and targets are not adequate. Exceptionally risky “mitigation” strategies, namely midcentury ‘net-zero’ pledges have provided for unbridled economic and emissions growth and thus severely dwindled carbon budgets, effectively rendering Berkeley’s gradual reduction goals: 80% by 2050 (Measure G, 2005 and Resolution 64,480-N.S., 2009) and net-zero by 2045 (Resolution 69,852–N.S., 2021), untenable. The majority of risk associated with each additional ton of greenhouse gas emitted will be borne by generations who will have not consented to current reduction goals and strategies. Current policies could exacerbate or lead to exceedingly dangerous new tipping points.

This item is timely in light of ongoing reports that national “pledges” under Paris Agreement could lead to at least 3 degrees of catastrophic warming, the inability for Congress to pass meaningful domestic and international climate policies and legislation, and the failure of world leaders to reach an effective and substantive agreement at the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow.

#### BACKGROUND

The ordinance establishes emergency greenhouse gas limits aimed at reducing sector-based greenhouse gas emissions 90% below 2000 levels and consumption-based emissions 90% below 2013 levels by 2030. These limits would bring Berkeley closer to its global ‘fair share’ and science-based reduction obligations, and could help achieve reductions at scale as part of a program of regional coordination and collaboration.

While such targets are ambitious, mitigating and minimizing global warming risk and maximizing adaptation, resilience and adherence to planetary boundaries earlier in the century rather than later will likely result in less disruption to society over the long term, and will generate opportunities for more inclusive and sound democratic decision making as compared to waiting until atmospheric carbon levels reach increasingly catastrophic levels.

These limits are consistent with the City’s 2006 “precautionary principle” established by BMC 12.29, and which states:

“The purpose of this chapter is to promote the health, safety, and general welfare of the community by minimizing health risks, improving air quality, protecting the quality of ground and surface water, minimizing consumption of resources, and minimizing the City’s contribution to global climate change by implementing in a phased manner, as provided in this chapter, the City’s use of a precautionary principle approach in its decisions.”

As enacted by Council, BMC 12.29 requires the City to apply the following precautionary principle tenets in the course of action and decision-making:

1. Anticipatory Action: Anticipatory action may prevent harm. Government, business, community groups, and the public share this responsibility.

2. Right to Know: The community has a right to know complete and accurate information on potential health and environmental impacts associated with the selection of products, services, operations or plans.
3. Alternatives Assessment: Examine a full range of alternatives and select the alternative with the least potential impact on health and the environment including the alternative of doing nothing.
4. Consideration of Significant Costs: Consider significant short-term and long-term costs in comparing product alternatives, when feasible. This includes evaluation of significant costs expected during the lifetime of a product, (e.g. raw materials, manufacturing and production, transportation, use, clean-up, acquisition, extended warranties, operation, supplies, maintenance, disposal costs, long and short-term environmental and health impacts); and that expected lifetime compared to other alternatives.
5. Participatory Decision Process: Decisions applying the Precautionary Principle should be transparent, participatory by including community input, and informed by the best available information.

The ordinance requires the City to develop a new Climate Action Plan and consistent with these GHG limits and precautionary principle tenets, and to establish relevant legislative and budgetary timelines to help the City reach its objectives.

In addition, the ordinance requires the City to consider post-growth climate mitigation strategies and policies as potential alternatives to the growth and market-based and other policies that created the crisis and remain a persistent obstacle to meaningful action. The City's policies and programs *must not* aim to merely increase economic growth for growth's sake, but rather to support the provision of basic human needs and happiness.

It also provides an institutional framework to build solidarity with neighboring Bay Area communities and jurisdictions to achieve collective limits that could change rate of global warming while simultaneously providing sister cities in other countries precious time to improve living standards and pursue decarbonization.

#### ENVIRONMENTAL SUSTAINABILITY

This item is consistent with the latest climate science and the precautionary principle established by BMC 12.29.

#### ATTACHMENTS

1. Proposed Ordinance adding a new Chapter 12.01.

FINANCIAL IMPLICATIONS

Staff time will be necessary to implement the new ordinance. This item refers \$[ ] to the FY23-24 Budget Process consistent with implementing the requirements of Sections 12.01.040, 12.01.050, 12.01.060.

CONTACT PERSON

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

ORDINANCE NO. –N.S.

ADDING CHAPTER 12.01 TO THE BERKELEY MUNICIPAL CODE TO ESTABLISH  
EMERGENCY GREENHOUSE GAS EMISSIONS LIMITS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 12.01 of the Berkeley Municipal Code is added to read as follows:

**Chapter 12.01**

**EMERGENCY GREENHOUSE GAS EMISSIONS LIMITS**

**Sections:**

**12.01.010 Findings and purpose.**

**12.01.020 Definitions.**

**12.01.030 Greenhouse Gas Emissions Limits.**

**12.01.040 Climate Action Plan.**

**12.01.050 Monitoring, Evaluation, And Reporting.**

**12.01.060 Regional Collaboration.**

**12.01.070 Severability.**

**12.01.080 Construction.**

**12.01.090 Effective date.**

**12.01.010 Findings and purpose.**

The Council of the City of Berkeley finds and declares as follows:

- A. Available scientific evidence indicates that between the industrial period of 1850 and 2021 economic systems, namely state and free-market forms of capital accumulation and economic growth, have increased global atmospheric carbon dioxide levels to a staggering 418 parts per million (ppm) beyond the established planetary boundary of 350 ppm, and warmed global average temperature by approximately 1.1 degrees Celsius. The 'Global North,' which includes Berkeley, has far exceeded its fair share the emissions comprising and exceeding the boundary, and must reduce its emissions rapidly and equitably.
- B. Available scientific evidence indicates there is no 'safe' level of warming beyond 350 ppm, only gradations of risk with respect to habitability. Berkeley, California, the United States, and the world is already experiencing unprecedented negative effects of warming associated with 1 degree of warming, and current global growth trends and policies will push humanity past 1.5 degrees as early as the 2030s and 3 to 4 degrees by the end of the century. Global warming between 1.5 to 2 degrees Celsius is expected to further accelerate existential risks to health and safety including but not limited to, extreme weather, mass extinction, water and food shortages, violent conflict, fire, forced migration, economic collapse, disease, heat stress, and sea level rise. The majority of risk associated with each additional ton of greenhouse gas emitted will be borne by generations who will have not consented to current reduction strategies.
- C. In the twenty-first century, Berkeley, California, and the United States have largely and irresponsibly relied on ineffective market-based mechanisms, unrealistic expectations of absolutely decoupling GDP growth from energy use, speculative mass deployment of negative emission reduction technologies and 'net-zero' practices to offset continued fossil fuel production and consumption, and underappreciation of irreversible tipping points, aerosol masking, and non-carbon greenhouse gasses. In light of the current gravity of the climate emergency, these strategies have unequivocally failed; between Measure G and 2018, each jurisdiction only reduced greenhouse gasses by a respective 10%, 12%, and 26%, while at the same time globally, nearly a third of all anthropogenic carbon dioxide was emitted. Exceptionally risky strategies pursued by the Global North, namely midcentury 'net-zero' pledges have provided for unbridled economic and emissions growth and thus severely dwindled carbon budgets, effectively rendering Berkeley's gradual reduction goals: 80% by 2050 (Measure G, 2005 and Resolution 64,480-N.S., 2009) and net-zero by 2045 (Resolution 69,852–N.S., 2021), untenable.
- D. It is the intent of the Council to adopt stringent and equitable science-based greenhouse gas emissions limits and related action plans and reports, consistent with the precautionary principle approach established by Chapter 12.29, for the purpose of achieving the rapid, far-reaching, unprecedented and just changes in all aspects of society associated with mitigating and minimizing global warming risk and maximizing adaptation, resilience and adherence to planetary boundaries.
- E. The Council further intends to endeavor to build solidarity with neighboring communities and jurisdictions to achieve collective limits that could change rate of global warming while simultaneously providing sister cities in other countries precious time to improve living standards and pursue decarbonization.



**12.01.020 Definitions.**

A. "Climate Action Plan" means the document required under Section 12.01 outlining the specific actions the City will endeavor to take to reduce Greenhouse gas emissions and to mitigation, resilience and adaptation efforts with respect to climate impacts.

B. "Consumption-Based Greenhouse Gas Emissions" means all the Greenhouse Gas emissions associated with producing, transporting, using, and disposing of products and services consumed by a particular community or entity in a given time period, including emissions generated outside the boundaries of the community or the geographic area where the entity is located.

C. "Greenhouse Gas" means any and all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

D. "Sector-Based Greenhouse Gas Emissions" means all of the Greenhouse Gas emissions generated within the geographic boundaries of the City in a given time period.

E. "Responsible Production and Consumption" means improving how materials and products are extracted, manufactured, delivered, acquired, used, reused, recycled, and disposed of to ensure that the production and consumption of materials and products promote basic human needs, are distributed in a socially equitable manner, and carried out in a way that minimizes environmental impacts over the lifecycle of those materials and products while matching the carrying capacity of the earth's resources and adding value so as not to jeopardize present and future generations. "Lifecycle" means the complete material life of a product, good, or service, including resource extraction, manufacture, assembly, construction, maintenance, transportation, operations or use, and end of life (reuse, recycling/composting, and disposal). "Carrying capacity" means the number or amount of people, plants, and other living organisms that an ecosystem can support indefinitely without causing environmental degradation.

F. "Post-Growth Emissions Mitigation" means Greenhouse Gas mitigation strategies and policies that acknowledge and support the following:

- (1) rapid emissions reductions may not be compatible with economic policies that support limitless growth, especially growth in the production and consumption of commodities that do not support basic human needs,
- (2) in jurisdictions with high aggregate wealth there may be a disassociation between additional capital accumulation, economic growth, and GDP, and key social outcomes, to include but not limited to, health, social wellbeing, happiness and equity,
- (3) fairer distribution of income and wealth, and guaranteed access to universal public services.

**12.01.030 Emergency Greenhouse Gas Emissions Limits.**

A. The following Greenhouse Gas emissions limits are hereby established:

- (1) By 2030, reduce Sector-Based Greenhouse Gas Emissions [90%] below 2000 levels.
- (2) By 2030, reduce Consumption-Based Greenhouse Gas Emissions to [5] mtCO<sub>2</sub>e per household or less, equivalent to a [90%] reduction compared to 2013 levels.
- (3) By 2026, the Council shall determine an appropriate deadline for achieving 100% zero emissions across both Sector and Consumption-Based inventories.

**12.01.040 Climate Action Plan.**

A. By [ ], 2022, the City Manager or designee shall prepare and submit for relevant Council policy committee and Council approval a Climate Action Plan (CAP) which shall

do all of the following:

- (1) Align with the emissions limits established in Section 12.01.030.
  - (2) Consider equitable Post-growth Climate Mitigation strategies and policies.
  - (3) Incorporate an equity framework that addresses historic racial, class-based, and social inequalities; prioritizes social, economic, and environmental benefits derived from implementing the CAP; and ensures an equitable distribution of those benefits. This framework shall consider:
    - (a) The engagement and prioritization of those who are most impacted by climate change and have historically had the least influence in decision-making processes, including low-income communities of color, communities with disabilities, and other impacted populations;
    - (b) Burdens and/or unintended consequences of related actions, especially for low-income communities of color, communities with disabilities, and other vulnerable populations; and
    - (c) Social interventions needed to secure workers' rights and livelihoods when economies are shifting to responsible production and consumption, collectively referred to as a "just transition" framework, and other impacts on workforce and job opportunities.
  - (4) Include, but not be limited to, the following elements: energy supply; transportation and land use; building operations; housing; Responsible Production and Consumption; carbon sequestration and water conservation.
  - (5) Identify strategies and/or make recommendations to achieve emissions limits for all elements. The CAP shall recommend approaches on goals and principles. Each strategy or recommendation shall:
    - (a) Identify parties responsible for implementation;
    - (b) Incorporate an estimated cost; and
    - (c) Incorporate estimated legislative and budgetary timelines based consistent with Section 12.01.030; and
    - (d) Contain key performance indicators and explicit equity metrics to measure progress.
- B. The City Manager or their designee shall update the Climate Action Plan at least every two years.

#### **12.01.050 Monitoring, Evaluation, And Reporting.**

- A. The City shall demonstrate its long-term commitment to reducing Greenhouse Gas emissions and advancing racial and social equity by measuring and reporting emissions, tracking key performance indicators and equity metrics, and monitoring the City's progress on meeting its climate action goals and commitments.
- B. The City Manager or their designee shall, with the assistance from relevant City agencies:
- (1) Measure and monitor Sector-Based Greenhouse Gas Emissions, including municipal emissions, using best available global protocols for preparing Citywide Greenhouse Gas emission inventories.
  - (2) Measure production and consumption emissions using best available global methodologies for preparing consumption-based emission inventories.
  - (3) Evaluate Sector-Based Greenhouse Gas Emissions against set limits, document production and consumption emissions, and produce an annual Greenhouse Gas emissions report.
  - (4) Establish a monitoring and reporting process for the implementation of the CAP that:
    - (a) Tracks key performance indicators and equity metrics for strategies to help

monitor their progress and implementation;

(5) Request and receive data from City departments to support:

(a) The annual Greenhouse Gas emissions inventory. City departments may be asked to provide data on, but not limited to, the following: their energy use; types of fuels used for their operations; fuel volume; vehicle-miles travelled (if applicable) within their jurisdictions; and private sector Greenhouse Gas emission sources regulated by the department. Departments may also be requested to verify emission estimates and assumptions and review resulting reports;

(b) Monitoring and reporting of Climate Action Plan implementation. City departments may be asked to provide data on key performance indicators and equity metrics related to adopted strategies and actions; and

(6) Coordinate with other City agencies to monitor, track, and report on climate action progress to local, state, national, and global partners.

(7) Report its findings in a progress report to the Council and public every year.

(8) Report on at least a biannual basis to relevant Council policy committees and commissions to support policy and budget development consistent with reduction limits established in Section 12.01.030.

#### **12.01.060 Regional Collaboration.**

The Council and City staff, working alongside the public, shall endeavor to build solidarity and coalitions with neighboring communities, jurisdictions, and agencies to achieve equitable collective Greenhouse Gas limits and observe planetary boundaries.

#### **11.63.070 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, 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 Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

#### **12.01.080 Construction.**

This Chapter is intended to be a proper exercise of the City's police power, to operate only upon its own officers, agents, employees and facilities and other persons acting within its boundaries, and not to regulate inter-city or interstate commerce. It shall be construed in accordance with that intent.

#### **12.01.090 Effective date.**

The provisions in this ordinance are effective [ ], 2022.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be

filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Sophie Hahn  
Councilmember  
District 5

CONSENT CALENDAR  
November 16, 2021

To: Honorable Mayor and Members of the City Council  
From: Councilmember Sophie Hahn (Author)  
Subject: Prioritizing Berkeley Unified School District Public Works Service Requests

RECOMMENDATION

Refer to the City Manager to:

1. Work with the Berkeley Unified School District (BUSD) to create a system to better document, communicate, and prioritize Public Works service requests from BUSD schools and facilities; and
2. Establish protocols with BUSD for school principals to coordinate directly with Public Works staff to address school site-related concerns that fall under the City's jurisdiction.

BACKGROUND

Berkeley Unified School District (BUSD) is responsible for educating more than 9,800 students in 11 public elementary schools, 3 middle schools, one comprehensive high school, and an alternative high school. In addition, the district has 3 preschool facilities and an Adult School serving several thousand students each year. While BUSD is responsible for the maintenance of their own properties, the City of Berkeley is responsible for sidewalks, streets, parks and other areas that surround BUSD schools. Thus, BUSD and Berkeley both have important roles to ensure that students, teachers, families, and staff have access to safe and well maintained facilities, whether on or adjacent to BUSD campuses.

In addition, Berkeley has established a Vision Zero Program to eliminate traffic fatalities and injuries while increasing safe, healthy, and equitable mobility for all. A key demographic to prioritize is our school-children, teachers, families, and staff as they travel to and from school campuses.

BUSD is a key partner for the City of Berkeley and the wellbeing of every student is of paramount concern for both the City and BUSD. In addition, students are legally mandated to attend school. They are thus required by law to enter and exit school facilities on a daily basis regardless of the conditions of the streets, sidewalks, and other nearby public facilities. For all of these reasons the City of Berkeley should prioritize requests from BUSD for service and maintenance of City property in the immediate and close vicinity of BUSD campuses.

At the October 13, 2021 2x2 Committee Meeting between Berkeley Unified School District and the City of Berkeley, members discussed the importance of prioritizing the needs of BUSD, and the lack of opportunities for BUSD to access Public Works directly. Currently, service requests for areas around school sites are routed through the City's universal 311 system and may not be identified as school-related, and therefore may not receive appropriate priority. After discussion, the 2x2 recommended creating a dedicated system to communicate and prioritize BUSD requests separate from the 311 system. The Committee further recommended that school Principals be the designated point of contact for such requests and that a form and other protocols be developed to formalize the ability to liaise directly with Public Works.

ENVIRONMENTAL SUSTAINABILITY

Maintenance of safe sidewalks, streets and other facilities surrounding BUSD school sites will encourage students and families to walk and bike to school.

FISCAL IMPACTS

None.

CONTACT INFORMATION

Councilmember Sophie Hahn, Council District 5, (510) 981-7150

ATTACHMENTS

1. San Francisco Unified/MUNI Safe Routes to Schools program incident report



# Request For Street Evaluation

**\*\* To report damages to existing infrastructure (such as a broken traffic signal or a sign that has been knocked over), please call 311\*\***

School Name: \_\_\_\_\_

Requestor Name: \_\_\_\_\_

Relationship to School (Parent, Principal, Staff, Student, etc.): \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Location to be Evaluated (Street & Cross Street): \_\_\_\_\_

Day(s) of Week & Time(s) when you are seeing concerning behavior near your school:  
\_\_\_\_\_

Describe Traffic Safety Concern (What is the unsafe behavior you are seeing, such as, speeding, not stopping/yielding at the crosswalk, traffic congestion, etc. For a transit concern, please add the 5- digit Muni Stop ID if applicable, the location of the stop, and the number on the back of the bus. If the bus is passing up students, please indicate if the bus was full or empty.):

SF Safe Routes to School staff name: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Submit to: saferoutestoschool@sfmta.com







Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
November 30, 2021

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Wengraf (author)  
 Subject: Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

RECOMMENDATION

Refer to the City Manager to implement steps to promote increased safety for pedestrians of all ages, including seniors and children, on streets lacking sidewalks. This item is requesting the installation of signage to minimize pedestrian-vehicular conflict points at uncontrolled intersections, and to increase driver awareness of pedestrian activity by posting speed limit signs and other signage as a means to improving safe pedestrian access to schools, neighborhood parks, USPS mailboxes, and school and AC Transit bus stops in areas without the benefit of sidewalks.

In addition, this item requests that the City Manager explore the implementation of AB 43 that allows cities to take the safety of vulnerable users into consideration when setting local speed limits. This item requests that the City Manager exercise her authority under the California Vehicle Code to allow for lowering the speed limit to 15 or 20 mph in residential districts where the roadway is less than 25 feet wide.

FINANCIAL IMPLICATIONS

Cost for signage and staff time.

BACKGROUND

Equity and safety are the foundation of the Pedestrian Plan adopted unanimously by the Berkeley City Council in 2020. The vision of the Pedestrian Plan is that, "Berkeley is a model walkable city where traveling on foot or with an assistive device is safe, comfortable, and convenient for people of all races, ethnicities, incomes, ages and abilities."

There are approximately ten linear miles of residential streets in the northeast sector of Berkeley that do not have the advantage of sidewalks to provide safety to residents who choose to walk as a mode of travel for reaching their destination or for recreational enjoyment and physical health.<sup>1</sup> As the volume of vehicles speeding through local streets in the hills has increased, residents are feeling more vulnerable and unsafe as

<sup>1</sup> 2020 Pedestrian Plan City of Berkeley, p.9 <https://www.cityofberkeley.info/pedestrian/>

they try to navigate a walk in their neighborhood; areas that are made up of narrow curvy streets with no buffers or sidewalks to offer protection, blind curves and very few traffic controls at intersections (see map of streets without sidewalks).

In the "Conditions" chapter of the Pedestrian Plan the following description of the North Berkeley Hills is included: "The North Berkeley Hills in the northeast part of town have narrow or non-existent sidewalks on many roads. Given the topography and constrained right-of-way, adding sidewalks likely is not an option on many of these streets."

Everyone should be able to walk safely in their own neighborhood, even if there are no sidewalks. During the recent pandemic we witnessed a new interest in neighborhood streets being utilized by residents for exercise, recreation, and to maintain a good quality of life. Local residential streets in particular are central to the feeling of "community" and "belonging" within a neighborhood and as a City, we should be encouraging walking as an activity. The U.S. Surgeon General recommends at least 30 minutes of physical activity per day, and most people can reach that goal simply by walking.

On the streets without sidewalks, there is no buffer zone between the pedestrian or bicyclist and the vehicle, creating a very risky, unsafe and unfriendly circumstance. Implementing simple, cost-effective steps, like reducing speed limits, and painting and installing signage, can have a beneficial impact on counteracting the car-centric environment that currently dominates our streets. Ideally, crosswalks could be painted to guide pedestrians to the safest place to cross a street. However, ADA compliance conflicts with the creation of a crosswalk in locations where there are no sidewalks, limiting this as a possible mitigation measure.

With approximately 35% of hillside dwellers being over the age of 65, we need to do everything we can to improve access to a less hazardous and more comfortable environment for older residents who choose to walk in their neighborhood. Young school age children should also be able to walk to and from school or school bus stops and parks safely. Several school bus stops in the hills are risky for school buses to reach because of limited visibility. There are no sidewalks for those children to get to or from those bus stops. Cragmont Park, Remillard Park, Glendale La Loma Park and Crescent Park are all hazardous to reach on foot.

The following current conditions have been identified as needing attention:

- \* Signage to alert drivers to the presence of pedestrians.
- \* Traffic control signage at currently uncontrolled intersections.
- \* Signage to increase driver awareness of blind curves and narrow passages.
- \* Lowering speed to 15 mph on narrow streets of less than 25 feet and at blind curves.

ENVIRONMENTAL SUSTAINABILITY

Walkable communities have the potential to reduce air pollution and greenhouse gases because people may choose to walk or bike rather than drive.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: [AB 43](#)

2: Map of streets without sidewalks

**Assembly Bill No. 43**

## CHAPTER 690

An act to amend Sections 627, 21400, 22352, 22354, 22358, and 40802 of, and to add Sections 22358.6, 22358.7, 22358.8, and 22358.9 to, the Vehicle Code, relating to traffic safety.

[Approved by Governor October 8, 2021. Filed with Secretary of State October 8, 2021.]

## legislative counsel's digest

AB 43, Friedman. Traffic safety.

(1) Existing law establishes various default speed limits for vehicles upon highways, as specified. Existing law authorizes state and local authorities to adjust these default speed limits, as specified, based upon certain findings determined by an engineering and traffic survey. Existing law defines an engineering and traffic survey and prescribes specified factors that must be included in the survey, including prevailing speeds and road conditions. Existing law authorizes local authorities to consider additional factors, including pedestrian and bicyclist safety.

This bill would authorize local authorities to consider the safety of vulnerable pedestrian groups, as specified.

(2) Existing law establishes a prima facie speed limit of 25 miles per hour on any highway, other than a state highway, located in any business or residence district, as defined. Existing law authorizes a local authority to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

This bill would establish a prima facie speed limit of 25 miles per hour on state highways located in any business or residence district and would authorize the Department of Transportation (Caltrans) to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

(3) Existing law establishes a speed limit of 65 miles per hour on state highways, as specified. Existing law authorizes Caltrans to declare a speed limit on any such highway, as prescribed, of 60, 55, 50, 45, 40, 35, 30, or 25 miles per hour, including erecting signs to give notice thereof. Existing law also authorizes a local authority, on a section of highway, other than a state highway, where the speed limit is 65 miles per hour to declare a lower speed limit, as specified.

This bill would additionally authorize Caltrans and a local authority to declare a speed limit of 20 or 15 miles per hour, as specified, on these highways.

(4) Existing law authorizes a local authority, without an engineering and traffic survey, to declare a lowered speed limit on portions of highway, as

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specified, approaching a school building or school grounds. Existing law limits this authority to sections of highway meeting specified requirements relating to the number of lanes and the speed limit of the highway before the school zone.

This bill would similarly authorize a lowered speed limit on a section of highway contiguous to a business activity district, as defined, and would require that certain violations be subject to a warning citation, for the first 30 days of implementation.

(5) Existing law requires Caltrans, by regulation, to provide for the rounding up or down to the nearest 5 miles per hour increment of the 85th

percentile speed of free-flowing traffic on a portion of highway as determined by a traffic and engineering survey. Existing law requires the Judicial Council to create and implement an online tool by June 30, 2024, for the adjudication of traffic infractions, among other things.

This bill would authorize a local authority to further reduce the speed limit, as specified, and require that certain violations be subject to a warning citation, for the first 30 days of implementation. The bill would, in some circumstances, authorize the reduction of a speed limit beginning June 30, 2024, or when the Judicial Council has developed an online tool for adjudicating traffic infraction violations, whichever is sooner. The bill would require Caltrans to accordingly revise the California Manual on Uniform Traffic Control Devices, as specified.

(6) Existing law defines a speed trap and prohibits evidence of a driver's speed obtained through a speed trap from being admissible in court in any prosecution against a driver for a speed-related offense. Existing law deems a road where the speed limit is not justified by a traffic and engineering survey conducted within the previous 7 years to be a speed trap, unless the roadway has been evaluated by a registered engineer, as specified, in which case the speed limit remains enforceable for a period of 10 years. Existing law exempts a school zone, as defined, from certain provisions relating to defining a speed trap.

This bill would extend the period that a speed limit justified by a traffic and engineering survey conducted more than 7 years ago remains valid, for purposes of speed enforcement, if evaluated by a registered engineer, as specified, to 14 years.

This bill would also exempt a senior zone and business activity district, as defined, from those provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 627 of the Vehicle Code is amended to read: 627.

(a) "Engineering and traffic survey," as used in this code, means a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.

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(b) An engineering and traffic survey shall include, among other requirements deemed necessary by the department, consideration of all of the following:

- (1) Prevailing speeds as determined by traffic engineering measurements.
- (2) Accident records.
- (3) Highway, traffic, and roadside conditions not readily apparent to the driver.

(c) When conducting an engineering and traffic survey, local authorities, in addition to the factors set forth in paragraphs (1) to (3), inclusive, of subdivision (b) may consider all of the following:

(1) Residential density, if any of the following conditions exist on the particular portion of highway and the property contiguous thereto, other than a business district:

(A) Upon one side of the highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures.

(B) Upon both sides of the highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures.

(C) The portion of highway is longer than one-quarter of a mile but has the ratio of separate dwelling houses or business structures to the length of the highway described in either subparagraph (A) or (B).

(2) Safety of bicyclists and pedestrians, with increased consideration for vulnerable pedestrian groups including children, seniors, persons with disabilities, users of personal assistive mobility devices, and the unhouseed.

SEC. 2. Section 21400 of the Vehicle Code is amended to read: 21400.

(a) The Department of Transportation shall, after consultation with local agencies and public hearings, adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices placed pursuant to this code, including, but not limited to, stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs placed pursuant to Section 21364.

(b) The Department of Transportation shall, after notice and public hearing, determine and publicize the specifications for uniform types of warning signs, lights, and devices to be placed upon a highway by a person engaged in performing work that interferes with or endangers the safe movement of traffic upon that highway.

(c) Only those signs, lights, and devices as are provided for in this section shall be placed upon a highway to warn traffic of work that is being performed on the highway.

(d) Control devices or markings installed upon traffic barriers on or after January 1, 1984, shall conform to the uniform standards and specifications required by this section.

SEC. 3. Section 22352 of the Vehicle Code is amended to read:

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22352. The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagperson is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway, in any business or residence district unless a different speed is determined by local authority or the Department of Transportation under procedures set forth in this code.

(2) When approaching or passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching or passing any school grounds which are not

separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign. For purposes of this subparagraph, standard "SCHOOL" warning signs may be placed at any distance up to 500 feet away from school grounds.

(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard "SENIOR" warning sign. A local authority may erect a sign pursuant to this paragraph when the local agency makes a determination that the proposed signing should be implemented. A local authority may request grant funding from the Active Transportation Program pursuant to Chapter 8 (commencing with Section 2380) of Division 3 of the Streets and Highways Code, or any other grant funding available to it, and use that grant funding to pay for the erection of those signs, or may utilize any other funds available to it to pay for the erection of those signs, including, but not limited to, donations from private sources.

SEC. 4. Section 22354 of the Vehicle Code is amended to read: 22354.

(a) Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the limit of 65 miles

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per hour is more than is reasonable or safe upon any portion of a state highway where the limit of 65 miles is applicable, the department may determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon the highway.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 5. Section 22358 of the Vehicle Code is amended to read: 22358.

(a) Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of any street other than a state highway where the limit of 65 miles per hour is applicable, the local authority may by ordinance determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 6. Section 22358.6 is added to the Vehicle Code, to read:

22358.6. The Department of Transportation shall, in the next scheduled revision, revise and thereafter maintain the California Manual on Uniform Traffic Control Devices to require the Department of Transportation or a local authority to round speed limits to the nearest five miles per hour of the 85th percentile of the free-flowing traffic. However, in cases in which the speed limit needs to be rounded up to the nearest five miles per hour increment of the 85th-percentile speed, the Department of Transportation or a local authority may decide to instead round down the speed limit to the lower five miles per hour increment. A local authority may additionally lower the speed limit as provided in Sections 22358.7 and 22358.8.

SEC. 7. Section 22358.7 is added to the Vehicle Code, to read: 22358.7.

(a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, determine and declare a prima

facie speed limit that has been reduced an additional five miles per hour for either of the following reasons:

(1) The portion of highway has been designated as a safety corridor. A local authority shall not deem more than one-fifth of their streets as safety corridors.

(2) The portion of highway is adjacent to any land or facility that generates high concentrations of bicyclists or pedestrians, especially those from vulnerable groups such as children, seniors, persons with disabilities, and the unhoused.

(b) (1) As used in this section, “safety corridor” shall be defined by the Department of Transportation in the next revision of the California Manual

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on Uniform Traffic Control Devices. In making this determination, the department shall consider highways that have the highest number of serious injuries and fatalities based on collision data that may be derived from, but not limited to, the Statewide Integrated Traffic Records System.

(2) The Department of Transportation shall, in the next revision of the California Manual on Uniform Traffic Control Devices, determine what constitutes land or facilities that generate high concentrations of bicyclists and pedestrians, as used in paragraph (2) of subdivision (a). In making this determination, the department shall consider density, road use type, and bicycle and pedestrian infrastructure present on a section of highway.

(c) A local authority may not lower a speed limit as authorized by this section until June 30, 2024, or until the Judicial Council has developed an online tool for adjudicating infraction violations statewide as specified in Article 7 (commencing with Section 68645) of Chapter 2 of Title 8 of the Government Code, whichever is sooner.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 8. Section 22358.8 is added to the Vehicle Code, to read: 22358.8.

(a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, retain the current speed limit or restore the immediately prior speed limit if that speed limit was established with an engineering and traffic survey and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit.

(b) This section does not authorize a speed limit to be reduced by any more than five miles per hour from the current speed limit nor below the immediately prior speed limit.

(c) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 9. Section 22358.9 is added to the Vehicle Code, to read:

22358.9. (a) (1) Notwithstanding any other law, a local authority may, by ordinance, determine and declare a 25 or 20 miles per hour prima facie speed limit on a highway contiguous to a business activity district when posted with a sign that indicates a speed limit of 25 or 20 miles per hour.

(2) The prima facie limits established under paragraph (1) apply only to highways that meet all of the following conditions:

(A) A maximum of four traffic lanes.

(B) A maximum posted 30 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 25 miles per hour speed limit.



(C) A maximum posted 25 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 20 miles per hour speed limit.

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(b) As used in this section, a “business activity district” is that portion of a highway and the property contiguous thereto that includes central or neighborhood downtowns, urban villages, or zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meets at least three of the following requirements in paragraphs (1) to (4), inclusive:

(1) No less than 50 percent of the contiguous property fronting the highway consists of retail or dining commercial uses, including outdoor dining, that open directly onto sidewalks adjacent to the highway.

(2) Parking, including parallel, diagonal, or perpendicular spaces located alongside the highway.

(3) Traffic control signals or stop signs regulating traffic flow on the highway, located at intervals of no more than 600 feet.

(4) Marked crosswalks not controlled by a traffic control device.

(c) A local authority shall not declare a prima facie speed limit under this section on a portion of a highway where the local authority has already lowered the speed limit as permitted under Sections 22358.7 and 22358.8.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 10. Section 40802 of the Vehicle Code is amended to read:

40802. (a) A “speed trap” is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, school zone, senior zone, or business activity district.

(b) (1) For purposes of this section, a local street or road is one that is functionally classified as “local” on the “California Road System Maps,” that are approved by the Federal Highway Administration and maintained by the Department of Transportation. It may also be defined as a “local street or road” if it primarily provides access to abutting residential property and meets the following three conditions:

(A) Roadway width of not more than 40 feet.

(B) Not more than one-half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.

(C) Not more than one traffic lane in each direction.

(2) For purposes of this section, “school zone” means that area approaching or passing a school building or the grounds thereof that is

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contiguous to a highway and on which is posted a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. "School zone" also includes the area approaching or passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children if that highway is posted with a standard "SCHOOL" warning sign.

(3) For purposes of this section, "senior zone" means that area approaching or passing a senior center building or other facility primarily used by senior citizens, or the grounds thereof that is contiguous to a highway and on which is posted a standard "SENIOR" warning sign, pursuant to Section 22352.

(4) For purposes of this section, "business activity district" means a section of highway described in subdivision (b) of Section 22358.9 in which a standard 25 miles per hour or 20 miles per hour speed limit sign has been posted pursuant to paragraph (1) of subdivision (a) of that section.

(c) (1) When all of the following criteria are met, paragraph (2) of this subdivision shall be applicable and subdivision (a) shall not be applicable:

(A) When radar is used, the arresting officer has successfully completed a radar operator course of not less than 24 hours on the use of police traffic radar, and the course was approved and certified by the Commission on Peace Officer Standards and Training.

(B) When laser or any other electronic device is used to measure the speed of moving objects, the arresting officer has successfully completed the training required in subparagraph (A) and an additional training course of not less than two hours approved and certified by the Commission on Peace Officer Standards and Training.

(C) (i) The prosecution proved that the arresting officer complied with subparagraphs (A) and (B) and that an engineering and traffic survey has been conducted in accordance with subparagraph (B) of paragraph (2). The prosecution proved that, prior to the officer issuing the notice to appear, the arresting officer established that the radar, laser, or other electronic device conformed to the requirements of subparagraph (D).

(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.

(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Highway Traffic Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.

(2) A "speed trap" is either of the following:

(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

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(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:

(I) Except as specified in subclause (II), seven years.

(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 14 years.

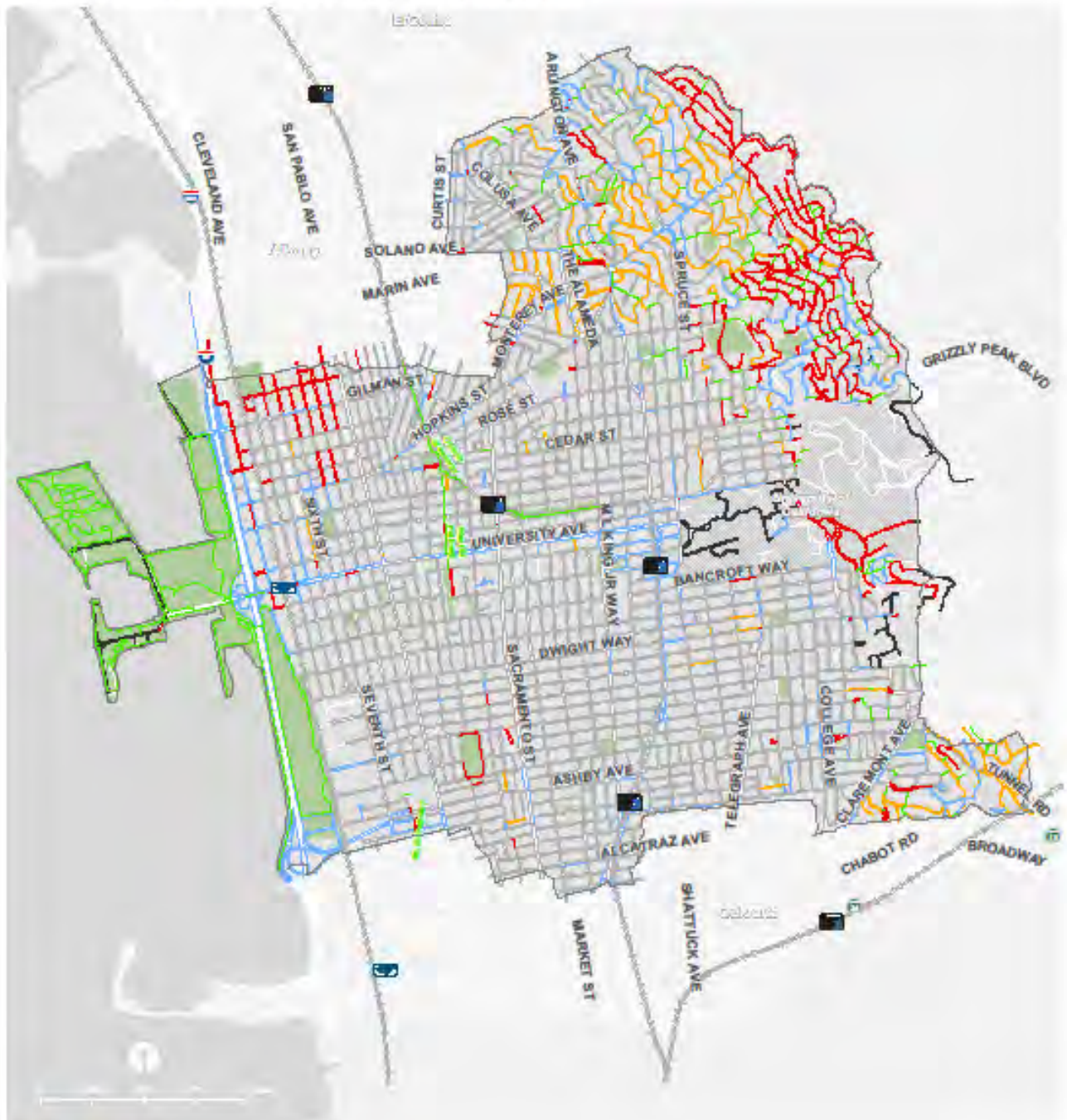
(ii) This subparagraph does not apply to a local street, road, or school zone, senior zone, or business activity district.

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FIGURE 4: EXISTING SIDEWALK COVERAGE IN BERKELEY



- Amtrak Station
- BART Station
- Railroad
- Sidewalks 5 feet or wider
- Sidewalks < 5 feet wide
- Multi-Use Trails/Stateways
- Sidewalk Presence Width Unknown
- No Sidewalk
- No Data Available
- Parks/Recreation
- Berkeley City Boundary





| Upcoming Worksessions – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                               |                                                                                                                                                                                                     |
| Dec. 7                                                                        | <ol style="list-style-type: none"> <li>1. WETA / Ferry Service at the Marina</li> <li>2. Presentation by Bay Restoration Authority</li> <li>3. Update: Zero Waste Rates &amp; Priorities</li> </ol> |
| January 20 (Thurs.)                                                           | <ol style="list-style-type: none"> <li>1. Review and Update on City's COVID-19 Response</li> <li>2. Public Works/Infrastructure Presentation</li> </ol>                                             |
| February 15                                                                   | <ol style="list-style-type: none"> <li>1. Homeless Services and Mental Health Services</li> </ol>                                                                                                   |
| March 15                                                                      | <ol style="list-style-type: none"> <li>1. Housing Element Update</li> </ol>                                                                                                                         |
| April 19                                                                      | <ol style="list-style-type: none"> <li>1. Fire Department Standards of Coverage Study</li> </ol>                                                                                                    |

| Unscheduled Workshops                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. Alameda County LAFCO Presentation</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Civic Arts Grantmaking Process &amp; Capital Grant Program</li> <li>2. Civic Center – Old City Hall and Veterans Memorial Building (Tentative: Action Item)</li> <li>3. Mid-Year Budget Report FY 2022</li> </ol> |





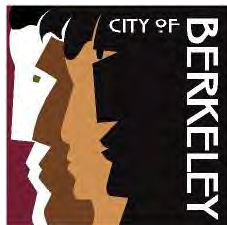
|    | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>25. Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers</b> <i>(Continued from February 25, 2020. Item contains revised and supplemental materials) (Referred from the May 12, 2020 agenda.)</i></p> <p><b>From: City Manager</b></p> <p><b>Recommendation:</b> Adopt a Resolution accepting the Surveillance Technology Report, Surveillance Acquisition Report, and Surveillance Use Policy for Automatic License Plate Readers submitted pursuant to Chapter 2.99 of the Berkeley Municipal Code.</p> <p><b>Financial Implications:</b> None</p> <p>Contact: Andrew Greenwood, Police, (510) 981-5900; Dave White, City Manager's Office, (510) 981-7000</p> <p><b>Note:</b> <i>Referred to Agenda &amp; Rules for future scheduling.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2. | <p><b>Adopt a Resolution Updating City of Berkeley Street Maintenance and Rehabilitation Policy</b> <i>(Reviewed by the Facilities, Infrastructure, Transportation, Environment &amp; Sustainability Committee) (Continued from the June 1, 2021 meeting) (Referred from the July 13, 2021 meeting)</i></p> <p><b>From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Taplin (Co-Sponsor)</b></p> <p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Adopt a Resolution updating the City's Street Maintenance and Rehabilitation Policy dated June 1, 2021.</li> <li>2. Refer the exploration of potential bonding and funding opportunities for improving the Paving Condition Index (PCI) of streets and creating a Paving Master Plan back to the Facilities, Infrastructure, Transportation, Environment &amp; Sustainability (FITES) Committee for further review.</li> </ol> <p><i>Policy Committee Recommendation: To move the Public Works supplemental item "City of Berkeley Street Maintenance and Rehabilitation Policy to Council" with a positive recommendation including amendments made during the meeting today, and ask Council to refer the exploration of potential bonding and funding opportunities for improving the PCI of streets and creating a Paving Master Plan back to the FITES Committee for further review.</i></p> <p><b>Financial Implications:</b> Staff time</p> <p>Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140</p> <p><b>Note:</b> <i>Item referred to the Agenda &amp; Rules Committee for future scheduling with the Five-Year Paving Plan.</i></p> |



| CITY CLERK DEPARTMENT                                                       |                      |                       |                   |
|-----------------------------------------------------------------------------|----------------------|-----------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL |                      |                       |                   |
| Address                                                                     | Board/<br>Commission | Appeal Period<br>Ends | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                            |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
| <b>Public Hearings Scheduled</b>                                            |                      |                       |                   |
| 1527 Sacramento St (second story addition)                                  | ZAB                  |                       | TBD               |
| 2956 Hillegass Ave (addition to lawful non-conforming structure)            | ZAB                  |                       | TBD               |
|                                                                             |                      |                       |                   |
| <b>Remanded to ZAB or LPC</b>                                               |                      |                       |                   |
| 1205 Peralta Avenue (conversion of an existing garage)                      | ZAB                  |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
| <b>Notes</b>                                                                |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |
|                                                                             |                      |                       |                   |

11/9/2021





Office of the City Manager

## **SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2**

**Meeting Date:** November 10, 2020

**Item Number:** 20

**Item Description:** Annual Commission Attendance and Meeting Frequency Report

**Submitted by:** Mark Numainville, City Clerk

The attached memo responds to issues and questions raised at the October 26 Agenda & Rules Committee Meeting and the October 27 City Council Meeting regarding the ability of city boards and commissions to resume regular meeting schedules.



Office of the City Manager

November 9, 2020

To: Mayor and Council  
From: Dee Williams-Ridley, City Manager  
Subject: Commission Meetings Under COVID-19 Emergency (Item 20)

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This memo provides supplemental information for the discussion on Item 20 on the November 10, 2020 Council agenda. Below is a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration and the data collected by the City Manager on the ability of commissions to resume meetings in 2021.

On March 10, 2020 the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020 the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020 Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to

complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

In response to questions from the Agenda & Rules Committee and the Council, the City Manager polled all departments that support commissions to obtain information on their capacity to support the resumption of regular commission meetings. The information in Attachment 1 shows the information received from the departments and notes each commission's ability to resume a regular, or semi-regular, meeting schedule in 2021.

In summary, there are 24 commissions that have staff resources available to support a regular meeting schedule in 2021. Seven of these 24 commissions have been meeting regularly during the pandemic. There are five commissions that have staff resources available to support a limited meeting schedule in 2021. There are seven commissions that currently do not have staff resources available to start meeting regularly at the beginning of 2021. Some of these seven commissions will have staff resources available later in 2021 to support regular meetings. Please see Attachment 1 for the full list of commissions and their status.

With regards to commission subcommittees, there has been significant discussion regarding the ability of staff to support these meetings in a virtual environment. Under normal circumstances, the secretary's responsibilities regarding subcommittees is limited to posting the agenda and reserving the meeting space (if in a city building). With the necessity to hold the meetings in a virtual environment and be open to the public, it is likely that subcommittee meetings will require significantly more staff resources to schedule, train, manage, and support the work of subcommittees on Zoom or a similar platform. This additional demand on staff resources to support commission subcommittees is not feasible for any commission at this time.

One possible option for subcommittees is to temporarily suspend the requirement for ad hoc subcommittees of city commissions to notice their meetings and require public participation. Ad hoc subcommittees are not legislative bodies under the Brown Act and are not required to post agendas or allow for public participation. These requirements are specific to Berkeley and are adopted by resolution in the Commissioners' Manual. If it is the will of the Council, staff could introduce an item to temporarily suspend these

requirements which will allow subcommittees of all commissions to meet as needed to develop recommendations that will be presented to the full commission.

The limitations on the meetings of certain commissions are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Some of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new duties specifically related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager and the Health Officer in consultation with Department Heads and the City Council.

Attachments:

1. List of Commissions with Meeting Status
2. Resolution 69,331-N.S.



| <b><u>Boards and Commissions</u></b>              | <b><u>Meetings Held Under COVID March - Oct</u></b> | <b><u>Regular Mtg. Date</u></b> | <b><u>Secretary</u></b> | <b><u>Dept.</u></b> | <b><u>Resume Regular Schedule in January 2021?</u></b> | <b><u>Note</u></b>                                |
|---------------------------------------------------|-----------------------------------------------------|---------------------------------|-------------------------|---------------------|--------------------------------------------------------|---------------------------------------------------|
| Fair Campaign Practices Commission                | 9                                                   | 3rd Thur.                       | Sam Harvey              | CA                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Open Government Commission                        | 6                                                   | 3rd Thur.                       | Sam Harvey              | CA                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Animal Care Commission                            | 0                                                   | 3rd Wed.                        | Amelia Funghi           | CM                  | YES                                                    |                                                   |
| Police Review Commission                          | 10                                                  | 2nd & 4th Wed.                  | Katherine Lee           | CM                  | YES                                                    | Have been meeting regularly under COVID Emergency |
| Disaster and Fire Safety Commission               | 4                                                   | 4th Wed.                        | Keith May               | FES                 | YES                                                    |                                                   |
| Community Health Commission                       | 0                                                   | 4th Thur.                       | Roberto Terrones        | HHCS                | YES                                                    |                                                   |
| Homeless Commission                               | 0                                                   | 2nd Wed.                        | Josh Jacobs             | HHCS                | YES                                                    |                                                   |
| Homeless Services Panel of Experts                | 5                                                   | 1st Wed                         | Josh Jacobs             | HHCS                | YES                                                    |                                                   |
| Human Welfare & Community Action Commission       | 0                                                   | 3rd Wed.                        | Mary-Claire Katz        | HHCS                | YES                                                    |                                                   |
| Mental Health Commission                          | 1                                                   | 4th Thur.                       | Jamie Works-Wright      | HHCS                | YES                                                    |                                                   |
| Sugar-Sweetened Beverage Product Panel of Experts | 0                                                   | 3rd Thur.                       | Dechen Tsering          | HHCS                | YES                                                    |                                                   |
| Civic Arts Commission                             | 2                                                   | 4th Wed.                        | Jennifer Lovvorn        | OED                 | YES                                                    |                                                   |
| Elmwood BID Advisory Board                        | 1                                                   | Contact Secretary               | Kieron Slaughter        | OED                 | YES                                                    |                                                   |
| Loan Administration Board                         | 0                                                   | Contact Secretary               | Kieron Slaughter        | OED                 | YES                                                    |                                                   |
| Solano Avenue BID Advisory Board                  | 2                                                   | Contact Secretary               | Eleanor Hollander       | OED                 | YES                                                    |                                                   |
| Design Review Committee                           | 6                                                   | 3rd Thur.                       | Anne Burns              | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Energy Commission                                 | 0                                                   | 4th Wed.                        | Billi Romain            | PLD                 | YES                                                    |                                                   |
| Landmarks Preservation Commission                 | 6                                                   | 1st Thur.                       | Fatema Crane            | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Planning Commission                               | 3                                                   | 1st Wed.                        | Alene Pearson           | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Zoning Adjustments Board                          | 11                                                  | 2nd & 4th Thur.                 | Shannon Allen           | PLD                 | YES                                                    | Have been meeting regularly under COVID Emergency |
| Parks and Waterfront Commission                   | 4                                                   | 2nd Wed.                        | Roger Miller            | PRW                 | YES                                                    |                                                   |
| Commission on Disability                          | 0                                                   | 1st Wed.                        | Dominika Bednarska      | PW                  | YES                                                    |                                                   |
| Public Works Commission                           | 4                                                   | 1st Thur.                       | Joe Enke                | PW                  | YES                                                    |                                                   |
| Zero Waste Commission                             | 0                                                   | 4th Mon.                        | Heidi Obermeit          | PW                  | YES                                                    |                                                   |
| Commission on the Status of Women                 | 0                                                   | 4th Wed.                        | Shallon Allen           | CM                  | YES - LIMITED                                          | Secretary has intermittent COVID assignments      |

| <u>Boards and Commissions</u>               | <u>Meetings Held Under COVID March - Oct</u> | <u>Regular Mtg. Date</u> | <u>Secretary</u>   | <u>Dept.</u> | <u>Resume Regular Schedule in January 2021?</u> | <u>Note</u>                                            |
|---------------------------------------------|----------------------------------------------|--------------------------|--------------------|--------------|-------------------------------------------------|--------------------------------------------------------|
| Commission on Aging                         | 0                                            | 3rd Wed.                 | Richard Castrillon | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Housing Advisory Commission                 | 0                                            | 1st Thur.                | Mike Uberti        | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Measure O Bond Oversight Committee          | 0                                            | 3rd Monday               | Amy Davidson       | HHCS         | REDUCED FREQUENCY                               | Significant Dept. resources assigned to COVID response |
| Transportation Commission                   | 2                                            | 3rd Thur.                | Farid Javandel     | PW           | REDUCED FREQUENCY                               | Staff assigned to COVID response                       |
| Children, Youth, and Recreation Commission  | 0                                            | 4th Monday               | Stephanie Chu      | PRW          | NO - SEPT 2021                                  | Staff assigned to COVID response                       |
| Youth Commission                            | 0                                            | 2nd Mon.                 | Ginsi Bryant       | PRW          | NO - SEPT 2021                                  | Staff assigned to COVID response                       |
| Community Environmental Advisory Commission | 0                                            | 2nd Thur.                | Viviana Garcia     | PLD          | NO - JUNE 2021                                  | Staff assigned to COVID response                       |
| Cannabis Commission                         | 0                                            | 1st Thur.                | VACANT             | PLD          | NO - JAN. 2022                                  | Staff vacancy                                          |
| Peace and Justice Commission                | 0                                            | 1st Mon.                 | VACANT             | CM           | NO                                              | Staff vacancy                                          |
| Commission on Labor                         | 0                                            | 3rd Wed., alternate mon  | Kristen Lee        | HHCS         | NO                                              | Staff assigned to COVID response                       |
| Personnel Board                             | 1                                            | 1st Mon.                 | La Tanya Bellow    | HR           | NO                                              | Staff assigned to COVID response                       |

## RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:

Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council


For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk



Office of the City Manager

October 22, 2020

To: Berkeley Boards and Commissions

From: *DWR* Dee Williams-Ridley, City Manager

Subject: Commission Meetings During COVID-19 Emergency

This memo serves to provide a summary and update of the status of meetings of Berkeley Boards and Commissions during the COVID-19 emergency declaration.

On March 10, 2020, the City Council ratified the proclamation of the Director of Emergency Services for a state of local emergency related to the COVID-19 pandemic. The emergency proclamation has been renewed twice by the Council and remains in effect.

On March 17, 2020, the City Council adopted Resolution No. 69,331-N.S. which placed limitations of the meetings of City legislative bodies, including all boards and commissions. The resolution allows for commissions to meet to conduct time-sensitive, legally mandated business with the authorization of the City Manager. Since that time, several commissions have obtained this approval and held meetings; many other commissions have not met at all since March.

The City Manager has periodically reviewed the status of commission meetings with the City Council Agenda & Rules Committee. Recently, at the October 12, 2020, Agenda & Rules Committee meeting, the City Manager presented a proposal to allow all commissions to meet under limited circumstances. The Committee voted to endorse the City Manager's recommendation.

Effective October 12, 2020, all City boards and commissions may meet once to develop and finalize their work plan for 2021 and to complete any Council referrals directly related to the COVID-19 pandemic response. A second meeting may be held to complete this work with specific authorization by the City Manager. It is recommended that the meeting(s) occur by the end of February 2021.

Commissions that have been granted permission to meet under Resolution No. 69,331-N.S. may continue to meet pursuant to their existing authorization, and may also meet to develop their 2021 work plan.

Commissions that have not requested meetings pursuant to the Resolution No. 69,331-N.S. may meet pursuant to the limitations listed above.

Page 2  
October 22, 2020  
Re: Commission Meetings During COVID-19 Emergency

To assist commissions with the development of their work plan and to provide the City Council with a consistent framework to review the work plans, the City Manager has developed the following items to consider in developing the work plan that is submitted to the City Council agenda.

Prompts for Commissions to use in work plan:

- What commission items for 2021 have a direct nexus with the COVID-19 response or are the result of a City Council referral pertaining to COVID-19?
- What commission items for 2021 are required for statutory reasons?
- What commission items for 2021 are required for budgetary or fund allocation reasons?
- What commission items for 2021 support council-adopted or voter-adopted mission critical projects or programs?
- What are the anticipated staff demands (above and beyond baseline) for analysis, data, etc., to support commission work in 2021 (baseline duties = posting agendas, creating packets, attend meetings, minutes, etc.)?

The limitations on commission meetings are due to the need to direct staff resources and the resources of city legislative bodies to the pandemic response. Many of the staff assigned as commission secretaries are engaged in work with the City Emergency Operations Center or have been assigned new specific duties related to the impacts of the pandemic.

Meeting frequency for boards and commissions will continue to be evaluated on a regular basis by the City Manager in consultation with Department Heads and the City Council. More frequent meetings by commissions will be permitted as the conditions under COVID-19 dictate.

Thank you for your service on our boards and commissions. The City values the work of our commissions and we appreciate your partnership and understanding as we address this pandemic as a resilient and vibrant community.

Attachments:

1. Resolution 69,331-N.S.
2. List of Commissions with Meeting Data

cc: Mayor and City Councilmembers  
Senior Leadership Team

RESOLUTION NO. 69,331-N.S.

RATIFYING THE RECOMMENDATIONS ISSUED BY THE DIRECTOR OF EMERGENCY SERVICES AND THE PUBLIC HEALTH OFFICER REGARDING MEETINGS OF BERKELEY LEGISLATIVE BODIES IN RESPONSE TO THE COVID-19 (NOVEL CORONAVIRUS) PANDEMIC

WHEREAS, on March 3, 2020, pursuant to Berkeley Municipal Code section 2.88.040, the City Manager, serving as the Director of Emergency Services, proclaimed the existence of a local emergency; and

WHEREAS, the proclamation was warranted by virtue of the extreme peril to the safety of persons and property in the City caused by pandemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, the proclamation of the Director of Emergency Services was ratified by the City Council on March 10, 2020; and

WHEREAS, the continued spread of COVID-19 and increase in community transmission cases in surrounding counties warrant further measures be taken by the City to protect the community; and

WHEREAS, the Public Health Officer has issued guidelines for limiting mass gatherings; and

WHEREAS, certain limitations on the meetings of legislative bodies in the City of Berkeley is warranted; and

WHEREAS, the continued essential functions of the City and certain legislative bodies must continue for time-sensitive, legally mandated actions; and

WHEREAS, the Director of Emergency Services presented recommendations to the Agenda & Rules Committee on March 12, 2020 regarding the meetings of legislative bodies; and

WHEREAS, the Agenda & Rules Committee recommended that said recommendations be forwarded to the City Council for acknowledgement and ratification.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following recommendations issued by the Director of Emergency Services and the Public Health Officer regarding limitations and practices for legislative bodies of the City of Berkeley are hereby acknowledged and ratified:



Section 1. Boards and Commissions

Commissions listed below may continue to meet only if they have time-sensitive, legally mandated business to complete, as determined by the Director of Emergency Services. The City may consider teleconferencing for these commissions, if feasible.

Design Review Committee  
Fair Campaign Practices Commission  
Housing Advisory Commission (limited to quasi-judicial activities)  
Joint Subcommittee on the Implementation of State Housing Laws  
Landmarks Preservation Commission  
Open Government Commission  
Personnel Board  
Planning Commission  
Police Review Commission  
Zoning Adjustments Board

Commissions in Category B shall not meet for a period of 60 days. This will be re-evaluated at the Agenda & Rules Committee meeting on April 13, 2020. A Commission in Category B may convene a meeting if it has time-sensitive, legally-mandated business to complete, as determined by the Director of Emergency Services.

Category B

Animal Care Commission  
Cannabis Commission  
Civic Arts Commission  
Children, Youth, and Recreation Commission  
Commission on Aging  
Commission on Disability  
Commission on Labor  
Commission on the Status of Women  
Community Environmental Advisory Commission  
Community Health Commission  
Disaster and Fire Safety Commission  
Elmwood Business Improvement District Advisory Board  
Energy Commission  
Homeless Commission  
Homeless Services Panel of Experts  
Housing Advisory Commission  
Human Welfare and Community Action Commission  
Measure O Bond Oversight Committee  
Mental Health Commission  
Parks and Waterfront Commission  
Peace and Justice Commission  
Public Works Commission  
Solano Avenue Business Improvement District Advisory Board  
Sugar-Sweetened Beverage Product Panel of Experts

Transportation Commission  
Youth Commission  
Zero Waste Commission  
Loan Administration Board

Section 2. City Council Policy Committees

The Agenda & Rules Committee and the Budget & Finance Committee may continue to meet to fulfill their legislative and advisory responsibilities. All other Policy Committees (Facilities, Infrastructure, Transportation, Environment & Sustainability, Public Safety, Land Use, Housing & Economic Development, and Health, Life Enrichment Equity & Community) are suspended indefinitely. The 120-day deadline to consider an item will be tolled during the suspension of business.

Section 3. City Council


For City Council meetings, the City will continue to advise and implement social distancing by limiting the capacity of the Council Chambers, providing an overflow room, attempting to limit the duration of the meeting, only conducting essential business, and limiting or suspending ceremonial items. The City will adhere to and implement the provisions of the Governor's Executive Order #N-25-20 related to the Brown Act and the utilization of technology to facilitate participation.

The foregoing Resolution was adopted by the Berkeley City Council on March 17, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numalville, City Clerk







## URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE  
ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE  
CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: September 28, 2021**

**Item Description: Resolution Making Required Findings Pursuant to the  
Government Code and Directing City Legislative Bodies to  
Continue to Meet Via Videoconference and Teleconference**

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

### **Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

Assembly Bill 361 (Rivas) was signed by the Governor on September 16, 2021. This bill allows local legislative bodies to meet using videoconference technology while maintaining the Brown Act exemptions in Executive Order N-29-20 for noticing and access to the locations from which local officials participate in the meeting. Local agencies may only meet with the exemption if there is a state declared emergency.

The bill also requires that local legislative bodies meeting only via videoconference under a state declared emergency to make certain findings every 30-days regarding the need to meet in a virtual-only setting.

The agenda for the September 28, 2021 was finalized and published prior to the Governor signing AB 361 in to law. Thus, the need to take action came to the attention of the local agency after the agenda was distributed. This item qualifies for addition to the agenda with a two-thirds vote of the Council under Government Code Section 54954.2(b)(2).



Office of the City Attorney

CONSENT CALENDAR  
September 28, 2021

To: Honorable Mayor and Members of the City Council  
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public.

These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on September 28, 2021, the Council will need to review and ratify the resolution by October 28, 2021.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

#### BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998  
Mark Numainville, City Clerk, (510) 981-6908

Attachments:

1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference



RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by October 28, 2021.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination; and

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference; and

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.



OFFICE OF THE GOVERNOR

June 2, 2021

**VIA EMAIL**

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RE: Transition Period Prior to Repeal of COVID-related Executive Orders

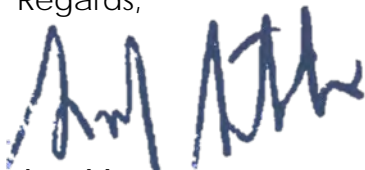
Dear Mr. Knaus, Ms. Miller, Ms. Hurst, Ms. Preston, Ms. Heaton, Ms. King, Ms. Coleman, Ms. Blacet-Hyden, Mr. McCormick, Mr. Anderson, and colleagues,

Thank you for your correspondence of May 18, 2021, inquiring what impact the anticipated June 15 termination of the Blueprint for a Safer Economy will have on Executive Order N-29-20, which provided flexibility to state and local agencies and boards to conduct their business through virtual public meetings during the COVID-19 pandemic.

Please be assured that this Executive Order Provision will not terminate on June 15 when the Blueprint is scheduled to terminate. While the Governor intends to terminate COVID-19 executive orders at the earliest possible date at which conditions warrant, consistent with the Emergency Services Act, the Governor recognizes the importance of an orderly return to the ordinary conduct of public meetings of state and local agencies and boards. To this end, the Governor's office will work to provide notice to affected stakeholders in advance of rescission of this provision to provide state and local agencies and boards time necessary to meet statutory and logistical requirements. Until a further order issues, all entities may continue to rely on N-29-20.

We appreciate your partnership throughout the pandemic.

Regards,

A handwritten signature in blue ink, appearing to read 'Ana Matosantos', written in a cursive style.

Ana Matosantos  
Cabinet Secretary



## NEWS RELEASE

Release  
Number: 2021-58

June 4, 2021

### Standards Board Readopts Revised Cal/OSHA COVID-19 Prevention Emergency Temporary Standards

**The revised Cal/OSHA standards are expected to go into effect no later than June 15**

**Sacramento** — The Occupational Safety and Health Standards Board on June 3 readopted Cal/OSHA's revised COVID-19 prevention emergency temporary standards.

Last year, the Board adopted health and safety standards to protect workers from COVID-19. The standards did not consider vaccinations and required testing, quarantining, masking and more to protect workers from COVID-19.

The changes adopted by the Board phase out physical distancing and make other adjustments to better align with the state's June 15 goal to retire the Blueprint. Without these changes, the original standards, would be in place until at least October 2. These restrictions are no longer required given today's record low case rates and the fact that we've administered 37 million vaccines.

The revised emergency standards are expected to go into effect no later than June 15 if approved by the Office of Administrative Law in the next 10 calendar days. Some provisions go into effect starting on July 31, 2021.

The [revised standards](#) are the first update to Cal/OSHA's temporary COVID-19 prevention requirements adopted in November 2020.

**The Board may further refine the regulations in the coming weeks** to take into account changes in circumstances, especially as related to the availability of vaccines and low case rates across the state.

The standards apply to most workers in California not covered by Cal/OSHA's Aerosol Transmissible Diseases [standard](#). Notable revisions include:

- **Face Coverings:**
  - Indoors, fully vaccinated workers without COVID-19 symptoms do not need to wear face coverings in a room where everyone else is fully vaccinated and not showing symptoms. However, where there is a mixture of vaccinated and unvaccinated persons in a room, all workers will continue to be required to wear a face covering.
  - Outdoors, fully vaccinated workers without symptoms do not need to wear face coverings. However, outdoor workers who are not fully vaccinated must continue to wear a face covering when they are less than six feet away from another person.
- **Physical Distancing:** When the revised standards take effect, employers can eliminate physical distancing and partitions/barriers for employees working indoors and at outdoor mega events if they provide respirators, such as N95s, to unvaccinated employees for voluntary use. After July 31, physical distancing

and barriers are no longer required (except during outbreaks), but employers must provide all unvaccinated employees with N95s for voluntary use.

- **Prevention Program:** Employers are still required to maintain a written COVID-19 Prevention Program but there are some key changes to requirements:
  - Employers must review the California Department of Public Health's [Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments](#).
  - COVID-19 prevention training must now include information on how the vaccine is effective at preventing COVID-19 and protecting against both transmission and serious illness or death.
- **Exclusion from the Workplace:** Fully vaccinated workers who do not have COVID-19 symptoms no longer need to be excluded from the workplace after a close contact.
- **Special Protections for Housing and Transportation:** Special COVID-19 prevention measures that apply to employer-provided housing and transportation no longer apply if all occupants are fully vaccinated.

The Standards Board will file the readoption rulemaking package with the Office of Administrative Law, which has 10 calendar days to review and approve the temporary workplace safety standards enforced by Cal/OSHA. Once approved and published, the full text of the revised emergency standards will appear in the Title 8 sections [3205](#) (COVID-19 Prevention), [3205.1](#) (Multiple COVID-19 Infections and COVID-19 Outbreaks), [3205.2](#) (Major COVID-19 Outbreaks), [3205.3](#) (COVID-19 Prevention in Employer-Provided Housing) and [3205.4](#) (COVID-19 Prevention in Employer-Provided Transportation) of the [California Code of Regulations](#). Pursuant to the state's [emergency rulemaking process](#), this is the first of two opportunities to readopt the temporary standards after the initial effective period.

The Standards Board also convened a representative subcommittee to work with Cal/OSHA on a proposal for further updates to the standard, as part of the emergency rulemaking process. It is anticipated this newest proposal, once developed, will be heard at an upcoming Board meeting. The subcommittee will provide regular updates at the Standards Board monthly meetings.

The [Occupational Safety and Health Standards Board](#), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The Standards Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Standards Board also has the responsibility to grant or deny applications for permanent variances from adopted standards and respond to petitions for new or revised standards.

The California Division of Occupational Safety and Health, or [Cal/OSHA](#), is the division within the Department of Industrial Relations that helps protect California's workers from health and safety hazards on the job in almost every workplace. [Cal/OSHA's Consultation Services Branch](#) provides free and voluntary assistance to employers to improve their health and safety programs. Employers should call (800) 963-9424 for assistance from Cal/OSHA Consultation Services.

**Contact:** Erika Monterroza / Frank Polizzi, [Communications@dir.ca.gov](mailto:Communications@dir.ca.gov), (510) 286-1161.

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The [California Department of Industrial Relations](#), established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the [Labor & Workforce Development Agency](#)



Office of the City Manager

June 1, 2021

To: Agenda & Rules Committee

From: Dee Williams-Ridley, City Manager

Subject: Preliminary Analysis of Return to In-Person Meetings of City Legislative Bodies

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### Introduction

This memo responds to the request from the Agenda & Rules Committee on May 17, 2021 for information from the City Manager on the options and timing for a return to in-person meetings for City legislative bodies. The analysis below is a preliminary summary of the considerations and options for returning to in-person meetings.

With the onset of the COVID-19 pandemic, the shelter-in-place order, and the issuance of Executive Order N-29-20 (“Executive Order”) in the spring of 2020, the City quickly adjusted to a virtual meeting model. Now, almost 15 months later, with the Blueprint for a Safer Economy scheduled to sunset on June 15, 2021, the City is faced with a new set of conditions that will impact how public meetings may be held in Berkeley. While the June 15, 2021 date appears to be certain, there is still a great deal of uncertainty about the fate of the Executive Order. In addition, the City is still awaiting concrete, specific guidance from the State with regards to regulations that govern public meetings and public health recommendations that will be in place after June 15, 2021.

For background, Executive Order N-29-20 allows legislative bodies to meet in a virtual setting and suspends the following Brown Act requirements:

- Printing the location of members of the legislative body on the agenda;
- Posting the agenda at the location of members of the legislative body that are remote; and
- Making publicly available remote locations from which members of the legislative body participate.

Meeting Options

There are three groups of City Legislative bodies that are considered in this memo

- City Council;
- City Council Policy Committees; and
- Boards and Commissions.

The three meeting models available are:

- In-person only;
- Virtual only; or
- Hybrid (in-person and virtual).

The scenarios below show the options available for each given set of facts.

| Summary Recommendations of Meeting Options | Physical Distancing |        |          | No Physical Distancing |        |          |
|--------------------------------------------|---------------------|--------|----------|------------------------|--------|----------|
|                                            | In-Person           | Hybrid | Virtual* | In-Person              | Hybrid | Virtual* |
|                                            | City Council        | X      | X        | X                      | X      | X        |
| Policy Committees                          |                     |        | X        | X                      |        | X        |
| Board and Commissions                      |                     |        | X        | X                      |        | X        |

\* The ability to hold virtual-only meetings is dependent on the status of Executive Order N-29-20

Currently, the Centers for Disease Control recommends physical distancing for unvaccinated persons. While the City and the community have made tremendous progress with regards to vaccination, the City would use the guidelines for unvaccinated persons when making determinations regarding public meetings.

Meeting Type Considerations

Our previous experience pre-pandemic and our experience over the past 15 months demonstrates that the City can conduct all in-person and all virtual meetings. However, the possibility of hybrid meetings presents new questions to consider. The primary concern for a return to in-person meetings using a hybrid model is the impact on the public experience and the legislative process.

*Will the legislative body be able to provide a transparent, coherent, stable, informative, and meaningful experience for the both the public in attendance and virtually?*



*Will the legislative body be able to conduct the legislative process in an efficient, coherent, and meaningful manner with the members split between in-person and virtual, and considering the additional delays and logistical challenges of allowing for public participation in a hybrid model?*

For the City Council, testing has shown that the larger space and technology infrastructure at the Boardroom will allow the Council to conduct all three types of meetings (in-person, hybrid, virtual).

For Policy Committees and Commissions, only the “all virtual” or “all in-person” meetings are recommended. Preliminary testing has shown that the audio/visual limitations of the meeting rooms available for these bodies would result in inefficient and cumbersome management of the proceedings in a hybrid model. In addition, there are considerations to analyze regarding the available bandwidth in city facilities and all members having access to adequate devices. Continuing the all virtual model for as long as possible, then switching to an all in-person model when conditions permit provides the best access, participation, and legislative experience for the public and the legislative body.

#### Other Considerations

Some additional factors to consider in the evaluation of returning to in-person or hybrid meetings are:

- How to address vaccination status for in-person attendees.
- Will symptom checks and/or temperature checks at entry points be required?
- Who is responsible for providing PPE for attendees?
- How are protocols for in-person attendees to be enforced?
- Physical distancing measures for the Mayor and City Councilmembers on the dais.
- Installation of physical barriers and other temporary measures.
- Will the podium and microphone need to be sanitized after every speaker?
- High number of touch points in meeting rooms.
- Will chairs for the public and staff need to be sanitized if there is turnover during the meeting?
- Determining the appropriate capacity for meeting locations.
- The condition and capacity of meeting room ventilation system and air cycling abilities.
- How to receive and share Supplemental Items, Revisions, Urgent Items, and submissions by the public both in-person and virtually.
- Budget including costs for equipment, physical improvements, A/V, PPE, and sanitization.

Conclusion

As stated above, conditions are changing daily, and there is a high degree of uncertainty surrounding the future guidance, regulations, and actions at the state level. Planning, testing and analysis are already underway to prepare for an eventual return to in-person meetings. Staff will continue to monitor the evolving legislative and public health circumstances and advise the committee at future meetings.

Attachment:

1. Executive Order N-29-20

**EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA**

**EXECUTIVE ORDER N-29-20**

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

**WHEREAS** the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

**WHEREAS** time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

**WHEREAS** social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

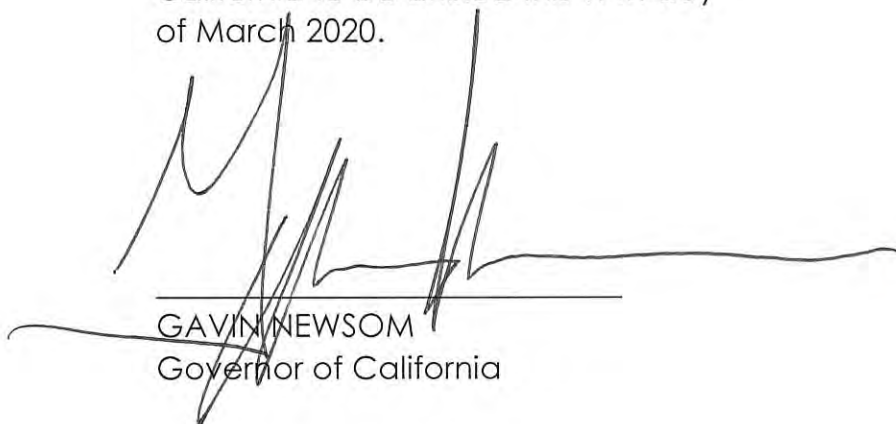
All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.


**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
ALEX PADILLA  
Secretary of State



No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**City of Berkeley City Council Agenda & Rules Webpage:**

[https://www.cityofberkeley.info/Clerk/City\\_Council/Policy\\_Committee\\_Agenda\\_Rules.aspx](https://www.cityofberkeley.info/Clerk/City_Council/Policy_Committee_Agenda_Rules.aspx)

