

Peace and Justice
Commission

PEACE & JUSTICE COMMISSION MEETING AGENDA
Monday, October 7, 2019 – 7:00 p.m.
Berkeley City Hall,
2180 Milvia, Cypress Room Berkeley, CA

SECTION A. PRELIMINARY MATTERS

1. Roll Call
2. Announcements
3. Comments from the Public (*subject to time limits applicable to all speakers as necessary*)
4. Review and approval of meeting minutes - see attachment 2
5. Commission Updates & Chairperson's Report
6. Secretary's Report (including status of passed items from previous meetings)
7. City Auditor Presentation on Internal Domestic Violence Policy
8. Presentation: Alameda County Census 2020 – see attachment 3

SECTION B. ACTION ITEMS

9. Resolution calling on the government of India to retract the revocation of Articles 370 and 35a (Commissioner al Bazian) - see attachment 4
10. Send a letter to City Council supporting charter amendment for strengthened police oversight (Vice Chair Lippman) - see attachment 5

SECTION C. SUBCOMMITTEE REPORTS AND OTHER COMMISSION BUSINESS

11. Subcommittee on The Convention on the Rights of Persons with Disabilities (Commissioner Maran) discussion and potential appointments
12. Subcommittee on Socially Responsible Investments and Procurement (Commissioner Bohn) discussion and potential appointments
13. BUSD subcommittee discussion and potential appointments (Commissioner Pancoast)

SECTION D. COMMUNICATIONS

SECTION E. BACKGROUND INFORMATION

SECTION F. ADJOURNMENT

Attachments:

1. Roster
2. Minutes of September 9, 2019 meeting
3. Census 2020 Attachment
4. Resolution on Kashmir
5. Letter and background supporting police commission charter amendment
6. Letter to council supporting the Convention on the Rights of the Child
7. INF Treaty

The next meeting of the Peace & Justice Commission is scheduled for November 4, 2019. All proposed Commission agenda items should be submitted to the Commission Secretary by or before October 21, 2019. Dates are subject to change, please contact the Commission Secretary by email at bslimick@cityofberkeley.info to confirm receipt of submitted items.

ADA Disclaimer



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

Communications Disclaimer

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

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Old City Hall located at 2134 Martin Luther King Jr. Way, Berkeley, CA 94704.

Commission Contact Information

*Breanne Slimick, Secretary
Peace and Justice Commission
City of Berkeley
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
510/981-7018 (voice-mail)
510/981-7099 (fax)
bslimick@cityofberkeley.info (email)*

Peace and Justice Commission Roster		
Name	Appointer	District
Omeed Askary	<i>Levy-Cutler</i>	<i>BUSD</i>
Zo Pancoast	Alper	BUSD
Zaira Rodriguez	Student Director	BUSD
Rachel Pierce	Julie Sinai	BUSD
VACANT		BUSD
Grace Morizawa	Appel	BUSD
Igor Tregub (Chair)	Arreguin	Mayor
Rita Maran	Maio	1
Dr. Hatem al-Bazian	Davila	2
J. George Lippman (Vice Chair)	Bartlett	3
Diana Bohn	Harrison	4
Judith Gussmann	Hahn	5
Robert L Meola	Wengraf	6
Vacant	Worthington	7
Vacant	Droste	8



**Peace and Justice Commission Meeting
 Regular Meeting – Monday, September 9, 2019
 City of Berkeley City Hall, 2180 Milvia, Berkeley CA, Cypress Room
 DRAFT MINUTES**

The meeting convened at 7:05 pm with Vice-Chair Lippman presiding.

1. Roll Call

Present: al-Bazian, Bohn (7:09 PM), Gussmann, Han, Lippman, Maran (7:10 PM), Meola, Morizawa, Pancoast, Pierce (7:10 PM), Rodriguez, Tregub
 Absent: Askary
 Excused: Pancoast, Pierce

2. Announcements

3. Comments from the Public

Public Attendance: 37
 Public Comments: 6

Action Items

4. Review and Approval of Meeting Minutes

The Peace and Justice Commission adopted minutes for July 15, 2019 meeting.

M/S/C: Gussmann, Han

Ayes: al-Bazian, Bohn, Gussmann, Han, Lippman, Maran, Meola, Morizawa, Pancoast, Pierce, Rodriguez, Tregub

Noes: None

Abstain: Pierce

Absent: Askary

Excused: None

////////////////////////////////////

5. Commission Updates and Chairperson’s Report (No Action Taken)

6. Secretary’s Report (No Action Taken)

7. Resolution to expropriate private and corporate property to end homelessness for the general welfare of the people (Commissioner Meola)

The Peace and Justice Commission voted to not approve a resolution.

M/S/C: Meola, Bohn

Ayes: al-Bazian, Bohn, Meola

Noes: Gussmann, Han, Maran, Morizawa, Pancoast, Pierce, Rodriguez, Tregub

Abstain: Lippman, Rodriguez

Absent: Askary

Excused: None

8. Send letter to City Council in support of the proposed council resolution regarding endorsing the United Nations Convention on the Rights of the Chil (Commissioner Bohn)

M/S/C: Bohn, Meola

Ayes: al-Bazian, Bohn, Gussmann, Han, Lippman, Maran, Meola, Morizawa, Pancoast, Pierce, Rodriguez, Tregub

Noes: None

Abstain: None

Absent: Askary

Excused: None

9. Resolution in relation to the attempted prosecution of non-violent activists who attempt to expose the conditions of animals in factory farms (Chair Tregub)

The Peace and Justice Commission approved resolution with an amendment including footnote of California Penal Code section 597e.

M/S/C: Meola, Tregub

Ayes: al-Bazian, Bohn, Lippman, Maran, Meola, Morizawa, Pancoast, Pierce, Rodriguez, Tregub

Noes: None

Abstain: Gussmann, Han

Absent: Askary

Excused: None

10. Meetings process initiatives – Discussion and Possible Action (No Action Taken)

10a. Meetings process initiatives (Chair Tregub)

10b. Setting an internal commission policy to send all action items and supporting documentation to the commission 10 days in advance of the regular meetings. (Commissioner Gussmann)

The Peace and Justice Commission voted to adopt item 10a, new meeting process initiatives, granting discretion to the presiding officer with commission consent to deviate from guidelines as needed and striking item 5 from 10a.

M/S/C: Bohn, Gussmann

Ayes: Bohn, Gussmann, Han, Lippman, Maran, Pancoast, Pierce, Rodriguez, Tregub

Noes: None

Abstain: al-Bazian, Meola, Morizawa

Absent: Askary

Excused: None

11. Subcommittee on The Convention on the Rights of Persons with Disabilities (No Action Taken)

12. Subcommittee on Socially Responsible Investments and Procurement (No Action Taken)

13. BUSD subcommittee discussion and potential appointments (No Action Taken)

////////////////////////////////////

The meeting was adjourned at 9:50 PM.

Respectfully Submitted,

Breanne Slimick, Secretary
Peace and Justice Commission

Alameda County

Complete Count
Committee

Census 2020 Ambassador Program

WHY THE CENSUS MATTERS



Healthcare



Education



Transportation



Affordable Housing

Census 2020

What is it?

A once in a decade chance to count everyone to bring money, data, and decision makers to our communities

Why does it matter?

Alameda County has 413,000 residents who are considered "Hard-to-Count," such as seniors, young children, immigrants, and low income individuals.

What can you do to ensure our community counts?

As trusted community members, we invite you to volunteer as an Ambassador to educate residents about the census and motivate your communities to get counted.

Trusted Messengers are individuals and organizations who are trusted among the communities they serve and advocate for. This program provides trusted messengers with resources to educate communities about the census and its importance, dispel myths, and motivate communities to respond to the census.



Are you a trusted messenger and wish to lead outreach in your community?

Sign-up to volunteer here: <http://www.bit.ly/CensusAmbassador>

AMBASSADOR OPPORTUNITIES

Become an expert on Census 2020

Attend Alameda County sponsored trainings!

- Onboarding Conference Call (early December)
- "How to" conduct Census Outreach (Jan - March)

Conduct outreach in your community

- Adopt your block: *Knock on your neighbors doors and remind people to take their Census*
- Staff a Questionnaire Assistance Center (QAC): *Provide in-person Census support*
- Host a Census event or workshop

Keep your community informed

- Share census information via existing communications platforms such as e-blasts and social media (Facebook, Twitter, etc), we'll draft the content, all you need do is share!

Access Ambassador-exclusive resources

- Census 2020 Ambassador branded t-shirts
- Talking points
- How-to guides & One-pagers
- I'm Counted Stickers

TIMELINE

- **September 16, 2019**
Application opens
- **October 28, 2019**
Applications due for minigrants
- **December 2019**
Onboarding conference call
- **January - March 2020**
Training workshops: "How to" conduct Census Outreach
- **March - July 2020**
Census outreach
- **July 2020** Final report due
Don't worry! This will be a simple form with clear instructions

Apply by October 28 for a minigrant!

Limited funding is available for organizations/ individuals with a financial need. Include request in your application.

our community
COUNTS

our community
BELONGS

For more information, visit <http://www.acgov.org/census2020>

CENSUS 2020

Our Community Counts. Our Community Belongs.

Alameda County



Complete Count
Committee

Billions of dollars for our:



Schools



Healthcare



Children
& Families



Housing



Transportation

Political Power



Our voice in Congress

WHY

WHO

- Every adult, child, and baby living in the United States!
- 1 Census form should be completed for all residents at each mailing address

WHAT

- The United States constitution requires all residents to be counted every 10 years
- The questionnaire will take 12 minutes to complete. It asks nine questions about: address, race, age, and relationship to the other residents at the address, etc.

WHEN

- Census 2020 begins in mid-March 2020
- Starting May 2020, Census workers will begin going door-to-door to addresses who have not completed the Census to ask them to respond

HOW

- All addresses will receive a letter in the mail with instructions about how to take the Census through the following options:



By computer, tablet,
or smart phone



The Census Bureau's
1-800 numbers



Residents can request
a paper form

Available In

*English, Spanish, Chinese, Vietnamese, Korean, Russian, Arabic,
Tagalog, Polish, French, Haitian Creole, Portuguese, and Japanese*

Printed In

English & Spanish

- **Census instructions will be available in all other languages spoken in Alameda County**

WHERE



At home



At the library



At your
child's school



At a senior center

For more information visit www.acgov.org/census2020, find us on or email ashley.renick@acgov.org

Peace and Justice Commission

Draft

Resolution Urging the Indian Government to Restore Article 370 of the Indian Constitution and Protection of Human Rights in Kashmir

WHEREAS, on August 5th, 2019, the government of India suspended Articles 370 and 35A of its constitution, thereby revoking the long-protected semi-autonomous status of Jammu & Kashmir without consultation of Kashmiri political or civil society leaders; and

WHEREAS, this anti-democratic action was preceded by a surge of roughly 35,000 Indian forces to the already heavily militarized Jammu & Kashmir and the imposition of a total communications blackout across the region; and

WHEREAS, Kashmiris remain cut off from each other and the outside world while their families across the globe, including Kashmiri Americans in this city, are unable to contact them and ensure their safety and well-being; and

WHEREAS, the Indian security forces in Kashmir have arrested and put into preventive detention politicians from across the spectrum, members of civil society, human rights activists, and many others, as well as the torture of detainees; and

WHEREAS, the Indian security forces in Kashmir have instituted a prohibition on peaceful assembly and the used military force to quell protests, which has resulted in numerous deaths and injuries; and

WHEREAS, the Indian government has resorted to the gagging of journalists and news publications through heavy restrictions and constraints in their reporting; and

WHEREAS, while the ongoing blackout has severely curtailed the ability of international press to investigate on the ground, the few reports that have emerged have been uniformly disturbing, including: mass detentions of elected officials, doctors, lawyers, and children as young as 12 years old; use of torture and lethal force against civilians; dwindling supplies of life-saving medical treatments and inability of patients to access hospitals; and curtailing of religious freedoms.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley expresses its strong concern about the developments in Kashmir and the anti-democratic actions and human rights abuses of the Indian government.

40 BE IT FURTHER RESOLVED that the Council of the City of Berkeley calls on the Indian
41 government to restore Article 370 of the Indian Constitution.

42
43 BE IT FURTHER RESOLVED that the Council of the City of Berkeley calls on the federal
44 government to urge the Republic of India to immediately and completely cease the
45 communications blackout in Kashmir, so that Berkeley residents may contact their families and
46 that the international press and independent human rights observers may thoroughly and properly
47 investigate reports of human rights abuses.

48
49
50

51 **Background**

52

53 **UN Resolutions on Kashmir:**

54 **The Security Council's Plebiscite Plan**

55 *“Text of Resolution on the India-Pakistan Question submitted jointly by the*
56 *Representatives of Belgium, Canada, China, Colombia, the United Kingdom and the*
57 *United States of America, and adopted by the Security Council at its 26th meeting held*
58 *on 21st April 1948.”*

59 **The Security Council**

60 **Having considered the complaint of the Government of India concerning the**
61 **dispute over the State of Jammu and Kashmir, having heard the**
62 **representative of Pakistan;**

63 **Being strongly of the opinion that the early restoration of peace and order**
64 **in Jammu and Kashmir is essential and that India and Pakistan should do**
65 **their utmost to bring about a cessation of all fighting;**

66 **Noting with satisfaction that both India and Pakistan desire that the**
67 **accession of Jammu and Kashmir to India or Pakistan should be decided**
68 **through the democratic method of a free and impartial plebiscite;**

69 **Considering that the continuation of the dispute is likely to endanger**
70 **international peace and security;**

71 **REAFFIRMS THE COUNCIL'S RESOLUTION OF 17TH JANUARY;**

72 Resolves that the members of the Commission established by the resolution of the
73 Council of 20 January 1948, shall be increased to five and shall include, in addition to the
74 membership mentioned in that resolution, representatives of – and -, and that if the
75 membership of the Commission has not been completed within ten days from the date of

76 the adoption of this resolution the President of the Council may designate such other
77 Member or Members of the United Nations as are required to complete the membership
78 of five;

79 Instructs the Commission to proceed at once to the Indian Subcontinent and there place
80 its good offices and mediation at the disposal of the Governments of India and Pakistan,
81 with a view to facilitating the taking of the necessary measures, both with respect to the
82 restoration of peace and order, and to the holding of a plebiscite by the two Governments,
83 acting in co- operation with one another and with the Commission, and further instructs
84 the Commission to keep the Council informed of the action taken under the resolution,
85 and to end –

86 Recommends to the Governments of India and Pakistan, the following measures as those
87 which in the opinion of the Council are appropriate to bring about a cessation of the
88 fighting and to create proper conditions for a free and impartial plebiscite to decide
89 whether the State of Jammu and Kashmir is to accede to India or Pakistan.

90 **Kashmir Gallery**

91 **A – Restoration of Peace and Order:**

92 The Government of Pakistan should undertake to use its best endeavours:

93 (a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and
94 Pakistani Nationals not normally resident therein, who have entered the State for the
95 purposes of fighting and to prevent any intrusion into the State of such elements and any
96 furnishing of material aid to those fighting in the State.

97 (b) To make known to all concerned that the measures indicated in this and the following
98 paragraphs provide full freedom to all subjects of the State, and that therefore they should
99 co-operate in the maintenance of peace and order.

100 **2. THE GOVERNMENT OF INDIA SHOULD:**

101 (a) When it is established to the satisfaction of the Commission set up in accordance with
102 the Council's resolution of 20 January that the tribesmen are withdrawing and that
103 arrangements for the cessation of the fighting have become effective, put into operation
104 in consultation with the Commission, a plan for withdrawing their own forces from Jammu
105 and Kashmir and reducing them progressively to the minimum strength required for the
106 support of civil power in the maintenance of law and order;

107 (b) Make known that the withdrawal is taking place in stages and announce the
108 completion of each stage;

109 (c) When the Indian forces shall have been reduced to the minimum strength mentioned
110 in (a) above, arrange for consultation with the Commission for the stationing of the
111 remaining forces to be carried out in accordance with the following principles:

112 (i) That the presence of troops should not afford any intimidation or appearance of
113 intimidation to the inhabitants of the State.

114 (ii) That as small a number as possible should be retained in forward areas.

115 (iii) That any reserve of troops which may be included in the total strength should be
116 located within their present base area.

117 3. THE GOVERNMENT OF INDIA SHOULD AGREE THAT, UNTIL SUCH TIME AS
118 THE PLEBISCITE ADMINISTRATION REFERRED TO BELOW FINDS IT NECESSARY
119 TO EXERCISE THE POWERS OF DIRECTION AND SUPERVISION OVER THE STATE
120 FORCES AND POLICY PROVIDED FOR IN PARAGRAPH 8, THEY WILL BE HELD IN
121 AREAS TO BE AGREED UPON WITH THE PLEBISCITE ADMINISTRATOR.

122 4. AFTER THE PLAN REFERRED TO IN PARAGRAPH 2 (A) ABOVE HAS BEEN PUT
123 INTO OPERATION, PERSONNEL RECRUITED LOCALLY IN EACH DISTRICT
124 SHOULD, SO FAR AS POSSIBLE BE UTILIZED FOR THE RE-ESTABLISHMENT AND
125 MAINTENANCE OF LAW AND ORDER WITH DUE REGARD TO PROTECTION OF
126 MINORITIES, SUBJECT TO SUCH ADDITIONAL REQUIREMENTS AS MAY BE
127 SPECIFIED BY THE PLEBISCITE ADMINISTRATION REFERRED TO IN PARAGRAPH
128 7.

129 5. IF THESE LOCAL FORCES SHOULD BE FOUND TO BE INADEQUATE, THE
130 COMMISSION, SUBJECT TO THE AGREEMENT OF BOTH THE GOVERNMENT OF
131 INDIA AND THE GOVERNMENT OF PAKISTAN, SHOULD ARRANGE FOR USE OF
132 SUCH FORCES OF EITHER DOMINION AS IT DEEMS EFFECTIVE FOR THE
133 PURPOSE OF PACIFICATION.

134 **B – Plebiscite**

135 6. THE GOVERNMENT OF INDIA SHOULD UNDERTAKE TO ENSURE THAT THE
136 GOVERNMENT OF THE STATE INVITE THE MAJOR POLITICAL GROUPS TO
137 DESIGNATE RESPONSIBLE REPRESENTATIVES TO SHARE EQUITABLY AND
138 FULLY IN THE CONDUCT OF THE ADMINISTRATION AT THE MINISTERIAL
139 LEVEL, WHILE THE PLEBISCITE IS BEING PREPARED AND CARRIED OUT.

140 7. THE GOVERNMENT OF INDIA SHOULD UNDERTAKE THAT THERE WILL BE
141 ESTABLISHED IN JAMMU AND KASHMIR, A PLEBISCITE ADMINISTRATION TO
142 HOLD A PLEBISCITE AS SOON AS POSSIBLE ON THE QUESTION OF THE
143 ACCESSION OF THE STATE TO INDIA OR PAKISTAN.

144 8. THE GOVERNMENT OF INDIA SHOULD UNDERTAKE THAT THERE WILL BE
145 DELEGATED BY THE STATE TO THE PLEBISCITE ADMINISTRATION SUCH
146 POWERS AS THE LATTER CONSIDERS NECESSARY FOR HOLDING A FAIR AND
147 IMPARTIAL PLEBISCITE, INCLUDING, FOR THAT PURPOSE ONLY, THE
148 DIRECTION AND SUPERVISION OF THE STATE FORCES AND POLICE.

149 9. THE GOVERNMENT OF INDIA SHOULD, AT THE REQUEST OF THE PLEBISCITE
150 ADMINISTRATION, MAKE AVAILABLE FROM THE INDIAN FORCES SUCH
151 ASSISTANCE AS THE PLEBISCITE ADMINISTRATION MAY REQUIRE FOR THE
152 PERFORMANCE OF ITS FUNCTIONS.

153 10. (a) **The Government of India should agree that a nominee of the Secretary-**
154 **General of the United Nations will be appointed to be the Plebiscite Administrator.**

155 (b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir,
156 should have authority to nominate his assistants and other subordinates and to draft
157 regulations governing the plebiscite. Such nominees should be formally appointed and
158 such draft regulations should be formally promulgated by the State of Jammu and
159 Kashmir.

160 (c) The Government of India should undertake that the Government of Jammu and
161 Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to
162 act as special magistrates within the State Judicial System to hear cases which in the
163 opinion of the Plebiscite Administrator have a serious bearing on the preparation for and
164 the conduct of a free and impartial plebiscite.

165 (d) The terms of service of the Administrator should form the subject of a separate
166 negotiation between the Secretary- General of the United Nations and the Government
167 of India. The Administrator should fix the terms of service for his assistants and
168 subordinates.

169 (e) The Administrator should have the right to communicate direct with the Government
170 of the State and with the Commission of the Security Council and, through the
171 Commission, with the Security Council, with the Governments of India and Pakistan and
172 with their representatives with the Commission. It would be his duty to bring to the notice
173 of any or all of the foregoing (as he in his discretion may decide) any circumstances
174 arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

175 11. THE GOVERNMENT OF INDIA SHOULD UNDERTAKE TO PREVENT AND TO
176 GIVE FULL SUPPORT TO THE ADMINISTRATOR AND HIS STAFF IN PREVENTING
177 ANY THREAT, COERCION OR INTIMIDATION, BRIBERY OR OTHER UNDUE
178 INFLUENCE ON THE VOTERS IN THE PLEBISCITE, AND THE GOVERNMENT OF
179 INDIA SHOULD PUBLICLY ANNOUNCE AND SHOULD CAUSE THE GOVERNMENT
180 OF THE STATE TO ANNOUNCE THIS UNDERTAKING AS AN INTERNATIONAL
181 OBLIGATION BINDING ON ALL PUBLIC AUTHORITIES AND OFFICIALS IN JAMMU
182 AND KASHMIR.

183 12. THE GOVERNMENT OF INDIA SHOULD THEMSELVES; AND THROUGH THE
184 GOVERNMENT OF THE STATE, DECLARE AND MAKE KNOWN THAT ALL
185 SUBJECTS OF THE STATE OF JAMMU AND KASHMIR, REGARDLESS OF CREED,
186 CASTE OR PARTY, WILL BE SAFE AND FREE IN EXPRESSING THEIR VIEWS AND
187 IN VOTING ON THE QUESTION OF THE ACCESSION OF THE STATE AND THAT
188 THERE WILL BE FREEDOM OF THE PRESS, SPEECH AND ASSEMBLY AND

189 FREEDOM OF TRAVEL IN THE STATE, INCLUDING FREEDOM OF LAWFUL ENTRY
190 AND EXIT.

191 13. THE GOVERNMENT OF INDIA SHOULD USE AND SHOULD ENSURE THAT THE
192 GOVERNMENT OF THE STATE ALSO USE THEIR BEST ENDEAVOURS TO EFFECT
193 THE WITHDRAWAL FROM THE STATE OF ALL INDIAN NATIONALS OTHER THAN
194 THOSE WHO ARE NORMALLY RESIDENT THEREIN OR WHO, ON OR SINCE 15
195 AUGUST 1947, HAVE ENTERED IT FOR A LAWFUL PURPOSE.

196 14. THE GOVERNMENT OF INDIA SHOULD ENSURE THAT THE GOVERNMENT OF
197 THE STATE RELEASE ALL POLITICAL PRISONERS AND TAKE ALL POSSIBLE STEPS
198 SO THAT:

199 (a) All citizens of the State who have left it on account of disturbances are invited, and
200 are free, to return to their homes and to exercise their rights as such citizens;

201 (b) There is no victimization;

202 (c) Minorities in all parts of the State are accorded adequate protection.

203 15. THE COMMISSION OF THE SECURITY COUNCIL SHOULD, AT THE END OF THE
204 PLEBISCITE, CERTIFY TO THE COUNCIL WHETHER THE PLEBISCITE HAS OR HAS
205 NOT BEEN REALLY FREE AND IMPARTIAL.

206 **C – General Provisions**

207 16. THE GOVERNMENT OF INDIA AND PAKISTAN SHOULD EACH BE INVITED TO
208 NOMINATE A REPRESENTATIVE TO BE ATTACHED TO THE COMMISSION FOR
209 SUCH ASSISTANCE AS IT MAY REQUIRE IN THE PERFORMANCE OF ITS TASK.

210 17. THE COMMISSION SHOULD ESTABLISH IN JAMMU AND KASHMIR, SUCH
211 OBSERVERS AS IT MAY REQUIRE FOR ANY OF THE PROCEEDINGS IN PURSUANCE
212 OF THE MEASURES INDICATED IN THE FOREGOING PARAGRAPHS.

213 18. THE SECURITY COUNCIL COMMISSION SHOULD CARRY OUT THE TASK
214 ASSIGNED TO IT HEREIN.

215 **UN Security Council Resolution of August 13,1948**

216 “The United Nations Commission for India and Pakistan;

217 Having given careful consideration to the points of view expressed by the Representatives
218 of India and Pakistan regarding the situation in the State of Jammu and Kashmir and,

219 Being of the opinion that the prompt cessation of hostilities and the correction of
220 conditions, the continuance of which is likely to endanger international peace and security

221 are essential to implementation of its endeavours to assist the Governments of India and
222 Pakistan in effecting a final settlement of the situation,

223 Resolves to submit simultaneously to the Governments of India and Pakistan the
224 following proposal:

225 **PART I – CEASE FIRE ORDER**

226 **PART II – TRUCE AGREEMENT**

227 **PART III**

228 **UN SECURITY COUNCIL RESOLUTION (S11196) OF JANUARY 5,1949.**

229 **UN SECURITY COUNCIL RESOLUTION OF MARCH 14,1950.**

230 **UN SECURITY COUNCIL RESOLUTION OF NOVEMBER 10,1951.**

231 **UN SECURITY COUNCIL RESOLUTION OF DECEMBER 23,1952.**

232 **UN SECURITY COUNCIL RESOLUTION (S13779) OF JANUARY 24,1957.**

233 **UN SECURITY COUNCIL RESOLUTION (S3793) OF FEBRUARY 21,1957.**

234 **UN SECURITY COUNCIL RESOLUTION OF DECEMBER 2,1957.**

235 **Part I – Cease Fire Order**

236 A. The Governments of India and Pakistan agree that their respective High0 Commands
237 will issue separately and simultaneously, a cease-fire order to apply to all forces under
238 their control in the State of Jammu and Kashmir as of the earliest practicable date or
239 dates to be mutually agreed upon within four days after these proposals have been
240 accepted by both Governments.

241 B. The High Commands of the Indian and Pakistan Forces agree to refrain from taking
242 any measures that might augment the military potential of the forces under their control
243 in the State of Jammu and Kashmir. (For the purpose of these proposals, ‘forces under
244 their’ control shall be considered to include all forces, organised and unorganised, fighting
245 or participating in hostilities on their respective sides).

246 C. The Commander-in-Chief of the Forces of India and Pakistan shall promptly confer
247 regarding any necessary local changes in present dispositions which may facilitate the
248 cease-fire.

249 D. In its discretion and as the Commission may find practicable, the Commission will
250 appoint military observers who under the authority of the Commission and with the
251 cooperation of both Commands will supervise the observance of the cease-fire order.

252 E. The Government of India and the Government of Pakistan agree to appeal to their
253 respective peoples to assist in creating and maintaining an atmosphere favourable to the
254 promotion of farther negotiation.

255 **Part II – Truce Agreement**

256 Simultaneously with the acceptance of the proposal for the immediate cessation of
257 hostilities as outlined in Part I, both Governments accept the following principles as a

258 basis for the formulation of a truce agreement, the details of which shall be worked out in
259 discussion between their Representatives and the Commission.

260 A1. As the presence of troops of Pakistan in the territory of the State of Jammu and
261 Kashmir constitutes a material change in the situation since it was represented by the
262 Government of Pakistan before the Security Council, the Government of Pakistan agrees
263 to withdraw its troops from that State.

264 A2. The Government of Pakistan will use its best endeavour to secure the withdrawal
265 from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally
266 resident therein who have entered the State for the purpose of fighting.

267 A3. Pending a final solution, the territory evacuated by the Pakistan troops will be
268 administered by the local authorities under the surveillance of the Commission.

269 B1. When the Commission shall have notified the Government of India that the Tribesmen
270 and Pakistan nationals referred to in Part II A 2 hereof have withdrawn, thereby
271 terminating the situation which was represented by the Government of India to the
272 Security Council as having occasioned the presence of Indian forces in the State of
273 Jammu and Kashmir and further, that the Pakistan Forces are being withdrawn from the
274 State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the
275 bulk of their forces from that State in stages to be agreed upon with the Commission.

276 B2. Pending the acceptance of the conditions for a final settlement of the situation in the
277 State of Jammu and Kashmir, the Indian Government will maintain within the lines existing
278 at the moment of the cease-fire those forces of its Army which in agreement with the
279 Commission are considered necessary to assist local authorities in the observance of law
280 and order. The Commission will have observers stationed where it deems necessary.

281 C1. Upon signature, the full text of the Truce Agreement or a communique containing the
282 principles thereof as agreed upon between the two Governments and the Commission, will
283 be made public.

284 **Part III**

285 The Government of India and the Government of Pakistan reaffirm their wish that the
286 future status of the State of Jammu and Kashmir shall be determined in accordance with
287 the will of the people and to that end, upon acceptance of the Truce Agreement both
288 Governments agree to enter into consultations with the Commission to determine fair and
289 equitable conditions whereby such free expression will be assured.

290 **UN Security Council Resolution (S11196) of January 5, 1949.**

291 The United Nations Commission for India and Pakistan;

292 Having received from the Governments of India and Pakistan, in communications dated
293 23 December and 25 December 1948, respectively, their acceptance of the following
294 principles which are supplementary to the Commission's Resolution of 13 August 1948.

295 1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan
296 will be decided through the democratic method of a free and impartial plebiscite.

297 2. A plebiscite will be held when it shall be found by the Commission that the cease-fire
298 and truce arrangements set forth in Part I and II of the Commission's Resolution of 13
299 August 1948, have been carried out and arrangements for the plebiscite have been
300 completed.

301 3(a). The Secretary-General of the United Nations will in agreement with the Commission,
302 nominate a Plebiscite Administrator who shall be a personality of high international
303 standing and commanding general confidence. He will be formally appointed to office by
304 the Government of Jammu and Kashmir.

305 3(b). The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the
306 powers he considers necessary for organising the freedom and impartiality of the
307 plebiscite.

308 3(c). The Plebiscite Administrator shall have authority to appoint such staff of assistants
309 and observers as he may require

310 4(a). After implementation of Parts I and II of the Commission's Resolution of 13 August
311 1948, and when the Commission is satisfied that peaceful conditions have been restored
312 in the State, the Commission and the Plebiscite Administrator will determine in
313 consultation with the Government of India the final disposal of Indian and State Armed
314 Forces, such disposal to be with due regard to the security of the State and the freedom
315 of the plebiscite

316 4(b). As regards the territory referred to in A 2 of Part II of the resolution of 13 August,
317 final disposal of the armed forces in that territory will be determined by the Commission
318 and the Plebiscite Administrator in consultation with the local authorities.

319 5. All civil and military authorities within the State and the principal political elements of
320 the State will be required to cooperate with the Plebiscite Administrator in the preparation
321 for and the holding of the plebiscite.

322 6(a). All citizens of the State who have left it on account of the disturbances will be invited
323 and be free to return and to exercise all their rights as such citizens. For the purpose
324 of facilitating repatriation there shall be appointed two Commissions, one composed of
325 nominees of India and the other of nominees of Pakistan. The Commission shall operate
326 under the direction of the Plebiscite Administrator. The Governments of India and
327 Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with
328 the Plebiscite Administrator in putting this provision into effect.

329 6(b). All persons (other than citizens of the State) who on or since 16 August 1947 have
330 entered it for other than lawful purposes shall be required to leave the State.

331 7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in
332 collaboration with the Plebiscite Administrator, that,

333 (a) There is no threat, or intimidation, bribery or other undue influence on the voters in the
334 plebiscite.

335 (b) No restrictions are placed on legitimate political activity throughout the State. All
336 subjects of the State regardless of creed, caste or party shall be safe and free in
337 expressing their views in voting on the question of the accession of the State to India and
338 Pakistan. There shall be freedom of travel and exit.

339 (c) All political prisoners are released.

340 (d) Minorities in all parts of the State are accorded adequate protection, and

341 (e) There is no victimization.

342 8. The Plebiscite Administrator may refer to the United Nations Commission for India and
343 Pakistan, problems on which he may require assistance and the Commission may in its
344 discretion call upon the Plebiscite Administrator to carry out on its behalf any of the
345 responsibilities with which it has been entrusted.

346 9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result
347 thereof to the Commission and to the Government of Jammu and Kashmir. The
348 Commission shall then certify to the Security Council whether the plebiscite has or has
349 not been free and impartial.

350 10. Upon signature of the truce agreement, the details of the foregoing proposals will be
351 elaborated in the consultations envisaged in Part III of the Commission's Resolution of 13
352 August 1948. The Plebiscite Administrator will be fully associated in these consultations.

353 Commends the Governments of India and Pakistan for their prompt action in ordering a
354 cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to
355 the agreement arrived at as provided for by the Commission's Resolution of 13 August
356 1948, and

357 Resolves to return in the immediate future to the sub- continent to discharge the
358 responsibilities imposed upon it by, the resolution of 13 August 1948 and by the foregoing
359 principles.

360 **UN Security Council Resolution of March 14,1950**

361 Having received and noted the reports of the United Nations Commission for India and
362 Pakistan, established by the Resolutions of 20 January and 21 April 1948;

363 Having also received and noted the report of General A.G.L. McNaughton on the outcome
364 of his discussions with the representatives of India and Pakistan which were initiated in
365 pursuance of the decision taken by the Security Council on 17 December 1949;

366 Commending the Governments of India and Pakistan for their statesman-like action in
367 reaching the agreements embodied in the United Nations Commission's Resolutions of

368 13 August 1948 and 5 January 1949, for a cease-fire, for the demilitarization of the State
369 of Jammu and Kashmir and for the determination of its final disposition in accordance
370 with the will of the people through the democratic method of a free and impartial plebiscite
371 and commending the parties in particular for their action in partially implementing these
372 resolutions by:

373 (1) The cessation of hostilities effected 1 January 1949 ;

374 (2) The establishment of a cease-fire line on 27 July 1949 and

375 (3) The agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator;

376 Considering that the resolution of the outstanding difficulties should be based upon the
377 substantial measure of agreement on fundamental principles already reached, and that
378 steps should be taken forthwith for the demilitarization of the State and for the expeditious
379 determination of its future in accordance with the freely expressed will of the inhabitants;

380 **The Security Council:**

381 1. Calls upon the Governments of India and Pakistan to make immediate arrangements,
382 without prejudice to their rights or claims and with due regard to the requirements of law
383 and order, to prepare and execute within a period of five months from the date of this
384 resolution, a programme of demilitarization on the basis of the principles of paragraph 2
385 of General McNaughton's proposal or of such modification of those principles as may be
386 mutually agreed:

387 2. Decides to appoint a United Nations Representative for the following purposes who
388 shall have authority to perform his functions in such place or places as he may deem
389 appropriate;

390 (a) To assist in the preparation and to supervise the implementation of the programme of
391 demilitarization;

392 (b) To place himself at the disposal of the Governments of India and Pakistan and to place
393 before these Governments or the Security Council any suggestions which, in his opinion,
394 are likely to contribute to the expeditious and enduring solution of the dispute which has
395 arisen between the two Governments in regard to the State of Jammu and Kashmir;

396 (c) To exercise all of the powers and responsibilities devolving upon the United Nations
397 Commission by reason of existing Resolutions of the Security Council and by reason of
398 the agreement of the parties embodied in the resolutions of the United Nations
399 Commission of 13 August 1948, and 5 January 1949;

400 (d) To arrange at the appropriate stage of demilitarization for the assumption by the
401 Plebiscite Administrator of the functions assigned to the latter under agreements made
402 between the parties;

403 (e) To report to the Security Council as he may consider necessary, submitting his
404 conclusions and any recommendations which he may desire to make:

405 3. Requests the two Governments to take all necessary precautions to ensure that their
406 agreements regarding the cease-fire shall continue to be faithfully observed, and calls
407 upon them to take all possible measures to ensure the creation and maintenance of an
408 atmosphere favourable to the promotion of further negotiations;

409 4. Extends its best thanks to the members of the United Nations Commission for India
410 and Pakistan and to General A. G. L. McNaughton for their arduous and faithful labours;

411 5. Agrees that the United Nations Commission for India and Pakistan shall be terminated,
412 and decides that this shall take place one month after both parties have informed the
413 United Nations Representative of their acceptance of the transfer to him of the powers
414 and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.

415 **UN Security Council Resolution of November 10,1951.**

416 **The security Council:**

417 Having received and noted the report of Dr. Frank Graham the United Nations
418 Representative for India and Pakistan on his mission initiated by the Security Council
419 resolution of 30 March 1951, and having heard Dr. Graham's address to the Council on
420 18 October;

421 Noting with approval the basis for a programme of demilitarization which could be carried
422 out in conformity with the previous undertakings of the parties, put forward by the United
423 Nations Representative in his communication of 7 September 1951, to the Prime
424 Ministers of India and Pakistan;

425 1. Notes with gratification the declared agreement of the two parties to those parts of Dr.
426 Graham's proposals which re-affirm their determination to work for peaceful settlement,
427 their will to observe the cease-fire agreement and their acceptance of the principle that
428 the accession of the State of Jammu and Kashmir should be determined by a free and
429 impartial plebiscite under the auspices of the United Nations;

430 2. Instructs the United Nations Representative to continue his efforts to obtain agreement
431 of the parties on a plan for effecting the demilitarization of the State of Jammu and
432 Kashmir ;

433 3. Calls upon the parties to co-operate with the United Nations Representative to the
434 fullest degree in his efforts to resolve the outstanding points of difference between them;

435 4. Instructs the United Nations Representative to report to the Security Council on his
436 efforts together with his views concerning the problems confided to him, not later than six
437 weeks after this resolution comes into effect.

438 **UN Security Council Resolution of December 23,1952.**

439 **The Security Council:**

440 Recalling its resolution of 30 March 1951,30 April 1951, and 10 November 1951;

441 Further recalling the provisions of the United Nations Commission for India and Pakistan
442 Resolutions of 13 August 1948, and 5 January 1949, which were accepted by the
443 Governments of India and Pakistan and which provided that the question of the accession
444 of the State of Jammu and Kashmir to India or Pakistan will be decided through the
445 democratic method of a free and impartial plebiscite conducted under auspices of the
446 United Nations;

447 Having received the Third Report dated 22 April 1952 and the Fourth Report dated 16
448 September 1952 of the United Nations Representative for India and Pakistan;

449 Endorses the general principles on which the United Nations Representative has sought
450 to bring about agreement between the Governments of India and Pakistan;

451 Notes with gratification that the United Nations Representative has reported that
452 Governments of India and Pakistan have accepted all but two of the paragraphs of his
453 twelve point proposals;

454 Notes that agreement on a plan of demilitarization of the State of Jammu and Kashmir
455 has not been reached, because the Governments of India and Pakistan have not agreed
456 on the whole of paragraph 7 of the twelve point proposals;

457 Urges the Governments of India and Pakistan to enter into immediate negotiations under
458 the auspices of the United Nations Representative for India and Pakistan in order to reach
459 agreement on the specific number of forces to remain on each side of the Cease-Fire
460 Line at the end of the period of demilitarization, this number to be between 3,000 and
461 6,000 Armed Forces remaining on the Pakistan side of the cease-fire line and between
462 12,000 and 18,000 Armed Forces remaining on the Indian side of the Cease – Fire line,
463 as suggested by the United Nations Representative in his proposals of 16 July 1952
464 (Annex III of S/2783) such specific numbers to be arrived at bearing in mind the principles
465 of criteria contained in paragraph 7 of the United Nations Representative’s proposal of 4
466 September 1952 (Annex VIII of S/2783);

467 Records its gratitude to the United Nations Representative for India and Pakistan for the
468 great efforts which he has made to achieve a settlement and REQUESTS him to continue
469 to make his services available to the Governments of India and Pakistan to this end.

470 Requests the Government of India and Pakistan to report to the Security Council not later
471 than thirty days from the date of adoption of this resolution and further REQUESTS the
472 United Nations Representative for India and Pakistan to keep the Security Council
473 informed of any progress.

474 **UN Security Council Resolution (S13779) of January 24,1957.**

475 **The Security Council:**

476 Having heard statements from representatives of the Governments of India and Pakistan
477 concerning the dispute over the State of Jammu and Kashmir;

478 Reminding the Governments and Authorities concerned of the principle embodied in its
479 resolutions of 21 April 1948, 3 June 1948,14 March 1950 and 30 March 1951, and the
480 United Nations Commission for India and Pakistan Resolutions of 13 August 1948 and 5
481 January 1949, that the final disposition of the State of Jammu and Kashmir will be made
482 in accordance with the will of the people expressed through the democratic method of a
483 free and impartial plebiscite conducted under the auspices of the United Nations;

484 Reaffirms the affirmation in its resolution of 30 March 1951 and declares that the
485 convening of a Constituent Assembly as recommended by the General Council of the 'All
486 Jammu and Kashmir National Conference' and any action that Assembly may have taken
487 or might attempt to determine the future shape and affiliation of the entire State or any
488 part thereof, or action by the parties concerned in support of any such action by the
489 Assembly, would not constitute a disposition of the State in accordance with the above
490 principles;

491 Decides to continue its consideration of the dispute.

492 **UN Security Council Resolution (S3793) of February 21,1957.**

493 **The Security Council:**

494 Recalling its Resolution of 24 January 1957, its previous Resolutions and the Resolutions
495 of the United Nations Commission for India and Pakistan on the India-Pakistan Question
496 ;

497 1. Requests the President of the Security Council, the representative of Sweden, to
498 examine with the Governments of India and Pakistan and proposals which, in his opinion,
499 are likely to contribute towards the settlement of the dispute, having regard to the previous
500 Resolutions of the Security Council and of the United Nations Commission for India and
501 Pakistan to visit the sub-continent for this purpose and to report to the Security Council
502 not later than 15 April 1957;

503 2. Invites the Governments of India and Pakistan to co- operate with him in the
504 performance of these functions; and

505 3. Requests the Secretary-General and the United Nations Representative for India and
506 Pakistan to render such assistance as he may request.

507 **UN Security Council Resolution of December 2,1957.**

508 **The Security Council:**

509 Having received and noted with appreciation the report of Mr. Gunnar V. Jarring, the
510 representative of Sweden, on the mission undertaken by him pursuant to the Security
511 Council Resolution of 21 February 1957;

512 Expressing its thanks to Mr. Jarring for the care and ability with which he has carried out
513 his mission;

514 Observing, with appreciation the expressions made by both parties of sincere willingness
515 to co-operate with the United Nations in finding a peaceful solution;

516 Observing further that the Governments of India and Pakistan recognize and accept the
517 provisions of its Resolutions dated 17 January 1948 and of the Resolutions of the United
518 Nations Commissions for India and Pakistan dated 13 August 1948 and 5 January 1949,
519 which envisage in accordance with their terms the determination of the future status of
520 the State of Jammu and Kashmir in accordance with the will of the people through the
521 democratic method of a free and impartial plebiscite, and that Mr. Jarring felt it appropriate
522 to explore what was impeding their full implementation;

523 Concerned over the lack of progress towards a settlement o the dispute which his report
524 manifests;

525 Considering the importance which it has attached t demilitarization of the State of Jammu
526 and Kashmir as one of the steps towards a settlement;

527 Recalling its previous Resolutions and the Resolutions of the United Nations Commission
528 for India and Pakistan on the, India-Pakistan Question;

529 1. Requests the Government of India and the Government of Pakistan to refrain from
530 making any statements and fron doing or causing to be done or permitting any acts which
531 might aggravate the situation and to appeal to their respective peoples to assist in creating
532 and maintaining an atmosphere favourable to the promotion of further negotiation;

533 2. Requests the United Nations Representative for India and Pakistan to make any
534 recommendations to the parties for further appropriate action with a view to making
535 progress towards the implementation of the Resolutions of the United Nations
536 Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and towards
537 a peaceful settlement;

538 3. Authorizes the United Nations Representative to visit the Sub-Continent for these
539 purposes; and

540 4. Instructs the United Nations Representative to report to the Security Council on his
541 efforts as soon as possible.

542
543
544

Support the Berkeley Charter Amendment for effective oversight of the police

Hon. Mayor Jesse Arreguin, Berkeley City Council members:

The Peace and Justice Commission advises the City Council and Board of Education on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070).

Berkeley is a human rights city. The City of Berkeley adopted Ordinance 5985 N.S., the "City of Berkeley Human Rights Ordinance, 1990, Adopting a Human Rights Policy Based on Articles 55 and 56 of the United Nations Charter."

Thank you for considering placing a charter amendment on the November 2020 ballot to strengthen community oversight of the police.

Berkeley was a pioneer in creating one of the first police review commissions in the country. However, the PRC structure has not kept pace with the times. It is essential for the commission and its staff to be independent of the city management, which also manages the police department.

Fair and impartial policing in Berkeley is vital to our public safety. Progressive police chiefs nationally welcome appropriate oversight by civilian boards, and understand that collaboration with the community will make their work easier and more effective.

We urge you to move without further delay to place on the 2020 ballot the version referred last year to the meet-and-confer process with the police association. This is the version created by Mayor Arreguin and Councilmember Harrison. Please do not weaken this version further. The provisions that are most crucial to retain are:

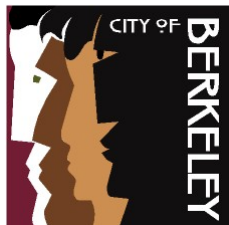
1. Full independence for the commission and its staff from the City Manager. The commission should be responsible only to the City Council.
2. Authority of the commission to obtain internal data from the BPD as required to fulfill its role.
3. A 365-day investigative/disciplinary period as allowed by state law.
4. Standard of proof to be changed to "preponderance of evidence," as in neighboring jurisdictions, instead of "clear and convincing evidence."

Berkeley can set an example of a collaborative process of civilian review that will inspire other communities to follow. Please act now to put this amendment on the ballot.

Sincerely yours,

/x/

Berkeley Peace and Justice Commission



Kate Harrison
Councilmember District 4

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: July 10, 2018

Item Number: 32b

Item Description: Direct the City Manager to analyze the Mayor's proposed Police Commission Charter Amendment, and initiate meet-and-confer where required

Submitted by: Councilmember Harrison and Mayor Arreguin

- Strike "in instances of large investigations" from Section 13(f) relating to the hiring of a Chief Investigator.
- Convert all instances of "will" to "shall"
- Correct inconsistency in capitalization
- Correct reference in Section 13(h) from 199 to 119
- Reformat Sections 15 and 16 regarding annual reports
- Adds language in Section 2 preserving existing council power over policing issues
- Adds language to allow an implementation ordinance
- Allow PBD up to 30 additional business days to respond to requests for documents

CHARTER AMENDMENT TO ESTABLISH A POLICE COMMISSION

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

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

Article XVIII. POLICE COMMISSION AND INDEPENDENT POLICE AUDITOR

Section 1. Establishment and purpose.

A Police Commission is hereby established in the City of Berkeley. The purpose of the Police Commission is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by individuals against the Berkeley Police Department. The Commission shall have the functions and duties enumerated in this Charter, as well as those assigned to the Commission by Ordinance.

The Office of the Independent Police Auditor is hereby established, which shall have the functions and duties enumerated in this Charter, as well as those assigned to the Independent Police Auditor by Ordinance. The purpose of the Independent Police Auditor is to investigate all complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where warranted. The Independent Police Auditor shall also serve as the Secretary to the Police Commission and assist the Commission in carrying out duties prescribed herein.

Section 2. Police Commission powers and duties.

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

(1) To advise and make recommendations to the public, City Council, and City Manager regarding the operation of the Berkeley Police Department, including without limitation all written policies, practices, and procedures in relation to the Berkeley Police Department;

(2) Review and recommend ~~for to~~ City Council approval all agreements, letters, or memoranda of understanding, of policies which express terms and conditions of mutual aid, information sharing, cooperation and assistance between the City of Berkeley Police Department and all other local state and federal law enforcement, intelligence, and military agencies or private security organizations operating in the City of Berkeley;

(3) To review and make recommendations on Police Department policies, practices and procedures as further described below;

(4) To receive and consider the findings and recommendations of the Independent Police Auditor regarding complaints against sworn employees of the Police Department, and to recommend discipline when misconduct is found;

(5) To participate in the hiring of the Chief of Police and command staff as further

described below;

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

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

(8) Any other powers and duties as the City Council may assign it by Ordinance.

(b) Nothing in this chapter granting powers and duties to the Police Commission shall limit the Council's independent authority to act on policing issues derived from elsewhere in this Charter, unless explicitly stated.

Section 3. Independent agency; budget authority and allocation

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

(b) The Commission is authorized to propose a budget to the City Council for its operations, and the Council shall allocate to the Police Commission and Independent Police Auditor a budget sufficient to protect the due process rights of complainants and officers, for the Commission and its staff to carry out the investigative and policy responsibilities stated herein, and to ensure the independence of the Commission.

Section 4. Composition of Police Commission; eligibility

(a) The Police Commission shall be composed of nine Commissioners selected by the City Council. Each member of the Commission must:

(1) Be a resident of the City;

(2) Be of voting age;

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

(4) Be fair minded and objective with a demonstrated commitment to community service;

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

(c) All appointees to the Commission shall be subject to background checks before final appointment. No person convicted of aA felony shall may serve as a bar to appointment on the Police Commission, at the discretion of the Council.

Section 5. Commissioner selection.

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

approved by a majority vote of the Council.

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

Section 6. Terms; term limits.

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

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

Section 7. Conflicts of interest.

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

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

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

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

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

(d) A Commissioner may either be replaced by the Council if their term has expired or may be removed during their term by ~~five~~ ~~six~~ votes of the City Council.

Section 9. Commission Chairperson and Vice-Chairperson.

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

Section 10. Commissioner stipends.

Each Commissioner is entitled to receive a stipend of \$100.00 for each regular and special full commission meeting attended, and \$20.00 per hour for each subcommittee

meeting attended as a member of the subcommittee. However, the total stipend paid may not exceed \$300.00 per month per Commissioner.

Section 11. Commissioner training.

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

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

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

(b) A majority of appointed Commissioners constitutes a quorum to conduct business and take any action.

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

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

Section 13. Office of the Independent Police Auditor.

(a) The ~~Police Commission shall nominate an Independent Police Auditor subject to confirmation by the City Council, shall appoint an Independent Police Auditor, who shall serve at the pleasure of the Council.~~

The Independent Police Auditor shall serve as secretary to the Police Commission and carry out the work of the Commission as described herein, including, without limitation, day-to-day operations of the Commission office and staff, and performance appraisals and discipline of all subordinate employees.

~~(b) By majority vote, the Police Commission may recommend removal for cause of the Independent Police Auditor to the Council. The council may remove the Independent Auditor by six votes.~~

~~(b)(c)~~ In addition to the duties prescribed, upon receipt of a complaint, the Independent Police Auditor shall ensure a timely, thorough, complete, objective and fair investigation into the complaint.

~~(c)(d)~~ The Independent Police Auditor shall provide timely updates on the progress of all investigations conducted by the Office of the Independent Police Auditor to the complainant and the Police Department employee who is the subject of the investigation, unless specific facts of the investigation would prohibit such notification.

~~Based on the facts of the investigation, reach an independent finding as to the facts.~~

The Independent Police Auditor shall assess the conduct of the sworn Police Department employee in light of the facts discovered through the investigation, the law, and the policies

and procedures of the Berkeley Police Department.

~~(d)~~(e) The Independent Police Auditor shall present the results of their investigative findings and recommendations to the Police Commission who ~~will~~ shall make a recommendation to the Chief of Police regarding the specific complaint.

~~(e)~~(f) The Independent Auditor may, with budgetary authority from the Council and the Commission's consent, hire a Chief Investigator ~~in instances of large investigations~~.

~~(f)~~(g) The Independent Police Auditor has the sole authority to hire and dismiss consultants, additional investigators, and all subordinate employees as needed.

~~(g)~~(h) The powers in this Section 13 are conferred notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 1199 of this Charter.

~~(h)~~(i) The Commission and Independent Police Auditor may use the City's Human Resources Department for hiring, performance evaluation, discipline, and removal of employees.

~~(i)~~(j) The Independent Police Auditor shall meet periodically with stakeholders, including but not limited to employee organizations representing officers, organizations promoting civil rights and liberties, and organizations representing communities of color, with and seek input from the Berkeley Police Association and solicit from them input regarding the work of the Commission and the Office of the Independent Police Auditor.

Section 14. Legal counsel.

The Commission and the Independent Police Auditor may use the services of the City Attorney's Office for legal advice. ~~;~~ ; The Commission may also seek the services of outside counsel when it deems necessary.

Section 15. Commission reports.

~~(a)~~ (a) The Independent Police Auditor shall ~~prepare issue~~ an annual report to the public, including but not limited to the following:

1 A -description of the Commission's activities during the year, ~~which shall include~~ including:

i a summary of the number, type, and disposition of complaints filed with the Commission

ii A; a summary of the number, type, and disposition of complaints filed with the Police Department that Commission staff has reviewed

iii ; p Policy investigations and reviews undertaken

iv O; and such other such information as the Commission may request.

2 The Department's and the Commission's processes and procedures for investigating alleged misconduct, and for determining the appropriate level of discipline for sustained findings of misconduct

3 Trends and patterns regarding Department training and education, and the Department's use of any early warning system;

4 Training and/or policy issues that arise during the investigations of complaints;

5 Trends and patterns in vehicle and pedestrian stops, citations, arrests, searches and seizures or other patterns by the Berkeley Police Department by race or ethnicity, purpose of the stop and disposition, and location of stop, in compliance with General Order B-4, Fair and Impartial Policing, and any disparate outcomes.

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

(a)(b) This annual report shall be presented to the Commission for approval. Upon adoption by the Commission, it shall be presented to the Mayor and Council, the Chief of Police and the City Manager, and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

Section 16. Policy review and approval.

(a) The Commission may review police policies, practices, and procedures on its own motion, at the request of a member of the public as a result of a policy complaint or an individual complaint against an officer, or the Police Department. Commission staff shall carry out any Commission directives required to fulfill this function.

~~(b) The Commission shall prepare an annual report, summarizing the following:~~

~~(c) The Department's and the Commission's processes and procedures for investigating alleged misconduct, and for determining the appropriate level of discipline for sustained findings of misconduct;~~

~~(d) Trends and patterns regarding Department training and education, and the Department's use of any early warning system;~~

~~(e) Training and/or policy issues that arise during the investigations of complaints;~~

~~(f) Trends and patterns in vehicle and pedestrian stops, citations, arrests, searches and seizures or other patterns by the Berkeley Police Department by race or ethnicity, purpose of the stop and disposition, and location of stop, in compliance with General Order B-4, Fair and Impartial Policing, and any disparate outcomes.~~

~~(g) Trends and patterns regarding use of force and officer-involved shootings.~~

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

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

Section 17. Complaints filed with the Independent Police Auditor.

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

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

(2) What constitutes a complainant;

(3) The Independent Police Auditor ~~will~~shall hear and decide findings on allegations of misconduct, at which subject employees must appear to testify and answer questions;

(4) In making findings, the standard of proof ~~will~~shall be “preponderance of the evidence”;

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

(b) Investigation of all complaints filed with the Independent Police Auditor and Commission shall begin immediately after complaints are filed and proceed as expeditiously as possible.

(c) Complaints filed with other offices, boards, bureaus and departments of the City, including the Police Department, shall be referred to the Independent Police Auditor for investigation.

(d) No City employee, officer, official or member of the Police Commission shall attempt to unduly interfere or undermine the work of the Independent Police Auditor or any employee of the Office of the Independent Police Auditor in the performance of the duties and responsibilities set forth in this Charter or by Ordinance.

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

(a) The Police Department shall provide the Independent Police Auditor with copies of all ~~newly filed~~ complaints newly filed with the Department, both those filed from outside the department and within the department. The Independent Police Auditor shall present each case to the Commission to decide which complaints staff ~~will~~shall ~~conduct parallel investigations of~~, after receiving recommendations from its staff. If the Commission staff elects to conducts an investigation, the Department shall share all written and unwritten information, documents, materials and evidence the Department collects during its investigation.

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

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

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

Section 19. Involvement in discipline of sworn department employees

After reviewing a Police Department investigation, the Independent Police Auditor

~~shall advise the Commission of recommended disciplinary action in any sustained finding by the Independent Police Auditor. The Commission may affirm, modify, or reject the recommendation, and its decision shall be submitted to the Chief.~~

(a) In a confidential personnel meeting, the Independent Police Auditor shall submit their investigative findings and recommendations, including any recommended disciplinary action, including all evidence and documentation obtained or produced during the course of the investigation, to the Police Commission for review. The Independent Police Auditor shall provide the Commission with all evidence and documentation obtained or produced during the course of the investigation to enable their review of the complaint. At said meeting, both the officer who is the subject of the investigation and the complainant must be present to answer questions from Commissioners. To the extent allowed by law, the Independent Police Auditor and Commission shall ensure that both the officer and complainant are able to freely testify. If the Independent Police Auditor Commission makes ~~upholds the Independent Police Auditor's sustained finding on an allegation against a subject employee, they shall also recommend disciplinary action to the Chief of Police.~~

(b) Should the Police Commission agree with the findings and recommendations of the Independent Police Auditor, the report ~~will~~ shall be submitted to the Chief of Police for appropriate action. The Commission may affirm, modify or reject the recommendations. If the Commission modifies or rejects the recommendations of the Independent Police Auditor, it shall issue findings explaining its decision.

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

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

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

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

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

(a) Notwithstanding Article VII, Section 28 of this Charter, all departments, officers, and employees of the City shall cooperate with and assist the Independent Police Auditor, Police Commission and its staff and, unless prohibited by state or federal law, produce all records and written and unwritten information, documents, materials and evidence the

Commission or its staff requests for the purpose of carrying out its duties and functions. The records and information include without redaction or limitation: (1) records relevant to Police Department policies or practices, (2) personnel and disciplinary records of sworn Police Department employees, and (3) Police Department investigative records. Responding departments, officers, or employees of the City shall comply promptly, but in no event later than 10 business days from the date of request, unless additional time is needed to comply. If additional time is needed to comply, the responding departments, officers or employees shall specify how much time ~~within a reasonable period~~ up to 30 additional business days is needed and explain the reasons for delay in producing the necessary records and information.

(b) The Independent Police Auditor, Police Commission and its staff shall maintain the confidentiality of any records and information it receives consistent with state or federal law governing such records or information.

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

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

Section 21. Advice regarding Police Department budget.

The Commission is empowered to review and make recommendations to the City Council regarding the Police Department budget. The Chief shall submit his or her final budget proposal to the Commission for review and recommendations, but the Commission's failure to complete that review and make recommendations in a timely manner shall not delay the budget process.

Section 22. Hiring of Chief of Police.

Notwithstanding Article VII, Section 28 of this Charter, the process for hiring the Chief of Police is as follows:

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

Section 23. Hiring of subordinate Departmental staff.

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

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

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

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

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

Section 26. Contract negotiations.

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

Section 27. Commendation program.

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

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

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

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

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

Section 29. Review of processes.

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

Section 30. Enabling Legislation

The Commission may make recommendations to the City council for enacting legislation or regulations that will further the goals and purposes of Article XVIII of this Charter. The City Council may, on its own initiative, enact legislation or regulations that will further the goals and purpose of this Charter. Once the Commission is seated, subsequent legislation or regulations, shall be submitted to the Commission for review and comment.

The Commission shall have forty-five (45) days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

Section 310. Repeal of Ordinance No. 4,644-N.S., as amended.

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

Section 321. Severability.

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

Peace and Justice Commission letter to Berkeley City Council:
Endorse Ratification of U.N. Convention on the Rights of the Child

Hon. Mayor Arreguin and members of the Berkeley City Council:

Subject: Endorsing ratification of the United Nations Convention on the Rights of the Child

The Peace and Justice Commission advises the City Council and Board of Education on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070).

Berkeley is a human rights city. The City of Berkeley adopted Ordinance 5985 N.S., the "City of Berkeley Human Rights Ordinance, 1990, Adopting a Human Rights Policy Based on Articles 55 and 56 of the United Nations Charter;" and

The Peace and Justice Commission fully supports the resolution "Endorsing the United Nations Convention on the Rights of the Child (CRC)," which is currently on your September 10 consent calendar.

As the resolution states, "The CRC outlines the civil, political, economic, social, health and cultural rights of children. It includes, but is not limited to, the right to an adequate standard of living (such as food, water, and healthcare), the right to education, freedom from discrimination and bigotry, and protections in the justice system."

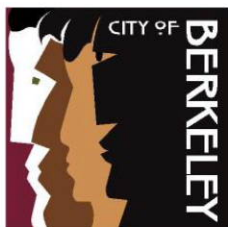
Ratification of the CRC would bind this and future national, state, and local governments to ensuring the human rights of the child. The current national administration's hypocrisy stands in fullest view shedding its crocodile tears for unborn children and the sanctity of the family, while promoting the separation of families and the caging of children on the southern border, and promoting a greatly extended "public charge" rule that will put documented and undocumented children at risk of economic and health perils. The administration's threats to the country's youth are existential as well; they refuse to support the brave call of the youth movement to

restrict the availability of weapons used in mass murders in the nation's schools. And the president's climate change denial is rightly viewed as a death sentence for the planet our children are inheriting.

Failing our children is not confined to the national administration. There are country-wide and local reverberations of the lack of care for children and youth. The City of Berkeley's self-examination on compliance with the International Covenant on Civil and Political Rights, approved by Council in 2014 and prepared by the Peace and Justice Commission, highlighted several conditions of life that violate international law.¹ These include a high and growing rate of asthma hospitalization among young children as well as African Americans, a high level of African American (30%) and Latino (19%) children living below the poverty level, and a stubborn level of racial achievement or opportunity gap in the BUSD. Uneven application of law enforcement has a disproportionate effect on children of color.

The Commission urges Council to pass the resolution to endorse ratification of the Convention on the Rights of the Child. We also call on Council to look inward at conditions of life for its own children. Council can begin by declaring the CRC the law of the City of Berkeley as you have done with the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), another treaty not ratified by the U.S. Senate. Council can move beyond the symbolic by also working with commissions, staff, and community organizations to study and propose remediations that will bring conditions of life for Berkeley's children up to international standards.

¹ "Report to the UN Human Rights Committee: Compliance with International Covenant on Civil and Political Rights," Berkeley City Council, October 7, 2014, https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Commissions/Commission_for_Peace_and_Justice/PJC%20ICCP%2010072014%20APPROVED%20FINAL.pdf



Kate Harrison
Councilmember District 4

REVISED AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: September 10, 2019

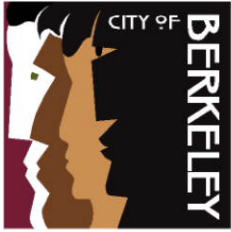
Item Number: 38

Item Description: Resolution: Oppose U.S. Withdrawal from INF Treaty

Submitted by: Peace and Justice Commission

At the time of submission by the Peace and Justice Commission, the United States had not yet withdrawn from the INF treaty, and this letter was intended to dissuade that outcome. On August 2, 2019, after this resolution was submitted, Secretary of State Pompeo announced that the United States had officially pulled out of the treaty.

After discussion with the Peace and Justice Commission, we are submitting these revisions to clarify our opposition to leaving the INF treaty, despite the Trump Administration's actions.



Peace and Justice Commission

CONSENT CALENDAR
September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Berkeley Peace and Justice Commission
Submitted by: Igor Tregub, Chairperson, Peace and Justice Commission
Subject: Resolution: Oppose U.S. Withdrawal from INF Treaty

RECOMMENDATION

Adopt a resolution that calls on President Trump to rescind the U.S. ~~notice of~~ withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) and to continue to comply with and re-enter into the Treaty, calls on Congress to oppose U.S. withdrawal from the Treaty and to support resolution of U.S.-Russian disputes through mechanisms established by the Treaty, and calls on Representative Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

The INF Treaty between the U.S. and the Soviet Union was ratified by the U.S. Senate on May 27, 1988. It banned the two nations' land-based intermediate-range ballistic missiles, cruise missiles, and missile launchers with ranges between 310 and 3,420 miles. This Treaty resulted in the destruction within three years of 2,692 United States and Soviet short-, medium-, and intermediate-range missiles.

On February 1, 2019, Secretary of State Michael R. Pompeo announced that the U.S. would withdraw from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) in 6 months, and on August 2, 2019, he announced that the U.S. had withdrawn from the Treaty. in accordance with Article 15 of the treaty.

The Russian Federation (Russia), successor state to the Soviet Union, subsequently made a similar announcement with respect to Russia's withdrawal.

The terms of the Treaty do not provide for withdrawal except for extraordinary events related to the subject matter of the Treaty that jeopardize the supreme interests of one side. The Russian missile deployment that the U.S. claims violates the treaty terms does not constitute such an extraordinary event. Instead, the treaty provides in Article 15 that issues of compliance (a material breach of the treaty provisions) are brought before a Special Verification Commission for resolution, and other avenues for resolution are also provided.

M/S/C: Maran/Meola

Ayes: Askary, al-Bazian, Bohn, Gussman, Lippman, Maran, Meola, Morizawa, Pierce, Pancoast

Noes: None

Abstain: None

Absent: Chen

Excused: Rodriguez, Tregub

BACKGROUND

At its regular meeting on April 8, 2019, the Peace and Justice Commission recommended the Council of the City of Berkeley call on President Trump to rescind the U.S. notice of withdrawal from the INF Treaty, call on Congress to oppose U.S. notice of withdrawal, and on Rep. Barbara Lee to support H.R. 1249, the INF Treaty Compliance Act of 2019.

The U.S. abrogation of the Treaty has caused concern domestically and internationally. The Chairs of the House of Representatives Committees on Foreign Affairs and Armed Services stated that instead of crafting a plan to hold Russia accountable and pressure it into compliance, the Trump administration has offered President Putin an easy way out of the treaty and has played right into his hands. Similarly, European members of NATO urged the United States "to try to bring Russia back into compliance with the treaty rather than quit it, seeking to avoid a split in the alliance that Moscow could exploit." Mikhail Gorbachev, who co-signed the Treaty with President Reagan, warned that "a new arms race has been announced."

ENVIRONMENTAL SUSTAINABILITY

The 1986 Nuclear Free Berkeley Act states that the nuclear arms race "poses an intolerable threat to humanity," and that the entire nuclear fuel cycle "endangers our health and safety." This remains the case in 2019, and nuclear war constitutes an existential threat to the global environment paralleled only by planetary climate change. There are no identifiable environmental impacts or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

The City of Berkeley has repeatedly stated a policy priority to eliminate nuclear weapons and end the threat of nuclear war.

The Peace and Justice Commission mandate states that the Commission shall perform the following function:

“Advise the Berkeley City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money now spent on war and preparation of war is spent on fulfilling human needs and the promotion of peace.”

The Nuclear Free Berkeley Act states that “The nuclear arms race poses an intolerable threat to humanity....Since the Nuremberg principles hold individuals accountable for crimes against humanity, and since nuclear weapons cannot be used without indiscriminately killing civilians and violating accepted international rules of war, then nuclear weapons are illegal, and should be prohibited in the City. We will not remain silent while policies of global death and destruction are carried out in our name.”

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

CONTACT PERSON

Igor Tregub, Chairperson, Peace and Justice Commission

Breanne Slimick, Commission Secretary, City Manager’s Office (510) 981-7018

Attachments:

1: Resolution

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

Oppose US withdrawal from the Intermediate-Range Nuclear Forces Treaty (INF)

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, ~~On February 1~~ August 2, 2019, Secretary of State Michael R. Pompeo announced that the U.S. ~~would had~~ withdrawn from the Intermediate-Range Nuclear Forces Treaty (INF Treaty) ~~in 6 months, in accordance with Article 15 of the treaty~~ (1);¹ and

WHEREAS, ~~t~~he Russian Federation (Russia) subsequently made a similar announcement with respect to Russia's withdrawal; and

WHEREAS, Article 15, paragraph 1, stating that the INF Treaty is of "unlimited duration" is followed by Paragraph 2, thus: "Each Party shall, in exercising its national sovereignty, have the right to withdraw from the Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to withdraw to the other Party six months prior to withdrawal from this Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests;"² and

WHEREAS, the Russian missile deployment that the U.S. claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes U.S. "supreme interests;" and

WHEREAS, the U.S. deployment of anti-missile missile launchers that Russia claims violates the treaty terms does not constitute an "extraordinary event" that jeopardizes Russian "supreme interests;" and

WHEREAS, nowhere in the INF Treaty is it accepted that one party to the treaty may withdraw on the grounds that they have reason to believe the other party is in material breach of the treaty provisions; the treaty provides instead in Article 15 that issues of compliance are brought before a Special Verification Commission; and

WHEREAS, in addition to the Special Verification Commission, the U.S. and Russia may call upon third-party technical and legal experts to assist in resolution of the dispute; request the UN Security Council pursuant to Article 36 of the UN Charter to recommend a procedure for resolution of the dispute; or refer the matter by special agreement to the International Court of Justice.³

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley calls on President Trump to rescind the U.S. ~~US notice of~~ withdrawal from the INF Treaty, and to confirm that the United States will continue to comply with the said Treaty until such time as extraordinary events

related to the subject matter of this Treaty have demonstrably jeopardized the supreme interests of the United States.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Congress to oppose U.S. withdrawal from the INF Treaty and to support resolution of the dispute through the treaty's Special Verification Commission and other international procedures as needed.

BE IT FURTHER RESOLVED that the City of Berkeley calls on Representative Barbara Lee to support H.R. 1249, the "INF Treaty Compliance Act of 2019," which would prohibit funds being made available for any missile prohibited by the INF Treaty.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to President Donald Trump, Secretary of State Michael R. Pompeo, Senators Dianne Feinstein and Kamala Harris, and Representative Barbara Lee.

BE IT FURTHER RESOLVED that the City of Berkeley send a copy of this resolution to Vladimir Putin, President of the Russian Federation, with a formal request that he, likewise, rescind the Russian ~~notice of~~ withdrawal from the INF Treaty and commit to fully complying with the terms of this Treaty.

¹ "U.S. Intent to Withdraw from the INF Treaty, Mike Pompeo," <https://www.state.gov/u-s-intent-to-withdraw-from-the-inf-treaty-february-2-2019/>

² "Intermediate-Range Nuclear Forces (INF) Treaty," <https://www.acq.osd.mil/tc/inf/INFtext.htm>

³ "Russia, U.S. clash over INF arms treaty at United Nations," Reuters, October 26, 2018, <https://www.reuters.com/article/us-usa-nuclear-russia-un/russia-u-s-clash-over-inf-arms-treaty-at-united-nations-idUSKCN1N02FI>

Also:

"Trump stokes debate about new Cold War arms race," HILL.TV, October 27, 2018, <https://thehill.com/policy/defense/413383-trump-stokes-debate-about-new-cold-war-arms-race>