

1 Policing and Racial Justice in Berkeley
2 Peace and Justice Commission Proposal
3 January 12, 2015
4

5 Honorable Mayor and Members of the City Council:
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7 The Peace and Justice Commission advises the City Council on all matters relating to the
8 City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code
9 (BMC) Chapter 3.68.070).
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11 The Commission appreciates Council's interest in hearing community input on these
12 issues, as shown in the December 16 listening session, the upcoming special meeting on
13 January 17, and the action meetings on January 20 and February 10. It is critical for civic
14 leaders to respond appropriately to the eruption of concern stemming, in particular, from
15 events in Ferguson, Missouri. The concerns encompass not only the police killing of
16 unarmed African American teenager Michael Brown, but also the grand jury's failure to
17 indict the officer, the heavy-handed treatment of community response, and the exposure
18 of stark disenfranchisement and second-class citizenship for members of the Black
19 community.
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21 In this paper, we address these issues primarily as they resonate in our own city. The
22 Commission is mandated to "develop ways to resolve conflict which do not involve
23 violence and which may be applied on a local level as well as a national level." We
24 believe that solutions can be devised that serve the needs of all sections of the
25 community.
26

27 We propose some immediate policy changes focused on crowd management, in order to
28 prevent recurrence of conflicts that took place the night of December 6, 2014. Other
29 concerns, including police impunity, racial bias in policing, militarization of policing, and
30 effective civilian review and oversight are also addressed, but these subjects should be
31 deepened with broad community input over the next few months. Finally, we propose a
32 special community consultation to develop a Plan of Action for Racial Justice, to address
33 racial disparity, disenfranchisement, disempowerment, and discrimination in Berkeley.
34 Only when social and economic justice is vigorously pursued can the drivers of conflict
35 be reduced.
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38 **I. Proposed Policy Declarations.**
39

- 40 1. Issue a statement of concern and support for people of color, and their families,
41 who have been unjustly injured or killed by law enforcement agencies nationally.
42 Advocate for justice for bereaved families.
- 43 2. Advocate for tools such as independent prosecutors and preliminary hearings to
44 promote unbiased investigation and prosecution of police abuse. Local
45 prosecutors often have close relationships with law enforcement, preventing them
46 from operating with full independence. State and federal prosecutions are

- 1 sometimes necessary, but it is most crucial that local prosecutorial functions be
2 reformed. These measures should be considered on the national, California,
3 regional, and Alameda County levels.¹
- 4 3. Advocate on the county level for change in Alameda County District Attorney
5 policy limiting investigation of in-custody deaths to those involving a police
6 firearm. All in-custody deaths must be investigated by a body outside the police
7 department regardless of manner of death.
 - 8 4. Advocate on the state level for change to the Peace Officers Bill of Rights
9 (POBOR),² California Penal Code Section 832.7-8 and its interpretation by the
10 California Supreme Court in *Copley Press v. Superior Court*³ which restricts
11 release of information about citizen complaints about police officers, specifically
12 the officer's name, the allegation, and the disposition of the complaint, on a level
13 far beyond those of the other 49 states. This proposal does not request personal
14 identification such as address, social security number, date of birth, etc.
 - 15 5. State the Council's support for the End Racial Profiling Act (ERPA), the John
16 Conyers bill pending in Congress since 2001.⁴

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19 **II. Policy Changes: Crowd Control and Management, and Use of Force.**

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21 Peace and Justice supports the Police Review Commission's (PRC) resolutions approved
22 on December 10, 2014:⁵

- 24 1. Request that the City Council ban the BPD's use of tear gas for crowd control
25 until the Police Review Commission conducts a full investigation into the
26 improper use of tear gas on December 6, 2014, and to empower the PRC to
27 subpoena documents and witnesses for the purpose of this investigation.
- 28 2. Urge the City Council to prohibit the Berkeley Police Department's use of
29 projectiles and over-the-shoulder baton strikes for crowd control purposes until
30 such time that a complete review of General Order C-64 (Crowd Control and
31 Management) is conducted.

32
33 We offer these further suggestions, adapted when so stated from the Oakland Police
34 Department (OPD) crowd control policy, under the understanding that there is no similar
35 language in Berkeley policy:⁶

- 37 1. Less-than-Lethal weapons: Under no circumstances may "less-lethal" or "less-
38 than-lethal" weapons be used against an individual who is not engaging in
39 conduct that poses an immediate threat of loss of life or serious bodily injury to
40 self, officers, or the general public or in substantial destruction of property which
41 creates an imminent risk to the lives or safety of other persons. In such
42 instances, such weapons shall be used only when other means of arrest are unsafe
43 and when the individual can be targeted without endangering other crowd
44 members or bystanders, also known as a "direct shot." [Adapted from the OPD
45 policy.]
- 46 2. Baton strikes: Officers shall not intentionally strike a person with any baton to
47 the head, neck, throat, kidneys, spine, or groin or jab with force to the left armpit

- 1 except when the person's conduct is *creating an imminent threat of serious bodily*
2 *injury or death* to an officer or any other person. Batons shall not be used against
3 a person who is handcuffed. [Adapted from the OPD policy.]
- 4 3. Ban physical assaults on media representatives. The media shall be permitted to
5 observe and shall be permitted close enough access to arrestees to record their
6 names. The media, legal observers, crowd monitors, police liaison, and/or
7 organizers should never be targeted for dispersal or enforcement action because of
8 their status. [Adapted from the OPD policy.]
- 9 4. Clarify that BPD is the lead agency when mutual aid responding agencies operate
10 in Berkeley. Where Berkeley has a more restrictive policy on use of force or less-
11 than-lethal force—or a higher level of protection of free expression—compared to
12 a responding department, Berkeley's policies govern. BPD is responsible for the
13 actions of agencies that it invites into Berkeley. If agencies do not comply with
14 Berkeley's standards in policing, every effort would be made to instead invite
15 complying agencies to future mutual aid activities. Adapting OPD's rules, the
16 BPD must ensure that mutual aid agencies (among other rules):
- 17 a. Do not bring or use any weapons (or equipment) that is prohibited under
18 BPD's policy;
- 19 b. Are not assigned to front-line positions or used for crowd intervention,
20 control or dispersal unless there is a public safety emergency.
- 21 5. Ban militarized armored vehicles from deployment in Berkeley by mutual aid
22 responding agencies. Council has already declared that these vehicles have no
23 place in Berkeley.⁷ The argument made by a police spokesperson that responding
24 agencies make the decision about what equipment they bring is not acceptable.⁸
- 25 6. Clarify that Berkeley City Council's September 2012 decision to "exempt
26 individuals or groups engaged in suspected non-violent civil disobedience
27 offenses from being subject to intelligence gathering" prohibits BPD from
28 stationing secret undercover agents in largely non-violent demonstrations. In
29 addition, take these steps:
- 30 a. Ban undercover agents from assuming the disguise of vandals by covering
31 their faces.⁹
- 32 b. Make covering police ID on a uniformed officer, which is banned under
33 California law under Penal Code 830.10, a firing offense in Berkeley.¹⁰

34 35 36 **III. Processes: Police Impunity, Civilian Review, and Prosecution.**

- 37
- 38 1. Ensure truly independent civilian review of police practices and officer
39 misconduct. Even under *Copley*, wherein the Boards of Inquiry (BOI) must be
40 confidential, the PRC must be able to review Internal Affairs files, personnel files,
41 officer interviews and the like. Such information will be protected by the same
42 confidentiality that governs the proceedings of the BOI.
- 43 2. Reiterate that the PRC was established by a vote of the Berkeley electorate "to
44 review and make recommendations concerning all written and unwritten policies,
45 practices, and procedures *of whatever kind and without limitations*, in relation to
46 the Berkeley Police Department, other law enforcement agencies and intelligence
47 and military agencies operating within the City of Berkeley, and law enforcement

1 generally....[and] to receive complaints directed against the Police Department
2 and any of its officers and employees, and fully and completely investigate said
3 complaints and make such recommendations...as the Commission in its discretion
4 deems advisable.”¹¹ [Emphasis added] The PRC is an independent advisory
5 body, mandated by vote of the people, appointed by the City Council, its
6 recommendations to be seriously considered by city staff. Its mandate may not be
7 changed except by vote of the people or by court order.

- 8 3. Institute body cameras for BPD officers if they can be used with sufficient
9 safeguards—the video must be available to the public, and the process must not
10 further diminish privacy of civilians.

11 12 13 **IV. Biased Policing.**

- 14
15 1. Direct the BPD to immediately implement the Fair and Impartial Policing policy
16 (B-4) and present its plan for reporting disaggregated data. In June, Council
17 mandated data collection beginning October 17, 2014. On January 17, 2015, the
18 day of the special Council meeting, the department will have been in violation of
19 this order for three months.
- 20 2. Acknowledge that community members have presented compelling evidence of a
21 pattern of race-based encounters and disrespect particularly to African-American
22 youth.
- 23 3. Independently assess the experience of communities of color with the BPD.
- 24 4. Review NAACP Town Hall (July 2013) recommendations on criminal justice for
25 potential action items, including those relevant to the "Drug Task Force."¹²
- 26 5. Review the purpose and practice of the BPD Drug Task Force (DTF), a
27 specialized unit patrolling primarily South Berkeley to, in the department's words,
28 "provide a high profile presence."¹³ The presence of DTF officers, driving in
29 unmarked vans and dressed in paramilitary clothes, is perceived by many in the
30 Black community as "menacing, threatening, and dangerous." The tactics of
31 police stops are even more frightening to many witnesses.¹⁴
- 32 a. Examine the relative rates of drug usage in various communities of color
33 and the white community, and compare to the police resources and tactics
34 used in those respective communities.
- 35 b. Examine the BPD's tactics used in South Berkeley and evaluate them
36 against constitutional protections, in particular these tactics:
- 37 i. Use of intimidating vehicles and uniforms.
- 38 ii. Unnecessary stops and searches.
- 39 iii. Routine handcuffing of civilians stopped for questioning.
- 40 iv. Reliance on four-way search clause. Even if police have the legal
41 authority to search anyone on parole or probation, searches should
42 be limited to cases in which there is reasonable suspicion. Random
43 stops including searches are humiliating and alienating, as well as
44 tainting to prosecution that results from the search. Officers must
45 report a reasonable and accurate underlying cause for the stop.

- v. Use of solicited “consent search” (a request to civilians to give up their right to refuse a search without probable cause).

V. Militarization, equipment, and tactics.

1. Ban military weaponry and equipment in the BPD, rejecting federal grants from Urban Areas Security Initiative (UASI), Homeland Security (DHS), and the Pentagon’s “1033” program for such equipment, and prohibit other agencies from deploying it in the City.
2. Publish a full inventory of all police equipment to enable the community to discuss if any should be eliminated as military-style equipment.
3. Evaluate police tactics with the help of various city commissions to determine if any tactics should be eliminated as militaristic tactics.
4. Commission a study of the Urban Shield activity to understand this combination paramilitary exercise, weapons show and workshops showcasing “automatic rifles, armored vehicles, surveillance gear, drones, and tear gas.”¹⁵ Examine:
 - a. Evidence that the exercises are concerned with civil disturbance or mass protest and not solely violent crime or natural emergencies.
 - b. The wisdom of participating in an activity reliant on high-tech police work.
 - c. The impact on Berkeley officers of participation in exercises premised on racial, ethnic, or religious identity, or antagonism to political protest.
 - d. The prudence of involvement in a joint exercise with agencies that may not share Berkeley’s values in policing.
 - e. Bolster PRC oversight over the quality of third-party trainings and exercises to ensure consistency with Berkeley’s values and constitutional protections.
5. Evaluate, with the help of city commissions, what police tactics and equipment are utilized primarily in interactions with people of color or in historically defined neighborhoods of color (South and West Berkeley). Restrict stops to those with reasonable suspicion of criminal behavior, and searches to those with probable cause.¹⁶
6. Examine the unpopular, demeaning, and historically repugnant use of the following technologies:
 - a. Spit hoods, which are reminiscent of the AIDS panic of the 1980s, and which have no governing policy according to a BPD response to a Public Records Act request.
 - b. Handcuffing of un-charged civilians stopped by police for questioning, apparently routine when the civilian is African American.
 - c. The WRAP, a temporary restraint device that immobilizes a body by forcing the restrained individual into a seated position with their legs out straight and perpendicular to the body.¹⁷
7. Proceed with great caution on any proposals for technological or weapons-related modifications for the BPD, including Tasers and drones.
 - a. Approval of the Berkeley Police Association request to acquire Tasers, which can have a lethal effect, would be very inflammatory at this time.¹⁸

- 1 8. Institute community-based alternatives to law enforcement and incarceration,
2 such as restorative justice practices, amnesty programs to clear open warrants, and
3 know-your-rights-education conducted by community members.
- 4 9. Commission a review of surveillance practices/technology in use or contemplated
5 in Berkeley, both by public safety organizations and in the general public.
 - 6 a. NCRIC: Opt out of participation in the DHS-NSA sponsored terrorism
7 intelligence fusion network by withdrawing from the Northern California
8 Regional Intelligence Center (NCRIC), and its Suspicious Activity
9 Reporting initiative. Focus the BPD on stopping actual crime, not
10 profiling based on ideology and ethnicity.
 - 11 b. Drones: Council has referred the no-drone proposals from Police Review
12 and Peace and Justice to the Agenda Committee. Peace and Justice
13 followed up with a proposal for a two-year moratorium, which has not yet
14 been heard by Council.
 - 15 c. License-plate readers.
 - 16 d. Google Glass, private drones, and other mechanisms for surveillance are
17 becoming available in the general community and undermining privacy.

20 **VI. Policy issues related to deaths in custody in Berkeley.**

- 22 1. As Council, fully review recent in-custody death cases in Berkeley including the
23 police investigation and the *People's Investigation of the In-Custody Death of*
24 *Kayla Moore*. Examine policy suggestions in the *People's Investigation* that
25 might reduce the potential for tragedy in the future.
- 26 2. In particular, extend emergency mental health services to 24 hours so that BPD
27 officers are not the only responders after hours. Review BPD budget to redirect
28 funding from police response to mental health professional response. Identify,
29 staff and fund civilian point of contact for mental health calls. Revise emergency
30 response system protocols so that Berkeley officers are only engaged if the
31 situation has escalated to the point of imminent danger or where a dangerous
32 weapon is involved.
- 33 3. Promote alternatives to police "command and control" approach for mental health
34 interactions. Review the *People's Investigation* for proposed protocol changes,
35 including:¹⁹
 - 36 a. Cease background checks on parties who request assistance, absent
37 reasonable suspicion.
 - 38 b. Create clear distinction between "Command and Control" and "Medical
39 evaluation" protocols.
 - 40 c. Train all officers in crisis intervention.
 - 41 d. Ensure all officers are able and willing to provide rescue breathing.
 - 42 e. Train all officers in recall and respond techniques, disengagement
43 strategies, de-escalation techniques, and transgender awareness.
- 44 4. Assess need for improvement to investigation procedures, including direct
45 transcripts of witness statements instead of paraphrases, and making public
46 primary source documents such as the "Affidavit for Search Warrant" and the

1 investigator's findings and recommendations. For additional items see the
2 *People's Investigation*, "Improving Future Investigations" section.²⁰
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5 **VII. Racial disparity, disenfranchisement, disempowerment, and discrimination.**

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7 As in Ferguson, the theme "Black Lives Matter" resonates in Berkeley on a far wider
8 scope than police practices alone. The life chances and even the continued existence of a
9 Black community are at stake; Berkeley's African American population has declined in
10 40 years from some 30% to now under 8%. In every key respect, including health status,
11 mental health, homelessness, educational and youth opportunity, environment,
12 employment, income, and labor discrimination, safety, political participation, and basic
13 human dignity, Black lives subsist at a far lower level than white lives. Many of these
14 issues are described in the local compliance report for the International Covenant on Civil
15 and Political Rights (ICCPR) that the Council approved on October 7, 2014.²¹
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17 At this late date, a de facto Jim Crow color line or a monochromatic city cannot be
18 accepted in Berkeley. For all our sakes, we must have a serious civic conversation about
19 what it will take to reverse these dangerous trends.
20

21 The Ferguson community has proposed a National Plan of Action for Racial Justice,
22 describing it as "a comprehensive plan that addresses persistent and ongoing forms of
23 racial discrimination and disparities that exist in nearly every sphere of life including:
24 criminal justice, employment, housing, education, health, land/property, voting, poverty
25 and immigration. The Plan would set concrete targets for achieving racial equality and
26 reducing racial disparities and create new tools for holding government accountable to
27 meeting targets."
28

29 We propose a similar process on the local level. With the participation of broad segments
30 of Berkeley's community and city leaders, commissions, staff, and academics, Berkeley
31 can address disparities and discrimination that lead African Americans and other
32 marginalized groups into second-class citizenship.
33

34 If we front-load solutions to such disparities, socio-economic equity will advance and the
35 economic drivers of crime will reduce. In a difficult fiscal environment, we propose a
36 thorough and transparent look at the funds currently allocated to law enforcement, with
37 an eye to reinvesting funds into African American communities to create jobs and
38 housing, and improve educational and health status and other key needs.
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41 **VIII. Proposals for community consultation and investigation.**

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43 Convene an inclusive task force of community people, commissioners, and staff to
44 prepare a community consultation within two months to hear proposed solutions for the
45 following problems highlighted by national events in 2014:
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- 1 1. The militarization of American policing, and its reflection in Berkeley in both
2 military-style technology and militaristic tactics. Review BPD participation in
3 federal equipment procurement programs and the Urban Shield exercise and
4 weapons show.
- 5 2. Community experience of racial profiling or race-based policing in
6 Berkeley. Delay by the BPD in implementing the Fair and Impartial Policing
7 policy.
- 8 3. The purpose and practice of the BPD's Drug Task Force, its rationale in a low-ebb
9 period for drug-related crime, and its particular impact on the African American
10 community.
- 11 4. County and state practice on police misconduct, with attention given to the
12 potential for investigators and prosecutors independent of the District Attorney.
- 13 5. Civilian oversight and review of policing; what can be done to strengthen the role
14 of the PRC within current law, and to press for changes to state law where
15 appropriate; in particular, Peace Officers Bill of Rights (POBOR), California
16 Penal Code Section 832.7-8 and its interpretation by the California Supreme
17 Court in *Copley Press v. Superior Court*.
- 18 6. Surveillance practices or technology in use or contemplated in Berkeley, and
19 relationship with the intelligence fusion network (NCRIC). Potential or proposed
20 use of license-plate readers and drones.
- 21 7. Alternative, positive (restorative) modes of public safety and conflict reduction
22 appropriate to Berkeley.
- 23 8. A broader Racial Justice Plan for Berkeley to address the underlying problems of
24 disparity, disenfranchisement, disempowerment, and discrimination.

25
26 The task force should report its findings to the Council by the end of May, 2015.

27
28 The Peace and Justice Commission supports the proposal for an independent
29 investigation by the City Council and/or the PRC of police activities on and around
30 December 6, 2014, and BPD policies relevant to those activities. We endorse the list of
31 items for investigation that is attached to Council Member Jesse Arreguin's item on the
32 January 20, 2015 Council agenda, "Independent Investigation of Police Response to
33 December 6, 2014 Protests," as a good beginning.

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37 **Appendix.**

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39 These perspectives are included for reference only.

40
41 A. #BlackLivesMatter: National Demands from Ferguson²²

- 42
- 43 • The De-militarization of Local Law Enforcement across the country
- 44 • A Comprehensive Review of systemic abuses by local police departments,
45 including the publication of data relating to racially biased policing, and the
46 development of best practices.

- 1 • Repurposing of law enforcement funds to support community based alternatives
- 2 to incarceration and the conditioning of DOJ funding on the ending of
- 3 discriminatory policing and the adoption of DOJ best practices
- 4 • A Congressional Hearing investigating the criminalization of communities of
- 5 color, racial profiling, police abuses and torture by law enforcement
- 6 • Support the Passage of the End Racial Profiling Act
- 7 • The Obama Administration develops, legislates and enacts a National Plan of
- 8 Action for Racial Justice

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11 B. Berkeley NAACP recommends:²³

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13 Priority Recommendations:

- 14 • Abolish the Berkeley Police Department’s Drug Task Force (DTF)
- 15 • Stop unmarked police cars from making ordinary traffic stops
- 16 • Implement mandatory reporting of aggregated data, collection and analyzing of
- 17 ALL police stops with information and demographics of person stopped
- 18 (including race) – Annual public report to be made available
- 19 • Implement a policy of non-Police involvement with Mental Health Services (BPD
- 20 to have backup role for life-threatening matters)
- 21 • End the use of the “Stop and Frisk” approach, especially in South Berkeley.

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24 C. Berkeley CopWatch demands:²⁴

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- 26 • End racial profiling in Berkeley! Get the statistics on who is really being detained
- 27 and arrested and stop handcuffing men of color for no reason!
- 28 • No tasers in Berkeley! Spend money to study how to end racial profiling - not
- 29 acquire tasers!
- 30 • End the militarization of the police! No boats, no armored personnel carriers, no
- 31 more weapons and no more military games. Withdraw from Urban Shield!
- 32 • Justice For Kayla Moore!
- 33 • Decriminalize Mental Illness! Civilian emergency response, NOT police!

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36 D. National Lawyers Guild (SF Bay Area) demands:²⁵

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- 38 • An immediate repeal of the Police Bill of Rights, open access to police
- 39 disciplinary files and other data casting light on police spending and practices,
- 40 and the reversal of Copley Press v. Superior Court - which prevents the disclosure
- 41 of police misconduct records to the public.
- 42 • A redistribution of resources away from police and prisons and toward the basic
- 43 needs of communities: affordable housing, education, healthcare and access to
- 44 employment and community-driven, transformative justice approaches to harm.
- 45 This is far more likely to lead to true safety and security than any police action.

- 1 • That prosecutors drop charges against people taking a stand for police
2 accountability and resisting police violence.
3 • Creation of independent panels empowered to investigate and hold accountable
4 police officers in cases of unlawful violence. Independent panels must not be
5 restricted by current secrecy laws that shield dangerous & violent cops from
6 public scrutiny.

¹ “Kamala Harris sees safeguards in DAs prosecuting police killings,” December 22, 2014, <http://www.sfgate.com/news/article/Kamala-Harris-sees-safeguards-in-D-A-s-5972586.php>. The Lawyers Committee for Civil Rights, Natasha Minsker of the ACLUNC, and two former prosecutors have called for independent prosecutors or state oversight for potential criminal cases against police officers. California Attorney General Kamala Harris disagrees, saying her office has the power to take over local police prosecutions. However, the AG’s office has conducted no criminal prosecutions of police since at least 2000.

² “California laws strengthened wall of silence around officers,” Orange County Register, Dec. 22 2009, updated August 21, 2013, <http://www.ocregister.com/articles/-225344--.html>. The law’s author, Assembly member Jim Keysor, states that the law “escalated into a far bigger thing than I imagined...Now it’s really hard to get rid of undesirables. They use the bill of rights to protect themselves, and the bosses are really stuck.”

³ “Frequently Asked Questions about Copley Press and SB 1019,” June 15 2007, ACLU of Northern California, <https://www.aclunc.org/blog/frequently-asked-questions-about-copley-press-and-sb-1019>. “The Copley decision “prevents the public from learning the extent to which police officers have been disciplined as a result of misconduct.”

⁴ <http://www.washingtonpost.com/news/post-nation/wp/2014/09/25/new-naacp-report-urges-congress-to-pass-legislation-that-would-end-racial-profiling/>

⁵ These two resolutions, passed unanimously by the commission, were meant as interim measures to offer immediate relief pending further investigation.

⁶ This language is adapted from the Oakland Crowd Control and Management Policy. <http://www.scribd.com/doc/190992131/OPD-Crowd-Control-Policy-4-Oct-13#scribd>

⁷ “When we found out about this grant application we sort of went ballistic,” Bates said Thursday. “I mean, why do we need this here in Berkeley, and why would we want to militarize our police force?” Kevin Fagan, SF Chronicle, July 5, 2012, <http://www.sfgate.com/bayarea/article/No-place-in-Berkeley-for-police-armored-car-3686971.php>

⁸ “Asked why Hayward police were at the protests with their armored personnel carrier, Berkeley Police Officer Byron White said it is part of the equipment Hayward Police are trained to use. ‘They need all the tools that are part of their training,’ he said. ‘When you ask for mutual aid, they arrive with their resources.’” Judith Scherr, Dec. 12 2014, Contra Costa Times, http://www.contracostatimes.com/contracosta-times/ci_27108939/berkeley-council-reacts-protests-and-police-tactics

⁹ An example of such infiltration occurred in Oakland on December 10, 2014, with two plainclothes CHP officers marching near Lake Merritt wearing bandanas over their faces. Such masking creates the perception, whether true or not, that the sworn officers are engaging in violent provocative acts and bringing disrepute onto a nonviolent protest activity, while preventing the protestors from determining whether the officers were committing vandalism.

¹⁰ Any uniformed peace officer shall wear a badge, nameplate, or other device which bears clearly on its face the identification number or name of the officer.” <http://codes.lp.findlaw.com/cacode/PEN/3/2/3/4.5/s830.10>

¹¹ http://www.ci.berkeley.ca.us/Police_Review_Commission/Home/Ordinance_4644.aspx

¹² “Town Hall Meeting, Summary and Recommendations,” Criminal Justice section, Aug. 27 2013, Berkeley NAACP, p. 9-11, <http://www.berkeleyside.com/wp-content/uploads/2013/09/1-1-1-Town-Hall-Summary-and-RecommendationsFinal1.pdf>

¹³ The problem of hard drug dealing has greatly receded in South Berkeley since the 1980s. However, the focus on drug crime remains useful as a justification for intensive police presence. Nationally, the discredited Reagan-era “War on Drugs” contributes to over-policing and mass incarceration, disrupting

family and community life in African American communities. “End the War on Drugs,” 2011 series, ACLU, <https://www.aclu.org/end-war-drugs>

¹⁴ Elements of a typical Drug Task Force stop include a pullover on a minor pretext, a search not just of the driver but of all passengers, ordering all passengers out of the car, routine handcuffing of anyone being questioned, often concluding with no ticket or arrest. “Town Hall Meeting, Summary and Recommendations,” Berkeley NAACP, op. cit.

¹⁵ “Urban Shield... is a threat to political dissent and democracy. A video from Urban Shield 2012 appears to show heavily armed officers apprehending 'terrorists' with banners saying 'no war for oil' and 'we are 99%'” said Andrew Lichterman, a policy expert with the Western States Legal Foundation. “This raises disturbing questions of who our police are being trained to profile and target as terrorists.” <http://www.eastbayexpress.com/SevenDays/archives/2013/10/25/drones-and-automatic-weapons-on-display-in-downtown-oakland-for-urban-shield>

¹⁶ “Biased policing is real—but change is possible,” Jack Glaser, SF Chronicle, December 21, 2014, <http://www.sfgate.com/opinion/article/Biased-policing-is-real-and-fixable-5969332.php>. “Law enforcement agencies that have cut back their rates of stops and searches have increased police effectiveness and intruded on fewer people’s lives, while reducing racial and ethnic disparities. . . . we must break the cycle of mass incarceration by reducing the discretion that police have in deciding who to investigate. . . . Reducing discretion will require prescriptive training on who should be investigated—offering valid, evidence-based criteria for judgments of criminally suspicious behavior.”

¹⁷ *People’s Investigation of the In-Custody Death of Kayla Moore*. Footnote 19, http://www.berkeleycopwatch.org/resources/Peoples_Investigation_Kayla_Moore_2013.pdf, page 9. There have been several deaths in custody where the WRAP device was used including at least three in California, Kayla Moore (Berkeley, February 13, 2013), Ricardo Escobedo (Redwood City, November 17, 2002) and Shaheed Jamal Daniels (San Jose, July 1, 2000).

¹⁸ On June 9, 2014, the Peace and Justice Commission recommended the Berkeley City Council “reject the proposal for Tasers, and focus the energies of the Berkeley Police Department instead on restorative practices, positive conflict management and de-escalation strategies.”

¹⁹ People’s Investigation, Section VII.1.B, “Recommendations—Procedure/Policy Issues/For BPD,” p. 30

²⁰ People’s Investigation, Section VII.3, “Recommendations—Improving Future Investigations,” p. 34

²¹ “Report to United Nations Human Rights Committee: Compliance with International Covenant on Civil and Political Rights,” October 7, 2014,

http://www.ci.berkeley.ca.us/uploadedFiles/Health_Human_Services/Commissions/Commission_for_Peace_and_Justice/PJC%20ICCPR%2010072014%20APPROVED%20FINAL.pdf

²² <http://fergusonaction.com/demands/>

²³ “Town Hall Meeting, Summary and Recommendations,” Berkeley NAACP, op. cit. See the full report for additional recommendations to address discrimination in health, housing, education, and employment.

²⁴ www.berkeleycopwatch.org

²⁵ <http://www.nlgsf.org/news/no-justice-no-peace-nlg-san-francisco-bay-area-chapter-turns-heat-against-police-violence>