



Office of the City Manager

PUBLIC HEARING

October 15, 2013

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Michael Meehan, Chief of Police

Subject: Approval of 2013 Mutual Aid MOU Compendium

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving agreements, letters and understandings existing or revised as of May 15, 2013 between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies and private security organizations in order to maintain the current level of police resources and emergency services in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impact of not approving these inter-agency agreements and understandings is difficult to determine. Without inter-agency cooperation and assistance, major costs would be incurred in the event of critical incidents or disasters (i.e., major criminal investigations, riot situations, earthquakes, fires, terrorist attacks).

One example of a tangible fiscal impact includes the use of the Alameda County Sheriff's Office laboratory for analysis of seized illegal drugs and forensic examination of other evidence. The City does not have facilities capable of performing this service and, therefore, contracts with the County and private facilities for particular evidence analysis services. As analysis of evidence is required for prosecution of offenders, the City's agreement with the Alameda County Sheriff's Office must be approved for the work to go forward. Conveying all analytical and forensic services to a private laboratory would increase costs.

Approval of a given agreement will continue to support current law enforcement activity, funded in the existing budget. Non-approval may increase related investigative costs. Costs associated with the adverse effect on involved victims and families, and public safety should offenders go unprosecuted, cannot be calculated. The cost, or lack thereof, of each agreement or understanding is set forth in the summary of each in the attached binder.

CURRENT SITUATION AND ITS EFFECTS

The majority of these agreements have been in effect for a number of years and are periodically reviewed and updated. As a result, daily law enforcement functions run smoothly. Difficulties that might arise are easily dealt with due to the mutual cooperation and understanding between agencies. Were it not for these agreements and general operational understandings, efficiency and effectiveness of service delivery would suffer.

This year, agreements 1-5 (Alameda County District Attorney's Office, Victim/Witness Assistance Division, Elder Abuse Advocacy and Outreach Program), 4-1 (Child Abuse Listening, Interviewing & Coordination (CALICO) 4-3 (A Safe Place), and 4-4 (National Insurance Crime Bureau) have been refreshed to reflect current dates. There have been no substantive changes to the content of these agreements.

BACKGROUND

Berkeley Municipal Code §§2.04.150 – 2.04.210 requires that the Police Department must obtain City Council approval of agreements, understandings or policies regarding mutual aid, information sharing, and cooperation and assistance between the Berkeley Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations. These provisions came into effect under Ord. No. 4,640-N.S. §1, 1973, requiring annual City Council approval.

The last City Council approval was on Sept 18, 2012. This presentation keeps the Police Department in compliance with the Ordinance requirement. In addition, the Police Department has established an annual review process and presents agreements and understandings for Council approval in the third quarter of each calendar year.

At the direction of Chief Meehan, the agreements and understandings associated with this report were shared with the Police Review Commission prior to Council presentation, and were subject to their review from May 2013 through September 2013. The Police Review Commission met on September 11, 2013 and accepted the subcommittee's recommendation for approval of the four new pacts added to the compendium since the last approval process (1.4, 4.1, 4.3 and 4.4), but did not formally approve the compendium as a whole. On September 19, 2013, The Police Review Commission subcommittee approved the compendium in its entirety, on September 25, 2013 the full commission voted to approve the compendium in its entirety.

RATIONALE FOR RECOMMENDATION

The Berkeley Police Department provides law enforcement services to the citizens of Berkeley. It does so under the guidance of federal, state and local statutes. Maximum investigative resources must be available to ensure a just system of law enforcement. That cannot be accomplished without the cooperation of other local, state and federal law enforcement agencies, military and/or intelligence agencies and private security organizations.

It takes large numbers of personnel and significant logistical resources to effectively and successfully contain and manage major critical incidents or disasters. Only through a system of mutual aid established by the State and coordinated through the County can we hope to respond in a suitable manner. Furthermore, Federal law requires that National Incident Management System (NIMS) guidelines be followed to be eligible for Federal Emergency Management Agency (FEMA) disaster funding and/or reimbursement.

In addition, many agencies or entities such as the University of California, Bay Area Rapid Transit, East Bay Regional Parks, California Highway Patrol and Union Pacific Railroad, have concurrent jurisdiction over areas, buildings or structures located within Berkeley's city limits. Agreements are needed to ensure smooth cooperation between all these agencies. In some cases, written agreements are required to comply with State law.

CONTACT PERSONS:

Michael K. Meehan, Chief of Police, 510-981-5900

Chris Stines, Sergeant, Professional Standards Bureau, 510-981-5974

Attachments

1. Resolution

Exhibit A: Compendium Agreements, Understandings and Policies

Compendium Section # / Title

Section 1 – Local Agencies

Section 2 – State Agencies

Section 3 – Federal Agencies

Section 4 – Private Security Entities

Section 5 – Military Entities

Section 6 – Other Mutual Aid/Cooperative Activity Policies

2. Police Department Mutual Aid Response Report

3. BPD Suspicious Activity Reports (SAR) 2012-2013

4. Public Hearing Notice

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

APPROVING AGREEMENTS, LETTERS AND MEMORANDA OF UNDERSTANDING OR POLICIES, REVISED AND UPDATED AS OF MAY 15, 2013, WHICH EXPRESS TERMS AND CONDITIONS OF MUTUAL AID, INFORMATION SHARING, COOPERATION AND ASSISTANCE BETWEEN THE BERKELEY POLICE DEPARTMENT AND ALL OTHER LOCAL, STATE AND FEDERAL LAW ENFORCEMENT, MILITARY AND/OR INTELLIGENCE AGENCIES, POLICE DEPARTMENTS OR PRIVATE SECURITY ORGANIZATIONS.

WHEREAS, the Berkeley Police Department has established written and verbal agreements, understandings and policies with other law enforcement agencies, police departments and other private security organizations; and

WHEREAS, such agreements, understandings and policies are needed to enhance investigative resources and emergency services provided to the citizens of Berkeley, creating a safer environment for all; and

WHEREAS, many of these agreements, understandings and policies have been in existence and approved by City Council since 1974.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the agreements, understandings and policies existing between the Berkeley Police Department and other law enforcement agencies as set forth in Exhibit A, a copy of which is attached hereto, and made part hereof.

BE IT FURTHER RESOLVED that record copies of aforementioned documents to be on file in the Office of the City Clerk, and be available electronically via the City of Berkeley website.

Exhibit A: Compendium Agreements, Understandings and Policies



Voluminous Attachment

Compendium Agreements,
Understandings, and Policies

Attachment 1, Exhibit A to this report is on file and available for review at the City Clerk Department, or can be accessed from the City of Berkeley Website.

City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site

<http://www.cityofberkeley.info/citycouncil/>

Police Department Mutual Aid Responses 2012-2013

The Police Department received only one Mutual Aid request in the past year. The following is a summary of that response:

On July 16, 2013 the Oakland Police Department requested regional mutual aid to assist with roving groups of protesters who were vandalizing properties and setting fires in the downtown area of Oakland. This protest was reportedly in response to the verdict in the George Zimmerman trial in Florida. The Police Department designated one squad as part of that mutual aid response; this squad consisted of one Lieutenant, two Sergeants and ten Officers. The squad was in Oakland from approximately 2110 hours until 0100 hours. BPD personnel did not have to use force or make any arrests during this demonstration.

BPD Suspicious Activity Reports (SAR) 2012-2013

The prior reporting period for the last Suspicious Activity Report (SAR) report was from August 20, 2011 to April 30, 2012. This report will encompass all SAR's from May 1, 2012 to September 11, 2013.

By way of explanation, it is not uncommon to go a significant period of time without the reporting of any SAR's activity to NCRIC. Reporting is done as needed and not on a regular time schedule.

1. On September 16, 2012, BPD handled a "suspicious package" case at a city fire station. A female dropped off suspicious devices which she claimed was potassium nitrate and sugar. The presumptive test was positive for potassium. BPD's Explosive Ordinance Disposal Team disposed of the items.
2. On December 21, 2012, BPD responded to a Delaware Street address regarding a door knocker who left a racially motivated note. The occupants of the residence who follow the Sikh religion had a letter posted to their door stating "Come out Arabic" with other racially motivated threats and threats of violence.
3. On December 26, 2012, BPD responded to a local business for a report of vandalism to their property. The vandals glued the locks of the front door and the night drop. Later that day, a post was made on Indybay.org claiming responsibility for this and additional acts of vandalism.
4. On January 30, 2013, the Oakland Police Department received information regarding rumors of potential gun violence against OPD officers. We provided additional information about who may be making the threats based on BPD contacts.
5. On January 23, 2013, BPD officers contacted and arrested a suspect for theft and assault. During the contact, the detainee espoused beliefs and possessed documents consistent with a group which is known to confront law enforcement.
6. On February 4, 2013, a detainee was able to hide drugs in pants manufactured by "IXChel". The detainee had drugs hidden in a pant pouch to conceal the shape and feel of the secreted object.
7. February 5, 2013. BPD officers had several encounters with a group whose members responded to traffic enforcement stops and have confronted officers during the course of their duties. The stated mission of this organization includes violence against law enforcement officers.

BPD Suspicious Activity Reports (SAR) 2012-2013

8. On April 30, 2103, BPD responded to the 1700 Block of Highland Place for the report of a shooting at an occupied dwelling. On arrival, officers contacted a male and female leaving the building carrying a cache of weapons and ammunition. None of the weapons were lawfully registered.
9. On June 26, 2013, BPD officers arrested a subject for petty theft. The detainee used terminology consistent with a group that does not "believe in the United States government" and that his arrest was therefore "invalid".
10. On July 10, 2013, BPD contacted an individual during a traffic stop. The person used language consistent with a group known to confront law enforcement. A records check confirmed the person was active on Alameda County probation and had a history of resisting arrest, terrorist threats, and assault on police officers.
11. Between August 11, 2013 and August 12, 2013, an unknown suspect cut the lock to a metal storage locker and stole sixteen propane tanks from a commercial business. The storage locker was located outside of the business.

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL
Approval of 2013 Mutual Aid MOU Compendium

Notice is hereby given by the City Council of the City of Berkeley that on **October 15, 2013** a public hearing will be held at which the Police Department will request that the City Council adopt a Resolution approving agreements, understandings or policies between the Police Department and other local, state and federal law enforcement agencies, military and/or intelligence agencies, police departments and private security organizations, as required by Berkeley Municipal Code 2.04.150, et. seq. The hearing will be held in the City Council chambers, 2134 Martin Luther King, Jr. Way at 7:00 p.m.

A copy of the agenda material for this hearing will be available at the City Clerk's Office and on the City's website at www.CityofBerkeley.info as of **October 3, 2013**.

For further information, please contact Sergeant Chris Stines, Police Department, Professional Standards Division at 510-981-5974.

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

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6908 or clerk@cityofberkeley.info for further information. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

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California Government Code §6062(a)

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 3, 2013.

Mark Numainville, City Clerk

