



Office of the City Manager

PUBLIC HEARING

October 28, 2014

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Michael K. Meehan, Chief of Police

Subject: Agreements, With Other Law Enforcement Agencies, Police Departments or Private Security Organizations

RECOMMENDATION

1. Conduct a public hearing, and upon conclusion, adopt a Resolution approving agreements, understandings or policies existing or revised as of May 15, 2014 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 in order to maintain the current level of police resources and emergency services.
2. Review attached Suspicious Activity Reports provided annually as per City Council request.

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. Notwithstanding other forensic analysis services, Alameda County's laboratory is the primary examiner of drug evidence for the Police Department. As analysis of seized drugs and other 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 existing budget. Non-approval may create a specific budget savings, but will 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

A majority of these agreements have been in effect for a number of years and are routinely reviewed and updated. As a result, daily law enforcement functions run relatively 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 1-4 (Alameda County District Attorney's Office, Victim/Witness Assistance Division, 4-1 (Child Abuse Listening, Interviewing & Coordination (CALICO) 4-5 (Bay Area Women Against Rape), and have been refreshed to reflect current dates. There have been no substantive changes to the content of these agreements. Agreement 1-12 (University of California Berkeley Police Department) has been amended to include the specific address to be used for the disposal of explosive devices, and notifications to be made regarding same. Agreements 1-16 (Los Angeles County Sheriff's Department), 2-16 (California Sex and Arson Registry) have been added; these agreements are a courtesy acknowledgment of Penal Code section 830.1, and an end user agreement for a newly created state registry respectively

BACKGROUND

Berkeley Municipal Code §§2.04.150 – 2.04.210 require 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. 4640 NS §1, 1973, requiring annual City Council approval.

The last City Council approval was on Oct 15, 2013. This presentation keeps the Police Department in compliance with Ordinance requirement. In addition, the Police Department has established an annual review process, and intends to present agreements and understandings for Council approval in the fourth quarter of each calendar year.

Agreements, understandings or policies associated with this Consent Item were shared with the Police Review Commission prior to Council presentation, and were subject to their review from May 2014 through September 2014.

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, police departments 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 must 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.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

CONTACT PERSONS:

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

Attachments

1. Resolution
 - Exhibit A: Compendium Agreements, Understandings and Policies Binder
 - Binder 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. Suspicious Activity Reports
3. Public Hearing Notice

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

APPROVING AGREEMENTS, LETTERS AND MEMORANDA OF UNDERSTANDING OR POLICIES, REVISED AND UPDATED AS OF MAY 15, 2014, 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 Binder



Exhibit A
Compendium Agreements,
Understandings and
Policies Binder

Attachment 1 Exhibit A to this report, Agreements, With Other Law Enforcement Agencies, Police Departments or Private Security Organizations is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

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/>

S.A.R.'S Reporting 2014.

This report will summarize all Suspicious Activity Reports submitted by the Berkeley Police Department since the last request for summary report. This report covers the calendar period of September 2013 to Date. The prior report covered the period of May 2012 through August 2013. As per General Order N-17, all SARS reports reflect a criminal predicate of a misdemeanor or felony crime.

Incident Date: 8/11/2013 Time: 10:00 PM

Title/Short Description:
Theft/Loss/Diversion

Brief summary:

Between 08/11/13 and 08/12/13, an unknown suspect cut the lock to a metal storage locker and stole 16 propane tanks from a commercial business. The storage locker was located outside the business. There are no witnesses to this crime and the business did not have surveillance cameras.

Incident Location:
2001 4th Street, Berkeley CA.

Incident Date: 10/25/13 Time: 2:00 PM

Title/Short Description:
Sabotage/Tampering/Vandalism

Brief Summary:

On 01/25/13, BPD received a report of vandalism with the image of a swastika located in a crosswalk adjacent to the Jewish Community Center of the East Bay.

Incident Location:
Shattuck Avenue/Rose Street.

Incident Date: 12/10/13 Time: 9:30 PM

Title/Short Description:
Expressed or Implied Threat

Brief Summary:

BPD arrested a male subject for vandalism, making terrorist threats and possession of an illegal weapon. A search incident to arrest revealed he was in possession of 841.1 grams of Potassium Nitrate that he indicated he used to make pyrotechnic devices and bombs with. During the booking process the male subject threatened to "blow up people in Berkeley". The subject told officers that he makes bombs and has "taught people how to make bombs". He also stated he can "make a bomb that would blow up half this city".

Incident Location:
1444 Shattuck Avenue

Incident Date:
01/08/14

The Berkeley Police submitted a wanted fugitive posting to the NCRIC Most Wanted Public Website. The fugitive, a known gang member, was wanted for a murder which occurred in 2010.

Incident Date: 02/03/14 Time: 1:00 PM

Title/Short Description:
Officer Safety

Brief Summary:

On 02/03/14, a BPD officer conducted a vehicle code enforcement stop on a car driven by an individual who immediately upon contact utilized language consistent with sovereign citizens. Sovereign Citizens pose a threat to law enforcement because of their strong anti government beliefs and their history of assaulting and killing police officers.

The subject had defaced his driver's license, and signed the citation with the common sovereign term of "without prejudice". This is in violation of CVC 31. Sovereigns believe this to mean they "reserve their right not to be compelled to perform under any contract they did not enter knowingly, voluntarily or intentionally".

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

Police Department Agreements with Other Law Enforcement Agencies, Police Departments or Private Security Organizations

Notice is hereby given by the City Council of the City of Berkeley that on **October 28, 2014** the Police Department is requesting a public hearing, and at the conclusion of the hearing, adoption of 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.

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 16, 2014**.

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.

Published: The Berkeley Voice – 10/17/14 and 10/24/14
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 16, 2014.