CONSENT CALENDAR
February 27, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington and Ben Bartlett
Subject: Request the DA to Drop the Charges against AFSCME worker, David Cole

RECOMMENDATION:
That the Council send a letter requesting Alameda County DA to drop the charges against AFSCME worker David Cole.

BACKGROUND:
On February 1, 2018, workers’ union AFSCME Local 3299 held a rally as part of a statewide peaceful protest. During the demonstration, David Cole attempted to prevent a car from forcibly making its way through the crowd. Following his altercation, Cole was thrown to the ground and physically detained by officers.

A peaceful protester participating in a union rally would have legitimate concerns for public health and safety if a motorized vehicle is entering into the site of protest. Cole had reasonable good faith to belief that the vehicle could cause him and his fellow protesters bodily harm. Cole’s intervention was made in the public interest as he sought to prevent a potential tragedy. Given the events in Charlottesville last year, his intervention appeared warranted and commendable.

Many community members have expressed concerns that there appears to have been an overreaction and an excessive use of force on the part of the police. The Daily Californian Editorial Board has stated their concern in the link below. This could further exacerbate existing tensions between the community and the police.

In light of these circumstances, we recommend that the Council request the charges against Cole be dropped.


FINANCIAL IMPLICATIONS: Minimal.

CONTACT PERSON:
Councilmember Kriss Worthington 510-981-7170

Attachment: (if necessary)
1. Letter to District Attorney Nancy O’Malley
Dear District Attorney Nancy O’Malley,

The City of Berkeley respectfully requests that your office drop the charges levied against David Cole, a peaceful protester who participated in the February 1, 2018, AFSCME Local 3299 Workers’ union rally on the UC Berkeley Campus.

David Cole’s actions were in response to a vehicle forcefully making its way through the crowd of protesting workers and students. At the time of the alleged altercation, the car had begun to push through the crowd and make contact with several protesters. Cole had reasonable good faith belief that the vehicle could cause bodily harm to the crowd of people protesting. Cole’s intervention was made in the public interest as he sought to prevent a potential tragedy. Given the events in Charlottesville last year, his intervention appeared warranted and commendable.

Many community members have expressed concerns that there appears to have been an overreaction and an excessive use of force on the part of the police. If these charges are not dropped, this case could exacerbate existing tensions between the community and the police.

In light of this, we respectfully request that your office drop the charges against David Cole.

Sincerely,

Berkeley City Council
EDITORIAL

UCPD's violent arrest at protest is unacceptable

UCPD's response to a UC workers' rally organized Feb. 1 makes it clear that the campus needs to implement more oversight for its police officers.

During the rally, UCPD officers tackled and arrested UC Berkeley employee David Cole. Campus spokesperson Roqua Montez previously told The Daily Californian that Cole ran toward and threw a sign at a vehicle driving by.

A video of the incident shows several UCPD officers throwing Cole to the ground, sitting on him and putting him in handcuffs. Montez said officers responded because Cole was allegedly uncooperative.

Community members gathered to protest the unfair treatment of UC workers, and then one of those workers was body-slammed and arrested. How appropriate.

Obviously, the role of police is to keep people safe during protests, but they can't do that by violently arresting people. UCPD officers should be trained to handle demonstrations without having to turn to violence. This is UC Berkeley, after all, where there are protests nearly every week.

If officers don't know how to respond to these situations peacefully, then there needs to be better training in place to teach them.

In a campuswide email Tuesday, campus officials announced that they're planning to hire an independent and external organization to review UCPD's actions during the protest. Although an external review is good, it's not structural change.

The campus needs more institutional oversight, and ASUC Senator Juniperangelica Cordova-Goff's recently passed resolutions are an encouraging first step: The first directs administrators to resurrect the UC Berkeley Police Review Board and the second establishes a student review commission as a sub-body of the board. But without buy-in from UCPD, there's no guarantee these commissions will have any teeth.

No one should fear being aggressively mistreated by a UCPD officer. UC Berkeley needs to tackle systemic police misconduct head-on instead of tackling campus employees who are just doing their best to stand up for their rights.