

1 DRAFT PRC letter to City Manager:  
2 After Action Reports  
3 October 11, 2017  
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5 To: Dee Williams-Ridley, Berkeley City Manager  
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7 It is the Police Review Commission's mandate to "review and make  
8 recommendations concerning all written and unwritten policies, practices, and  
9 procedures of whatever kind and without limitations, in relation to the Berkeley  
10 Police Department, other law enforcement agencies and intelligence and military  
11 agencies operating within the City of Berkeley, and law enforcement generally."  
12

13 We write you to express concern about the failure of the Berkeley Police  
14 Department to produce the required After Action reports subsequent to crowd  
15 control engagements.  
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17 As you know, these reports are required of the BPD within 72 hours of the  
18 conclusion of an action. Such reports are critical to the ability of the PRC as well  
19 as the city council and the public to understand, from the law enforcement  
20 perspective, BPD actions and the context in which they took place. In the absence  
21 of this narrative, it is difficult to either support the actions of the department or to  
22 effectively critique them.  
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24 BPD General Order C64 ("First Amendment Assemblies") states in paragraph 72:  
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26 At the conclusion of an event the Incident Commander shall ensure that an After  
27 Action Report is prepared within 72 hours.

28 (a) An After Action Report shall document arrests, injuries, property  
29 damage, personnel costs, inventories of less lethal munitions, CS  
30 gas and smoke and an overall critique of the police preparation and  
31 response.

32 (b) An After Action Report should include information in sufficient  
33 detail to help others prepare for the event if it, or a similar event,  
34 should occur in the future.

35 A partial historical summary follows:  
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37 No After Action Report was created subsequent to the large-scale police action  
38 during the Black Lives Matter protests of December 6 and 7, 2014.  
39

40 BPD's Recommendation #24 in its self-review issued six months later was:  
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42 To comply with our existing policies an After Action Report (AAR) should be  
43 written after each incident even if only in summary form.  
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The department also stated,

Due to the length of this project, a standard after action report or summary may have helped document what had transpired, the police response and recommendations for future events.

The PRC's responding recommendation stated:

BPD should comply with its existing policies and an After Action Report (AAR) should be written after each incident, even if only in summary form, within 72 hours.

However, these recommendations were apparently not put into practice. We understand that no Report was created after the June 20, 2017 incident following the city council meeting at Longfellow Middle School. We also have not seen a Report on the August 27, 2017 Civic Center demonstrations, nor any other actions in the September 2017 series of Free Speech Week, etc.

We have, however, received notice of a change that the Department has unilaterally made to paragraph 72 of General Order C-64, giving itself more time to create the After Action Reports. The revised language is shown here in bold:

**Once a normal work schedule has resumed, the Incident Commander shall ensure that an After Action Report is prepared within 72 hours after the resumption of the Incident Commander's normal work schedule. Should an extension be necessary in order to properly and fully complete the report, such a request may be made to the Chief of Police.**

This change to the After Action Report policy gives the Chief of Police unlimited authority to delay issuance of the report.

The Police Review Commission expresses its concern and objection to the emerging pattern of unilateral action and lack of consultation. As was the case with the change to General Order U-2 regarding pepper spray use in crowd situations, this General Order change was also not brought to the PRC for review prior to promulgation, contrary to longstanding practice.

Instead, the Department has moved to effectively standardize its failure to report on critical incidents.

Local, state, and federal law all promote transparency in governance. Berkeley's Open Government Commission operates under Section 2.06 of the BMC, which states:

Democracy in our representative form of government requires that the public have an opportunity to understand the government's activities and to communicate its concerns to its elected and appointed representatives, and that those representatives have an adequate opportunity to consider those concerns and then act effectively and in a timely manner.

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95 Prompt review, summarization and publication of information about critical  
96 public safety incidents will enable the public to understand and give informed  
97 feedback on them to government representatives.  
98

99 In summary, we ask that you enforce the 72-hour timeline for the Berkeley Police  
100 Department to complete After Action Reports. We also ask you to supply the  
101 following information:

- 102 • Who within the chain of command is responsible for the failure to write  
103 these reports?
- 104 • What will you do to hold that person or persons accountable for the failure  
105 to comply with this requirement?
- 106 • What will you as City Manager do to comply with this requirement in the  
107 future?
- 108 • Please direct the person or persons responsible for writing the missing  
109 AARs to appear at the PRC and explain the failure to comply with this  
110 policy requirement.

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112

113 Berkeley Police Review Commission

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115 cc. Mayor and Council members, Chief Greenwood



Lee, Katherine

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**From:** J. George Lippman <george@igc.org>  
**Sent:** Wednesday, October 11, 2017 3:19 PM  
**To:** Lee, Katherine  
**Cc:** OSHA NEUMANN ESQ.  
**Subject:** Fwd: Proposed resolution on pepper spray policy reversal

Kathy,

If it's not too late, can you please distribute this legal suggestion from attorney Osha Neumann to commissioners for tonight, and bring copies for tonight's meeting?

Thanks,  
George Lippman

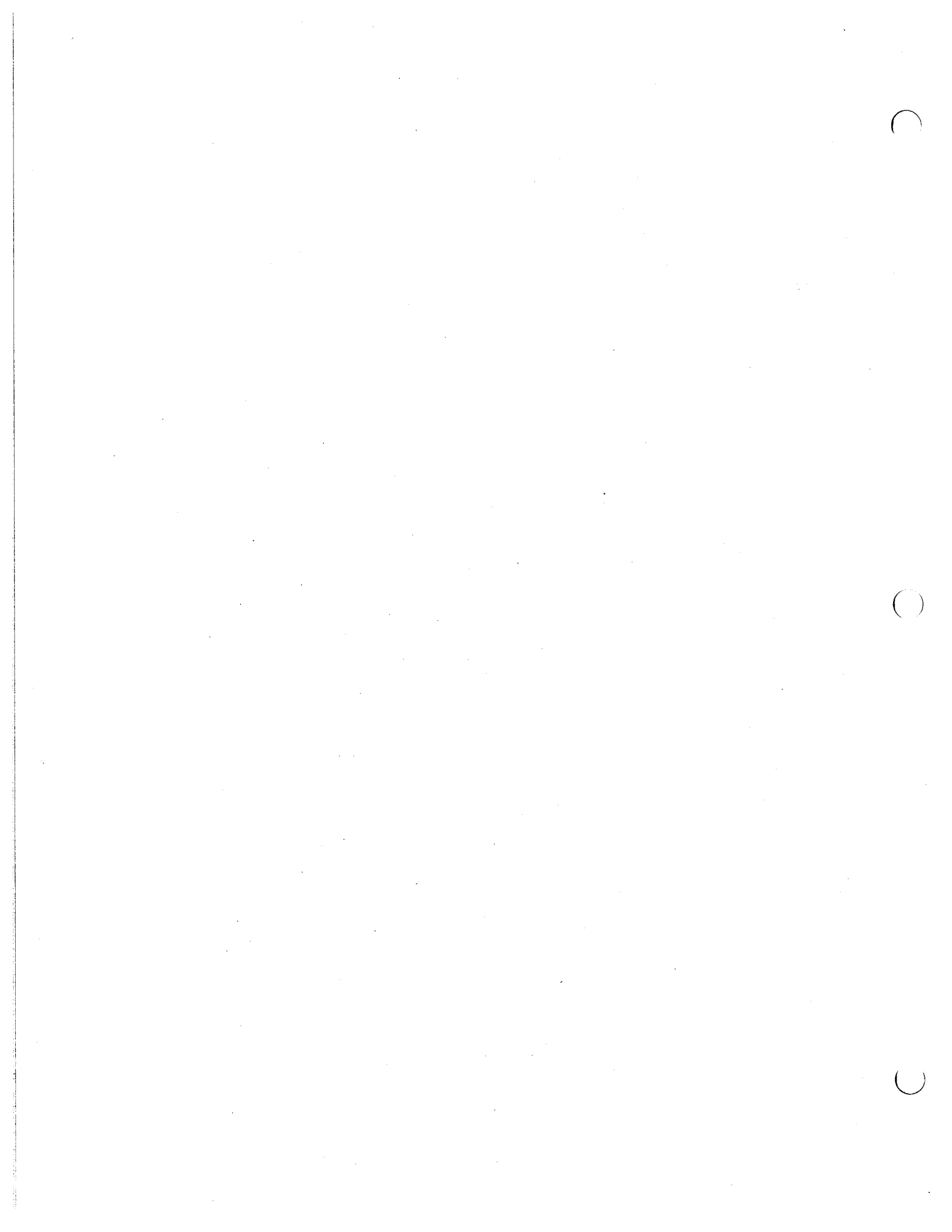
Begin forwarded message:

**From:** Osha Neumann <oneumann@ebclc.org>  
**Subject:** Re: Proposed resolution on pepper spray policy reversal  
**Date:** October 11, 2017 at 12:17:45 PM PDT

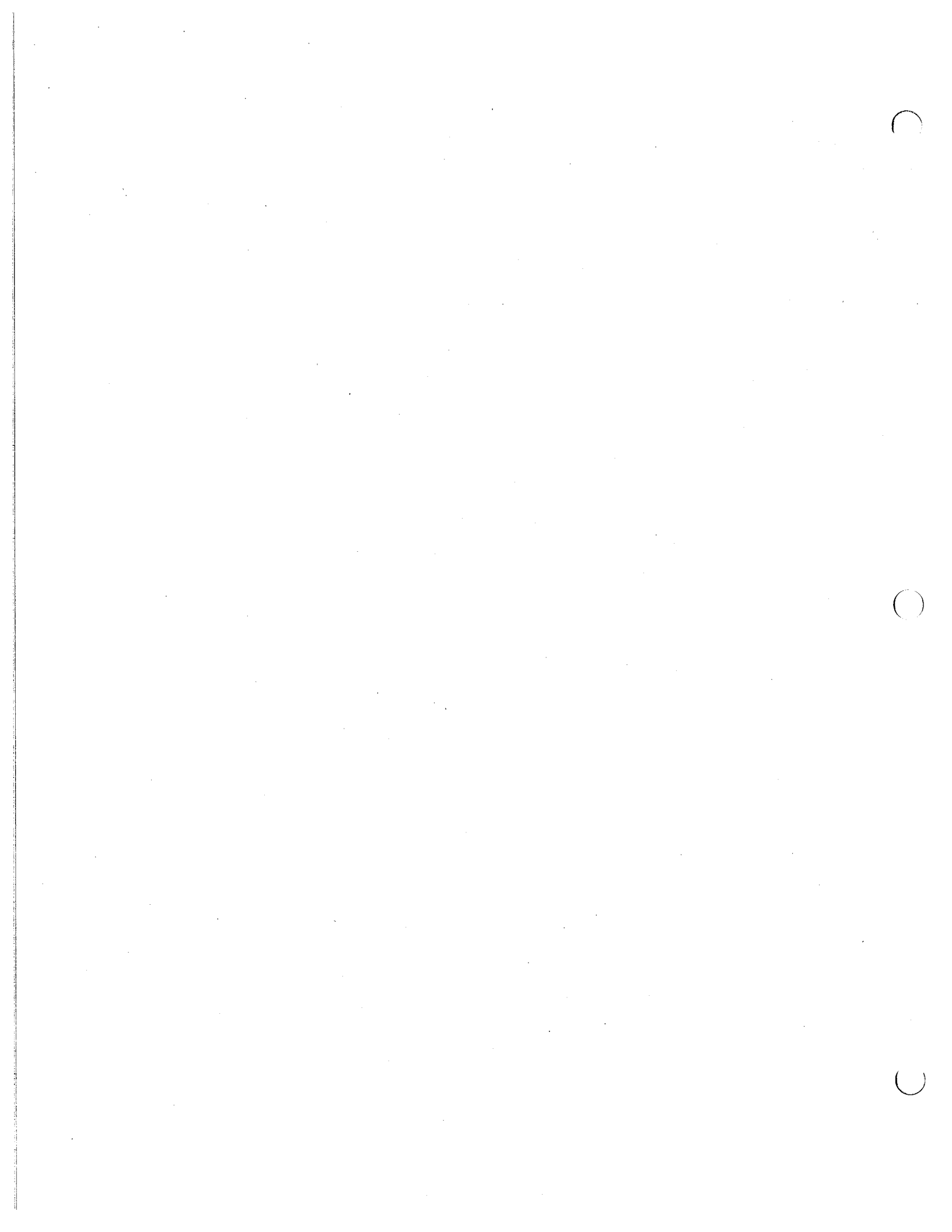
George:

Sorry I didn't get back to you earlier. A problem I see with the resolution is that it calls for reinstating the language on pepper spray in the 1997 resolution, but the City Council in permitting the police to use pepper spray against specific individuals in crowds said that they did not think this was in contradiction to the 1997 resolution, because they were not using it for crowd control, but just to prevent an individual's bad acts. So I think the resolution would have to address that, either by saying that the 1997 resolution should be interpreted to include the use of pepper spray against individuals in crowds, or, that, whether or not it was covered by the 1997 resolution, the use against individuals should be prohibited. I personally don't think police should get any new weapons, and there should be no new policies until first, they get body cameras, and second, there is a complete independent review of the way they policed the "free speech" demonstrations.

Osha









On Sep 25, 2017, at 8:42 PM, Arreguin, Jesse L.  
<[JArreguin@cityofberkeley.info](mailto:JArreguin@cityofberkeley.info)> wrote:

September 25, 2017

Ms. Krista Dunn, Justice Database Project Manager  
Center for Policing Equity  
348 West 57th Street  
Suite 304  
New York, NY 10019

Via Email: [kdunn@policingequity.org](mailto:kdunn@policingequity.org)

Dear Ms. Dunn,

The Berkeley City Council appreciates the willingness of the Center for Policing Equity to take on the important work to analyze our police stop data to help our community better understand trends in police stops in our city. This is critical to the implementation of the Berkeley Police Department General Order B-4 requiring fair and impartial policing.

Thank you for responding to the request of the City of Berkeley to release the draft CPE analysis of Berkeley's stop data. The Council's request came as a result of strong community concern over the disproportionality of police stops on the basis of race. The community had been waiting eagerly for this information. While this preliminary data provided a snapshot, we are very interested in reviewing the final report.

In order to proceed with further analysis by the Berkeley Police Department and policy changes to address any disparity in police stops, the City Council would greatly appreciate the release of the final CPE report as soon as possible.

Thank you once again for all your work and your consideration of this request.

Jesse Arreguin

This leaves us in the following position. Our analysts and report writers are currently working on reports for a couple of other police departments. While they finish those, we are trying to make sure that Berkeley PD submits the remainder of the requested data. Those reports are scheduled to be completed by the end of the first week of November. Once they complete those reports, they will begin immediately on the Berkeley report. The analysis, and subsequent questions of BPD should take approximately one month before it goes to the report writers.

The report writers will spend about three to four weeks writing, and another week to ten days having our staff review and edit. Once all of our edits are complete, it will be given to the principal investigators to edit. Another week to ten days from there, the report is complete, and goes to the Chief for final factual edits. He does not edit for content, but for factual information about the PD and the community. When all of that is done, we will produce the final report and he will present it to your community.

I know this is a lengthy process, but we want to be certain that we provide the highest quality report to your community, and that the police department has all of the information they need to address the disparities that are discovered. I believe that we are very close to making this a reality. I speak with the Sergeant over the data programs on a regular basis. He has worked very hard to get what we need. To be fair, doing this on his own (he doesn't have a staff to help him out) is a significant amount of work. He not only works with the systems there at the police department, but he has to rely on other offices to acquire data as well. Employee data and dispatch data do not necessarily reside within the police department, and he must rely on those respective offices to provide what is needed.

I have discussed all of this with Chief Greenwood, and he is aware of the timeline we hope to accomplish. Again, this will depend on factors both within the Berkeley PD and the Center for Policing Equity. I am fairly confident that we can complete the report by mid to late January if we have all the data we need from the BPD. The final test will be aligning Dr. Goff's schedule with the City's schedule for presentation.

I hope this addresses your question about the BPD report. I know that you and the Chief are anxious to address any disparities in police work that exist for the police department and your community.

Thank you for your inquiry. I hope this answers your questions satisfactorily.

Best,

Krista



**Krista Dunn**

National Justice Database Project Director

801.673.4046

[www.policingequity.org](http://www.policingequity.org)



helpful in providing the data and information, as well as answering the questions we have posed.

I understand that you, the City Council and the PRC are very anxious to receive the final report. To explain where we are, and what has transpired to date, I will give you a brief timeline and explanation.

In the fall of 2016, Chief Greenwood called me to let me know that Chief Meehan had resigned and that he had been appointed Interim Chief. He said that he would like to move forward with the National Justice Database project, but that he would like to include the parts that Chief Meehan had not agreed to. That would include providing use of force data and the climate survey of employees. I told him that we might need to amend the MOU, but that it should work. He said he thought it was important to get a complete report, so that he could know the full extent to which disparities exist, and that he would be able to address the disparities fully.

We began working through all of the pieces of the project. There was a lot of data that still needed to be transferred to us. We started to work through the issues of the MOU and data requests, and it has been a lengthy process for them to find the correct data, transfer it, answer all of our questions, and to get it into the correct format for analysis. As we worked through it, Chief Greenwood asked if we would be able to complete the report by mid-March. We told him that if we had all of the data by the middle of January, we would be able to get it analyzed and the report written.

Unfortunately, by the time all of the questions were answered and the data (through 2015) was received, we were passed the deadline. We told Chief Greenwood that we could finish an interim report by mid-March, but there would not be time to finish the final report, because we still didn't have all of the requested data. We hadn't even begun to get the calls for service and the 2016 data.

In March, we finished the draft interim report and presented the findings to Chief Greenwood. Dr. Goff let the Chief know that he had good news about the findings, as Berkeley PD was the best, in terms of disparities, that CPE has seen thus far. However, as you saw, disparities do exist. As we talked about the report, Chief Greenwood said he would very much like to have the full, final report to present to the Mayor, City Council and PRC. We let him know that there was no way that would be possible, given that we hadn't even seen the 2016 data yet, and the Climate Survey had not even been scheduled.

Shortly after our discussion, Chief Greenwood let us know that he would prefer to wait to present to the PRC and your community until we had the full, final report. I know that caused some friction in your community, but I understand why Chief Greenwood was hoping for what he had planned to do since the very beginning. We still plan to deliver that report.

Since that time, the PD has been diligently submitting additional data. We now have most of the data on hand, with the exception of a few followup pieces that our liaison officer needs to get from the CAD operators. We have not planned for the Climate Survey, as Chief Greenwood does not want to delay the report any further. He decided that he may have that data included in a subsequent report, so that the report will not be further delayed. We let him know that not having that survey data will mean that the report will not show if individual officer bias plays into the disparities, but we could add that to a subsequent report.

**Lee, Katherine**

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**From:** Lee, Katherine  
**Sent:** Tuesday, October 10, 2017 3:33 PM  
**To:** Lee, Katherine  
**Subject:** FW: Update: Final CPE Analysis of Berkeley Police Stops

Dear Commissioners,

Please see below from Chief Greenwood.

-Kathy

**Katherine J. Lee**  
**Police Review Commission Officer**  
**City of Berkeley**  
**510.981.4960**

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**From:** Greenwood, Andrew  
**Sent:** Tuesday, October 10, 2017 3:03 PM  
**To:** Lee, Katherine <KLee@cityofberkeley.info>  
**Subject:** Update: Final CPE Analysis of Berkeley Police Stops

Kathy,

Below is a letter from CPE to Mayor Arreguin et al. It serves as a good update for the PRC; please pass it along.

Best regards,

Andrew Greenwood  
Chief of Police  
Berkeley Police Department  
(510) 981-5700

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**From:** Krista Dunn [<mailto:kdunn@policingequity.org>]  
**Sent:** Thursday, September 28, 2017 4:37 PM  
**To:** Arreguin, Jesse L. <[JARreguin@cityofberkeley.info](mailto:JARreguin@cityofberkeley.info)>  
**Cc:** Bartlett, Ben <[BBartlett@cityofberkeley.info](mailto:BBartlett@cityofberkeley.info)>; Davila, Cheryl <[CDavila@cityofberkeley.info](mailto:CDavila@cityofberkeley.info)>; Droste, Lori <[LDroste@cityofberkeley.info](mailto:LDroste@cityofberkeley.info)>; Hahn, Sophie <[SHahn@cityofberkeley.info](mailto:SHahn@cityofberkeley.info)>; Harrison, Kate <[KHarrison@cityofberkeley.info](mailto:KHarrison@cityofberkeley.info)>; Maio, Linda <[LMaio@cityofberkeley.info](mailto:LMaio@cityofberkeley.info)>; Wengraf, Susan <[SWengraf@cityofberkeley.info](mailto:SWengraf@cityofberkeley.info)>; [kworthington@cityofberkeley.info](mailto:kworthington@cityofberkeley.info); Greenwood, Andrew <[AGreenwood@cityofberkeley.info](mailto:AGreenwood@cityofberkeley.info)>  
**Subject:** Re: Final CPE Analysis of Berkeley Police Stops

Dear Mayor Arreguin,

Thank you for reaching out about the Berkeley PD report. I have been working with Chief Greenwood for the past year or so, since he took over as Chief. He and his staff have been

**Lee, Katherine**

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**From:** Greenwood, Andrew  
**Sent:** Tuesday, October 10, 2017 4:09 PM  
**To:** Lee, Katherine  
**Subject:** FW: Napa/Sonoma update, Go Fund Me for Josh Block  
**Attachments:** image1.jpeg; image2.jpeg; image1.jpeg; image3.jpeg; image2.jpeg

Kathy,

Please share this with the PRC; we are substantially committed to assisting with the North Bay Fires, while many of our folks are impacted as well.

Andrew Greenwood  
Chief of Police  
Berkeley Police Department  
(510) 981-5700

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**From:** Greenwood, Andrew  
**Sent:** Tuesday, October 10, 2017 3:38 PM  
**To:** All Police <dlPolice@cityofberkeley.info>  
**Subject:** Napa/Sonoma update, Go Fund Me for Josh Block

Greetings,

The North Bay fires have had a devastating impact in the region north of us, and have impacted many of our friends, families, and colleagues.

I'm sad to report that a Berkeley Firefighter, Josh Black, has lost his home. A "GoFundMe" account has been established; you can donate here <https://www.gofundme.com/block-family-home-destroyed-in-fire>.

Within our Department, I'm aware of at least one BPD family who's had to evacuate, and several others who have come close. I also reached out to former Ofc. Fuentes, who wrote:

"We are safe. We had to evacuate. I am driving back to day to see our house. I heard it's still intact, the fire came within a half a mile of our neighborhood... I also want to Thank you for sending Berkeley PD up to help. It meant so much to us. We were driving out in the early morning hours after evacuating, my whole family in a 3 car caravan. We were terrified of what was happening and the destruction we saw. Then, we saw Berkeley PD driving up code 3 on hwy 101, it brought a tear to my eye to see my old department coming up to help. ... Please extend my sincerest thanks to all the BPD dispatchers and Police and BFD personnel who came up and continue to come up to help. All are selfless heroes!"

**Berkeley PD has been sending officers and dispatchers** in response to the mutual aid call to assist local law enforcement since early Monday AM, and we are planning to continue to do so as we are able over the next several days. Thanks to all who've been able to assist in these efforts.

I'd like to share a couple of reports from Lt. Rateaver, along with some photos, attached:

BPD has 14 officers on mutual aid to Sonoma County today; maybe more tonight... Yesterday we were detailed out to serve the city of Santa Rosa... Currently all BPD resources are committed to

the west end of Santa Rosa. Our primary function is general police services. Each of the officers has been paired off and issued a Santa Rosa radio and are being dispatched to calls... Since cellular service is spotty, we are using whatever apps work, as well as Street maps obtained at a local gas station.

We are responding to regular calls for service as well as to structure protection from looting. The photo that you see below is a prime example:

Our crews were detailed to protect this burned out structure which is actually a commercial gun retailer... The building did not survive the fire, however, there are three safes in the building that are vulnerable and visible. Our crews are there securing that.

We are providing water, information and security and on the occasion, giving homeowners transportation into and out of the burn areas. Mostly this is being done because they walk into the areas, then become emotionally overwrought, and are walking through a maze of burn out structures and downed electrical wires. For their own safety, we are collecting them and transporting them out as conditions dictate.

I am honored to be with such a large contingent of BPD officers. Working alongside other agencies like Benicia, ACSO, El Cerrito, Oakland, Martinez, and Kensington. Each are hard-working, energetic and want to do a good job up here in this time of need. Each of us up here knows that we could not be up here without the support of our crews and families back home as well.

Additionally:

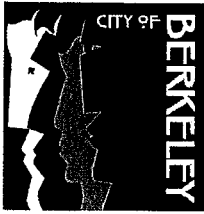
(Helped) an elderly citizen needing to gain access to their apartment that survived. Critical medication inside and cat left behind... No power inside the apartment, completely dark hallway... To our surprise and appreciation, Berkeley Fire Engine 6 was parked out front of this apartment complex. We made entry, and using our flashlights, made our way through the dark and smoky hallways to the apartment...The elderly couple and her son-in-law were able to gather up the needed medication and check on the welfare of their cat.

So, while the fires are still burning, and this event is not yet over... I wanted to give thanks to everyone who's been able to assist, and to share the stories I've been hearing.

While I am aware of some of our folks who are impacted, if you are aware of additional personnel who have needs arising out of the fires, please let me know by replying directly back to me.

Thank you,

Andrew Greenwood  
Chief of Police  
Berkeley Police Department  
(510) 981-5700



Police Review Commission (PRC)

October 6, 2017

To: Honorable Mayor and Members of the City Council  
From: Katherine J. Lee, Police Review Commission Officer *KJL*  
Re: Correction to September 29, 2017 Communication re: The Advisory Role of the Berkeley Police Review Commission

Please note a correction to the September 29, 2017 memorandum to you that I drafted on behalf of the Police Review Commission (attached), and which appears as Communication #10 in the City Council's agenda packet for its October 17, 2017 meeting.

The last paragraph contains a misstatement: it says that the vote of the PRC was unanimous, when it was not. The roll call of the vote is accurately stated, however.

Attachment

cc: Dee Williams-Ridley, City Manager  
PRC Commissioners

