


Office of the City Manager

August 26, 2013

To: Mayor and Councilmembers
From: Christine Daniel, City Manager 
Subject: United States Postal Service Update

This memorandum provides the Council with an update on the encampment at the United States Post Office (USPS) on Allston Way. As you know, on July 27, 2013 a protest to oppose the sale of the Berkeley Post Office building on Allston Way commenced. A table was set up on the south east corner of Allston Way and Milvia Street to provide information to the public about the USPS' intention to sell the Berkeley Main Post office building and to express opposition to that sale.

Shortly after the Save the Berkeley Post Office (SBPO) group set up their table on July 27th, unaffiliated individuals began erecting tents on the USPS property and a camp was formed. During this time, criminal incidents related to the encampment began to occur. A stabbing occurred on Thursday August 15, 2013 involving individuals participating in the encampment. After that, the main SBPO group decided to change strategies and leave the USPS property. Unfortunately, the criminal activity has continued and escalated since that time. Incidents include: physical assault, several arrests for weapons possession and a serious dog bite. In addition, local businesses have reported harassment of customers and activity that is affecting their operations. Please note also that Berkeley High School resumes classes on Wednesday August 28th. A summary of the incidents is included at the end of this memorandum.

The City encourages the community to exercise their First Amendment rights. However, activities must be conducted in manner that ensures everyone is safe. The City has been in contact with USPS representatives who indicated that the USPS did not intend to take any action with regard to the activity occurring at the encampment. Rather, the USPS provided the attached letter late Friday August 23, 2013 requesting the "Berkeley Police Department to remove and/or arrest persons camping on the grounds of the Berkeley Main Post Office under the applicable state laws...." The letter included a warning notice that USPS will distribute to people at the encampment notifying them they have made this request and that, "persons who fail to remove their tent or other items on US Postal Service property will be subject to arrest." Berkeley police plan to accompany USPS personnel when this notice is delivered to document that proper notification has occurred. Next steps beyond that have not yet been determined.

The City has asked the USPS to accommodate a specific area for protected First Amendment activity in front of the Berkeley Main Post Office so that the communication of concerns about the sale of the facility can continue. USPS personnel have expressed their support of that idea, however, details have not yet been confirmed.

The following summarizes some of the serious criminal activities that have required intervention by the Berkeley Police Department:

Date	Activity
August 10, 2013	BPD responded to a call for "Code 3" and found an unknown white female having seizures in a tent. A verbally aggressive companion wielding a stick and a dog denied access to the suspected tent. The involved female eventually told responders to leave her alone and refused medical treatment and units cleared the scene.
August 15, 2013	<p>A male suspect identified with the encampment slapped a fellow camper after she asked to borrow a phone that the suspect had just stolen from one of the tents. According to witnesses, the suspect was agitated and wanted to return to the tents. The protesters confronted the suspect and told him to leave the area. The suspect began to yell and scream, then picked up a pipe and a chair and threw them at the protesters. The suspect ran and two or three protesters gave chase across Allston Way to Shattuck Avenue, the suspect then grabbed the victim with one arm and stabbed him in the leg. The victim kneeled down, saw blood on his leg and realized that he had been stabbed.</p> <p>Many community members were in the area and saw parts of the incident and chase as it unfolded. Four witnesses participated in field show-ups.</p> <p>BFD paramedics transported the victim to Highland Hospital with non-threatening stab wounds to thigh. The weapon was not recovered. The suspect was arrested and booked</p>
August 16, 2013	BPD received a report of a white female masturbating at the Post Office. On arrival, the reporting party pointed her out. The involved party was known to BPD.
August 19, 2013	A sergeant noticed a camper with a large concealed knife. BPD officers attempted to arrest him and he resisted. He was arrested and subsequently found to be a juvenile. The knife was 8-1/2 inches long.

<p>August 21, 2013</p>	<p>A local business reported that individuals from the post office encampment chased patrons back to the front doors. The business' staff had to threaten to call the police to keep the protesters out. Representatives of the establishment stated: " This poses a growing concern for the safety of our guests and team members, but also for the reputation of Downtown Berkeley as being a safe and welcoming area for travelers."</p>
<p>August 21, 2013</p>	<p>PC 417 (brandishing) via billy club at a local business. The suspects were reported to be west bound on Allston from Shattuck. An officer attempted to detain them. One suspect, who is a frequent presence at the encampment, was found to be in possession of a 17" billy club. He was arrested for possession of a dangerous weapon.</p> <p>The second suspect had been arrested 17 hours earlier at the post office encampment for possession of a large knife (8 1/2"). He fled but was detained just west of Shattuck. He continued to resist and it took several officers to restrain him. The suspect, a juvenile, was released to his father, however he fled from his father before leaving Berkeley City limits. His father declined to make a runaway report.</p>
<p>August 21, 2013</p>	<p>A member of the camp was involved in an altercation with a passerby. The camp member was bitten by the passerby's dog. He had a large section of his right hand bitten off. He refused police service, but accepted medical. BFD transported him to Alta Bates. The passerby and dog were gone on arrival.</p>
<p>August 25, 2013</p>	<p>At approximately midnight BPD received a report of a disturbance at 2000 Allston Way, the Berkeley Main Post Office. The reporting party called to advise that several individuals were involved in a heated verbal argument and that it looked like it was going to turn physical. Officers responded and located a homeless adult male walking away from the encampment. The subject was agitated, jumping around, and flailing his arms. Upon contact, he was found to be drunk in public. He was placed under arrest for that violation and booked into the BPD jail.</p>
<p>August 25, 2013</p>	<p>At 0815 hours four suspects assaulted a victim. Witnesses reported that the victim caused a disturbance in front of the Post Office and refused to leave the area when asked. Four assailants punched and dragged victim across the street to Berkeley High</p>

	<p>School. One of the suspects slammed victim's head onto the sidewalk. Victim suffered from lacerations to his face and head. He was transported to ABH.</p> <p>Two suspects were contacted inside of a large tent at the corner of Allston and Milvia. One was arrested for a no-bail parole warrant for failure to complete his PC 290 (sex offender) registration. A warrant is being sought for the second suspect who is on county probation for PC 245(a)(1) (assault with a deadly weapon or instrument other than a firearm).</p>
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Attachment: August 23, 2013 letter from Ray Davis, Postmaster Berkeley, CA

cc: William Rogers, Deputy City Manager
Ann-Marie Hogan, City Auditor
Zach Cowan, City Attorney
Chief Michael K. Meehan, Berkeley Police Department
Mark Numainville, City Clerk
Matthai Chakko, Public Information Officer



August 23, 2013

Police Chief Michael K. Meehan
Berkeley Police Department
2100 Martin Luther King Jr., Way
Berkeley, CA 94704

Re: Second Request for Assistance at the Berkeley Main Post Office

Chief Meehan,

This letter is a follow up to the Inspection Service letter of August 2, 2013 requesting assistance from the Berkeley Police Department with the protest and encampment located at the Berkeley Main Post Office located at 2000 Allston Way, Berkeley, CA.

The encampment at the Berkeley Main Post Office has continued to create public safety problems for the public and customers alike. The US Postal Inspection Service will be distributing the enclosed "Warning" flier to the campers at the site. If the campers do not vacate the property, I am authorized, and by this letter request the Berkeley Police Department, to remove and/or arrest persons camping on the grounds of the Berkeley Main Post Office under the applicable state laws such as Penal Code section 647(e) (lodging without consent) and Penal Code section 602(m) (trespassing with the intent to occupy), and any other applicable laws. Please consider this letter the equivalent of a request for a citizen's arrest under California state law.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Davis".

Ray Davis
Postmaster
Berkeley CA 94704-9998

enclosure

RECEIVED

AUG 23 2013

OFFICE OF THE CHIEF



UNITED STATES POSTAL INSPECTION SERVICE

SAN FRANCISCO DIVISION

August 22, 2013

WARNING:

Persons who fail to remove their tent or other items used for camping on US Postal Service property will be subject to arrest.

39 Code of Federal Regulations §232.1(h)(5) states: "no tables, chairs ... or ... structures ... of any type may be placed ... on postal walkways, steps, ... or landscaped areas ... or other exterior spaces" of a US Post Office.

Penal Code §647(e) provides a person cannot "lodge" on "public" property without permission.

Penal Code §602(m) prohibits "occupying real property" of "any kind" without the consent of the owner or the owner's agent.

The US Postal Service (USPS) is the owner of the Berkeley Main Post Office (BMPO) 2000 Allston Way in Berkeley. The BMPO includes the landscaped areas, the front steps, and the part of the sidewalk directly west of the steps. No one has permission to lodge on, occupy, or place chairs, tables, or tents on the BMPO property. The USPS has requested the City of Berkeley to remove persons who are camping and occupying the BMPO property.

Starting August 23, 2013, anyone found camping on the BMPO property will be subject to arrest if they fail to remove their tent and other items being used for camping on the BMPO property location.