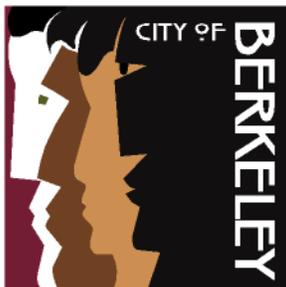


**Berkeley City Council
Ad-Hoc Subcommittee on NCRIC and Urban Shield**



**Monday, May 21st, 2018
3:00-5:00pm
Redwood Room, 6th Floor
2180 Milvia St.**

Committee Members

- Mayor: Jesse Arreguin
- District 2: Cheryl Davila
- District 4: Kate Harrison
- District 6: Susan Wengraf

AGENDA

- 1. Call to Order**
- 2. Public Comment**
- 3. Approval of Minutes (Attachment A)**
- 4. Discussion on the Future of Urban Shield and Community Preparedness in Berkeley**
- 5. Next Steps and Adjournment**

Attachments:

A: Minutes from May 8th Subcommittee Meeting

B: Council Direction to Subcommittee from June 20th, 2017 Council Meeting



Berkeley City Council
Minutes: Ad-Hoc Subcommittee on NCRIC and Urban Shield
By Tano Trachtenberg

Tuesday, May 8, 2018
1:00-3:00pm
Cypress Room, 1st Floor
2180 Milvia St.

Committee Members:

- Mayor: Jesse Arreguin
- District 2: Cheryl Davila
- District 4: Kate Harrison
- District 6: Susan Wengraf

- David Brannigan, Berkeley Fire Chief
- Chris Naso
- Brandi Campbell
- Cindy Shamban
- Khadijah McPhall
- Gene Bernardi
- Christine Schwartz

Others in Attendance:

- Andrew Greenwood, Berkeley Police Chief

1. Call to Order

Meeting was called to order at 1:34pm.

2. Public Comment

Cindy Shamban expressed concern around the Disaster and Fire Safety Commission's recent recommendation to council to continue participation in Urban Shield. She also does not support the upcoming item on the council's tone and direction towards the police department.

Ms. Bernardi reminded the Subcommittee that the City is violating their policy by not having an MOU in place with NCRIC. Additionally, she reviewed and shared a copy of General Order N-18, or the Situational Awareness Group (SAG), which outlines the job of Terrorism Liaison Officers in NCRIC. She is alarmed by the focus on alleged gang members because of recent national news about the FBI and DHS that want to identify immigrants as gang members because it helps ICE in court.

Kadijah McPhall wants to know where the money comes from for Urban Shield expenditures.

3. Approval of Minutes

The Subcommittee approved the minutes with the suggested corrections to Ms. Schwartz's comments.

4. Discussion and Recommendation to Council on Northern California Regional Intelligence Center (NCRIC)

Councilmember Harrison shared and reviewed the draft outline of a MOU between NCRIC and the BPD that she developed after discussions with councilmember Davila [Appendix A].

Last meeting, the Subcommittee asked Chief Greenwood to inquire with Dir. Sena of NCRIC as to whether it would be feasible for NCRIC not to include location of vehicles when BPD queries their system. **Dir. Sena informed Chief Greenwood that this is not feasible for NCRIC to do.**

Chief Greenwood felt that section 1.c.iii and section 6.b, "SARs received by BPD from NCRIC that originate from other jurisdictions", does not adequately acknowledge that all SARs are vetted by NCRIC. He said that this phrasing made it seem like the SAR goes directly from one department to another even though BPD does not directly receive SARs. When NCRIC sends them, they include their evaluation of the report. He asked that these sections be amended or removed in light of this.

The Subcommittee clarified that the MOU would be with the City of Berkeley, not just BPD, and therefore would include the Fire Department as well.

The Chief requested that the Subcommittee send him the sample MOUs that were referenced for the outline.

The Chief said that he is okay with an MOU and understands the value of writing out the terms of the City's participation. **He suggested adding a section on the City's policy for officer participation.**

The Subcommittee engaged in a discussion on section 6.a.iii "Additional Data received with valid warrant: location data". The Chief explained how the location is recorded on BPD's end. When an officer gets an LPR hit, she/he can print out the page that includes the vehicle location information and add that info to his or her case file. They can scan this file into BPD's record system. In response to councilmember Harrison's concern about retaining the location data, Chief Greenwood emphasized the importance of that data for investigations but said that he would be okay with language that prohibited "stockpiling ALPR data".

The Subcommittee discussed the timeline of completing the MOU and acknowledged that it would be great to have it completed when the compendium comes to Council, but many factors will be in play (City Attorney, BPD resources, NCRIC turnaround).

The Subcommittee agreed that there should be a statement in the preamble that ensures that NCRIC is in accordance with State and City sanctuary law.

The Subcommittee voted to replace section 6.a.iii of the outline, “Additional Data received with valid warrant: location data. 1) Specification of the range of location data over time.”, with “Data that is not found to be material to a case will be not be retained in any form”.

Yes: Wengraf, Arreguín.

Abstain: Harrison, Davila

The motion carries, and the recommendation will be sent on to the Berkeley City Council.

Mayor Arreguín made a motion that the Subcommittee recommend the City of Berkeley continue its participation with the Northern California Regional Intelligence Center (NCRIC) conditional on the execution of a memorandum of understanding between the City of Berkeley and NCRIC using the outline as recommended, and reflecting existing City of Berkeley policies.

Councilmember Wengraf seconded the motion.

Yes: Wengraf, Arreguín, Harrison

No: Davila

The motion carries and the recommendation will be sent on to the Berkeley City Council.

5. Adjournment

The meeting adjourned at 2:19pm.

1. Whereas recital clauses:
 - a. Define parties
 - b. Define the goals of the parties
 - i. Exchange data critical for law enforcement purposes
 - ii. Protect civil liberties
 - iii. Limiting scope of third party data sharing
 - iv. Meet the requirements of the Berkeley Surveillance Ordinance
 - c. Establish the desire of BPD to access NCRIC data for law enforcement purposes:
 - i. NCRIC ALPR database
 - ii. NCRIC Advisories
 - iii. SARs received by BPD from NCRIC that originate from other jurisdictions
 - iv. Provisioning of ad hoc NCRIC surveillance cameras in Berkeley
 - d. Establish the desire of BPD to submit limited information to NCRIC for specific law enforcement purposes:
 - i. BPD SARs sent to NCRIC and beyond
 - e. Establish parties' deference to civil liberties
2. Purpose of the agreement
3. Member Agency Rights, Powers and Authority
4. Mission of NCRIC
5. Mission of BPD
6. Data Received by BPD
 - a. ALPR Data
 - i. Authorized user access, responsibilities and availability
 - ii. Default data received: full license plate number, vehicle model and make.
 - iii. Additional Data received with valid warrant: location data.
 1. Specification of the range of location data over time
 - iv. Application of COB Surveillance Ordinance
 - v. Security Requirements
 - vi. Retention policy
 - vii. Civil liberties protections
 - b. SARs received by BPD from NCRIC that originate from other jurisdictions
 - i. Authorized user access, responsibilities and availability
 - ii. Security Requirements – who can access
 - iii. Retention policy
 - iv. Civil liberties protections
 - c. Advisories
 - i. Authorized user access, responsibilities and availability
 - ii. Security Requirements
 - iii. Retention policy
 - iv. Civil liberties protections
7. Data sent to NCRIC

- a. SARs sent to NCRIC
 - i. Requirement that Chief approve in writing any SARs reporting
 - ii. BPD General Order N-17 requirements
 - b. Provisioning of ad hoc NCRIC surveillance cameras within Berkeley
 - i. Permission from Chief, City Manager, City Attorney
 - ii. Limited duration
 - iii. Security Requirements
 - iv. Retention policy
 - v. COB Surveillance Ordinance requirements
 - vi. Limiting scope of third party data sharing
-
8. Provisions related to first amendment activities
 9. Information Accuracy
 10. Custodian of Records
 11. Benefits and Immunities
 12. Costs
 13. Durability
 14. Indemnifications
 15. Signatories
 16. Assignment Prohibited
 17. Signatures

Action: M/S/C (Arreguin/Bartlett) to:

1) Create a City Council Subcommittee: to review the City's involvement in Urban Shield, and to ultimately determine whether the City should continue to participate in Urban Shield and to present alternative programs that better reflect the values of Berkeley's citizens. The subcommittee will be comprised of four Councilmembers including the Mayor.

Refer to the Subcommittee all the proposed Subcommittee actions recommended by Councilmembers Davila/Harrison, Worthington, and the following tasks:

- Reviewing Urban Shield scenarios in the past 3-5 years, as well as current and upcoming scenarios, and scoring procedures
- Attend and observe Urban Shield exercises
- Attend and observe Urban Shield vendor Expo
- Attend and review keynote speakers, workshop topics, and materials of past, current, and planned exercises and expos
- Observing or participating in Supervisor Carson's community task force on Urban Shield, reviewing of reports generated by this group.
- Researching other training opportunities that the Berkeley Police Department might participate in, either domestic or international, and consider whether BPD could work with police from other progressive cities to create specialized training
- Contacting other Northern California jurisdictions that do not participate in urban Shield exercises, to understand why they do not participate and how and where they obtain relevant training. These include, but are not limited to:
 - All Police Departments of Sonoma, Napa, and Marin Counties, except for the City of Novato
 - The City of Santa Cruz
 - The City of Palo Alto,
 - And many others
- Undertake any other research and investigation necessary to help inform the subcommittee about the nature of Urban Shield exercises and any possible elements that might go contrary to the City of Berkeley's values of community policing, nondiscrimination, and respect for human and civil rights.
- Report and recommend to Council regarding Urban Shield within 6 months. The report and recommendations should answer questions including, but not limited to:
 - How does Urban Shield contribute to or detract from public safety and the safety of police and firefighters and other medical and law enforcement personnel?
 - What are the benefits and costs of participation in Urban Shield? Are there any specific elements that are commendable or objectionable, given Berkeley's values and needs?
 - Does Berkeley's participation in the program positively influence or enhance Urban Shield, and how might the city's positive impact be enhanced in the future, should Berkeley continue to participate?

- Does Berkeley's participation support or run contrary to Berkeley's values or interests, and how or why might the city's involvement be continued, enhanced, limited or ended if this is the case?
 - What other training opportunities are available for the Berkeley Police Department and other first responders?
- Explore and evaluate alternative trainings to explore future decision making in regards to Urban Shield.

2) Allow Berkeley Fire Department and Berkeley Police Department to participate in this year's Urban Shield activities.

3) Direct the subcommittee, as one of the first priorities, to review the letter proposed by Council Member Worthington to the Urban Area Security Initiative and make modifications and then send along that statement to the Urban Area Security Initiative after it has been approved by Council.

Vote: Ayes – Maio, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison; Abstain – Worthington.