



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

**Wednesday, February 14, 2018**  
**2:30-4:00pm**  
**Cypress Room, First Floor**  
**2180 Milvia St.**

Committee Members:

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

Others in Attendance:

- Berkeley Police Chief Andrew Greenwood
- Tano Trachtenberg
- Chris Naso
- Laurie McWhorter

**1. Call to Order**

Meeting was called to order at 2:35pm.

**2. Public Comment**

Nicky Duxbury, discussed her conversation with Kevin Leisher (California Office of Emergency Services). He said many of their trainings could be offered to BPD. Nicky said there are other options to Urban Shield and agreed to provide the contacts and information that she cited.

Sarah Jones expressed her concern about Emergency Prep. She voiced her concern that the Berkeley Fire Department is not being adequately represented and considered by the Subcommittee. She wanted to learn more about what it would mean to pull out of Urban Shield, both in cost and in impact to the other departments.

Kelly Hamigran is a registered nurse and understands the importance of training. She is concerned with three things: 1) Militarization of Urban Shield, 2) lack of focus on evaluation, 3) nexus to terrorism. She does not believe we will be able to influence Urban Shield because of Sheriff Ahern.

Christine Schwartz has been a recruiter and role player for many emergency events, including Urban Shield. She found Urban Shield to be very good because it requires folks to come together. More training is better in Christine's opinion.

John Lindsay-Poland, from the American Friends Service Committee (AFSC), shared how UASI reflects attitudes that are brought to Urban Shield. AFSC was looking into earthquake training, and he reached out to UASI because he knows they offer training to members of the community and non-profits. Despite sharing that he and AFSC met the eligibility

requirements, the lead exercise- planning officer responded with hostility to his request and denied him because he was not a member of a public safety agency.

### **3. Approval of Minutes**

Minutes were amended to include the appropriate date and time. Minutes were approved, with Councilmember Wengraf abstaining.

### **4. Discussion of City of Berkeley Participation in NCRIC**

Mayor Arreguín directed the group's focus to Attachment C, the subcommittee's scope of work regarding NCRIC. The Mayor highlighted how he understands the City of Berkeley currently engages in NCRIC. 1) The city, on limited occasion, submits suspicious activity reports (SARS) to NCRIC, which are governed by General Order N-17. 2) There are bulletins (advisories) that NCRIC provides to BPD. 3) BPD can access NCRIC's license plate database.

Councilmember Wengraf requested background on NCRIC. The Chief suggested that the group invite Michael Sena, the director of NCRIC to speak with the group in order to ensure that the information provided is as accurate as possible. There was some confusion in the group between members, who believed that arrangements were already made for Sena to attend and the Chief, who had not made that connection.

The Chief outlined information about SARs, emphasizing that anyone can submit one and that they are submitted very infrequently. Chief Greenwood was as open as possible about the advisories, given the rules that restrict information to law-enforcement officials only. The information that he could share was included in the memo attached to the meeting agenda. He said that the advisories provide information of training, in addition to info that is for official use only. Finally, Chief Greenwood cited the presentation BPD delivered at the June 20<sup>th</sup> meeting that highlighted instances where BPD used the LPR database as a key resource in specific cases. **He also mentioned the LPR policy that NCRIC has, which is online and will be shared at the next meeting.**

Chief Greenwood reminded the group that the concerns around LPR data are generally around several questions: 1) how is it collected? 2) How is it secured? 3) Who gets access to it? 4) How long is it retained? He gave the example of a recent laptop theft, where an officer used the photo of a fragment of a license plate, which led to the identification of a suspect. He emphasized that it is a practical resource that cannot be replicated.

Councilmember Harrison asked several questions of the Chief. First, Harrison asked what the retention process is for LPR data. The Chief shared that if the officer pulls information from the database it will live in the corresponding case file, which are not thrown away. Harrison followed up, "What is the standard for asking for an ALPR? Who has to approve that?" Chief shared that Officers that are appropriately trained do not need to approve access to these databases. Harrison then asked what the retention policy is for NCRIC advisories. Chief Greenwood responded that these are emails that the department receives and are not processed into a data collection system. Harrison asked how many investigations have grown out of this data in the last five years. Chief Greenwood said that they have not been capturing that kind of data.

Chief Greenwood clarified that a Terrorism Liaison Officer (TLO) is an ancillary duty, meaning that an officer holds that title in addition to all of their primary full-time duties. Harrison also asked if this title or training was in an agreement somewhere. Chief shared that he would like to better prepare for Harrison's questions about how TLOs work with the FBI. Harrison cited a 1973 ordinance that requires council to approve any agreements between BPD and other agencies, asked if an agreement with NCRIC, and how we would hypothetically get out of it. Chief responded that there is not a specific agreement with NCRIC as far as he knows. Getting out, he said, would be problematic for several reasons, and would require council restricting access to the LPR database and BPD's permission to submit SARs. Harrison stated that she is not worried about what we are sending out, but rather what we are getting back. Finally, Harrison and the Chief confirmed that any officer that is signed up can receive NCRIC advisories and access their database.

Councilmember Davila asked about the FBI's access to BPD files and records. Chief Greenwood responded that the FBI cannot remotely access BPD information.

George Lippman clarified that the group may be getting confused over two different uses of the term Terrorism Liaison Officer (TLO). It is used in the BPD context for reporting SARs, which is very minimal. There is also a TLO in the context of the Joint Terrorism Task Force (JTTF), which BPD does not have (chief confirmed). In San Francisco, the TLOs that work with JTTF have caused concern the lack of transparency around their collaboration with federal agents. Lippman also expressed a broader concern about NCRIC and fusion centers. He wants to spend time discussing LPRs as well as the advisories. The group agreed that the discussion requires separating out several aspects of NCRIC and dealing with them one piece at a time.

Mayor Arreguín articulated that he sensed the fundamental question and concern before the group is the relationship between what is going on at the national level and the relationship that has to NCRIC and our involvement with it. He wants to be sure that we can answer the questions that the Subcommittee is tasked with answers.

Councilmember Wengraf raised the concern that she was getting the impression that people don't think there is a threat of terrorism in Berkeley and don't want BPD spending any resources dealing with Terrorism. The group responded with a resounding no. Wengraf wants BPD to be well trained to deal with a possible terrorist attack. Harrison felt there needs to be a balance with civil liberties and protections and that she is most concerned with local control, or lack thereof. She studied this in Los Angeles, where data was leaving the department through the JTTF to the FBI without the Police chief knowing. She is concerned about compromising sanctuary city policies. Harrison added that she is worried about the history of these federal agencies abuse of intelligence, and particularly the way they have raised racist concerns when white people commit most terrorist attacks.

Councilmember Davila expressed that Berkeley and the Bay Area are vulnerable to terrorism, but felt we cannot live in fear. She wants to know what is going on and where data is going because it most impacts people of color.

George Lippman, argued that the LPR software is a type of bulk data collection because it is not targeted at a specific person or based on a criminal act, but rather pulls bulk information on all license plates as a parking enforcement officer drives through the city. He is concerned about the potential to abuse this bulk information for other purposes.

Councilmember Harrison reiterated her interest in the retention policy for LPR data. Chief said that the policy was online, but Harrison requested that the information is shared directly with the group. Chief Greenwood shared that BPD uses the NCRIC LPR database during the course of a criminal investigation. His understanding is that when an officer searches for a plate they provide a case number, so that there is an audit trail. He suggested that a good follow-up question for Mr. Sena, would be to ask how they capture that audit trail.

The group hypothesized a potential scenario with a laptop robbery where the use of the LPR data could represent an outsized use of power or information, where BPD might be getting incriminating evidence they couldn't otherwise know about. The concern is about people's privacy rights and maintaining the appropriate scope of investigations.

Mayor Arreguín encouraged the committee to review general order N-17 before the next meeting. He added that there has been a progressive decrease in the number of SARS submitted by BPD since this policy has been passed.

Lippman clarified that the concerns around advisories is a policy question. He does not know how the other fusion centers work in other parts of the country and there has been significant abuse by surveillance and intelligence in the past. Therefore, he is concerned about how honest the answers about the policies of other fusion centers and NCRIC. Lippman was concerned that policy can be in conflict with practice. He cited the examples of national direction to extending anti-Arab and Muslim ban to targeting "black identity extremists", which is a political term. Lippman shared that he appreciated Chief Greenwood's memo, but we still lack information because so much is classified for "Official Use Only". Chief Greenwood clarified that the rules around sharing are NCRIC rules that state certain information is for law enforcement only.

Harrison would like to formalize the agreement with NCRIC if we do choose to continue to participate.

## **5. Next Steps**

- a. Invite NCRIC Director to the next meeting, March 6<sup>th</sup>
  - i. Request information on their License Plate Recognition Policy
- b. Invite designated TLO officers
- c. Send Questions in advance to Director of NCRIC
- d. LPR Policy for Berkeley shared with group

## **6. Adjournment**