

Agenda item #10.c.
PRC 2-22-17 meeting

Lee, Katherine

From: PRC (Police Review Commission)
Sent: Tuesday, February 21, 2017 8:45 AM
To: Lee, Katherine
Cc: Norris, Byron
Subject: FW: Response to BPD Report re Complaint 2406
Attachments: Report re PRC Policy Case #2406.pdf

From: Jim Keenley [mailto:jkeenley@gmail.com]
Sent: Monday, February 20, 2017 8:43 PM
To: PRC (Police Review Commission) <prcmailbox@cityofberkeley.info>
Subject: Response to BPD Report re Complaint 2406

Dear Commissioners,

I write in response to the Berkeley Police Department's response to Complaint No. 2406. The arguments I raised in support of my complaint are fully set forth in my written complaint.

One area of the BPD's response to the complaint that merits further response is the BPD's failure to address the fact that the detention and search of my vehicle and person was accomplished in a dragnet search. BPD had no probable cause whatsoever for initially detaining me, I was detained in a "sobriety checkpoint" along with every other motorist driving in the vicinity of San Pablo and Cedar that evening.

My complaint concerns the policies of the BPD, not the constitutionality of the search. It is my view that notwithstanding the constitutionality of any particular search, that the BPD should be making every effort when conducting a sobriety checkpoint to limit their detentions of law abiding citizens to the greatest extent possible. I was a law abiding citizen, I was in possession of cannabis that I was legally allowed to possess, and legally allowed to transport in my car. Contrary to the suggestion in BPD's response to my complaint, there was no evidence whatsoever that marijuana had been consumed in the car nor any evidence that I was under the influence of marijuana at the time I was detained and searched--in fact the officer never conducted any type of sobriety testing whatsoever, he simply searched the car and my person for contraband despite the fact that I had presented prima facie evidence that I was in legal possession of marijuana. BPD should not be using sobriety checkpoints to randomly sweep cars for contraband when there is no probable cause to believe that there is any contraband in the car.

Beyond the basic idea that it is a violation of the norms of a free society to randomly detain people and search their vehicles based on nothing more than the presence of a substance that is legal to possess and transport, BPD's policy of searching vehicles at sobriety checkpoints based on the smell of marijuana, even in the face of prima facie evidence that the marijuana is legally possessed, creates an unnecessary atmosphere of hostility and distrust between the police and the citizenry. In my case, I was forthright with the officer about my possession of marijuana because I believed that upon demonstrating to the officer that I am an authorized medical user, he would let me be on my way without any further intrusions on my liberty. Now that I know the BPD does not care that my marijuana is legally possessed, the next time I find myself in this sort of situation I will simply stay silent and refuse to answer the officer's questions. It would be much better for BPD to simply acknowledge that for the most part possession of marijuana in fairly large quantities is legal and that it is bad policy, for the police and the citizenry, to detain and search people based on their possession of a legal substance.

Thank you for your consideration of my complaint.

BODY-WORN CAMERA POLICY: TWO ITEMS FOR POSSIBLE PRC-BPD COMPROMISE

I. USE OF PERSONAL RECORDING DEVICES (PRDs)

From PRC 450.6

The department-assigned BWC shall be the only mobile video recorder allowed for department employees while on duty. Any other mobile video recorders shall be used only with the express permission of the Chief of Police.

From BPD 450.6

Members are prohibited from using personal owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Proposed points of compromise:

1. Officers who have not been issued a BWC may use a personal recording device (~~PRD~~) while on duty.
2. Officers who have been issued a BWC may use a PRD only if the BWC malfunctions or becomes otherwise inoperable, e.g., the battery has run out.
3. Any officer who uses a PRD in the course of department-related duties in either circumstance above must comply with this policy, including retention and release requirements.

II. RELEASE OF RECORDINGS TO PRC

From PRC 450.8

Recorded files will be released:

(a) To the Police Review Commission in conjunction with the PRC's investigation of a civilian complaint.

BPD positions

Initial position was that BWC video should be treated the same as any other BPD-generated record or document, and addressed as provided in G.O. R-23.

Chief Greenwood then proposed that PRC staff could view relevant BWC footage at BPD in the presence of an IA Sergeant in the course of an investigation, and BOI Commissioners could view footage in the same manner.

Proposed compromise

In addition to Chief Greenwood's proposal, relevant footage will be made available at a BOI hearing.

FOR OFFICIAL USE ONLY

VI. SECURITY PROGRAM

A. CLEARANCES

1. State, local, and tribal members of the JTTFs, as well as appropriate supervisory personnel responsible for these individuals, must apply for and receive a Top Secret/Sensitive Compartmented Information (TS/SCI) Security Clearance granted by the FBI. JTTF members from other federal agencies must obtain a Top Secret/SCI clearance from their agency and have this information passed to the FBI. No one will have access to sensitive or classified documents or materials or FBI space without a valid security clearance and the necessary "need-to-know." Pursuant to the provisions of Section 1.2 of Executive Order 12968, Detailees are required to have signed a nondisclosure agreement approved by the FBI's Security Division. Pursuant to federal law, JTTF members are strictly forbidden from disclosing any classified information to individuals who do not possess the appropriate security clearance and the need to know.
2. All JTTF management personnel must ensure that each participating JTTF officer or agent undertakes all necessary steps to obtain a TS/SCI clearance. Conversion of FBI counterterrorism and JTTF spaces to Sensitive Compartmented Information Facilities (SCIFs) is underway. This will require that all JTTF task force officers enhance their clearances to TS/SCI (SI, TK, Gamma, HCS-P).
3. Federal agency task force officers should contact their Security Officers and request and obtain the following SCI Clearances: SI, TK, Gamma, and HCS-P. If the parent agency refuses or is unable to provide the appropriate clearances, the FBI will request the task force officer's security file. If provided, the FBI will adjudicate SCI clearances. This action may involve a prohibitively long process and should be avoided.
4. Each Participating Agency fully understands that its personnel detailed to the JTTF are not permitted to discuss official JTTF business with supervisors who are not members of the JTTF unless the supervisor possesses the appropriate security clearance and the dissemination or discussion is specifically approved by the FBI JTTF Supervisor. Participating Agency heads will be briefed regarding JTTF matters by the SAC or ADIC, as appropriate, through established JTTF Executive Board meetings.

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SUBJECT: SUSPICIOUS ACTIVITY REPORTING AND RELATIONSHIP WITH THE NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER

PURPOSE

1 - The terrorist attacks of September 11, 2001, and subsequent attacks throughout the world have demonstrated the necessity of an organized and integrated information sharing system at all levels of law enforcement. In order to prevent, prepare for, respond to, and investigate potential acts of terrorism and other violent criminal threats, it is necessary to establish an efficient system of communication whereby critical information can be quickly disseminated within the Berkeley Police Department (BPD) and to various local, state and federal law enforcement agencies.

2 - National guidelines have been developed and implemented throughout the United States through the National Criminal Intelligence Sharing Plan; the Findings and Recommendations of the Suspicious Activity Report Support and Implementation Project and the Nationwide Suspicious Activity Reporting Initiative (NSI) to establish a means for the sharing of information, known as Suspicious Activity Reporting (SAR). The information sharing plan was developed by law enforcement agencies to establish an all-crimes approach to gathering, processing, reporting, analyzing, and sharing of suspicious activity related to potential terrorism and crime. By maximizing information from citizens, law enforcement, and public safety officials, criminal acts can be detected and disrupted and incidents that have occurred can be properly investigated.

3 - The Berkeley Police Department will continue to attempt to detect crime before it occurs, including terrorism, through various means such as Suspicious Activity Reporting (SAR). The SAR program will provide a format for the Department to accurately and appropriately gather record, analyze and share suspicious activity or, in cases of named or identified individuals or groups, information that gives rise to a reasonable suspicion of criminal activity, including those activities related to foreign or domestic terrorism.

LIMITATIONS

4 - If the information gathered is developed into criminal intelligence, the Department will ensure that the information privacy and legal rights of all persons will be recorded and maintained in strict compliance with existing federal, state and Department guidelines regarding criminal intelligence systems as defined in (28 Code of Federal Regulations (CFR), Part 23 including subsections 23.20 (a) and 23.20(b)), the California Constitution and the California Attorney General's Model Standards and Procedures for Maintaining Criminal Intelligence Files and Criminal Intelligence Operational Activities and the California State Threat Assessment System Concept of Operations.

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(a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.

(b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

5 - Non-violent civil disobedience is specifically exempted from SARs reporting, and such activities shall not be reported as SARs.

6 - SARs must not be submitted based on ideology, social or political opinion or advocacy of religious beliefs or association with a particular group. Criminal activity that would not ordinarily result in a SAR does not become worthy of a SAR when the subject's speech or expression indicates a particular ideological viewpoint or association.

POLICY

7 - Effective immediately, all sworn BPD personnel will document incidents with an actual or potential terrorism nexus or other suspected criminal activity and submit those proposed Suspicious Activity Reports as outlined in this policy. All Department members will adhere to the procedures and responsibilities described in this policy whenever potential terrorism related activity is encountered, observed or reported.

DEFINITIONS

8 - Suspicious Activity. Behavior that may be indicative of intelligence gathering or pre-operational planning related to terrorism, or criminal activity. Suspicious behavior must have a criminal predicate (defined below), and must rise to the level of reasonable suspicion (defined below) in order to be reportable as a SAR in circumstances involving a named or unidentified individual or group.

9 - Criminal Predicate. The standard by which the determination as to whether information may be used to create a SAR is made in circumstances involving a named or identified individual or group. It means that there exists a "reasonable suspicion" based on the analysis of legally obtained information that the subject of the information is or may be involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct. For the purposes of this order, infraction violations will not be considered sufficient to establish a criminal predicate. The underlying offense must amount

to a misdemeanor or felony.

- 10 - Reasonable Suspicion: Information which, when viewed in its totality, leads a person with appropriate training, specialized knowledge, and/or experience to conclude that a person, association of persons, or organization is involved in definable criminal conduct and/or activity that supports, encourages, or otherwise aids definable criminal conduct.

PROCEDURES

- 11 - Examples of behaviors that could be reported as a SAR are as follows (all of these behaviors have been verified as behaviors which have preceded and been linked to actual terrorist incidents as well as common criminal acts):

DEFINED CRIMINAL ACTIVITY AND POTENTIAL TERRORISM NEXUS ACTIVITY	
ISE-SAR CRITERIA GUIDANCE Category Description	
Breach/Attempted Intrusion	Unauthorized personnel attempting to or actually entering a restricted area or protected site. Impersonation of authorized personnel (e.g. police/security, janitor).
Misrepresentation	Presenting false or misusing insignia, documents, and/or identification, to misrepresent one's affiliation to cover possible illicit activity.
Theft/Loss/Diversion	Stealing or diverting something associated with a facility/infrastructure (e.g., badges, uniforms, identification, emergency vehicles, technology or documents (classified or unclassified), which are proprietary to the facility).
Sabotage/Tampering/ Vandalism	Damaging, manipulating, or defacing part of a facility/infrastructure or protected site.
Cyber Attack	Compromising, or attempting to compromise or disrupt an organization's information technology infrastructure.
Expressed or Implied Threat	Communicating a spoken or written threat to damage or compromise a facility/infrastructure.
Aviation Activity	Operation of an aircraft in a manner that reasonably may be interpreted as suspicious, or posing a threat to people or property. Such operation may or may not be a violation of Federal Aviation Regulations.

POTENTIAL CRIMINAL OR NON-CRIMINAL ACTIVITY REQUIRING ADDITIONAL FACT INFORMATION DURING INVESTIGATION ¹	
Eliciting Information	Questioning individuals at a level beyond mere curiosity about particular facets of a facility's or building's purpose, operations, security procedures, etc., that would arouse suspicion in a reasonable person.
Testing or Probing of Security	Deliberate interactions with, or challenges to, installations, personnel, or systems that reveal physical, personnel or cyber security capabilities.

- 12 - Examples of behavior which cannot be reported as a SAR unless: 1) the activity rises to the level of criminal conduct, or 2) the person taking part in the activity is not identified, and therefore, not subject to possible investigation by state and federal investigative agencies:

Recruiting	Building of criminal operations teams and contacts, personnel data, banking data or travel data
Photography	Taking pictures or video of facilities, buildings, or infrastructure in a manner that would arouse suspicion in a reasonable person. Examples include taking pictures or video of infrequently used access points, personnel performing security functions (patrols, badge/vehicle checking), security-related equipment (perimeter fencing, security cameras), etc.

- 13 - Employee's Responsibilities: All personnel are reminded that Constitutional rights will be honored at all times and nothing in this policy diminishes Constitutional protections. Personnel are specifically reminded of Fourth Amendment protections and that persons cannot be arrested without probable cause, detained without reasonable suspicion, and that evidence cannot be seized except pursuant to a warrant or an existing recognized exception to the warrant requirement. Any BPD employee receiving any information regarding suspicious activity potentially related to terrorism shall:

(a) Notify their direct supervisor.

¹ Note: These activities may be considered First Amendment-protected activities and should not be reported in a SAR or ISE-SAR absent articulable facts and circumstances that support the source agency's suspicion that the behavior observed is not innocent, but rather reasonably indicative of criminal activity associated with terrorism, including evidence of pre-operational planning related to terrorism. Race, ethnicity, national origin, or religious affiliation should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions).

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- (b) Notify a department Terrorism Liaison Officer (TLO)
- (c) Document the incident as described in this policy.

14 - Responsibilities of Supervisors: Upon notification that personnel have received information regarding a potential SAR, the BPD Supervisor shall:

- (a) Determine if any further law enforcement response is needed, will consult with a BPD (TLO) if available and determine if immediate notifications to the Chief of Police, and/or the City Manager or his/her designee is required.
- (b) Provide the information in written form to the TLO for consideration of SAR submittal.
- (c) Review the reports and ensure the proper reporting has been completed.

15 - Responsibilities of the TLO and TLO Coordinator (TLOC): Terrorism Liaison Officers (TLOs) have received training in the identification, handling and reporting of potential terrorism related incidents. TLOs will be available as a resource for SAR related incidents.

- (a) TLOs will review proposed SARs from officers, and supervisors, and forward them to the TLO Coordinator (TLOC) for further review. If the report meets sufficient criteria for submission as a SAR, the TLOC will submit it to the Operations Division Commander or his designee for submission approval.
- (b) The TLOC shall maintain a written log of all SARs submitted, and prepare an annual report to be provided to City Council.

16 - Responsibilities of the Operations Division Commander:

- (a) Review of proposed SARs, and approval/rejection as appropriate.
- (b) Forward all SARs to the City Manager and Chief for review
- (c) Ensure that a written log is maintained and an annual report prepared by the TLOC.

17 - Responsibilities of the NCRIC: It is the policy of the NCRIC to make every effort to accurately and appropriately gather, record, analyze, and disseminate information that could indicate activity or intentions related to threats to homeland

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security and submit such information to the Federal Bureau of Investigation – Joint Terrorism Task Force (FBI-JTTF) and the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) in the form of an NSI suspicious activity report. These efforts shall be carried out in a manner that protects the information and the privacy, civil rights, and civil liberties of individuals. Suspicious activity information shall be recorded and maintained in strict compliance with existing federal and state guidelines.

18 - The NSI has established a unified process for reporting, tracking, and assessing terrorism-related SARs throughout the nation. The NSI adheres to the guidelines established by the Intelligence Reform and Terrorism Prevention Act and the Information Sharing Environment Suspicious Activity Reporting (ISE-SAR) Functional Standard. These guidelines call for all terrorism-related suspicious activity reporting to be routed through designated fusion centers for appropriate vetting and review before the information can be shared within the nationwide system. The NCRIC as a component of California's State Threat Assessment System has been designated as the review agents for all terrorism-related suspicious activity reporting in the region.

19 - The NCRIC will then make the decision to share the SAR information with the NSI based on the standards established by the NSI. The NCRIC is also responsible for ensuring that all TLOs, line officers and other first responders in the region have received appropriate training in the collection and reporting of terrorism-related suspicious activities and the responsibilities related to protection of privacy, civil rights and civil liberties of individuals. The NCRIC also works closely with the NSI Program Management Office to ensure a statewide implementation of suspicious activity reporting.

20 - Reporting a SAR: All Suspicious Activity Reports (SARs) will be submitted through the www.ncric.org website. When the SAR involves a criminal act or attempted criminal act, a written BPD police report shall be submitted (and BPD case number created) identifying the suspected criminal behavior and referencing the systems and personnel notified of the SAR.

CITY COUNCIL REVIEW/APPROVAL BINDER

BERKELEY POLICE DEPARTMENT AGREEMENTS, LETTERS AND UNDERSTANDINGS RE MUTUAL AID, INFORMATION SHARING AND COOPERATION WITH OTHER LAW ENFORCEMENT, MILITARY ENTITIES, AND PRIVATE SECURITY ORGANIZATIONS (Berkeley Municipal Code §2.04)

Item #	3.12
Title:	FEDERAL: NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER (NCRIC)
Type:	Written Policy – General Order N-17
Approvals:	Initial: April 10, 2010 / Current: October 15, 2013
Summary:	<p>The NCRIC, a partnership between federal, state and local public safety agencies, and coordinated with the FBI's Bay Area Joint Terrorism Task Force, facilitates the legal sharing of terrorism and criminal-oriented information. In this effort, NCRIC:</p> <p>produces/disseminates intelligence; conducts training; and, provides investigative and analytical case support to federal, state and local law enforcement agencies. The NCRIC strives to ensure the protection of privacy and civil liberties of citizens in its assistance to local, state and federal agencies with their mission of protecting the communities they serve from the threats and dangers of terrorist, gang, narcotics and organized criminal activities. Local Terrorism Liaison Officers (TLOs) facilitate information sharing and investigative collaboration.</p> <p>The Police Department may receive and share confidential or 'law enforcement sensitive' public safety-oriented information with NCRIC to facilitate criminal investigation or to promote the safety of the community and/or law enforcement. The Police Department has designated TLO as a specialized duty assignment, and has appointed three sworn employees to TLO service collateral to their normal assigned duties.</p>
Rationale:	Police Department cooperation and information exchange with this Federally-coordinated partnership promotes public safety and serves the law enforcement mission.
Cost:	<p><i>If Approved:</i> Cost will be neutral. Approval will continue to support current law enforcement activity, funded in existing budget.</p> <p><i>If Not Approved:</i> Effect on cost cannot be calculated. Absence of or reduced interaction would inhibit investigations and impact successful prosecution. Public and employee safety would be adversely affected. Increased local enforcement responsibility would increase local costs.</p>
Recommendation:	Continued Approval
Implementation:	The Police Department will continue to operate in accordance with all City Council and Department general orders and policies as applicable.

To: Honorable Mayor Arreguin and Members of the Berkeley City Council

From: Berkeley Peace and Justice Commission

Subject: Protect the safety and well-being of all Californians from mass deportations, separation of families, and ultimately damage to California's economy.

RECOMMENDATION

Pass attached resolution and send to state and federal representatives.

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code Chapter 3.68.070); and

WHEREAS, President Trump has ordered a sweeping expansion of deportations and assigned unprecedented powers to Immigration and Customs Enforcement (ICE) officers targeting and terrorizing immigrant communities;¹ and

WHEREAS, President Trump's executive orders have removed sensible limits on immigration enforcement, leaving 8 million people in the United States vulnerable to deportation;² and

WHEREAS, President Trump's recent executive orders have called for an extraordinary hiring increase of 5,000 additional Border Patrol officers, 10,000 additional Immigration and Customs Enforcement (ICE) agents, asylum officers and immigration judges without reforming the controversial and problematic agency;³ and

WHEREAS, the recent orders also call for an increase in the detention facilities along the southern border of the United States to hold undocumented immigrants, despite the public outcry surrounding the lack of due process and the troubling conditions in the existing detention facilities; and

WHEREAS, leaked draft executive orders obtained by the *Washington Post* call for the Department of Homeland Security to deny immigrants from entering the U.S. if it is determined they will receive any kind of government assistance and require the deportation of any immigrants who receive such services within their first five years in

¹ "Trump's executive orders dramatically expand power of immigration officers." *CNN*. Cable News Network, n.d. Web. 03 Feb. 2017. <<http://www.cnn.com/2017/01/28/politics/donald-trump-immigration-detention-deportations-enforcement/>>.

² Los Angeles Times. Los Angeles Times, n.d. Web. 06 Feb. 2017.

³ Gomez, Alan. "Trump plans to ramp up deportations." *USA Today*. Gannett Satellite Information Network, 25 Jan. 2017. Web. 06 Feb. 2017.

the country. Additionally, the friend or family member who sponsored the immigrant would have to reimburse the federal government for the benefits the immigrant received,⁴ amounting to a ban on immigration for all but the wealthiest applicants and presenting a significant conflict with Berkeley's shared values of inclusion and kindness; and

WHEREAS, President Trump, in his seventh day as president, signed an executive order which banned entry from seven majority-Muslim countries, including Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen⁵, targeting Muslim refugees and immigrants and sparking widespread protest and condemnation; and

WHEREAS, as a result of the travel restrictions, commonly known as the Muslim Ban, at the time of this writing, 60,000-100,000 visas have been denied;⁶ and

WHEREAS, a study by Stanford Law School in 2014 found that "two-thirds of immigrants facing deportation had no legal representation to help them navigate immigration laws and that those who did have an attorney were three times more likely to win their cases;"⁷

WHEREAS, because these policies significantly increase the burden of immigration enforcement on Berkeley residents, there is an immediate need for funding for legal aid and deportation defense for members of our community; and

WHEREAS, local municipalities have committed significant funds for deportation legal defense for their residents including initial commitments of \$750,000 in San Francisco and \$300,000 in Oakland; and

WHEREAS, Mr. Trump's initial policies have demonstrated a careless disregard for human welfare, banning refugees and immigrants while instituting religious tests for foreign travellers and embracing bigotry and xenophobia; and

⁴ "Trump administration circulates more draft immigration restrictions, focusing on protecting U.S. jobs." The Washington Post. WP Company, n.d. Web. 06 Feb. 2017.

⁵ Yuhas, Alan, and Mazin Sidahmed. "Is this a Muslim ban? Trump's executive order explained." *The Guardian*. Guardian News and Media, 31 Jan. 2017. Web. 06 Feb. 2017.

⁶ <https://www.facebook.com/CNBC>. "Over 100,000 visas have been revoked by Trump immigration ban, Justice Dept. reveals." CNBC. CNBC, 03 Feb. 2017. Web. 06 Feb. 2017.

⁷ "Oakland sets up \$300,000 fund to fight deportations." SFGate. N.p., n.d. Web. 06 Feb. 2017.

WHEREAS, the County of Alameda is home to approximately 500,000 immigrants⁸ with 124,000 undocumented⁹ and includes several Sanctuary Cities such as Berkeley and Oakland to protect immigrants regardless of legal status; and

WHEREAS, immigrants are valuable and essential members of the California community; almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent;¹⁰ and

WHEREAS, a relationship of trust between California's immigrant residents and our state and local agencies, including police, schools, and hospitals, is essential to carrying out basic government functions, and that trust is threatened when such agencies are involved in immigration enforcement; and

WHEREAS, the City Council declared Berkeley to be a City of Refuge in 1971, reaffirmed that stance in 1986 and again in 2007, and stated: "No department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the city of Berkeley unless such assistance is required by federal or state statute, regulation or court decision;"¹¹ and

WHEREAS, Mayor Arreguin has stated that "we should and must call on our state officials to make California a sanctuary state. We must also work with cities throughout the country in rising up against anti-immigration policies;"¹² and

WHEREAS, the Berkeley City Council has endorsed the proposed state Senate Bill 54, the California Values Act, stating that it will "protect the safety and well-being of all Californians by ensuring that state and local resources are not used to fuel mass deportations, separate families, and ultimately hurt California's economy;"¹³ and

⁸ "Bay Area Census -- City of Alameda." Bay Area Census -- City of Alameda. N.p., n.d. Web. 03 Feb. 2017.

⁹ Hill, Laura E., and Hans P. Johnson. "Unauthorized Immigrants in California Estimates for Counties." Public Policy Institute of California (n.d.): n. pag. July 2011. Web. <http://www.ppic.org/content/pubs/report/R_711LHR.pdf>.

¹⁰ "Immigrants in California." Immigrants in California (PPIC Publication). N.p., n.d. Web. 03 Feb. 2017. <http://www.ppic.org/main/publication_show.asp?i=258>

¹¹ http://www.ci.berkeley.ca.us/City_Manager/Press_Releases/2008/2008-05-20_Berkeley_is_a_City_of_Refuge.aspx

¹² "Sanctuary cities need to defeat fear." The Daily Californian. N.p., 24 Jan. 2017. Web. 02 Feb. 2017. <<http://www.dailycal.org/2017/01/24/sanctuary-cities-need-defeat-fear/>>

¹³ Item 26, http://www.ci.berkeley.ca.us/Clerk/City_Council/2017/01_Jan/City_Council_01-24-2017_-_Regular_Meeting_Agenda.aspx

WHEREAS, the U.S. Department of Homeland Security (DHS), of which ICE and Customs and Border Protection (CBP) are component parts, contains other sections that support their immigration function; for example, the DHS-funded National Network of Fusion Centers collects suspicious activity reports (SARs) on non-criminal behavior, sharing this information with ICE and CBP, which uses this information to prosecute deportations;¹⁴ and

WHEREAS, the Berkeley Police Department works with Northern California Regional Intelligence Center (NCRIC), the local fusion center, providing SAR reports that are then available to ICE and CBP, and the BPD-NCRIC relationship is annually reviewed by the Berkeley City Council, as mandated by city law, before being approved;

NOW, THEREFORE BE IT RESOLVED that the City of Berkeley condemns the expansion of deportations planned by the current Presidential Administration; and

BE IT FURTHER RESOLVED that the City of Berkeley commits to offering significant funds to community-based organizations within and outside of Berkeley with a track record of providing quality legal assistance and representation to immigrants in our community,¹⁵ so that they may expand their valuable work, provide free consultations, explore the creation of an emergency hotline for residents, and/or hold "know your rights" workshops; and

BE IT FURTHER RESOLVED that the City of Berkeley hereby extends its City of Refuge policy to bar any association with Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), and that this bar extend to any organization in which ICE or CBP participate, such as the national network of intelligence fusion centers, represented locally by the Northern California Regional Intelligence Center (NCRIC); and

BE IT FURTHER RESOLVED that the Clerk of the City of Berkeley send a copy of this resolution to Homeland Security Secretary John F. Kelly, Acting ICE Director Thomas Homan, NCRIC Executive Director Mike Sena, California Governor Jerry Brown, and the City's congressional delegation.

¹⁴ <https://www.dhs.gov/2013-fusion-center-success-stories>

¹⁵ Organizations selected should represent those most impacted, such as the Arab Resource & Organizing Center, Council on American-Islamic Relations, East Bay Sanctuary Covenant, East Bay Community Law Center, Centro Legal de la Raza, and Asian-Americans Advancing Justice - Asian Law Caucus.