14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140

14

Jesse Arreguín
Councilmember, District 4

ACTION CALENDAR
February 14, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Amendments to Item # 14: Response to Questions regarding Mutual Aid Memoranda of Understanding

RECOMMENDATION:
Take the following action regarding the remaining Law Enforcement and Federal Agency Agreements/Policies that were not approved on November 8, 2011:

1. Approve the General Understanding agreement with the Northern California Regional Information Center (NCRIC) under the following conditions:

- Limit the submission of Suspicious Activity Reports to only those individuals/groups that have been charged with a crime, with the exception of an individual who has solely committed a civil disobedience offense. In addition permit the submission of Suspicious Activity reports in cases where the Police Department has become aware of criminal acts that have not been linked to a specific individual or group. Continue to require that the submission of Suspicious Activity Reports go through the chain of command, requiring final approval by a Police Department Captain.

  Additionally, Council requests that the Berkeley Police Department provide their operating definition of what "suspicious activity" is and provide information on the kinds of cases when a Suspicious Activity Report might be submitted, as well as information on the number of SAR reports submitted by BPD and the reasons for why the SAR reports were submitted.

2. Approve the agreement with the Urban Area Security Initiative (UASI), with the following direction to the City Manager and Chief of the Police:

- Concerns have been raised about the type of tactics used in Urban Shield exercises and whether they should be applied to incidents involving civil disobedience and civil unrest. While Berkeley Police has specific policies about crowd control and use of force, the Department should continue to not employ tactics, including those taught by Urban Shield exercises that are contrary to Police Department policies.

  Additionally, Council requests additional information on what UASI grant funds have been received and spent on, including whether UASI funds have been used to fund

Berkeley Police Department participation in NCRIC, as has been done in other jurisdictions.

3. Approve the Operational Agreement with the University of California Police Department (UCPD) but request that the Chief of Police as part of the 2012 review of Mutual Aid Agreements, meet with UCPD to discuss their adoption of a common practice for the towing of vehicles based on Berkeley Police Department Training and Information Bulletin # 235, *Vehicle Tows for Driver's License Violations*.

4. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements study whether BPD is legally obligated to comply with ICE civil detainers and if legally permissible consider amending General Order J-1 (Jail Operations), prohibiting BPD from complying with civil immigrations detainers to hold inmates beyond their time of release, allowing ICE to take custody of the inmate. In making this recommendation, the Council recognizes that inmates who are transferred to County jail for prosecution in the criminal court system will be transferred, and once they are transferred are outside of the authority of the BPD. However inmates who are held in City jail should not be held for any additional time as part of a civil immigration detainer. Warrants or other detainers should still be honored.

5. Request that the City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements, consider amending General Order C-1 (Criminal Intelligence), to exempt only individuals or groups engaged in or who are suspected to be engaged in solely civil disobedience offenses and no other criminal acts or threats to public safety, from being subject intelligence gathering (except video-recording and open sources) as outlined in the policy.

6. The Berkeley City Council acknowledges and appreciates that its own police department has a team of officers who are utilized for civil unrest situations who are well trained, well supervised, and who demonstrate professionalism and good judgment under pressure and encourages the Berkeley Police Department to continue to exercise its best practices and gives the following direction with regards to evaluating and responding to mutual aid requests involving civil disobedience and First Amendment activity:

Continue to follow the State-wide Law Enforcement Mutual Aid Plan as the guidelines for Berkeley's overall approach to mutual aid, however in addition request that City Manager and Chief of Police as part of the 2012 review of Mutual Aid Agreements consider amending General Order M-2 (Mutual Aid) to adopt a new local mutual aid policy as follows:

A. The department should continue to take an "event management" approach to civil disobedience offenses and in situations where solely First Amendment activity occurs or the only crimes being committed are civil disobedience offenses, which in the judgment of the Berkeley Police Department does not or will not pose a threat to public safety, the Berkeley Police Department should seriously evaluate

Jesse Arreguín
Councilmember, District 4

whether to respond to a mutual aid request or request mutual aid and the type of BPD involvement. If individuals are engaged in other criminal behavior that does pose a threat to public safety (such as property damage, utilizing weapons and/or engaging in conduct that is physically harmful to others) the Berkeley Police Department should either request mutual aid or respond to a request for mutual aid to protect public safety.

B. In situations of civil disobedience offenses or other civil unrest, the Berkeley Police Department should carefully evaluate all mutual aid requests, and should take into consideration such factors as the potential role(s) Berkeley Police personnel might be asked to play in dealing with protestors, the use of force being employed by police personnel from various departments dealing with the incident, and any tactics being used that are inconsistent with BPD's policies and practices. The Berkeley Police Department should after assessing the situation coordinate with the requesting law enforcement agency to ensure that Berkeley Police Department personnel's involvement in a mutual aid response is consistent with our policies and procedures as well as state law. If also in the determination of the supervising command officer or the Chief of Police that tactics are being used by other law enforcement agencies in a mutual aid response situation that are unsafe, unwise or unlawful, the supervising command officer or Chief of Police is empowered, if they so determine, to remove all personnel from the scene.

C. Require a report be presented to the Police Review Commission and City Council each time the Berkeley Police Department either requests mutual aid, or has responded to or declined mutual aid requests that involve civil disobedience offenses and First Amendment activity. The report should outline the purpose of the mutual aid request and describe the extent of the city's involvement and, if possible, estimate the fiscal and operational impacts of the mutual aid response.

FISCAL IMPACTS OF RECOMMENDATION:
Unknown

CONTACT PERSON:
Jesse Arreguín, Councilmember, District 4 981-7140