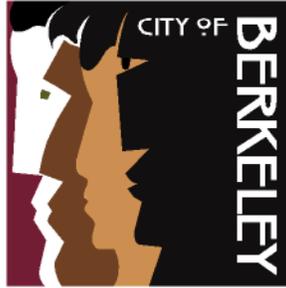


**Berkeley City Council  
Ad-Hoc Subcommittee on NCRIC and Urban Shield**



**Monday, June 18th, 2018  
2:30-5:00pm  
Berkeley City Council Chambers  
2134 Martin Luther King Jr. Way**

**Committee Members**

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

**AGENDA**

- 1. Call to Order**
- 2. Public Comment**
- 3. Approval of Minutes (Attachment A)**
- 4. Discussion and Action: Kriss Worthington's Letter to BAUASI (Attachment B)**
- 5. Discussion and Action: Recommendation on Emergency Preparedness Preparation Beyond 2018**
- 6. Discussion and Action: Extend the Subcommittee past 1 year for two more meetings to conclude the work of the subcommittee**
- 7. Discussion and Action: Review of Final Recommendations and Report to Council**
- 8. Next Steps and Adjournment**

**Attachments:**

**A:** Minutes from June 4<sup>th</sup> Subcommittee Meeting

**B:** UASI Reforms Letter Item from Councilmember Worthington

**C:** Draft report from majority of the subcommittee



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

**Monday, June 4th, 2018**  
**3:00-5:00pm**  
**Redwood Room, 6th Floor**  
**2180 Milvia St.**

Committee Members:

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

- Gene Bernardi
- Sarah Jones
- Bob Flasher
- Christine Schwartz
- Bill Springer
- John Lindsay-Poland
- Jovan Grogan
- Jette Winckler
- Tano Trachtenberg
- Brandi Campbell

Others in Attendance:

- David Brannigan, Berkeley Fire Chief
- Andrew Greenwood, Berkeley Police Chief
- Sgt. Fomby
- Cindy Shamban
- Ellen Brotsky

**1. Call to Order**

Meeting was called to order at 3:05 pm

**2. Public Comment**

Ellen Brotsky expressed that training should focus on prevention and community preparedness. Cindy Shamban encouraged the committee to develop written recommendations to the City Council. Bill Springer feels that community preparedness is separate from how the Urban Shield model works and he continues to support Urban Shield.

John Lindsay-Poland recommended that the committee include prevention to the Fire and Disaster Safety Commission's recommendation. He also encouraged the committee to other sorts of funding in addition to UASI. Sarah Jones would like the committee to define terrorism, and supports modifying Urban Shield.

Jette Winckler, expressed her support for staying in Urban Shield and wants Berkeley to be a part of reforming and innovating it. Christine Schwartz expressed that her support for Urban

Shield that stems from the responsibility she feels to her community. She believes that BPD needs the tactical training that they receive from Urban Shield.

Bob Flasher, a former firefighter, said that the practical training is critical for emergency responder and feels that the committee should adopt the proposed resolution from the Disaster and Fire Safety Commission.

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

The Minutes were approved pending several typos that need to be fixed.

### **4. Discuss Recommendation from Fire and Disaster Safety Commission**

Mayor Arreguín said that the key issue with the recommendation is the inclusion of the police department. His preference was to separate the police from this item.

Councilmember Wengraf feels that you can't separate fire and police when it comes to emergency response, and suggested including the police in the item.

Councilmember Harrison expressed that she has serious issues with the vendor show and does not want any department to participate in that. She is happy for the departments to participate in the other types of commands, but does not support police participating in the tactical component.

Chief Brannigan clarified their participation in Urban Shield at councilmember Davila's request.

Councilmember Harrison and councilmember Wengraf had a dialogue about the merits of the vendor show. Councilmember Harrison objects strongly to any Berkeley officials attending, whereas councilmember Wengraf feels that the vendor show can be reformed and currently displays valuable tools for BPD. Mayor Arreguín felt that it was too late to influence the 2018 program and vendor show. Councilmember Davila reminded others that the vendor show was a mandatory component of the SWAT teams participation in Urban Shield.

Sgt. Fomby emphasized that the other UASI trainings are not comparable to the training provided at Urban Shield. Those trainings are individual training courses, not the team participating together. They are not SRT trainings. SRT does regular, monthly training. He also clarified that there are some scenarios where SWAT works with medics. In his opinion there is nothing that replaces Urban Shield.

Councilmember Wengraf feels it is inappropriate to tell the police department they cannot attend the vendor show.

Councilmember Harrison clarified that she wants to pull for 2018 only, and to look to 2019 to have an influence. She does not trust the Sheriff's department. She is also very upset at the presence of the Oathkeepers. Harrison went on to express that it is a matter of resource allocation. She was upset to hear that the Sheriff is spending millions of dollars on Urban Shield but Solano County was denied fire radios.

Councilmember Davila posited the merits of pulling out of the event altogether. Councilmember Wengraf is interested in providing the best training to make the community safe.

Mayor Arreguín feels there is enormous benefit to the other components of the program. He has kept an open mind during the extensive, yearlong, fact finding mission. He felt that it is clear that there are elements of the program that are positive and should be expanded. He expressed that the alternative trainings that BPD currently receives and other potential opportunities they could access are sufficient in the one-year absence of Urban Shield. He might feel differently if BPD had not participated for the past ten years.

Councilmember Wengraf does not feel it is possible to shield BPD from the values we do not like. She compared it to preventing your kid from sleeping over at someone's house that lets their children watch shows you don't like. She expressed that Urban Shield builds immunity to crisis.

Both Chief Greenwood and Chief Brannigan expressed that it takes enormous resources to develop scenarios at the scale Urban Shield does and that they could not do something equivalent independently.

Jovan Grogan expressed the City Manager's Office preference is to stay in Urban Shield and work on changing it from within. Urban Shield is the best training that exists. He wanted the committee to recognize that the county might not reconstitute the program in a palatable manner within a year. He does not want the city to pull out of Urban Shield without having a ready replacement.

Councilmember Wengraf expressed that Urban Shield is an important opportunity to offer officers given the staffing crisis BPD faces.

**Action:** M/S/C (Arreguín/Harrison) to adopt the Fire and Disaster Safety Recommendation and strike the word Police.

**Vote:** Ayes – Davila, Harrison, Arreguin; Noes – Wengraf; Abstain – None;

## **5. Recommendation(s) on Berkeley's Participation in Urban Shield for 2018**

Chief Greenwood expressed that he would have trouble relaying this decision back to his department because, in his view, there are no negative outcomes to participating in Urban Shield. He also asked what aspects of a multiple scenario-based tactical exercise program the committee would like to see pulled out in order to make it acceptable.

Councilmember Harrison responded that the vendors' involvement and influence, the participation of foreign teams, using terrorist examples that are not common in the United States, and a lack of de-escalation are all examples of things that are not example.

Councilmember Wengraf expressed that she would like to see BPD's experts still be able to participate as evaluators. The committee discussed ways to include this concern their recommendation, but could not come to an agreement that was satisfactory.

**Action:** M/S/C (Arreguín/Harrison) to “Suspend Berkeley’s participation in the vendor show and BPD’s participation in the tactical scenarios in 2018 pending timely reevaluation of the tactical-related offerings from the county in 2019. The suspension should not extend to the table top exercises (Yellow Command), the CERT exercises (Green Command), the Community Preparedness Fair (Gray Command) or to public safety seminars at Urban Shield.”

**Vote:** Ayes – Davila, Harrison, Arreguin; Noes – Wengraf; Abstain – None;

The Mayor suggested that the minority have an opportunity to submit a report to council to express their opinion. The suggested council date was July 24<sup>th</sup>.

The committee decided that Items 6 and 7 would be discussed at the next meeting on June 13<sup>th</sup>.

## **6. Adjournment**

The meeting adjourned at 4:32pm.



## Kriss Worthington

Councilmember, City of Berkeley, District 7  
2180 Milvia Street, 5th Floor, Berkeley, CA 94704  
PHONE 510-981-7170 FAX 510-981-7177  
[kworthington@cityofberkeley.info](mailto:kworthington@cityofberkeley.info)

Amendment to 1a  
ACTION CALENDAR  
June 20, 2017

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington, District 7  
Subject: MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of UASI Grant Funds; Item #3.12: Berkeley Police Department Relationship with NCRIC as Codified in BPD General Order N-17

### RECOMMENDATION

Send letter proposing reforms to Bay Area Urban Areas Security Initiative, adopt policies on Berkeley participation in Urban Shield, and form an Urban Shield subcommittee.

### FISCAL IMPACTS OF RECOMMENDATION

Minimal

### BACKGROUND

Strong advocates have lobbied the City Council to stop participating in Urban Shield. Other strong advocates have lobbied the City Council to continue to participating in Urban Shield. This item proposes a compromise to use the influence of the City of Berkeley to improve Urban Shield by raising concerns about previous actions and proposing constructive solutions.

### ENVIRONMENTAL SUSTAINABILITY

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

### CONTACT PERSON

Kriss Worthington, Councilmember, District 7 (510) 981-7170

The Bay Area Urban Areas Security Initiative  
711 Van Ness Avenue, Suite 420  
San Francisco, CA 94102

Dear Bay Area Urban Areas Security Initiative Management Team,

The City of Berkeley respectfully requests that you consider the following as supplemental to the efforts you have already made to reform the Urban Shield program in an effort to improve the integration of the program in our communities:

1. One-third of the time spent on Urban Shield trainings must focus on de-escalation tactics.
2. Trainings must involve a diverse array of people so that the terrorists or criminals in training exercises are not depicted as people from a single ethnic or cultural backgrounds.
3. Since recent presenters have not reflected the diversity of our community, we need serious attention to outreach efforts to improve cultural competence and representation.
4. Prioritize training exercises for specific natural disasters and health concerns most likely to affect Berkeley and the Bay Area (i.e. earthquakes).
5. Allocate more UASI (Urban Areas Security Initiative) funding to prepare communities and the city as a whole to respond to emergencies in ways that give precedence to community readiness, disaster prevention and recovery, and infrastructure development.
6. Urban Shield must exclude vendors who display derogatory, xenophobic, or racist messages from the annual trade show/expo.
7. Require full transparency on what events staff take part in and require community observers at all events and trainings.

We support the constructive suggestions by Alameda County Board of Supervisors and appreciate the inclusion of the suggestions into the Urban Shield program. We are submitting these as additional requests to supplement the reforms recommended by the Alameda County Board of Supervisors.

Sincerely,

Berkeley City Council

The attached letter respectfully requests eight reforms for the Urban Shield program at the system-wide level that will aid the implementation of the program at the city level.

## Summary Paragraph

Thus, in order to ensure the safety of emergency responders, the general public, and any and all marginalized people or groups within Berkeley, there are several changes to the Urban Shield program the City of Berkeley should adopt related to anti-militarization, de-escalation, and promotion of diversity. Ever since terror attacks in North America and Western Europe strikingly rose in 2015, terrorism has been an issue Americans have had to face.

Firstly, many community members have expressed concern that BPD is becoming too militarized and lost focus of community policing. This has been critiqued as contrary to the Berkeley's ethos and not cost-effective.

To amend this the management of Urban Shield should include representatives from the fire department, health services, and police force, training exercises for specific natural disasters and health concerns most likely to affect Berkeley (i.e. earthquakes) should be prioritized.

Secondly, recent Berkeley protests have garnered national attention for having gotten out of hand and becoming violent. In order to combat this, one-third of the time spent on Urban Shield trainings should focus on de-escalation tactics. More UASI funding should also be allocated to prepare communities and the city as a whole to respond to emergencies in ways that give precedence to community readiness, disaster prevention and recovery, and infrastructure development.

Lastly, as there has been evidence of xenophobic training tactics within Urban Shield and problematic wares sold at the tradeshow put on by Urban Shield, trainings should proactively involve a diverse array of people so that the terrorists or criminals in training exercises are not depicted as people of a specific racial, ethnic, or religious identity. Additionally, outreach should be done to include that the presenters include a wide range of people of different ethnic, religious, and racial backgrounds. Urban Shield should also exclude vendors who display derogatory, xenophobic, or racist messages from the annual trade show/expo.

## ***Proposed Action***

MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of Urban Area Security Initiative (UASI) Grant Funds; Item #3.12: Berkeley Police Department Relationship with Northern California Regional Intelligence Center (NCRIC) as Codified in BPD General Order N-17

**Create a new Subcommittee** of the Berkeley City Council to review the city's involvement in Urban Shield and NCRIC. **Approve the agreement and distribution of UASI Grant Funds, with the following conditions:**

- **Regarding UASI:** approve the agreement and distribution of UASI Grant Funds
- **Regarding Urban Shield:** Continue BPD involvement for one year and study carefully, with the intent to revisit the contract next year with more information. Refer the issue to the Council Subcommittee.
- **Regarding NCRIC:** Continue for one year, and during that time undertake a comprehensive review of criteria for putting information into the system and for retrieving information.

**Council Subcommittee:** Create a subcommittee of the Berkeley City Council to review the City's involvement in Urban Shield and NCRIC, and to ultimately determine whether the City should continue to participate in either, both, or neither of the programs, and to present alternative programs that better reflect the values of Berkeley's citizens. The subcommittee will be made up of three Councilmembers, and potentially two members of the Police Review Commission and be staffed by a representative of the Berkeley Police, Fire, and Health Departments.

**Key Tasks regarding Urban Shield will include, but not be limited to:**

## **General List of Problems and Solutions**

### Problems

- 1) In the past UCPD, who has taken part in Urban Shield training, have allegedly beaten, harassed, intimidated, and arrested students.
- 2) Urban Shield ranks participants teams (e.g. police department, fire department) in a game which trivializes the impact of the actions that have the possibility of being reproduced during real events, and on real people.
- 3) Past Urban Shield trainees have shown themselves to be needlessly violent.
- 4) Urban Shield's propagation of the increased and maintained distribution of surveillance technology and assault rifles is problematic.
- 5) Urban Shield training is fundamentally designed to treat civilians like enemy combatants. Want police that are responsive to and partner with the community on safety - militarization is incompatible with community policing. Community policing, not military policing, should be the goal.
- 6) Urban Shield is too focused on offensive tactics rather than de-escalation tactics and strategies used to end situations without gunfire.
- 7) Everyone at Urban Shield has a vested interest in constructing a narrative of fear.
- 8) Do not want to prepare for an imagined risk in ways that put our most vulnerable community members at greater risk for police use of excessive force.
- 9) Do not want our police trained in crowd control methods used to brutally repress movements for justice (i.e. Black Lives Matter protests and other demonstrations).
- 10) All Urban Shield presenters in 2016 were white. Urban Shield has been known for producing harmful ideologies not only in their training, but in the items that are popular at their events. Guidelines to prevent racial, political, and ethnic profiling are virtually nonexistent
- 11) Is Urban Shield an essential training experience worth a significant amount of taxpayer money?
- 12) 57% of the time SWAT is deployed for serving search, arrest, and parole warrants; moreover, of the 15 agencies that participated in Urban Shield none were for terrorist incidents. Thus, statistically our money would be better spent on serving search, arrest, and parole warrants than terrorism.
- 13) The large majority of UASI dollars are being allocated to enhancing homeland security exercise, evaluation, and training programs.
- 14) No UASI funds are allocated to community planning and emergency planning, medical and public health infrastructure and readiness, and city planning and risk management.

- 15) Small fraction of funds allocated to enhancing information analysis infrastructure and protection capabilities, strengthening communication and decontamination capabilities.
- 16) Want UASI funding put into other kinds of preparedness - community disaster and emergency preparedness, like training officers in how to de-escalate mental health crises, training officers in how to deal with white supremacists, and earthquakes.

## Priorities for Proposed Subcommittee

- 1) Council members or their interns will attend and witness Urban Shield trainings, along with observe the Urban Shield tradeshow. (Captain Tucker (925-551-6970) is willing to put Councilmembers on the VIP list to witness a training.)
- 2) Councilmembers or interns should report their findings back on the Urban Shield trainings. The report should answer questions including, but not limited to:
  - a) How does Urban Shield contribute to or detract from public safety and safety of medical and law enforcement personnel?
  - b) What are the benefits and costs of participation in Urban Shield? Are there any specific elements that are commendable or objectionable, given Berkeley's values and needs?
  - c) Does Berkeley's participation in the program positively influence or enhance Urban Shield, and how might the City's participation be continued into the future, if this is the case?
  - d) Does Berkeley's participation run contrary to Berkeley's values or interests, and how might the city's involvement be limited or ended if this is the case?
  - e) What other training opportunities are available for the BPD?
- 3) The City Council will require full transparency regarding what events Berkeley staff are to take part in, and will require community observers to be present at all Urban Shield events and trainings.
- 4) Berkeley staff will not take part in surveillance or crowd control oriented events.
- 5) Create a subcommittee on the Berkeley City Council to review the City's involvement in Urban Shield and NCRIC to determine whether the City should continue to participate in either, both, or neither of the programs.
- 6) Berkeley City Council will issue a statement that all of Berkeley's rules including Use of Force regulations as well as Sanctuary City status extends to all participation in UASI-funded activities.

- 7) Review Urban Shield scenarios that have taken place within the past five years, along with current and upcoming scenarios, and scoring procedures.
- 8) Attend and review keynote speakers, workshop topics, and materials of past, current, and planned exercises and expos.
- 9) Review Superintendent Carson's report on Urban Shield, and consider involvement in Supervisor Carson's newly formed community task force on Urban Shield.
- 10) Research training opportunities that the BPD might participate in, either domestic or international, and consider whether BPD could work with police from other progressive cities to create specialized training, more closely reflecting Berkeley's policing values.
- 11) Undertake any other research and investigation necessary to help inform the subcommittee about the nature of Urban Shield exercises. Any possible elements that might go contrary to the City of Berkeley's values of community policing, nondiscrimination, etc. should be noted.
- 12) Conduct an in-depth review of NCRIC database and all related protocols, including:
  - a) How and on what bases is data entered into the database by BPD, other law enforcement agencies at city, county, state, and federal levels, and by the public?
  - b) How and on what basis does BPD have access to the data? Details within this report should include who can access the data, under what circumstances, how often or how frequently, and in what ways the data can be accessed?
  - c) Does the database include data gathered by means that citizens of Berkeley might find objectionable?
  - d) Is it possible for BPD to segment what information it receives?
- 13) Review other databases Berkeley has access to that can provide similar types of information, and potential pros and cons of using those databases.
- 14) Consider whether Berkeley should continue with NCRIC, end its participation, or create protocols to limit Berkeley's contribution and access to the database.

### Proposed Policies for the City of Berkeley

- 1) BPD should either not attend the expo or if they continue to choose to attend the expo, they should not attend military-influenced exhibitions.
- 2) BPD will wear white during the Urban Shield trainings instead of police uniforms to show solidarity, as opposed to wearing camo or black like the military or a SWAT team.

- 3) Extend Urban Shield participation to the Berkeley Fire Department, health services, and other rescue organizations to emphasize the importance of effective and efficient collaboration during crises, as well as decreasing the likelihood of Urban Shield militarizing police.
- 4) For every hour of Urban Shield exercises, BPD must participate in one hour of de-escalation training.
- 5) The City's emergency response agencies will participate in alternative programs such as the Community Emergency Response Program, CORE program, Collaborating Agencies Responding to Disasters, People's Community Medics, and Learn, Lift Lead.
- 6) Trainings must involve a diverse array of people to ensure terrorists or criminals in training exercises are not depicted as people of a single racial, ethnic, or religious identity.
- 7) Ensure UCPD is participating in cultural sensitivity/humility trainings with Islamic Networks Group.
- 8) Urban Shield will exclude all vendors who display derogatory or racist messages in any form.
- 9) Participate in disaster preparedness aspects of the Urban Shield. These aspects include the mass sheltering exercise and the Community Emergency Response Team exercise.
- 10) Seek funding for other Bay Area UASI priority areas including Planning and Risk Management, Medical and Public Health, Emergency Planning and Community Preparedness, and Recovery.
- 11) Increase funding towards UASI to prepare communities and the city as a whole to respond to emergencies in ways that prioritize community readiness, infrastructure development, and disaster response training.
- 12) Create a T-group (a group engaged in a form of training in which members, led by a trainer, observe and learn about small group dynamics in an attempt to improve interpersonal relationships and communication skills) prioritizing residential complaints that reflect off of past anti-semitic, discriminatory, and militarism experiences/history in the city of Berkeley.

## Management Team: Bay Area UASI (Paid Staff Members)

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**Mailing Address:** 711 Van Ness Avenue, Suite 420, San Francisco, CA 94102

# DRAFT Report and Recommendation on the City of Berkeley's Participation in Urban Shield

Subcommittee on Urban Shield and NCRIC, Berkeley City Council  
Councilmember Kate Harrison

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## DRAFT Report and Recommendation on the City of Berkeley's Participation in Urban Shield

Subcommittee on Urban Shield and NCRIC, Berkeley City Council  
Councilmember Kate Harrison

### Background

A special meeting of the Berkeley City Council was held on June 20, 2017 to consider an agreement between the City of Berkeley and City & County of San Francisco for Homeland Security Urban Area Security Initiative (UASI) grant funds and BPD's relationship with the Northern California Regional Intelligence Center (NCRIC).<sup>1</sup> The meeting was called pursuant to a 1973 ordinance adopted by the people of the City of Berkeley that stipulates Council must approve of all agreements, letters or memoranda of understanding of policies...between the City and/or the Berkeley Police Department and all other local, state and federal law enforcement, military and/or intelligence agencies, police departments or private security organizations.<sup>2</sup> Council approval of agreements is valid for one year.<sup>3</sup>

The Council also considered and discussed the implications of the City's continued participation in Urban Shield, a three-day law enforcement counter-terrorism focused exercise funded by UASI, organized by the Alameda County Sheriff's Office and approved by the Alameda County Board of Supervisors.<sup>4</sup> Under the City of Berkeley Charter, the Council can consider whether to authorize City personnel to continue participating in Urban Shield.<sup>5</sup> There is no formal agreement between Berkeley, UASI and Alameda County Sheriff's Office (ACSO) regarding the City's participation in the Urban Shield event.

At the meeting, the Council adopted a motion on a 7-2 vote to participate in the 2017 Urban Shield event.<sup>6</sup> As a condition of approval, the Council created a Subcommittee to review the City's involvement in Urban Shield...determine whether the City should continue to participate in Urban Shield and "present alternative programs that better reflect the values of Berkeley's citizens."<sup>7</sup> A subcommittee of Mayor Jesse Arreguin and Councilmembers Susan Wengraf, Cheryl Davila and Kate Harrison was formed. The Berkeley Chiefs of Police and Fire as well as the Chairs of the Police Review Commission and the Disaster and Fire Safety Commission are non-voting members. The

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<sup>1</sup> Berkeley City Council, *Annotated Agenda Special Meeting of the Berkeley City Council*, June 20, 2017, City Clerk, [http://www.ci.berkeley.ca.us/Clerk/City\\_Council/2017/06\\_June/Documents/06-20\\_Special\\_Annotated.aspx](http://www.ci.berkeley.ca.us/Clerk/City_Council/2017/06_June/Documents/06-20_Special_Annotated.aspx); See also Berkeley Police Department, *Revised Agenda Material, MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of UASI Grant Funds; Item #3.12: Berkeley Police Department Relationship with NCRIC as codified in BPD General Order N-17*, by Andrew Greenwood, June 20, 2017, accessed January 4, 2018, [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/06\\_June/Documents/2017-06-20\\_Item\\_1a\\_MOU\\_Compendium\\_Items.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/06_June/Documents/2017-06-20_Item_1a_MOU_Compendium_Items.aspx), 9.

<sup>2</sup> Berkeley Municipal Code § 2.04.160 and § 2.04.170.

<sup>3</sup> Berkeley Municipal Code § 2.04.190.

<sup>4</sup> Alameda County Board of Supervisors, *Agenda - Board of Supervisors' Meeting*, January 10, 2017, Clerk of the Board,, accessed January 4, 2018, [http://alamedacounty.granicus.com/AgendaViewer.php?view\\_id=2&event\\_id=2455](http://alamedacounty.granicus.com/AgendaViewer.php?view_id=2&event_id=2455), 10.

<sup>5</sup> City of Berkeley Charter, art. IX, s 49(5).

<sup>6</sup> *Annotated Agenda*, 4.

<sup>7</sup> In addition, the Council voted to assign the Subcommittee to "[c]onsider whether Berkeley should end its relationship with NCRIC, continue, and/or create formal protocols to limit Berkeley's contribution and access to the database." On May 8, 2018, the Subcommittee voted to adopt a draft outline of an MOU between the City and NCRIC, and to recommend the adoption and execution of a formal MOU between the parties. See also *Annotated Agenda*, 2-3.

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Subcommittee met frequently over the last year.<sup>8</sup> The Mayor, some of the Councilmembers and their staff attended and observed Urban Shield 2017, which occurred September 7-11. The following report contains the conclusions, observations and recommendations of Mayor Jesse Arreguín and Councilmembers Cheryl Davila and Kate Harrison.

In the interim, on March 27, 2018, the Alameda County Board of Supervisors voted to approve funding for Urban Shield 2018 with the condition that this represents the last time funding for Urban Shield as “currently constituted.” The Board also voted to create an ad-hoc committee of Board members’ appointees to work with the ACSO to determine what programs to fund for 2019.<sup>9</sup> As a result, the Berkeley Subcommittee on Urban Shield also considered how Berkeley can provide useful input to the county as it deliberates on how to prepare the county and its residents for natural and manmade disasters.

This report considers the City’s involvement in Urban Shield (pages [redacted] - [redacted]), the benefits and costs of participation (pages [redacted] - [redacted]), the nature of Urban Shield exercises and any possible elements that might be contrary to the City’s values of community policing, nondiscrimination, and respect for human and civil rights (pages [redacted] - [redacted]), whether Berkeley should continue to participate in 2018 (pages [redacted] - [redacted]), and potential alternatives reflecting the values of Berkeley’s citizens (pages [redacted] - [redacted]).<sup>10</sup>

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<sup>8</sup> August 9, 2017, September 22, 2017, December 14, 2017, January 18, 2018, February 14, 2018, March 14, 2018, March 28, 2018, April 26, 2018, May 8, 2018, May 21, 2018, June 4, 2018.

<sup>9</sup> Alameda County Board of Supervisors, *Summary Action Minutes of Regular Meeting*, March 27, 2018, Clerk of the Board, accessed April 31, 2018, [http://alamedacounty.granicus.com/MinutesViewer.php?view\\_id=2&clip\\_id=5100&doc\\_id=7e90b8e1-3e8f-11e8-8cc7-00505691de41](http://alamedacounty.granicus.com/MinutesViewer.php?view_id=2&clip_id=5100&doc_id=7e90b8e1-3e8f-11e8-8cc7-00505691de41), 15.

<sup>10</sup> *Annotated Agenda*, 4-5.

## Executive Summary

The Urban Shield event is a direct descendent of an earlier exercise known as the “High Sierra SWAT Challenge,” a Special Weapons and Tactics (SWAT) competition established by the San Francisco branch of the Federal Bureau of Investigation (FBI) in 1996. The event was designed to test the endurance and skillset of the FBI SWAT teams and other federal, state and city teams from the Western United States in 20 police operation scenarios conducted over 60 miles of Sierra Nevada mountain trails. The teams participated in hostage rescue, high-risk warrant service, terrorism scenarios, among other themes. However, following the attacks of September 11, 2001, the FBI refocused its attention towards national security priorities and the ACSO assumed the lead role in hosting the event.<sup>11</sup> In 2007, the ACSO SWAT exercise competition relocated to the Bay Area, rebranded as a terrorism-focused exercise titled Urban Shield, and secured its funding through Department of Homeland Security (DHS) grant funds. The event was, and still is, aimed at serving both public safety servants and profit-seeking vendors.

SWAT teams were first established by police departments in the 1960s to respond to incidents unfamiliar to the standard police patrol officer. They are typically trained to respond to complex yet infrequent calls for service, including hostage situations, active shooters, high risk warrants, crowd management support operations, dignitary protection and, in extremely rare instances, terrorism. While these teams are designed to be seldom deployed, they train and exercise to develop specialized capabilities to respond to worst-case scenarios. These capabilities are designed for purely civilian policing purposes, but they also have the potential to be perceived by the public as bearing some semblance to military tactics, weapons and equipment.

America’s history is founded on an inherent wariness toward military encroachment into civilian life. Therefore, the onus has been on police to balance public concerns about militarization with protecting the public during critical incidents. The balance upon which important SWAT activity relies is precarious.

In recent years, the Urban Shield event has expanded into a broader exercise testing the capabilities of other public safety entities such as fire departments, explosive ordinance disposal teams (EOD), and community emergency preparedness teams (CERT). In terms of attendance and emphasis, however, the event is at its core still primarily focused on exercising the capabilities of Special Weapons and Tactics (SWAT) teams.

During its extensive year-long assessment of the Urban Shield event and the City of Berkeley’s participation, the Subcommittee found that the event as currently constituted—while beneficial to Berkeley’s own team, known as the Special Response Team (SRT)—serves to distract from the important public safety mission of specialized policing by amplifying concerns about militarization to an unacceptable degree. The event does so through an overwhelming emphasis on

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<sup>11</sup> “Stockton Honors SWAT Champs,” *The Record*, August 30, 2006, accessed May 21, 2018, <http://www.recordnet.com/article/20060830/NEWS01/60830004>. See also, Graham, Ricci. 2006. “Annual SWAT Challenge back to push mental, physical limits,” *East Bay Times*, August 4, 2006, accessed January 5, 2018, <http://www.eastbaytimes.com/2006/08/04/annual-swat-challenge-back-to-push-mental-physical-limits/>.

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counterterrorism, an orientation towards commodifying public safety and a lack of local jurisdictions and communities oversight and input into its design.

The broader context within which Urban Shield has come into existence is critically important. Since September 11, 2001, the federal government has sought to reorient local governments towards counterterrorism preparedness. The Bush Administration, in declaring a global “War on Terror,” also proclaimed the existence of a domestic front to the war that would be fought by local law enforcement and first responders. Congress ensured the flow of billions of dollars from public coffers to fund these local initiatives. Given that the 2001 attacks targeted New York City and Washington D.C., the epicenters of major counterterrorism funding in the post 9/11 era has been the country’s major urban areas, such as the Bay Area.

The UASI grant program is administered by DHS, which requires that metropolitan area grant recipients’ projects have “a clear nexus to terrorism.” Of the roughly \$30 million in annual funding allocated by DHS to the Bay Area through the Bay Area UASI approval authority, the ACSO is awarded \$5-7 million in funding for both its SWAT and first responder exercise competition and training courses independent of Urban Shield that serve all the counties and cities of the Bay Area. According to the ACSO, in 2017, the combined costs related to operation and management of the SWAT and other exercise, equipment and logistics and a banquet for 2,500 government officials totaled \$1.7 million.<sup>12</sup> This figure does not include the unspecified proportion of an additional \$1 million of UASI funding allocated to the ASCO for planning the event and other UASI training courses.<sup>13</sup>

A key finding of the Subcommittee is that the BPD and BFD already conduct a substantial amount of training and exercises independent of Urban Shield. For example, the SRT members complete 80 hours of mandatory basic SWAT school, required by the state of California. SRT members also receive 16 hours of training and exercise per month as recommended by National Tactical Officers Association. Monthly training includes tactical theory, negotiations, physical skills training, fitness, and specialized medical training. In addition, BPD is exemplary in designing and managing tactical de-escalation exercises and training for its officers and conducting tactical active-shooter exercises to meet the needs of the most vulnerable members of its community and its officers. The BFD hazardous material (HAZMAT) and water rescue teams also conduct training and exercises primarily funded internally, in collaboration with neighboring agencies and from UASI grant funding unrelated to Urban Shield. BOES staff also conducts exercises internally.

The SRT has successfully trained and exercised for critical events since its establishment in the 1970s. Most notably, in 1990, the SRT team was recognized in the community and across the world of policing for its handling of the Henry’s hostage crisis. Nevertheless, from the perspective of BPD, the benefit of Urban Shield is that it provides realistic and cost-effective scenario-based exercises for critical incidents that is supplemental to ongoing internal exercise efforts. BPD leadership values the additional opportunities to test the team’s capabilities offered by the event. The key advantage of

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<sup>12</sup> Find digital copy of Urban Shield 2017 Proposed Budget –Cite

<sup>13</sup> Bay Area Urban Areas Security Initiative, Approval Authority Meeting, Regular Meeting Agenda, January 11, 2018, accessed January 30, 2018, [http://www.bayareauasi.org/sites/default/files/resources/approval\\_2018\\_january\\_meeting\\_master.pdf](http://www.bayareauasi.org/sites/default/files/resources/approval_2018_january_meeting_master.pdf), p. 33.

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Urban Shield, according to BPD personnel, is its scope; the two-day event pushes participants to the breaking point and prepares them for the stress of a major event.

An analysis by the Subcommittee found that, each year, the vast majority of Urban Shield scenarios are focused on terrorism. BPD notes that terrorism is an important potential threat to the City of Berkeley, but also concedes that it is not the most likely threat. Nevertheless, BPD maintains that the extra counterterrorism exercise could be beneficial in the unlikely occurrence of such an incident. BPD also indicates that the terrorism-centric scenarios are relevant to the SRT's handling of high-risk warrants, crowd situations, dignitary protection, react teams, and block searches. BPD leadership feels that the terrorism emphasis of Urban Shield does not distract from the largely non-terrorism focus of its historic public safety operations.

While the BFD Hazmat and Water Rescue teams have participated in the terrorism-focused fire scenarios on two occasions, they have not participated since and have no immediate plans to participate again. The BFD's primary interest in Urban Shield is in the Yellow Command table-top exercise that provides an opportunity for the BOES to interface with Bay Area county and city EOCs. Though the Yellow Command exercise must have a nexus to terrorism, past scenarios have not been overwhelmingly focused on terrorism, taking advantage of the dual-use exception provided by the statute that governs the investment of UASI funding.<sup>14</sup> The newly developed CERT scenarios and community preparedness programs at Urban Shield 2017 also fall under the dual-use exception.

This does not appear to be the case with regard to the bulk of the tactical SWAT scenarios. The ACSO has consistently prioritized terrorism over other SWAT competencies in the design of its tactical scenarios. SWAT teams must of course be prepared for the threat of terrorism, but the sheer quantity of terrorist scenarios in Urban Shield unnecessarily inflames public concern about militarization. Urban Shield's terrorism emphasis risks signaling to the community that the threat of terrorism is orders of magnitude larger than the other threats and responsibilities that law enforcement and first responders address every day. The Subcommittee also recognizes that in the public's view, excessive terrorism exercises cannot be easily separated from the broader context of the federal government's ongoing wars against terrorist organizations.

The department has led police forces across the country in prohibiting unduly aggressive military-style tactics utilized by other departments and in pioneering de-escalation training. Unfortunately, Urban Shield's narrow interpretation and implementation of UASI's nexus to terrorism regulations contravenes and potentially undermines these locally held values and priorities.

The result of Urban Shield's interpretation is evident in the militaristic terrorist camp scenario that Subcommittee observers witnessed in 2017. The event was designed by a private security firm and featured an implausible terrorist related scenario. The involvement of private security officials and active duty foreign and domestic military personnel. It also featured military equipment not relevant to local police work.

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<sup>14</sup> UASI funding must have a nexus to terrorism, but it can be used to fund non-terrorism exercise and training activities so long as they are also useful in a terrorism event.

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The diversion of UASI funds to Urban Shield terrorism scenarios also limits the amount of money available to counties and cities. Subcommittee staff attended a BAUASI approval authority meeting and witnessed the organization reject Solano County's request to fund an emergency regional radio system in the wake of the North Bay fires due to the priority given to funding of Urban Shield and the terrorism-focused NCRIC surveillance-fusion center.

Of equal concern is Urban Shield's vendor orientation, which provides for vendors to sponsor the event in exchange for access to their target customers: public safety personnel. For example, ACSO requires participants to listen to vendor sales pitches regarding weapons and surveillance technology. Neither the grants' Congressional mandate or the Berkeley community's expectations for training include this element. The Vendor Show is indirectly funded by the government through the participation of salaried public servants. Implementing a tactical exercise competition with a strong relationship to for-profit companies raises serious ethical concerns.

The show is not the only avenue through which vendor technology is marketed. The ACSO works directly with top paying sponsors to design scenarios around vendor technology, so that SWAT teams may beta test vendor products. In some cases, vendors design the scenarios themselves. Vendor marketing in the form of ads adorn the Urban Shield website, and during the event, physical banners hang across the fairgrounds, at the official event hotel. Ads appear in brochures and, in some cases, at the scenario sites.

It is unclear how ASCO is spending the funds collected from sponsorships/ A recent California Public Records Act request regarding the fund's expenses and revenues shows that the ACSO used the fund for a number of activities not remotely related to emergency preparedness.

Community-oriented policing and emergency response are also undermined by the absence of opportunities for departmental leadership to weigh in on critical matters of local concern. While in past years BPD has been invited to design and evaluate scenarios, there appears to be no mechanism for Berkeley staff to review the entirety of scenarios before the event. The competition model adopted by Urban Shield precludes review of Urban Shield scenarios by local law enforcement leadership so that teams don't gain a competitive pre-event advantage. Documentation on how the scenarios are designed is limited. However, through conversations with Berkeley and ACSO staff, it is clear that scenarios are largely designed by the ACSO and in some cases by other public safety agencies and vendors. This reduces opportunities for Berkeley to object to scenarios that do not comply with the City's values. In addition, this arrangement largely discounts the needs of the cities themselves, who are best situated to understand and prepare for the threats facing their populace.

Local input into the design of exercises is critical. The City of Berkeley faces unique public safety challenges related to its dense urban character, proximity to a major university, its proximity to a major seismic fault, wildfire hazards, among many other concerns. The Berkeley public holds local public safety officials responsible for training and exercising for challenges unique to Berkeley, not only to threats facing the various twelve counties in BAUASI. Urban Shield prioritizes so-called "regional" threats to physical infrastructure such as the Golden Gate Bridge and the Livermore Laboratory.

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Moreover, the Urban Shield event and the ACSO have been the subject of a series of scandals in recent years—episodes that may have been avoided had the public and local jurisdictions been meaningfully involved in the exercise's design and operation. In the recent past, the event overlooked racist stereotyping, invited a fundamentalist militia organization and the investigative arm of Immigration and Custom Enforcement (ICE) to participate and invited participants from countries with documented human rights abuses.

After an extensive assessment of the ACSO event and the City of Berkeley's participation, the Berkeley City Council Subcommittee on Urban Shield recommends that the Berkeley City Council suspend the City of Berkeley's participation in vendor show as well as BPD's participation in the tactical scenarios in 2018, pending reevaluation of the potential tactical-related offerings in 2019.

While the Subcommittee agrees with the Alameda Board of Supervisors' decision to "reconstitute" the event in 2019 to address serious community concerns, due to the uncertainty surrounding the content of the reconstituted event, the Subcommittee also recommends that the Council establish a task force comprised of public safety department leaders, community members, the mayor, councilmembers, commissioners, and public safety experts to engage and lobby the County of Alameda for the purpose of working to ensure that the reconstituted event better aligns with Berkeley's values, and the values shared by other Bay Area cities. The Task Force would engage neighboring cities and agencies to strengthen Berkeley's voice in influencing Alameda County, as well as Urban Shield's funding authority, the Bay Area Urban Areas Security Initiative (BAUASI).

The Task Force would also be empowered to make recommendations about organizing, facilitating, funding and implementing localized and supplemental fire, tactical, CERT and other community safety exercises and training independent of Urban Shield, informed by the principles of the "whole community" approach to emergency management, local oversight, decommodification of public safety, and the relative threat of natural and manmade disasters. Additionally, community concern regarding Urban Shield and the work of the Subcommittee has highlighted the ways in which current disaster preparedness systems emphasize manmade disasters and often overlook and underfund the significant impacts of the natural disasters, including recovery from these disasters. Urban Shield may not be reconstituted satisfactorily. It would be wise to further encourage further investment in local capabilities to respond to natural disasters given Berkeley's proximity to a major fault, wild fire threats and the compounding harms related to climate change.

In pursuing training and exercise independent of Urban Shield, and supplemental to existing training and exercise conducted already by Berkeley public safety personnel, the Task Force should consider engaging its immediate neighboring jurisdictions to establish, fund and manage potential joint public safety trainings and exercises.

## **Urban Shield Overview**

### **Introduction**

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Urban Shield is an annual full-scale regional preparedness exercise that has been hosted by the Alameda County Sheriff's Office (ACSO) since 2007.<sup>15</sup> The event is primarily funded through a grant from the United States Congress and distributed via the Department of Homeland Security (DHS).<sup>16</sup> Statutes and Homeland Security regulations governing the grant require that the focus and content of the three-day event have “a clear nexus to terrorism.”<sup>17</sup> Many Berkeley organizations and community members have expressed concerns about Berkeley's participation in Urban Shield.

At its core, the event is a 48-hour Special Weapons and Tactics (SWAT) competitive exercise aimed at exercising the tactical capabilities of SWAT teams from the Bay Area, but it often features teams from across the state, the country and world. Fire departments and explosive ordinance disposal (EOD) teams also compete in separate exercises focused on their respective competencies. At the Urban Shield vendor show, international companies market specialized military-grade material to law enforcement and emergency response departments. In recent years—in part to address community concerns about the event and to meet the requirements of UASI funding regulations—the ACSO has added new components to the event such as: Yellow Command, a regional preparedness tabletop exercise; Green Command, a CERT exercise; and Gray Command, a community preparedness fair.<sup>18</sup>

BPD's Special Response Team (SRT), the BFD, and the Berkeley Office of Emergency Services (BOES) have participated in Urban Shield in the past. The BPD reported that they have sent eight SRT members to the event in each of the ten years of Urban Shield's existence.<sup>19</sup> The Fire Department reported that it does not participate in the fire scenarios every year, but regularly sends BOES personnel to the Urban Shield Yellow Command exercise.

### **Vendor Show**

The first day of Urban Shield provides for-profit companies with an opportunity to market to potential SWAT, EOD, Fire and other potential customers. In 2017, the ACSO devised a five-tiered sponsorship level of between \$750 to \$15,000, with the four highest sponsorship levels earning a booth and a “logoed presence” at the show.<sup>20</sup> The show occurs in a large convention center at the Alameda County Fairgrounds before the tactical, fire and EOD scenarios begin.

Representatives of the Subcommittee attended 2017 Urban Shield and observed the vendor show and a handful of tactical exercises. The 2017 Vendor Show included weapons and other

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<sup>15</sup> “About Urban Shield,” Alameda County Sheriff's Office, 2017, accessed January 4, 2018, <https://urbanshield.org/about/urban-shield-training>.

<sup>16</sup> *Agenda - Board of Supervisors' Meeting*, January 10, 2017, 10.

<sup>17</sup> Urban Areas Security Initiative, *Project Proposal Guidance for Fiscal Year 2018 Approved by the Approval Authority*, July 13, 2017, accessed January 4, 2018, [http://bayareauasi.org/sites/default/files/resources/FY%202018%20Project%20Proposal%20Guidance\\_Adopted\\_0.pdf](http://bayareauasi.org/sites/default/files/resources/FY%202018%20Project%20Proposal%20Guidance_Adopted_0.pdf), 8.

<sup>18</sup> “About Urban Shield.”

<sup>19</sup> *Revised Agenda Material*, 9.

<sup>20</sup> Alameda County Sheriff's Office, “Sponsor Levels,” *Vendors*, 2017, accessed May 1, 2018, <https://web.archive.org/web/20171009180735/https://urbanshield.org/vendors/sponsor-levels>

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technologies. The Subcommittee witnessed military-grade firearms, surveillance technologies, and drones on display. Vendor products were promoted with labels such as: “military-grade” and “battle-tested.” Some of the vendors advertised that their products were developed at military installations.<sup>21</sup> Observers also witnessed booths for arms manufacturers like BAE Systems, Sig Sauer, and Winchester. Bob Barker Industries, “America’s Leading Detention Supplier” had a booth, as well as the Correctional Medical Group, and Gemalto, a facial recognition company.

Throughout the day, SWAT personnel inquire at booths about vendor wares, handle and test firearms and other technology, listen to marketing lectures, and enter raffles for rifles and other equipment.

Even though the Vendor Show technically ended on Friday, the ACSO allows the highest-paying vendors to directly participate in tactical scenarios over the weekend.<sup>22</sup>

### **Seminars**

The first day of Urban Shield also features hour-long seminars on public safety topics. First responder participants in Urban Shield did not attend the seminars. While they were sparsely attended, some of content in the seminars appeared useful to public safety personnel. Subcommittee members and their staff attended seminars on the ACSO’s acquisition and use of drone technology across the Bay Area and a seminar on the ACSO’s role in the Ghost Ship fire.

### **Tactical Exercises (Black, Blue, Gold and Silver Commands)**

Urban Shield began as, and still is, primarily a tactical exercise for SWAT teams. Local, county and federal police SWAT teams (and foreign police and military teams in past years) made up of eight operators participate in approximately 30 terrorism-related scenarios. Each team’s performance is recorded and tallied as to construct competition between them.

The competition lasts from 5:00 a.m. on Saturday morning until 5:00 a.m. on Monday. By the end of the competition, each team completes each of the 30 scenarios, scattered throughout the Bay Area. Each scenario takes about an hour to complete. Teams in full tactical attire travel in vans between scenario sites. Over the course of the 48-hour event, team members are deprived of sleep and nourishment, except during travel.

The scenarios are staffed by volunteer role players, Alameda County Sheriff personnel and SWAT evaluators from Bay Area police departments and, in some cases, by federal law enforcement personnel and vendors. When a team arrives, it is unaware of the context and content of the scenario; one of the evaluators role-plays as an on-scene law enforcement briefer. SWAT team leaders are given a chance to ask questions about the scenario, the terrain, victims, possible suspects, equipment available to the team, sniper support, etc. After the briefing, the SWAT team is usually given weapons modified to fire non-lethal simulated rubber and paint ammunition and other

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<sup>21</sup> Such as Fort Meade, Livermore, Los Alamos, etc.

<sup>22</sup> See “Sponsor Levels.”

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equipment, sometimes including vendor technology, such as cameras, torches or drones. However, two scenarios per year typically feature the use of live (lethal) ammunition.

Teams proceed to accomplish some objective, for example killing terrorists or active shooters, rescuing hostages, etc. The role of suspects and victims are typically performed by volunteers. The team returns for a debriefing by SWAT evaluators, lasting around five minutes. Evaluators quickly share their thoughts on the team's performance. As soon as the debriefing is over, teams travel to the next scenario.

### **Fire Exercises (Red Command)**

Urban Shield features a number of terrorism-related urban search and rescue (USAR) and HAZMAT scenarios that test the capabilities of fire departments. The fire scenarios take place over 12 hours on Saturday 9:00 a.m. until 9:00 p.m. Vendor technology is featured in some scenarios.<sup>23</sup>

The ACSO did not invite the Subcommittee to observe the fire scenarios.

### **EOD Exercises (White Command)**

Urban Shield features four EOD exercises aimed at testing "multiple skills sets including robot operation, render safe procedures, IED recognition [and] Personal Protective Equipment (PPE) selection and hand entry techniques." Vendor technology is featured in certain scenarios.<sup>24</sup>

The ACSO did not invite the Subcommittee to observe the EOD scenarios.

### **Yellow Command**

Although Urban Shield was originally designed as a SWAT competition, since 2013, the ACSO has expanded the scope of Urban Shield to include an EOC exercise, a Community Emergency Response Team exercise and a Community Preparedness Fair.

The Yellow Command is the name for the Urban Shield exercise established in 2013 that tests the ability of regional EOCs across the Bay Area to communicate and collaborate through the State of California's Standardized Emergency Management System (SEMS). In addition, the exercise lets Bay Area emergency preparedness personnel test the eight Bay Area Regional Catastrophic plans.<sup>25</sup>

Since 2013, Yellow Command has featured the following scenarios:

- passenger train crash testing the Regional Mass Fatality Plan (2013),

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<sup>23</sup> "About Fire / USAR / HAZMAT," Alameda County Sheriff's Office, *FIRE (USAR)*, accessed January 4, 2018, <https://www.urbanshield.org/index.php/about/fire-usar>.

<sup>24</sup> "About EOD," Alameda County Sheriff's Office, *EOD*, accessed January 4, 2018, <https://www.urbanshield.org/about/eod>.

<sup>25</sup> The Regional Catastrophic Planning Grant Program (RCPGP). See BAUASI RTEP: Multi-Year Training & Exercise Plan (2016-2018), 14.

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- high explosive terrorist attack exercising the Regional Donations Management Plan (2014),
- coordinated terrorist attacks throughout the Bay Area testing the Regional Mass Transportation and Evacuation Plan (2015),
- EOC activation exercise in coordination with the State and Federal governments (2016), and
- Distribution of resources during the first week after an earthquake through the Regional Catastrophic Earthquake Logistics Response Plan (2017).<sup>26</sup>

The ACSO did not invite the Subcommittee to observe the 2017 Yellow Command scenario.

### Green Command

In 2017, Community Emergency Response Teams (CERT) from across the Bay Area participated in the first Urban Shield scenarios designed to test CERT capabilities. Trained community participants tested their capabilities through a number of disaster role-playing scenarios.

According to the Federal Emergency Management Agency, CERT was developed and implemented by the Los Angeles City Fire Department in 1985 when an earthquake “confirmed the need for training civilians to meet their immediate need.” FEMA adopted the concept officially in 1993 and now supports CERT through Train-the-Trainer and Program Manager courses for members of the fire, medical and emergency management community.<sup>27</sup>

The Subcommittee observed the 2017 Green Command scenarios. Various Bay Area CERT teams, including from Berkeley, tested their capabilities through earthquake, severe weather, obstacle course and building collapse scenarios. Unlike the fire and tactical scenarios, none of the scenarios were explicitly related to, or inspired by, terrorism.

### Gray Command

Also in 2017, to enhance the community's role in disaster preparedness, the ACSO hosted a community preparedness fair, known as Gray Command, featuring earthquake simulators, food trucks, booths and community-orientated safety preparedness literature.

The Subcommittee observed the 2017 Gray Command community preparedness fair. Observers witnessed a number of valuable public safety-oriented booths as well as one extremely troubling booth featuring the Oath Keepers militia.

### Orange Command

The Alameda County EOC is activated during Urban Shield to coordinate and monitor the various exercises scenarios. Subcommittee observers visited the Orange Command but did not witness much in the way of emergency management activity.

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<sup>26</sup> “About the Bay Area UASI,” Bay Area Urban Areas Security Initiative, accessed January 4, 2018, <http://bauasi.org/about-us>.

<sup>27</sup> Department of Homeland Security, Federal Emergency Management Agency, *Community Emergency Response Team*, accessed January 4, 2018, <https://www.ready.gov/community-emergency-response-team>.

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### **Emergency Medical Services and Medical Branch**

During Urban Shield, the ACSO invites medical and Emergency Medical Services personnel to monitor and tend to injured participants. In addition to their “real-world” medical function, medical personnel train tactical teams on techniques and technologies focused on trauma, ballistic injuries and other related topics during the scenarios. Past scenarios have featured “tourniquet use, wound packing, chest injury assessment and treatment, medical packs, triage, etc.”<sup>28</sup>

Despite repeated requests to visit a medical checkpoint, the ACSO did not invite the Subcommittee to observe them. Additionally, during the Subcommittee’s scenario tour, observers did not witness any scenarios that featured medical training.

### **History of UASI and Urban Shield**

The first Urban Shield event took place in 2007, evolving from the High Sierra SWAT Team Challenge, featuring SWAT teams from across the Bay Area, state and country. Situated in the Sierra Nevada, the event featured “exercises include[ing] hostage rescue, tactical rappelling, engaging terrorist cells, dealing with weapons of mass destruction, fugitive apprehension, and daytime and nighttime land navigation.”<sup>29</sup> It is unclear how the event was funded.

Established in 1996, the High Sierra Challenge was eliminated by the FBI in 2006, presumably to refocus on threats from Al Qaeda and other violent groups. A 2006 article published in the East Bay Times confirmed that “... [t]he the agency was forced to redirect its resources because of national security concerns.” The ACSO sought to inherit the High Sierra SWAT Team Challenge and rebranded it as Urban Shield in 2007. After September 11, federal officials worked to reorient the country’s military, intelligence apparatus and investigative bodies and its state and local law enforcement and emergency agencies. The reorientation was fashioned to fight the “War on Terror,” on two fronts: one abroad and the other domestically.<sup>30</sup> While the U.S. military pursued terrorism abroad, the federal government also expected that domestic law enforcement would prevent and protect against the threat of renewed attacks in the “homeland.” This gives Urban Shield its funding and focus.

Congress allocated substantial funding to states and cities through a series of legislation: the USA Patriot Act of 2001, the Homeland Security Act of 2002 and the Implementing Recommendations

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<sup>28</sup> “About EMS,” Alameda County Sheriff’s Office, *EMS/MEDICAL*, accessed January 4, 2018, <https://www.urbanshield.org/index.php/about/ems-medical>

<sup>29</sup> One journalist described the High Sierra SWAT Team Challenge as the “ultimate competition,” depriving competitors of sleep and food over “a mountainous 62-mile course that reaches altitudes of more than 9,000 feet.”

<sup>30</sup> The federal government claims that these efforts have prevented a repeat of 2001, but they have also resulted in violations of human rights, global war, mass unchecked surveillance and secrecy, fraudulent and wasteful expenditures, Islamophobia, and—significantly for the purposes of this report—further militarization of local law enforcement.

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of the 9/11 Commission Act of 2007.<sup>31</sup> The USA Patriot Act empowered<sup>32</sup> the U.S. Attorney General to give grants to “States and units of local government to improve the ability of State and local law enforcement, fire department and first responders to respond to and prevent acts of terrorism.”<sup>33</sup> In addition, the Patriot Act created the Grant Program for State and Local Domestic Preparedness Support “to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.”<sup>34</sup>

These grants became the basis for the subsequent DHS grant program known as UASI -- the primary funding source for Urban Shield.<sup>35</sup> The UASI grant program distributes funding to high risk eligible urban areas based on an analysis of relative risk of terrorism faced by metropolitan statistical areas (MSAs).<sup>36</sup>

By design, the UASI program is a federal effort aimed at augmenting local law enforcement’s preparedness for terrorist incidents. The prominent role of local first responders was unveiled in the fiscal year 2003 Budget, which set aside billions for local terrorism preparedness. Between 2003 and 2005, UASI grant funding for terrorism preparedness was distributed to major Bay Area cities such as Oakland, San Francisco, and San Jose, and through them, to associated counties and adjacent cities.<sup>37</sup> That same year, President Bush issued a series of Homeland Security presidential directives

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<sup>31</sup> United and Strengthening America—Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001); Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2191-2192 (2002); Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, 121 Stat. 274-292 (2007).

<sup>32</sup> The First Responders Assistance Act - Section 1005

<sup>33</sup> USA PATRIOT Act of 2001, 115 Stat. 393-394.

<sup>34</sup> *Id.* 115 Stat. 399-400.

<sup>35</sup> The Homeland Security Act of 2002 transferred existing terrorism grant programs to the Homeland Security Grant Program (HSGP).

<sup>36</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, Grant Programs Directorate, *The U.S. Department of Homeland Security (DHS) Notice of Funding Opportunity (NOFO) Fiscal Year 2017 Homeland Security Grant Program (HSGP)*, accessed January 4, 2018, [https://www.fema.gov/media-library-data/1496691855715-4d78d65ebb300900ce6c945931eff2c6/FY\\_2017\\_HSGP\\_NOFO\\_20170601v2014\\_605.pdf](https://www.fema.gov/media-library-data/1496691855715-4d78d65ebb300900ce6c945931eff2c6/FY_2017_HSGP_NOFO_20170601v2014_605.pdf), 18.

<sup>37</sup> In FY 2003 the DHS distributed grant funding directly to seven cities, including San Francisco, and 30 additional cities/urban areas. See Office for Domestic Preparedness, Department of Homeland Security, *Fiscal Year 2003 Urban Areas Security Initiative — Discretionary Grants Programs, Program Guidelines and Application Kit*, accessed January 4, 2018, [https://ojp.gov/docs/fy03uasi\\_dgp.pdf](https://ojp.gov/docs/fy03uasi_dgp.pdf), 5; See also Association of Bay Area Governments (ABAG), *UASI Grants - History and Future*, October 12, 2006, accessed January 4, 2018, <https://abag.ca.gov/symposium-hs/Tom-Parks.pdf>. In FY 2004, DHS expanded the eligible urban areas to 50, including the San Francisco metropolitan area defined as the City and County of San Francisco; Counties of Alameda, Marin, Contra Costa, Santa Clara, San Mateo; and the Golden Gate Bridge District. The cities of Oakland and San Jose received funding separately; See Office for Domestic Preparedness, Department of Homeland Security, *Fiscal Year 2004 Urban Areas Security Initiative Grant Program, Program Guidelines and Application Kit*, accessed January 4, 2018, <https://ojp.gov/docs/fy04uasi.pdf>, 9-13. In FY 2005, funding was distributed to: the Oakland urban area, including the City of Oakland; Alameda County; the Port/Airport, Berkeley, San Leandro, Alameda, Emeryville and Piedmont, and a “secondary area” defined as the entire counties of Alameda and Contra Costa; the San Francisco urban area, defined as the City and County of San Francisco; Counties of Marin, San Mateo; and the Golden Gate Bridge District; and the San Jose urban area, defined as: City of San Jose; County of Santa Clara; Counties of Monterey, San Benito, Santa Cruz, Cities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, Saratoga, Sunnyvale, and town of Los Gatos. See Office of State and Local Government and Preparedness

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that overhauled pre-September 11 national preparedness. Although the new system retained the goal of preparing the country for all-hazards—both natural and man-made—the new system strongly emphasized enhancing local antiterrorism capabilities.<sup>38</sup>

In FY 2006, UASI funding was consolidated into a singular Bay Area urban area, known as the Bay Area Urban Areas Security Initiative (BAUASI).<sup>39, 40</sup> The organization is directed by an Approval Authority of eleven members who determine policy. The members include one representative each from San Francisco, Oakland and San Jose, and one each from the counties of San Francisco, Alameda, Contra Costa, Marin, Monterey, San Mateo, Santa Clara and Sonoma.<sup>41</sup> The approval authority also has its own staff which serves as the liaison between the City and County of San Francisco (the Bay Area UASI fiscal agent), the Department of Homeland Security, the State of California, and local government grant sub-recipients.” Together, the authority makes sub-grants of UASI funding to counties, cities and other entities within its jurisdiction.<sup>42</sup>

The year following the BAUASI consolidation, Congress provided explicit instructions for the administration of grant funding and the management of UASI approval authorities.<sup>43</sup> The types of UASI funding investments local jurisdictions are to pursue include:

- developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;
- designing, conducting, and evaluating training and exercises, including training and exercises
- protecting a system or asset included on the prioritized critical infrastructure list
- purchasing, upgrading, storing, or maintaining equipment, including hardware and software;
- ensuring operability and achieving interoperability of emergency communications<sup>44</sup>

Each year, a percentage of the DHS funding awarded to BAUASI is retained by the State of California. The Management Team also allocates money for its operations. In fiscal year 2017, the

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Office for Domestic Preparedness, Department of Homeland Security, *Fiscal Year 2005 Homeland Security Grant Program, Program Guidelines and Application Kit*, accessed January 4, 2018, [https://www.fema.gov/pdf/government/grant/hsgp/fy05\\_hsgp\\_guidance.pdf](https://www.fema.gov/pdf/government/grant/hsgp/fy05_hsgp_guidance.pdf), 8-12.

<sup>38</sup> George W. Bush, *Homeland Security Presidential Directive/ HSPD-8—National Preparedness*, December 17, 2003, accessed January 4, 2018, Government Printing Office, <https://www.gpo.gov/fdsys/pkg/PPP-2003-book2/pdf/PPP-2003-book2-doc-pg1745.pdf>.

<sup>39</sup> Tracy A. Henke, Assistant Secretary, Office of Grants and Training, “FY 2006 Homeland Security Grant Program (HSGP) Allocation Announcement,” *G&T Information Bulletin No. 208*, May 31, 2006, accessed January 4, 2018, <https://www.fema.gov/pdf/government/grant/bulletins/info208.pdf>, 5. See also “About the Bay Area UASI.”

<sup>40</sup> The BAUASI comprises the cities of San Francisco, Oakland and San Jose, and twelve counties: Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma. “About the Bay Area UASI.”

<sup>41</sup> Bay Area Urban Areas Security Initiative, *Bay Area Urban Areas Security Initiative (UASI) Approval Authority By-Laws*, August 10, 2017, accessed January 4, 2018, <http://www.bayareauasi.org/sites/default/files/resources/081017%20Approval%20Authority%20August%20Agenda%20Item%2003%20General%20Manager%27s%20Report%20Appendix%20B2.pdf>, 2.

<sup>42</sup> “About the Bay Area UASI.”

<sup>43</sup> See Implementing Recommendations of the 9/11 Commission Act of 2007.

<sup>44</sup> 6 U.S. Code § 609, accessed January 4, 2018, <https://www.law.cornell.edu/uscode/text/6/609>.

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BAUASI authority received \$22.4 million from DHS after the state share.<sup>45</sup> In 2017, the BAUASI Management Team spent \$3.31 million supporting its own operations.<sup>46</sup>

BAUASI regulations require UASI grant funds to “[h]ave a high threat, high density urban area terrorism focus” or “a clear nexus to terrorism.”<sup>47</sup> However, funding is also available for activities that prepare communities for either terrorism or other emergencies such as fires and earthquakes. Many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards, including natural disasters and other major incidents. UASI funds may be used for other preparedness activities as long as the dual use quality and nexus to terrorism is clearly demonstrated. Grantees must demonstrate the “dual-use quality” for any activities implemented that are not explicitly focused solely on terrorism preparedness.”<sup>48</sup>

Congress also provided that 25% of the total Homeland Security Grant Program must specifically be “used for law enforcement terrorism prevention activities.”<sup>49</sup> That means that in 2017, approximately \$46 million in federal dollars would have been allocated to law enforcement terrorism prevention activities in California.<sup>50</sup> Funding for prevention activities appears to be fungible: the State of California could meet the 25% requirement at the state level alone or through a combination of state expenditures and UASI metropolitan areas expenditures.<sup>51</sup>

Reforms following Hurricane Katrina specifically emphasized risk and capabilities, making grants contingent upon local jurisdictions evaluating risks to their communities and also considering the quality of their existing disaster response capabilities.<sup>52</sup> Congress expected that this evaluation would inform which capabilities should be targeted for federal funding.<sup>53</sup>

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<sup>45</sup> Bay Area Urban Areas Security Initiative, *Bay Area UASI Program Approval Authority Meeting*, Regular Meeting Minutes Draft, July 13, 2017, accessed January 4, 2018, [http://www.bayareauasi.org/sites/default/files/resources/approval\\_2017\\_august\\_meeting\\_master\\_0.pdf](http://www.bayareauasi.org/sites/default/files/resources/approval_2017_august_meeting_master_0.pdf), p. 6.

<sup>46</sup> *BAUASI Project Proposal Guidance for Fiscal Year 2018*, 14.

<sup>47</sup> *Approval Authority By-Laws*, 12. See also Bay Area Urban Areas Security Initiative, *Project Proposal Guidance for Fiscal Year 2018*, July 13, 2017, accessed January 4, 2018, [http://www.bayareauasi.org/sites/default/files/resources/FY%202018%20Project%20Proposal%20Guidance\\_Adopted\\_0.pdf](http://www.bayareauasi.org/sites/default/files/resources/FY%202018%20Project%20Proposal%20Guidance_Adopted_0.pdf), 3, 8.

<sup>48</sup> *BAUASI Project Proposal Guidance for Fiscal Year 2018*, 3.

<sup>49</sup> 6 U.S.C. § 607, accessed January 4, 2018, <https://www.law.cornell.edu/uscode/text/6/607>. See also Department of Homeland Security, *Fiscal Year 2017 Homeland Security Grant Program*, accessed January 4, 2018, [https://www.fema.gov/media-library-data/1496327128641-40d3a338eaaa2ba7679f020410ce9847/FY\\_2017\\_HSGP\\_Fact\\_Sheet\\_FINAL\\_508.pdf](https://www.fema.gov/media-library-data/1496327128641-40d3a338eaaa2ba7679f020410ce9847/FY_2017_HSGP_Fact_Sheet_FINAL_508.pdf), 1. The individual California metropolitan UASIs are: Anaheim/Santa Ana UASI, the BAUASI, the Los Angeles/Long Beach UASI, the Riverside UASI, the Sacramento UASI, and the San Diego UASI. See California Governor's Office of Emergency Services, “Homeland Security Grants Unit,” *Homeland Security Grants*, accessed January 4, 2018, <http://www.caloes.ca.gov/cal-oes-divisions/grants-management/homeland-security-prop-1b-grant-programs/homeland-security-grants-program>.

<sup>50</sup> *DHS Notice of Funding Opportunity (NOFO) Fiscal Year 2017*, p. 36.

<sup>51</sup> Stop Urban Shield Coalition, *Urban Shield: Abandoning Hope Not Building Hope*, 2016, accessed January 4, 2018, [http://stopurbanshield.org/wp-content/uploads/2016/09/US\\_2016\\_report\\_v2.pdf](http://stopurbanshield.org/wp-content/uploads/2016/09/US_2016_report_v2.pdf), 3.

<sup>52</sup> Post-Katrina Emergency Reform Act of 2006, Pub. L. No. 109-295, 120 Stat. 1394 (2006).

<sup>53</sup> *Implementing Recommendations of the 9/11 Commission Act of 2007*, 121 STAT. 283, emphasis added.

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In 2011, President Barack Obama issued a presidential directive emphasizing the need to address the greatest risks to the country while recognizing that distinct risks facing each jurisdiction.<sup>54</sup> In 2012, the DHS developed the Threats and Hazards Identification and Risk Assessment (“THIRA”) to assist in identifying community-specific threats and hazards, setting capability targets and estimating resources.<sup>55</sup> Annual THIRAs are required and are, in theory, utilized by the BAUASI in determining how to invest UASI grant funding. The THIRA is one of the most important documents informing how the BAUASI decides to invest its money, however, the document is marked “FOUO,” or For Official Use Only.<sup>56</sup> Therefore, unfortunately, the Subcommittee was not able to review it. [Recently obtained a copy – in review]

The results of the annual THIRA process inform the Bay Area Homeland Security Goal, which in FY 18 included: (1) planning and risk management, (2) information analysis and infrastructure protection, communications, (3) chemical, biologic, radiologic, nuclear and explosive (“CBRNE”), (4) medical and public health, (5) emergency planning and community preparedness, and (6) recovery.<sup>57</sup>

The BAUASI maintains five “Working Groups” around these goals, open to all BAUASI jurisdictions.<sup>58</sup> However, projects are ultimately selected through two additional BAUASI groups: sub-regional groups (Hub Groups) and the Regional Proposal Work Group. For example, when the City of Berkeley proposed acquiring an armored van with UASI funding, the proposal was routed and prioritized through the Easy Bay Hub.<sup>59</sup> The Regional Proposal Work Group considers proposals that support the capabilities of all three hubs. The BAUASI also solicits projects from agencies affiliated with the BAUASI core cities of San Francisco, Oakland and San Jose.<sup>60</sup> The Approval Authority ultimately votes to approve projects prioritized by these groups.

In FY 2017, total Bay Area UASI funding was allocated as follows:

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<sup>54</sup> Barack Obama, *Presidential Policy Directive / PPD-8: National Preparedness*, March 30, 2011, accessed January 4, 2018, Department of Homeland Security, <https://www.dhs.gov/presidential-policy-directive-8-national-preparedness>.

<sup>55</sup> Federal Emergency Management Agency, Department of Homeland Security, *CPG 201: Threat and Hazard Identification and Risk Assessment Guide—Second Edition*, accessed January 8, 2018, [https://www.fema.gov/media-library-data/8ca0a9e54dc8b037a55b402b2a269e94/CPG201\\_htirag\\_2nd\\_edition.pdf](https://www.fema.gov/media-library-data/8ca0a9e54dc8b037a55b402b2a269e94/CPG201_htirag_2nd_edition.pdf), 1.

<sup>56</sup> Amy Ramirez to the Bay Area UASI Approval Authority, “Re: Item 5: 2017 THIRA,” November 9, 2017, accessed January 8, 2018, <http://www.bayareauasi.org/sites/default/files/resources/110917%20Approval%20Authority%20November%20Agenda%20Item%2005%202017%20THIRA.pdf>, 1.

<sup>57</sup> Catherine Spaulding to the Bay Area UASI Approval Authority, 9. The goals were further updated in 2018 for FY 2019. See “Item 8: Bay Area UASI Homeland Security Goals,” in BAUASI Approval Authority Meeting Agenda Item 8, March 8, 2018, accessed January 8, 2018, [http://bayareauasi.org/sites/default/files/resources/030818%20Approval%20Authority%20March%20Agenda%20Item%2008%20Bay%20Area%20UASI%20Homeland%20Security%20Goals\\_0.pdf](http://bayareauasi.org/sites/default/files/resources/030818%20Approval%20Authority%20March%20Agenda%20Item%2008%20Bay%20Area%20UASI%20Homeland%20Security%20Goals_0.pdf)

<sup>58</sup> *BAUASI Project Proposal Guidance for Fiscal Year 2018*, 9.

<sup>59</sup> *Id.*, 10-11.

<sup>60</sup> *Id.*, 12-13.

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<b>FY 17 UASI Allocations<sup>61</sup></b>	
East Hub	\$1,304,197
North Hub	\$379,561
South Hub	\$1,363,603
West Hub	\$2,512,421
Regional	\$11,380,539
Core City (San Francisco, San Jose and Oakland)	\$3,000,000
Management Team	\$3,308,480
State Retention	\$5,107,200 (18.55% of total)
<b>TOTAL</b>	<b>\$28,356,000</b>

**Urban Shield and the Regional and the BAUASI Regional Training and Exercise Program**

Sheriff Ahern and the Alameda County Board of Supervisors formed the Urban Shield tactical competition from the High Sierra SWAT Team Challenge when Bay Area-wide funding was established in 2006. However, Urban Shield has grown beyond its original design as a tactical exercise. In 2011, when BAUASI sought to delegate all regional training and exercises for the entire Bay Area to an outside agency, the ACSO was the only agency to respond. Under a 2011 MOU between BAUASI and the ACSO, the Urban Shield SWAT exercise was folded into a formal BAUASI Regional Training and Exercise Program (RTEP) “including but not limited to; law enforcement/tactical, fire/emergency medical services, emergency management and public health.”<sup>62</sup> On July 12, 2011, the Alameda County Board of Supervisors gave the ACSO permission to enter into the MOU and accept additional funding.<sup>63</sup> Thus, after 2011, Urban Shield expanded beyond a SWAT exercise, and the ACSO was empowered to manage millions of dollars in additional BAUASI training and exercise programs apart from Urban Shield.

The Multi-Year Training and Exercise Plan (MYTEP) is the long-range planning process through which representatives and key BAUASI stakeholders, primarily the Training and Exercise Workgroup (TEW), outline the needs of the region and a plan for achieving them. The plan is informed by the THIRA, the Bay Area Homeland Security Goals and Objectives, the BAUASI Risk and Gap Analysis and Urban Shield After-Action Reports.

<sup>61</sup> *Id.*, 14.

<sup>62</sup> See also *BAUASI Project Proposal Guidance for Fiscal Year 2018*, 8; and, Bay Area Urban Areas Security Initiative, *Bay Area UASI Regional Training & Exercise Program*, accessed January 8, 2018, <https://www.BAUASITep.org/?p=home>.

<sup>63</sup> Alameda County Board of Supervisors, *Agenda - Board of Supervisors' Meeting*, July 12, 2011, Clerk of the Board, accessed January 4, 2018, [http://alamedacounty.granicus.com/MinutesViewer.php?view\\_id=2&clip\\_id=687&doc\\_id=ab7fd5e0-054b-102f-bfd0-5f1650509f30](http://alamedacounty.granicus.com/MinutesViewer.php?view_id=2&clip_id=687&doc_id=ab7fd5e0-054b-102f-bfd0-5f1650509f30), 11.

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While the MYTEP includes a preliminary list of course offerings, BAUASI members can submit course proposals as priorities change.<sup>64</sup>

## Alameda County Board of Supervisors Role in Urban Shield

The Alameda County Board of Supervisors is responsible for authorizing the MOUs between BAUASI and the County of Alameda for Urban Shield, the Regional Training and Exercise Program, and agreements with contractors who conduct the event.<sup>65</sup> The Alameda County Board of Supervisors has authorized the ACSO to accept sponsorship donations from individuals and corporations and collect fees from exhibiting vendors.<sup>66</sup>

In response to growing public criticism of Urban Shield, the Board of Supervisor's 2017 set conditional "principles and guidelines."<sup>67</sup> Separately, Supervisor Keith Carson secured another condition: the establishment of an Urban Shield Task Force (USTF) consisting of government officials, non-governmental organizations, activists and other community members. Its primary tasks were to investigate five key questions. After meeting seven times in 2017, the Task Force released a report on February 21, 2018 finding that:<sup>68</sup>

- Urban Shield meets the requirements of UASI,
- Urban Shield is essentially an emergency preparedness program, with room for improvement in implementing the FEMA's 'Whole Community' approach to emergency management.<sup>69</sup>
- No other [non UASI] significant sources of funding appear to be available for regional large-scale preparedness trainings and full-scale exercises.

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<sup>64</sup> Bay Area Urban Areas Security Initiative, ACSO, *BAUASI RTEP: Multi-Year Training & Exercise Plan (2016-2018)*, accessed May 1, 2018, [http://www.bayareauasi.org/sites/default/files/resources/approval\\_2017\\_august\\_meeting\\_master\\_0.pdf](http://www.bayareauasi.org/sites/default/files/resources/approval_2017_august_meeting_master_0.pdf), 3.

<sup>65</sup> *Agenda - Board of Supervisors' Meeting*, January 10, 2017, 10. See also *Agenda - Board of Supervisors' Meeting*, July 12, 2011.

<sup>66</sup> Board of Supervisors, *Agenda - Board of Supervisors' Meeting*, July 31, 2007, Clerk of the Board, accessed January 8, 2018, [http://www.acgov.org/board/bos\\_calendar/documents/ag07\\_31\\_07.pdf](http://www.acgov.org/board/bos_calendar/documents/ag07_31_07.pdf), 13. The purpose of the authorized fund was broadly and vaguely stated: "a cash fund in which to deposit donations, sponsorship and exhibitor fees and make payments for associated costs."

<sup>67</sup> Gregory J. Ahern to the Honorable Board of Supervisors, "Fiscal Year 2016 Urban Area Security Initiative Agreement," January 6, 2017, accessed January 8, 2018, [http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_01\\_10\\_17/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff\\_244881.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_01_10_17/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff_244881.pdf), 2.

<sup>68</sup> Alameda County Board of Supervisors, Urban Shield Task Force, *Alameda County Urban Shield Task Force Report*, February 21, 2018, in Supervisor Keith Carson, *Subject: Approve The Recommendations of the Alameda County Urban Shield Task Force (USTF) as Listed in the Urban Shield Task Force Summary Report*, February 22, 2018, accessed March 1, 2018, [http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_02\\_27\\_18/GENERAL%20ADMINISTRATION/Set%20Matter%20Calendar/Supervisor%20Carson\\_260651.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_02_27_18/GENERAL%20ADMINISTRATION/Set%20Matter%20Calendar/Supervisor%20Carson_260651.pdf), 3.

<sup>69</sup> *Id.* 6-7. FEMA's Whole Community approach values the participation of the entire community in preparedness efforts. The USTF conceded that the event is still largely dominated by law enforcement activities.

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- It was unclear whether the ASCO appropriately used UASI guidelines in “drafting exercise scenarios, prioritizing capability targets and gaps, and selecting capabilities to be tested and gaps to be addressed each year and over multiple years.”<sup>70</sup>
- It could not make a recommendation regarding the impact of Urban Shield on community relationships “given that the Urban Shield Task Force does not represent vulnerable communities or those most impacted by” Urban Shield.<sup>71 72</sup>

The Board voted to recommend yearly ACSO “reporting on adherence” to the conditional principles and guidelines established by the Board in 2017.

The Board of Supervisors adopted the task force’s recommendations on February 27, 2018,<sup>73</sup> with the proviso that the ASCO be required to report annually on its adherence to the conditional principles and guidelines established by the Board of Supervisors.<sup>74</sup>

On March 27, 2018 the board considered the Sheriff’s request for accepting FY 2018 UASI funds.<sup>75</sup> During that meeting, the Sheriff revealed that approximately \$1 million is spent on administrative costs to manage Urban Shield and other BAUASI programing, \$1.5 million is spent on operating Urban Shield and the remaining \$3 million is spent on other BAUASI Regional Training and Exercise Program offerings.

Among the concerns raised during this discussion were:

- That since Urban Shield was inaugurated in 2007, politics and social conditions have significantly changed. Supervisor Chan pointed to the economic crisis, increased political polarization, increased officer-involved shootings and a breakdown in trust between the community and police. Supervisor Chan suggested that Urban Shield is now largely seen in a negative light and that “regardless of what we do, the Urban Shield exercise itself is viewed as a show of force, which in this atmosphere...is probably not the most appropriate way ... to protect the community.” She proposed that the Board suspend Urban Shield and send out a request for proposals for the entire \$5.5 million in UASI RTEP funding for the benefit of the BAUSI region, however, there was no agreement on this proposal by the Board.

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<sup>70</sup> *Id.* 8-9.

<sup>71</sup> *Id.* 13-14.

<sup>72</sup> Supervisor Keith Carson to Each Member of the Board of Supervisors, “Urban Shield Task Force,” January 6, 2017, accessed January 8, 2018, [http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_01\\_10\\_17/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff\\_244881.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_01_10_17/PUBLIC%20PROTECTION/Regular%20Calendar/Sheriff_244881.pdf), 4.

<sup>73</sup> Alameda County Board of Supervisors, *Summary Action Minutes of Regular Meeting*, February 27, 2018, Clerk of the Board, accessed March 1, 2018, [http://alamedacounty.granicus.com/MinutesViewer.php?view\\_id=2&clip\\_id=5040&doc\\_id=2689e3bc-2e28-11e8-a859-00505691de41](http://alamedacounty.granicus.com/MinutesViewer.php?view_id=2&clip_id=5040&doc_id=2689e3bc-2e28-11e8-a859-00505691de41), 16.

<sup>74</sup> “Alameda County Urban Shield Task Force Report,” 7.

<sup>75</sup> Alameda County Board of Supervisors, *Agenda - Board of Supervisors’ Meeting*, March 27, 2018, accessed May 1, 2018, [http://alamedacounty.granicus.com/AgendaViewer.php?view\\_id=2&event\\_id=3136](http://alamedacounty.granicus.com/AgendaViewer.php?view_id=2&event_id=3136), 13.

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- Support for future events should be contingent upon implementing major changes; the Sheriff agreed that the Board and the community would be more involved in designing the event in the future. Supervisor Valle also expressed his intention to remove the negative aspects of Urban Shield while keeping the positive aspects. Supervisor Haggerty expressed concern about the existence of racist overtones at past events. The Sheriff agreed to assign a sensitivity officer to monitor for objectionable content in 2018. He also promised to mitigate concerns about the Vendor Show in 2018 by “isolating” military vendors from the general public and other vendors.

Finally, Supervisor Carson made a motion to accept Urban Shield funding for 2018, but to end funding for Urban Shield after 2018 as it is currently constituted. The motion also called for the creation of an ad-hoc committee comprising of Board Member appointees to work with the ACSO to determine what to fund in 2019. The motion passed with a 4-1 vote.<sup>76</sup>

### **TRAINING AND EXERCISES FOR BERKELEY'S FIRST RESPONDERS**

#### **BPD SRT's Training, Exercise and Tactics**

In the tactical SWAT scenarios at Urban Shield, the City of Berkeley is represented by BPD's SRT. Berkeley's SRT team is analogous to a SWAT team. Berkeley's Subcommittee met on January 18, 2018 to learn more about the activities, training outside of Urban Shield and equipment of the Berkeley SRT team. BPD leaders explained that additional medical, tactical and negotiation training is the key factor that distinguishes SRT members from BPD patrol officers.

Unlike in larger cities, the Berkeley SRT is a part-time team staffed by elite officers from the regular police force who train regularly for SRT operations and respond as a unit when called upon, rather than as a dedicated full-time team. SRT members are on-call 365 days a year and respond when BPD leadership deems that a situation is special, unique or unusual. Examples of SRT missions include those involving barricaded subjects, hostage rescue, high-risk arrest/search warrant, high-risk area search, dignitary protection,<sup>77</sup> crowd control and less lethal weapons support. The Captain stressed that in addition to their part-time duties, SRT members work in various assignments throughout the department and their specialized training and experience often enhances routine (non-SRT) BPD responses.<sup>78</sup>

From 2013-2017, SRT was deployed 61 times from 2013-2017. The Police Chief reported that in the nearly ten years of BPD participation in Urban Shield from 2007 to 2016, the SRT team was formally involved in over 75 full or partial deployments. The Chief broadly categorized the types of formal SRT missions conducted over that time period:

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<sup>76</sup> *Summary Action Minutes of Regular Meeting*, March 27, 2018, 15.

<sup>77</sup> Examples of deployments during unusual occurrences include the SRT response to 2017 protests in Civic Center Park and University of California campus and dignitary protection for the Dalai Lama and Congresswoman Barbara Lee

<sup>78</sup> SRT training is designed to prepare the team for the following operations: (1) patrol response, e.g., on-duty SRT members are called to a developing situation like a robbery suspect who is within a particular city block; (2) emergency callouts, e.g., where on- and off-duty SRT team are called to a situation; and 3) planned operations: e.g., if a detective wants to arrest a suspect wanted for murder, the SRT will methodically plan for the operation leading to the arrest.

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- 28 high-risk search and/or arrest warrant services operations, in support of homicide, robbery, weapons investigations, et al.
- 22 dignitary protection missions, either as primary or support.
- 14 Patrol Support operations, including barricades, block searches, and similar assistance Incidents.
- 14 + Crowd management support operations, including the [] violent clashes in March and April [2017].<sup>79</sup>

In that period, the Chief reported no shootings or serious injuries to suspects, team members, or community members in tactical operations conducted by SRT. Furthermore, the Chief stated that “[i]n its 40 years of existence, Berkeley’s tactical team operations have resulted in shootings in only two cases: The Henry’s hostage rescue in Sept. 1990, and the Cramer’s Robbery case, in 2002.”<sup>80</sup>

SRT members complete mandatory 80 hours of basic S.W.A.T. required by the state. SRT members also receive 16 hours of training per month as recommended by National Tactical Officers Association, with content from the California Police Officer State Training (POST) standards. Monthly training includes tactical theory, negotiations, physical skills training, fitness, and specialized medical training.

The team currently has 24 members. They train together quarterly and also participate in regional training with the California Association of Hostage Negotiators. The SRT Communications Commander and team leader for hostage negotiations reports that the negotiations team is a central component of the SRT’s de-escalation strategy. According to the Commander, their focus is on peaceful resolution and consulting with tactical operators to make sure that no one gets hurt. The department’s de-escalation training plan and course was created in response to community desires and because the California POST standards manual lacked sufficient de-escalation emphasis. The plan has been certified by POST and sought after by as many as seven other departments. The training emphasizes verbal de-escalation, use of BPD crisis intervention team, negotiators, mobile crisis teams, suicide by cop awareness, use of less lethal options and use of sound tactics.<sup>81</sup>

The Sergeant also noted that the SRT team is integral to providing active shooter training in the Berkeley community, including at Berkeley High, Berkeley Adult School, Jewish Community Center and at Zaytuna College. They have also provided survival training for the YMCA, BUSD, City of Berkeley Staff and businesses.

### **BPD Participation in Urban Shield**

Training in preparation for the Urban Shield exercise includes at least two eight-hour days before the event. During the month of Urban Shield, training in anticipation for the event and the time spent at the event fulfills the 16-hour BPD training requirement for the team. BPD reported that overtime hours for monthly training in August 2017, the month before Urban Shield, was 132.5 hours and for

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<sup>79</sup> *Revised Agenda Material, MOU Compendium* Items, Berkeley Police Department, 9.

<sup>80</sup> *Id.*

<sup>81</sup> To include slowing situations down, keeping distance, using cover, using a single voice, staging medical staff and working as a team.

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October 2017, the month after Urban Shield, was 109.5 hours. These hours fluctuate from month to month due to vacations, other trainings, schedule conflicts and other factors.

Overtime cost to attend Urban Shield is not a fixed because scheduling is dependent on staffing numbers and the participants' shifts. Participants typically flex their normal schedule to cover at least half of the event each year. For BPD's participation in the 2017 Urban Shield event, members accrued a total of 110 hours of overtime.

The Chief believes Urban Shield to be irreplaceable because it allows BPD to apply and test their tactics in high stress scenarios and assess their tactical performance through a peer evaluation process. He suggested that during the "high-risk/low-frequency incidents," such as bombings, mass shootings, etc., police officers' responses are determined by their training and experience. He elaborated that there is a critical balance between training and experience, and while the BPD receives training for these events, the experience component is lacking because Berkeley has not recently been subjected to these types of emergencies.

Multiple officers sought to highlight that Urban Shield helps establish departmental leaders. SRT team members with Urban Shield experience often become trainers and formal and informal leaders within BPD. The Captain of the operations division indicated that the department's workplace active shooter, school active shooter, and de-escalation trainings and programs were directly inspired by department personnel who identified unmet needs and training goals from their participation in Urban Shield. The Captain said that she has served in every SRT tactical leadership position and claimed that this would not have been possible without Urban Shield. While she conceded that these trainings may have come about regardless of Berkeley's participation in Urban Shield, she and other officers reiterated that they would not exist with the same thoroughness and quality.

BPD also indicated it was not capable of conducting a full-scale exercise because of limited resources and because the county is the appropriate facilitator of county-wide and regional emergency response. Moreover, that the department notes that Urban Shield positively challenges the way BPD operates and facilitates departmental growth due to the performance assessment provided by Urban Shield scenario evaluators. For example, the BPD indicated that the Zaytuna exercises were informed by Urban Shield.<sup>82</sup>

The Subcommittee also received a written statement from an SRT medical team member who attended Urban Shield seven times and recalled multiple incidents where lives were saved due to the techniques learned, stress inoculation received and the networking opportunities with other tactical medical officers. Other comments included:

- Officers look to those who are trained at Urban Shield to determine the best course of action. When it comes to providing medical attention the difference between the performance of Urban Shield participants and non-participants is palpable.
- The inoculation received through Urban Shield (and through non-Urban Shield trainings) helped officers successfully deescalate situations.
- Participants are able to pass lessons learned at Urban Shield along to the newest officers.

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<sup>82</sup> *Id.*

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- The non-stop two-day, multi-faceted event at Urban Shield helps participants evaluate the bigger picture of an uncertain and stressful emergency situation with a plan.
- Scenarios are based upon real events from across the country and the world, and in some cases provided realistic opportunities to train for incidents that are highly relevant to Berkeley. For example, a participant argued that a 2017 scenario featuring a vehicle rampage at a festival was directly relevant to major Berkeley community events such as the Solano Avenue Stroll.

### **Training and Exercises for the Berkeley Fire Department and Office of Emergency Services**

According to the Fire Chief, the Berkeley Fire Department has only sent two teams to the Urban Shield fire scenarios. The intent of participating was to test the teams' hazardous materials and water rescue capabilities. Berkeley firefighters have also participated in Urban Shield in an off-duty capacity as medics in active shooter scenarios.

Members of the Berkeley Office of Emergency Services ("OES") staff have attended Urban Shield each year since Yellow Command started in 2014. In addition, they have served as evaluators and controllers for Urban Shield partner EOCs and otherwise supported the Alameda County EOC during the event.

More generally, the Fire Department follows the City's Training and Exercise Plan for emergency management and participates in internally-funded training and exercises, through collaboration with neighboring agencies and from UASI grant funding unrelated to Urban Shield. The plan outlines the requirements for City staff to be trained and exercised in the emergency response structure, EOC operations, care and shelter operations, disaster cost recovery and how to respond and work in the Multi-Agency Coordination System should the need arise.

The Fire Hazmat team gets its training and exercises almost exclusively from UASI grant funding unrelated to Urban Shield. Additional training and exercise for all firefighters in Hazardous Materials Awareness is conducted internally. Similarly, the BFD Water Rescue team is largely trained and funded by the City with some training opportunities conducted as joint exercises with neighboring agencies.

The Chief reported that in 2015 BOES staff put on a city-wide BART drill, EOC Setup Drill, MRA Drill, and in 2016, an Incident Command Center-EOC Interface Exercise and EOC Operations Support Exercise. No city-wide exercises were held in 2017, and none are planned for 2018.

BOES has also coordinated and assisted in full scale UASI shelter exercises for aging and recreation staff in at least four Berkeley locations. Since 2014, BOES has coordinated and assisted with shelter training in:

- Shelter Forms and Serving People with Disabilities (2014)
- Disaster Mental Health, Access and Functional Needs Panel (2015)
- American Red Cross Shelter Training (2016)
- Shelter Workshops (2017)
- Shelter Forms and Procedures (Planned) (2018)

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In addition, the BOES participates in an annual Statewide Public Health Exercise with Berkeley Public Health preparedness staff, coordinated by Alameda County. Although BFD does not have formal tactical medic team, the department stated that it has trained in BPD active shooter exercises on at least two occasions.

By the end of 2018, the Chief expects that the BOES will have completed all of the City-sponsored trainings outlined in the SEMS and National Incident Management System (NIMS) Compliance Schedule. Going forward, designated staff will still need to complete position-specific courses through UASI (free) or other trainings (at a cost). Starting in 2019, BOES plans to offer baseline training to newly assigned staff to account for attrition.

Overall, the Fire Chief noted that the City has had more success implementing the training part of the training plan than the exercise part, mostly due to the intensive resource pull on staff to design and coordinate exercises.

### **Benefits to the Fire Department and BOES from Participating in Urban Shield**

The Chief of BFD reports that only the Fire Hazmat and Waster Rescue have participated in Urban Shield. The Assistant Fire Chief noted that while Urban Shield's scenarios are not the only opportunity BFD has to test their department's capabilities, they are potentially useful because funding for conducting certain exercises is scarce. According to the Chief, the emphasis of the county before Yellow Command was on disaster planning and not on exercises. Only a few regional and state-wide exercises were conducted each year between the Oakland firestorm and 2013. It was not until 2013 that the county fully engaged with the City to establish sufficient communication channels for disasters and began to provide for county-wide exercises to test these capabilities.

The Assistant Chief also shared that he actively participated in the 2017 Urban Shield Orange Command, giving him invaluable emergency preparedness leadership training and connections with county officials,

A representative of the Berkeley Office of Emergency Services (BOES), a subset of BFD, attended the Urban Shield Yellow Command exercise and various UASI planning groups.<sup>83</sup> Exercises focused on care and shelter and interjurisdictional, as well as regional and state coordination, and specifically how counties could marshal care and shelter-related resources from the state. The Yellow Command was particularly useful because it identified regional shortfalls just a month before the devastating Tubbs Fire and other wild fires in the North Bay.

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<sup>83</sup> BAUASI planning groups are not part of Urban Shield. The Fire Department and a representative of BOES highlighted their importance in strengthening existing public safety-related relationships to Alameda County Working groups include emergency management, public information, specialized training, mass care and shelter, joint information, and medical and public health. BAUASI's Mass Care and Shelter Working Group, which is funded through the UASI grant, provided a valuable opportunity to collaborate with other jurisdictions in learning best practices and improving preparedness. The BOES representative stated that she served as the Care and Shelter lead with the City of Santa Rosa, which she feels happened because of her participation in Yellow Command.

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Finally, the Chief indicated that the City does not have the resources to design and plan a full-scale table top exercise that includes all of the different levels of government independent of the county. Due to the existing governmental hierarchy and funding sources, he argued that the logical coordinator for these intercounty events will likely continue to be the county and the ACSO.

### **Subcommittee's Assessment of Urban Shield**

The City of Berkeley, with its density and vibrant university town environment, faces the low probability but high impact threat of a mass shooting, vehicle rampage or other mass violence attacks, whether politically inspired or not. There is no question that our law enforcement officers must train and exercise for the very real threat of mass violence requiring a tactical response.

On the other hand, Urban Shield prioritizes the threat of terrorism above other needs. This federal framework, developed after an unprecedented attack in 2001, was hastily designed to fill a gap in domestic terrorism preparedness. The attack inspired fear that large-scale attacks in American cities could become a new normal. Accordingly, federal policy began to dictate that local law enforcement needed to dramatically shift their preparedness efforts towards counterterrorist operations. *All* UASI funding for law enforcement and first responder disaster preparedness requires a nexus to terrorism.

According to BPD statistics, the SRT team has focused over the last decade on high-risk search, arrest warrant services, dignitary protection, patrol support and crowd management. Urban Shield largely falls short of appropriately exercising these core competencies because its focus is almost exclusively on terrorism. For each of the past five years of Urban Shield (2012-2017), the Subcommittee found that between 75 and 90 percent of the scenario descriptions listed in the Urban Shield booklets either contain explicit references to terrorism or suggest that the scenarios were directly inspired by historic terrorist events.

The Subcommittee's concern with the content of the Urban Shield is not that the event contains scenarios featuring politically-motivated mass violence; the problem is the sheer volume and repetition of these scenarios which, as a whole, do not realistically exercise the most common threats to Berkeley and the surrounding East Bay. Through the Urban Shield approach to emergency preparedness, the BPD SRT exercises their tactical counterterrorist skills some 30 times, continuously, over a 48-hour period, each year. For example, in 2017, the team in the course of 48 hours engaged armed protesters, a vehicle rampage, a nightclub shooting, various hostage takings, a terrorist camp, an airplane hijacking, armed encampment, airport terrorist attack, refinery attack, Amtrak attack, hospital attack, a terrorist attack on the Golden Gate Bridge, a bus hijacking, and a BART hostage taking among some ten others. Featuring so many terrorist scenarios back-to-back, in aggregate creates a perception of a state of simulated counterterrorist warfare in the Bay Area.<sup>84</sup>

Urban Shield evolved from a previous FBI exercise competition, and that the FBI has statutory counterterrorism obligations. Local law enforcement should have a broader focus.

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<sup>84</sup> In the case of war or insurrection, pursuant to the Constitution and federal law, the Congress and President can deploy armed forces and the Governor of California is empowered to deploy the national guard to the Bay Area during grave emergencies. Moreover, in critical situations the Bay Area can expect to receive support from the Federal Bureau of Investigation and other federal agencies with all of their attendant resources.

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The number and variety of scenarios in Urban Shield would make it difficult to replicate. Balancing that is the concern that over-exercising this type of response can also risk obscuring the important principles of de-escalation that officers employ in their everyday encounters with the community. For this reason and others, terrorism shouldn't be the sole framework underpinning the few yearly tactical exercises available to SRT teams outside of their normal preparedness efforts.

Our country's founding principles of separation of civilian and military forces have been preserved in the face of war, mass violence and social unrest, and they underlie wariness of not only Urban Shield but SWAT teams in general.<sup>85</sup> However, it is important to note that the BPD SRT has demonstrated leadership in eschewing the unduly aggressive military-style tactics of SWAT's early days. BPD finds that these tactics are often dangerous, unconstitutional and risk the trust of the public. Unfortunately, however, Urban Shield's nexus to terrorism contravenes and potentially undermines these locally held principles. It also largely fails to appropriately compartmentalize the exercise of routine SRT duties into scenarios unrelated to terrorism.

Although SWAT teams are clearly an important last resort tool in mass violence situations, the nexus to terrorism requirement underlying Urban Shield and the ACSO's scenario design decisions, have combined to exaggerate the threat of terrorism and needlessly exacerbate public's preexisting concerns about the SWAT concept.

Urban Shield's Exercise Plan claims that all scenarios in Urban Shield are based on real-world events. The Subcommittee observed some scenarios where this was the case, such as the Pulse nightclub shooting, and the Event Security scenario, which involved an act of vehicle terrorism. However, in other events, the connection between the real-world scenario and the tactical exercise was unclear. For example, the 2017 terrorist camp scenario, for which ACSO outsourced the design and operation to the private security firm, Execushield, had as its premise a Hezbollah terrorist cell based in South America coming across the United States border and establishing a camp near a reservoir near Livermore, CA. Participating SWAT teams, including BPD, were tasked with assaulting the compound to kill the terrorists and rescue an FBI agent. The scenario featured two combat rubber raiding craft on loan from the U.S. Navy Seals. Active-duty U.S. military personnel and Colombian Marines were also on hand to train the SWAT teams in utilizing the craft and to

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<sup>85</sup> In the Declaration of Independence, American colonists' objections to stationing and provisioning of British troops, unaccountable to local civilian oversight, in homes and businesses were listed as factors leading to the Revolutionary War: "[h]e has kept among us, in times of peace, Standing Armies without the Consent of our legislatures...render[ed] the Military independent of and superior to the Civil Power...[and]... quarter[ed] large bodies of armed troops among us." See Continental Congress, "The Unanimous Declaration of the thirteen United States of America," *A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 – 1875*, Journals of the Continental Congress, Volume 5, accessed May 1, 2018, <https://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=005/lljc005.db&recNum=96>, 512. The 1789 Constitution gave Congress the ultimate power to declare war. Yet, many Americans were still not satisfied that they would be sufficiently protected from undue uses of military or police force. Congress passed and the States ratified the Bill of Rights "to prevent misconstruction or abuse of its [the government's] powers." Among those amendments were the Third Amendment, preventing unauthorized quartering of troops in homes;<sup>85</sup> the Fourth Amendment, specifying generally the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures"; and the Fifth Amendment, specifying that "No person shall...be deprived of life, liberty, or property, without due process of law." See Congress of the United States, *The U.S. Bill of Rights*, December 15, 1791, National Archives, accessed May 1, 2018, <https://www.archives.gov/founding-docs/bill-of-rights-transcript>.

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instruct and judge teams' assault and rescue performance. The scenario blended the worlds of the military and law enforcement.

According to the Exercise Plan, these scenarios by Execushield (the only double scenario in the 2017 program) were based on the 2008 attacks that occurred in Mumbai, India where a group of terrorists coordinated ten shootings and bombings across a large urban area over the course of four days. Conversely, the Urban Shield version did not feature a coordinated and extended terrorist attack and was not urban in nature. The exercise, which took place at San Antonio Reservoir in Livermore—very different from Mumbai, the largest city in India—featured a remote reservoir and a wooded cabin and Hezbollah terrorists. Ideally, tactical scenarios should not only reasonably resemble the scenario they are supposedly based upon but they should also be designed with the Berkeley specifics and vulnerabilities in mind.

The fact that a terrorist attack of some type has occurred anywhere in the world (most of the scenarios are based on foreign events) does not by itself justify preparing for a similar situation in the Bay Area. For example, an al-Qaeda terrorist takeover of a gas facility in Algeria, a country where the economy is heavily reliant on natural gas, does not mean that it is appropriate or prudent to prepare for a similar situation at the refinery in Richmond. To achieve better alignment between scenario design and the context of our regional needs, the scenario design process could include consultation with experts in criminology, terrorism, disaster management, and other related fields. Unfortunately, the current design process does not leave room for this kind of input.

The Subcommittee finds that mass violence tactical preparedness exercises should be included as part a broader, balanced and more holistic conception of threats to the Berkeley community and the first responders. For example, high-risk warrants and dignitary protection operations should be exercised for their own sake, not solely within the framework of terrorism.

The terrorism-centric framework of UASI funding can be traced back to the priorities of Congress and multiple presidential administrations. Yet, these laws and policies have been amended since 9/11 to provide for relatively less stringent usage requirements. Despite new policies that provide for dual-uses, the BAUASI and ACSO continue to prioritize projects with an overwhelming nexus to terrorism.

At the January 11, 2018 BAUASI Approval Authority Meeting to consider and approve the FY18 Allocation of UASI funding to the ACSO, including for Urban Shield, the ACSO delivered brief presentations of why their organization deserved funding. Concrete details about how the funding would be spent to enhance public safety were sparse. By contrast, later in the meeting, scores of public safety officials from Solano County, many of whom were recently involved in fighting the epic 2017 Northern California Firestorm, made a passionate and detailed plea for relatively minor UASI funding to purchase a P25 trunked radio system to facilitate critical emergency communication and collaboration between Solano County and adjacent counties within the BAUASI footprint. The death and destruction resulting from the fires has been front and center in the minds of Northern Californians. Despite the obvious public benefits resulting from such an allocation, the chair of the Approval Authority dismissed Solano County's request, explaining that the ACSO was unwilling to give up a part of its sizeable share of UASI's regional funding allocation.



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From the perspective of defense companies, the vendor show represents a unique opportunity to market to customers. The Subcommittee could not find an official written justification for the vendor show but learned from ASCO officials that it provides a venue through which police can learn about new technologies and build relationships with vendors. While procuring the right technology and equipment is an important facet of first responder preparedness, there is also a strong public interest in not muddying the ostensible purpose of Urban Shield—first responder exercises—with promoting sales. SRT participants, who are public servants, are required to check-in at [the] vendor booths of companies who paid \$8,000 to become “Diamond Executive Sponsors.” Urban Shield provides vendors a marketing platform from which to market their weapons, surveillance technology and other products. This was an ACSO innovation.

The Vendor Show is indirectly funded by the government through the participation of salaried public servants. It is this participation, and the broader event funded through substantial public federal funds, which makes the Urban Shield so valuable to sponsoring companies. Implementing a tactical exercise competition with a strong relationship to for-profit industry raises serious ethical concerns.

Of equal concern is Urban Shield's placement of vendor technology in tactical scenarios for use and testing by public servants and in some cases outsourcing of scenarios to private companies who have a clear interest in turning trainees into customers such as Execushield.

The technology feature page on the 2017 Urban Shield website stated in no uncertain terms how vendor technology fits into scenarios: “Urban Shield will allow companies to place their products and technology directly into the hands of SWAT, Fire, EOD, and EMS professionals.” Triple Diamond Sponsorship (\$15,000) and Diamond Sponsorship (\$7,750) entitles the vendor to a “[p]roduct demonstration at a designated tactical scenario,” meaning SWAT teams and Fire teams will be exposed to the vendor technology in the scenarios. The ACSO even suggests that scenarios are in part tailored around vendor technology: “to ensure your product is being utilized to its full potential, it is highly recommended you commit your product early during the scenario development process.”<sup>88</sup>

At Urban Shield, exercises are not just designed for preparing first responders in counterterrorism operations, but also for providing for-profit companies with “networking opportunities” and a “Beta test environment for vendor products.” The website cautions: “Vendors are STRONGLY encouraged to be at the scenarios their product is involved in to ensure the correct presentation of the product and its use” because following each scenario “teams are questioned concerning the benefits and drawbacks of each piece of technology used in that scenario. This is invaluable real-time feedback for vendor's products.”<sup>89</sup>

Subcommittee observers witnessed many vendors attending scenarios. Vendor-sponsors are entitled by virtue of their sponsorship to VIP observation passes for the scenarios. Their level of access even

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<sup>88</sup> “Sponsor levels.”

<sup>89</sup> Alameda County Sheriff's Office, Urban Shield, “Technology,” 2017, accessed May 1, 2018, <https://web.archive.org/web/20171024070133/https://www.urbanshield.org/about/technology>.

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surpassed Berkeley City government observers; in one instance, Subcommittee observers were prohibited by the ASCO from observing a scenario briefing involving vendor technology, while vendors were not.

Large banner ads of vendors such as Axon, the maker of the Taser, and countless others adorn the Urban Shield website throughout the year, and during the event banners hang across the Alameda County fairgrounds, at the official event hotel, and appear in brochures and in some cases at the scenario sites. The ACSO rules also provides for the commodification of teams. For example, a military defense contractor, such as BAE Systems, could have sponsored a team such as the BPD's and placed its logos on the vans used by BPD to travel from scenario to scenario.<sup>90</sup> The Subcommittee was not able to confirm whether vendors have taken advantage of the team sponsorship opportunity.

The stated purpose of Urban Shield is to prepare for terrorism and disasters generally. The Berkeley community pays taxes to support their fire and police departments with the expectation that they will be well-trained and prepared to perform a variety of public safety functions in the event of an emergency. Urban Shield modifies this contract so that public servants also serve private companies for a weekend and raises questions about whether the ACSO has a conflict of interest.

In addition, the Sheriff has accepted campaign donations from many of the vendors that he hosts at the vendor show and whose technology or services are featured in scenarios.<sup>91</sup> This situation creates a perception that the Sheriff's priorities are not entirely focused on public safety.

Supervisor Carson, in establishing the USTF, called upon its members to consider whether "Urban Shield [is] strictly an emergency preparedness program" This Subcommittee is less certain given the way that the ACSO accommodates the interests of vendors. The privatized aspects of the design and operation of the event are inherently flawed.

Exacerbating this problem is the fact that ACSO and BAUASI have not been transparent about how UASI and county funds are being spent at Urban Shield. For example, the critical question of whether federal or county funds are directly subsidizing the Vendor Show, and how the ASCO is spending the funds collected from sponsorships, has not been officially answered. Nonetheless, the disclosure of the ACSO's special vendor donation fund that was authorized by the Board of Supervisors in 2007 inspired a member of the public to make a California Public Records Act request regarding the fund's expenses and revenues.<sup>92</sup> In March of 2018, the request revealed documents showing that the ACSO used the fund for activities not related to emergency preparedness.

For example, the fund financed airfare for two undisclosed individuals to Israel in 2008, and approximately \$75,000 towards expenses related to ACSO staff travel in 2010 to Israel and Jordan.

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<sup>90</sup> "Sponsor levels."

<sup>91</sup> See e.g., Simone Aponte, "2 Investigates: Questions surround jail contractor's donations to Sheriff's campaign," KTVU News, accessed May 1, 2018, <http://www.ktvu.com/news/2-investigates/2-investigates-questions-surround-jail-contractors-donations-to-sheriffs-campaign>.

<sup>92</sup> Katz-Lacabe, Mike, "Urban Shield Trust Fund Paid for Trips to Israel, Parking Tickets and Paint Jobs," the Center for Human Rights and Privacy, accessed May 1, 2018, <https://www.cehrp.org/2018/03/>.

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The latter visit included a costly presentation to the King of Jordan. Public documents showed that the fund financed: “at least two parking citations in Oakland... paid \$9,000 to paint humvees ... spent \$112,723 on customized Urban Shield coins... [and] paid the \$500 deductible for a car hit during Urban Shield.”<sup>93</sup> Among the donors to the fund are military defense contractor BAE Systems, arms manufacturer Sig Sauer, Taser, Adamson Police Products, the Blackwater Training Center and Corizon (the prison service provider for Alameda County jails). Fortune 500 retailers such as Walmart and Target, and tech giant Facebook, also donated.

### **Lack of Local Input and Oversight**

The fundamental principle of community-oriented policing and emergency response is that local agencies work closely with the community to meet their needs and to conform to their values. Public oversight and dialogue are critical components and local leaders are entrusted to oversee and operate these agencies with the public’s interest in mind. The design and operation of Urban Shield, centralized within the ACSO, violates the principles of community-oriented public service through largely removing departmental leadership on critical matters of local concern.

The Subcommittee was unfortunately unable to determine much in the way of information about how Urban Shield is conceived and operated at the most basic level. The design of the tactical, fire and EOD scenario competition is kept secret as to not give teams a competitive pre-Urban Shield training advantage; BFD and BPD leadership are not invited to consult on or give consent to the scenarios. The ASCO’s purview in day-to-day county-wide law enforcement matters are largely limited to augmenting existing emergency response of cities and coordinating county-city efforts during major disaster. Ultimately, it is the cities themselves that are best situated to understand and prepare for the threats facing their populaces.

For example, the City of Berkeley faces unique public safety challenges related to its dense urban character, proximity to a major university, its proximity to a major seismic fault, wildfire hazards, etc. The Berkeley public holds local public safety officials responsible for training and exercising for challenges unique to Berkeley, not just threats to the various twelve counties in BAUASI.

The Urban Shield event and the ACSO has been the subject of a series of scandals in recent years—episodes that may have been avoided had the public and local jurisdictions been meaningfully involved in the exercise’s design and operation. Earlier Urban Shield scenarios featured play actors with primarily darker skin tones. The event also made national news in 2015 when observers witnessed derogatory t-shirts with “Black Rifles Matter” graphics being sold at the Vendor Show.<sup>94</sup> As recent as 2017, despite the Sheriff’s pledge to rid the event of racist stereotyping, a citizen discovered that one of Urban Shield’s contractors, Strategic Operations, had a website adorned with, in words of Supervisor Valle, “derogatory, racist messages in the form of images.”<sup>95</sup>

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<sup>93</sup> *Id.*

<sup>94</sup> Griffin, Tamerra, "T-Shirt Sold at Law Enforcement Convention Claims ‘Black Rifles Matter,’” BuzzFeed, September 12, 2015, accessed May 1, 2018. [https://www.buzzfeed.com/tamerragriffin/t-shirt-sold-at-law-enforcement-convention-claims-black-rifl?utm\\_term=.nt9b00O6#.khOodd6r](https://www.buzzfeed.com/tamerragriffin/t-shirt-sold-at-law-enforcement-convention-claims-black-rifl?utm_term=.nt9b00O6#.khOodd6r).

<sup>95</sup> Parr, Rebecca, "Alameda County Rejects Urban Shield Vendor Over Perceived Racist Images," East Bay Times, August 26, 2017, accessed May 1, 2018, <https://www.eastbaytimes.com/2017/08/25/alameda-county-rejects-urban-shield-vendor-over-perceived-racist-images/>.

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At the fair in 2017 the ASCO hosted a fundamentalist militia organization known as the Oath Keepers in the ASCO's official tent.<sup>96</sup> Members of the Oath Keepers aggressively conducted heavily armed vigilante patrols in the streets of Ferguson, Missouri during the 2014 protests against the wish of local law enforcement.<sup>97</sup> Ironically, groups such as the Oath Keepers are the very organizations that have taken the public stance that law enforcement agencies, such as the Alameda County Sheriff's Office, are incapable of protecting the public.

That same year, a public records request unveiled that Homeland Security Investigations (HSI), the investigative arm of Immigration and Custom Enforcement (ICE), was found to have surreptitiously competed in Urban Shield. Community members have reasonably questioned why Alameda County, a sanctuary county, would host an ICE SWAT team at a highly controversial law enforcement exercise.<sup>98</sup> The event also featured evaluators from Colombia, and observers from Saudi Arabia and the Philippines in contravention of the Sheriff's pledge to "[e]xclude participation from countries with documented human rights abuses."<sup>99</sup>

There are also concerns about the quality of feedback received following scenarios. Although the BPD and BFD participate in Urban Shield using their own tactics and training, teams receive input on their performance from other local, county, city or federal (e.g. the DHS in 2017) law enforcement evaluators. Overall feedback may represent the best possible practices, but departmental leadership is often not in the debriefing room throughout the event to ensure that feedback comports with departmental policy. This situation could potentially lead to departures from, or confusion around, established community-orientated tactical or emergency response policies. At the same time, the Subcommittee found that the debriefing period, often lasting only a few minutes for competition facilitation purposes, does not provide sufficient time for an effective training opportunity.

With regard to the tactical scenarios, it is unclear the extent to which ACSO and BAUASI expand regional collaboration. While this may be true of the tabletop exercises like Yellow Command, the inherently competitive nature of the tactical and fire exercises prohibit meaningful collaboration. The Subcommittee observed no collaboration between SRT teams, except in the case of evaluators from outside agencies giving feedback to SRT teams during the course of the competition.

## **Recommendations to the Berkeley City Council**

### **Berkeley's Ongoing Participation in Urban Shield**

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<sup>96</sup> Lynn, Jessica. "Right-Wing Extremist Group Had Booth at Urban Shield 'To Explain Who They Are,'" East Bay Express, May 17, 2018, Accessed May 21, 2018, <https://www.eastbayexpress.com/SevenDays/archives/2017/09/15/right-wing-extremist-group-had-booth-at-urban-shield-to-explain-who-they-are>.

<sup>97</sup> *Id.*

<sup>98</sup> Creighton Caron, and Susie Neilson, "Alameda County Sheriff Hosted ICE at Urban Shield," East Bay Express, May 20, 2018, accessed May 1, 2018, <https://www.eastbayexpress.com/oakland/alameda-county-sheriff-hosted-ice-at-urban-shield/Content?oid=13905856>.

<sup>99</sup> See Gregory J. Ahern to the Honorable Board of Supervisors, January 6, 2017.

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### *Discussion*

According to the Alameda Board of Supervisors, the Urban Shield event, “as it is currently constituted,” presumably including the exercise scenarios and vendor show, will be substantially altered in 2019. There is no clear indication as to how the event will be reconstituted.

The Subcommittee finds that positive public safety benefits of Berkeley’s participation in the event’s tactical scenarios for an additional year are relatively small. The BPD SRT has participated in the event for ten years, and according to BPD, the beneficial aspects have been firmly integrated into BPD’s institutional memory. According to BFD leadership, department personnel have seldom attended the fire scenarios in the past, and therefore would likely not send a team to the 2018 event. For these reasons, an additional year of Berkeley participating in the Urban Shield fire and tactical scenarios will likely not have measurable positive effect on the City’s preparedness for critical incidents.

On the other hand, the Subcommittee finds that an additional year of Urban Shield tactical and fire exercises, given their design, will likely have a significant negative impact on community-first responder relations, over-exercise counterterrorism competencies, and perpetuate concerns about the role of vendor marketing in public safety and the lack of local input and oversight.

The Subcommittee recommends suspending participation in the vendor show and tactical scenarios as currently constituted in 2018, pending reevaluation of tactical-related offerings from the county in 2019. In addition, the Subcommittee recommends that the public safety interest is served by the participation, at the discretion of BPD and BFD leadership, in the 2018 Yellow Command tabletop exercises, the CERT exercises (Green Command), the Orange Command, the Community Preparedness Fair (Gray Command) or public safety seminars.

### *Recommendations*

- 1.1. Suspend Berkeley’s participation in the vendor show and BPD’s participation in the tactical scenarios in 2018, pending reevaluation of the tactical-related offerings from the county in 2019.

#### *Motion*

- 1.2. Continue participation in table top exercises (Yellow Command), the CERT exercises (Green Command), the Community Preparedness Fair (Gray Command) and public safety seminars.

#### *Motion*

## **Beyond Urban Shield**

### *Discussion*

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On balance, the current Urban Shield exercise and vendor show model is inherently flawed. Nevertheless, the Subcommittee appreciates that BPD and BFD have received significant public safety benefits from the event over the last ten years, including an opportunity to enhance leadership skills, a venue to test tactics and make training adjustments, exposure to realistic critical incidents that could occur in Berkeley, exposure to tactical medical techniques, stress inoculation and tactical police-fire coordination experience. The Subcommittee also appreciates that BFD has received public safety benefits from its participation in Yellow Command from sending teams to the fire scenarios even though it did so infrequently.

Fortunately, Berkeley's withdrawal from the 2018 Urban Shield does not have to trigger an 'all or nothing' tradeoff with respect to public safety. First, the BPD and the BFD already conduct robust training and exercise outside of Urban Shield.<sup>100</sup> Second, the Council has the power to supplement existing local exercises to independently provide access to the positive aspects of Urban Shield. Local emergency exercises will have greater visibility and oversight, preventing the excesses of Urban Shield. They will also create important opportunities for SRT tactics and equipment to reflect our City's needs. Whereas the scenarios conceived by the ACSO have engendered confusion, fear, and mistrust, local ad hoc exercises have the potential to open a positive dialogue between the departments and the community they serve.

Many of Berkeley's preparedness challenges are unique to the City and are not always appropriately considered or provided for at the county level. For example, a county study shows that earthquakes and wildfires represent the leading emergency preparedness challenges to Alameda County, while the risk of terrorism is considered as less urgent.<sup>101</sup> BPD statistics suggest that counterterrorism is not a typical responsibility of SRT officers, and therefore should not be the overwhelming focus of exercise. Despite these understandings, Urban Shield exercises have continued to be overwhelmingly focused on responding to terrorism. Importantly, by centering supplemental emergency preparedness efforts locally, the Berkeley community would be empowered to advocate for and design supplemental exercises to address critical preparedness gaps.

The BPD and BFD should be commended for already conducting realistic local active-shooter exercises for the benefit of its officers and the public, and in concert with the community. These whole community initiatives should be encouraged and pursued as model upon which future local exercises are based. This new model does not preclude the City from considering whether to participate in county-based scenario training in 2019, but it does give Berkeley an option to enhance local training should the reconstituted version be insufficient or incompatible with Berkeley's values.

BFD and BPD testimony clarified the fact that recreating a full-scale emergency preparedness exercises like Urban Shield would be prohibitively expensive for a local jurisdiction to recreate. However, Berkeley departments will not be asked to provide exercises addressing the needs of all of the BAUASI counties and the cities. In the Subcommittee's proposed model, the City would be empowered to prioritize supplemental preparedness efforts for *Berkeley* challenges. In

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other words, the scope would be limited to organizing exercises that benefit Berkeley, and potentially in coordination with its immediate neighbors—thereby significantly limiting the scope and costs related to recreating a full-scale emergency preparedness exercise.

Given the complexity organizing, facilitating, funding and implementing regular local fire, tactical, CERT and community safety exercises and training, the Subcommittee recommends that the Council convene a task force composed of key local officials, outside experts and the public to make recommendations on how to best move forward with the local-centered preparedness proposal, and to act as a liaison to the county on matters related to reconstituting county emergency preparedness programs for the year 2018 and beyond.

The task force should consider ways that the Council can reasonably fund these critical activities. The task force should also consider joining with neighboring jurisdictions to share expertise, costs and other burdens of organizing exercises. Finally, the task force might consider the possibility of applying for BAUASI funds directly through BAUASI, or through the county, to fund exercises for natural and manmade disasters, including, but not limited to, the threat of terrorism.

For ten years, the County of Alameda failed to mitigate the negative aspects of Urban Shield. Now, the City of Berkeley has the opportunity to pursue a preparedness model that will empower City departments to develop supplemental training and exercise, directly involve the community, provide oversight, decommodify public safety, and prioritize Berkeley's unique and broad preparedness challenges (instead of the narrow terrorism-only approach). If pursued, this approach has the potential to provide preparedness training and exercises that are compatible with Berkeley's values and potentially superior to those currently offered at Urban Shield.

### *Recommendations*

- 1.3. Establish a task force comprised of public safety department leaders, community members, the mayor, councilmembers, commissioners, and public safety researchers to make recommendations on organizing, facilitating, funding and implementing localized and supplemental fire, tactical, CERT and other community safety exercises and training, informed by the principles of the “whole community” approach to emergency management, local oversight, decommodification of public safety, and the relative threat of natural and manmade disasters, including, but by no means limited to the threat of terrorism. **[determine deadline for reporting back to Council]**

### *Motion*

- 1.4. Instruct the task force to consider and make recommendations regarding existing City funds, new City funds and non-City funds as opportunities for financing supplemental local community safety exercises and training initiatives.

### *Motion*

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- 1.5. Instruct the task force to make recommendations to Council on the feasibility and prudence of lobbying the County of Alameda and BAUASI to provide “dual-use” funding directly to the City of Berkeley, and of coordinating with neighboring jurisdictions for implementing regular local fire, tactical, CERT and community safety exercises and training, informed by the principles above.

*Motion*

- 1.6. Empower the task force to act as a liaison between the City of Berkeley and the County of Alameda, including the Board of Supervisors, the Alameda County Office of Emergency Services and the ACSO with regard to the Board of Supervisor’s initiative to reconfigure County-led emergency preparedness exercises for 2019 and beyond.

*Motion*

- 1.7. Instruct the task force to reevaluate fire and tactical-related offerings by the county and provide recommendations to Council.

*Motion*

- 1.8. Instruct the task force to lobby the County of Alameda to adopt a “whole community” approach to emergency preparedness and management, with a focus on funding coordinated preparedness efforts between county agencies and between cities, informed by the principles of local control, decommodification of public safety, and the relative threat of natural and manmade disasters to Berkeley and the broader the East Bay.

*Motion*

- 1.9. Lobby Berkeley’s members of Congress to broaden 6 U.S.C. § 605 to expand federal Homeland Security Grants to fund non-terrorism preparedness activities.

*Motion*