



SOPHIE HAHN

Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

REVISED AGENDA MATERIAL

Meeting Date: July 28, 2020

Item Number: Item A

Item Description: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

Submitted by: Vice Mayor Sophie Hahn

This revised material makes several modest formatting and punctuation revisions as well as the following substantive changes:

- Requires the Director of Emergency Services to give Council notice concurrently with issuing an emergency order
- Clarifies and enumerates constitutional activities that the item seeks to protect, including speech and assembly
- Adds language to clarify that amendments to code and/or policy should reflect existing constitutional and legal standards
- Adds letters of support from academics and advocates



SOPHIE HAHN
 Berkeley City Council, District 5
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704
 (510) 981-7150
 shahn@cityofberkeley.info

CONSENT CALENDAR
 June 9, 2020

To: Honorable Members of the City Council
From: Vice Mayor Sophie Hahn (Author), Councilmembers Ben Bartlett and Kate Harrison, and Mayor Jesse Arreguin (Co-Sponsors)
Subject: Changes to the Berkeley Municipal Code and City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews

RECOMMENDATION

1. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify the following [concepts](#) with respect to the declaration of a Local Emergency:
 - a. A Local Emergency can only be declared by the Director of Emergency Services if a regular or special meeting and session of the City Council cannot be called due to physical impossibility of holding a meeting, because a quorum cannot be established, or because the urgency of the Local Emergency is such that waiting 24 hours for the City Council to convene a session and/or Special Meeting would endanger the community;
 - b. Should the Director declare a Local Emergency without action of the City Council (due to one of the reasons stated at (a), above), [the City Manager should inform councilmembers immediately and](#) Council ratification of such action [should](#) occur at the first possible opportunity, even if it requires calling a Special Meeting and/or session of the Council; and
 - c. The applicable statutory and legal standards (Federal, State and Local) for calling a Local Emergency shall be presented to the City Council when seeking declaration or ratification of a Local Emergency, along with facts to support meeting those standards, so that the City Council, likely acting under rushed and exigent circumstances, is able to make a carefully considered and fact-based determination that declaration of such Local Emergency conforms with the legal standards and is supported by facts.
2. Direct the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify policies, terms

Deleted: s

and procedures for the order, scope, terms, duration, and all other elements and conditions of curfews called in response to, or likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable [constitutionally protected speech, assembly and other](#) activity, including rallies, marches, demonstrations and assemblies of all kinds ("First Amendment Curfews"), [to include the concepts](#) enumerated (1-8) under the "Background" section of this item, below, [and to reflect existing constitutional and legal standards](#).

Deleted: first amendment
Deleted: y
Deleted: as

3. Advise the City Manager and/or Director of Emergency Services that approval of this item represents the will and direction of the City Council with respect to declarations of Local Emergencies and imposition of First Amendment Curfews, and should the occasion to declare a Local Emergency or impose a First Amendment curfew arise prior to formal Council adoption of the requested amendments and policies, the City Manager and/or Director of Emergency Services shall, to the greatest extent possible under existing law, strive to encompass actionable elements, and meet spirit, of this item.

BACKGROUND:

"Those who won our . . . revolution were not cowards. . . They did not exalt order at the cost of liberty. . . . Only an emergency can justify repression [of speech]. . . . The fact that speech is likely to result in some violence or in destruction of property is not enough to justify its suppression. There must be the probability of serious injury to the State. Among free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law, not abridgment of the rights of free speech and assembly." US Supreme Court Justice Brandeis, Whitney v. California, 274 U.S. 357, 377-78 (1927) (Brandeis, J., concurring)

State law and the Berkeley Municipal Code both include provisions for the calling of a Local Emergency. Once a Local Emergency has been called, the power to impose curfews is in the hands of the Director of Emergency Services ("Director"), with ratification by the City Council.

This item seeks to achieve two goals:

First, the Berkeley Municipal Code only allows the Director to proclaim a Local Emergency if the City Council is not "in session." If the City Council is "in session," the City Council must call the Local Emergency. It also requires the City Council to ratify a Local Emergency called by the Director within seven days, or the proclamation has no further effect. [The BMC currently provides the following:](#)

2.88.040 Director of Emergency Services--Powers and duties.

- A. The Director of Emergency Services is empowered:

1. If, in the Director's judgment, the conditions will require the combined forces of other political subdivisions to combat, to request the City Council to proclaim the existence of a "Local Emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a Local Emergency is proclaimed by the Director, the City Council shall take action ratifying said proclamation within seven days of issuance or the proclamation shall have no further force and effect;

This item directs the City Manager to return to the City Council amendments to the Berkeley Municipal Code and/or a policy to adopt that emphasize and clarify that the City Council is the body empowered to call Local Emergencies, and the Director of Emergency Services must present a proclamation of Local Emergency either at a Regular meeting of the City Council, or call for a Council session and/or Special Meeting to be immediately convened, and the Director may only call a Local Emergency himself in circumstances where, despite the requirement to convene the City Council, it is either (1) extremely difficult or impossible for the City Council to meet, such as a major wildfire or earthquake that renders both physical and virtual meetings physically difficult or impossible, or (2) after convening a session and/or Special Meeting, or at a Regular Meeting of the Council, a quorum cannot be established, or (3) if the emergency is so extreme and dangers to the community so grave and imminent that waiting for a Regular or Special Meeting or session of the City Council to be convened would endanger the community.

Further, the item requests clarification that City Council ratification of a declaration of Local Emergency by the Director should take place as quickly as possible, at the first possible occasion that a Special City Council meeting or session can be convened.

Second, once a Local Emergency has been declared, the Director of Emergency Services [currently](#) has the following powers under BMC Section 2.88.04(A)(6)(a):

To make and issue lawful rules and regulations on matters reasonably related to the protection of life, public health or safety, or improved property as affected by such emergencies; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council, shall be in writing, and shall be given widespread publicity and notice

It is according to this power that a curfew can be imposed by the Director.

A second set of BMC amendments and policies will address imposition of certain types of curfews. This item directs the City Manager to return to the City Council for adoption amendments to the Berkeley Municipal Code and/or policies to approve that clarify and codify new procedures and requirements applicable curfews which may be called in response to, or are likely to have the effect of limiting or banning, planned, expected or reasonably foreseeable first amendment activity, including rallies, marches, demonstrations and assemblies of all kinds, hereinafter referred to as "First Amendment Curfews".

Establishment of all curfews impacts constitutional rights. By limiting movement of individuals during the period of the curfew in the locations where a curfew is imposed, liberty is impacted. Thus, imposition of any curfew and must meet a high standard.

Deleted: , most notably the 5th Amendment protection against government deprivation of "life, liberty, or property, without due process of law.

Under any curfew, constitutional activity – including free speech and freedom of assembly – is also curtailed, by implication. If residents are confined to their homes some or all of the day and night due to safety concerns and dangerous conditions after a disaster, they cannot assemble publicly for any purpose, and their first amendment rights have been curtailed. But there is a difference between a curfew that is called in the wake of a major disaster such as an earthquake or fire, to protect people from dangerous conditions, and a curfew that is called specifically in response to, or anticipation of, first amendment activity. This item asks for amendments to the Berkeley Municipal Code and/or the drafting of new policies that establish higher standards and more robust processes and policies with respect to potential First Amendment Curfews.

Deleted: first amendment

Deleted: -

After an earthquake, fire, landslide or other major disaster, if a curfew is imposed to avoid the possibility that individuals out at night, for example, will be hurt by falling debris, encounter live electrical wires, or fall into sinkholes, the nexus between potential harm to community members and the calling of a curfew is clear and relatively uncontroversial. The fact that the curfew also precludes a rally, protest, funeral or other assembly is incidental.

Deleted: sse

But when a curfew is issued primarily to limit or preclude assemblies, free speech and the right to "peaceably assemble" is the direct target of the curfew, and higher standards must apply. The City Council should be the body to review the statutory and legal standards for imposition of a First Amendment Curfew, to review the facts, and to evaluate whether the intrusion on First Amendment rights is necessary to address a compelling interest, narrowly tailored to achieving that purpose, and uses the least restrictive means to achieve the purpose.

Changes to the BMC and/or new policies relating to First Amendment Curfews should include, at a minimum, the following:

1. An assertion or codification that constitutionally protected speech, assembly and other activity shall not be infringed upon by the City of Berkeley without establishing that the proposed intrusion on constitutional rights meets constitutional standards and is necessary to address a compelling interest, narrowly tailored to achieving that purpose, and uses the least restrictive means to achieve the purpose
2. Imposition of First Amendment Curfews, if any, shall be by action of the City Council at a Regular or Special meeting, except in circumstances where it is extremely difficult or impossible for the City Council to meet, such as a major wildfire or earthquake that renders both physical and virtual meetings physically difficult or impossible, or if a quorum of the City Council cannot be established, in which case the Director of Emergency Services may impose a First Amendment Curfew that meets the requirements of all applicable Federal, State and local laws, legal standards, and policies. A curfew imposed by the Director must be ratified by the City Council within the following 24 hours, except if it is

Deleted: the First Amendment

Deleted: First Amendment

extremely difficult or impossible for the City Council to meet either physically or virtually, or a quorum of the City Council cannot be convened at a regular or special meeting.

3. A First Amendment Curfew and each and every element of such curfew, including but not limited to the curfew's physical boundaries; times of day or night; duration; and the individuals/businesses/establishments, modes of transportation, and other activities or elements to which it applies; shall not be imposed unless specific findings are made, based on substantial evidence, that:
 - a. Each element of such curfew [meetings constitutional standards and](#) is narrowly tailored to meet specific violence or conditions which pose a clear and present danger of imminent violence likely to be perpetrated in each covered location (residential vs. commercial/ manufacturing areas, specific residential or commercial/manufacturing areas [or other specific locations](#), specific types of establishments such as bars, dispensaries, big box stores, etc.), using the covered modes (pedestrians, bike riders, people in vehicles, parking, etc.), during the covered times (morning, mid day, afternoon, evening, etc.), for the covered duration (one day, half day, etc.), and in, by or during all other conditions to which the order applies, and
 - b. All reasonable alternatives and more narrowly tailored means to avoid or address specific violence or conditions which pose a clear and present danger of imminent violence, as well as any new rules or regulations which may be promulgated short of a curfew in those locations, even if more expensive to deploy, for those individuals and modes, during those times and for that duration, and for all other conditions to which the curfew applies, have been explored and found to be deficient in their ability to address specific violence or conditions which pose a clear and present danger of imminent violence, and only a curfew can reasonably provide for the necessary public safety and welfare.

All reasonable alternative means, considered and rejected, to address threats related to each covered location, population, mode or other condition or element of the curfew, shall be described in the report provided to the City Council upon the Director of Emergency Services 'request for Council to impose such curfew, or upon the Director's request for ratification of a curfew imposed by the Director.
4. First Amendment Curfew orders must clearly state and/or designate on a map the specific areas to be covered, list the covered individuals/businesses, modes, times, duration and any other elements and conditions to which the order applies, and explain the specific violence or conditions which pose a clear and present danger of imminent violence, that justify imposition of the curfew to each element of the order. First Amendment Curfews may not be based on fear of violence alone; there must be specific, identified threats and/or a reasonable basis to believe threats might materialize in the locations, at the times, and by the means being banned or restricted by the curfew order.

5. A First Amendment Curfew can provide a specific number of days, or unlimited days, for which the curfew is suggested to apply. However, First Amendment Curfews can only be ordered by the City Council or, if necessary, by the Director of Emergency Services, for one twenty-four hour period at a time, and may only be extended or re-imposed, if at all, through additional action taken by the City Council at a regular or special meeting or by the Director.

Deleted: the

Notwithstanding the above, if, after 7 consecutive days of the City Council issuing daily First Amendment Curfew orders or the Director of Emergency Services issuing daily orders for the City Council's ratification, the Council or the Director wishes, on the 8th day, to issue a First Amendment Curfew order for a period longer than one day, the City Council, by a vote of $\frac{2}{3}$, or the Director, may issue or ratify curfew orders of up to 3 days in duration.

Deleted: 7

6. An overall finding must be made by the City Council or Director, in imposing a First Amendment Curfew, that the curfew meets constitutional and other legal standards and that reasonable alternative measures that burden substantially less speech would fail to achieve the City's interests, even if more complicated or costly to implement, and the added value of the curfew will make a substantial positive impact on public safety without unduly impacting rights guaranteed under local, state and federal laws, and the US Constitution.

Deleted: in particular the First, Fifth and Fourteenth amendments of

7. To the greatest extent possible, First Amendment Curfew orders shall refrain from using vague standards for enforcement and exemptions, that may result in selective, disparate or biased enforcement.

8. To mirror the notice requirements of Berkeley Municipal Code Section 2.88.040(6)(a), which requires "widespread publicity and notice" of a declaration of Local Emergency, and to meet ensure that a First Amendment Curfew is only enforceable against individuals who do not obey the curfew "after due notice, oral or written, has been given to said persons," and, to the greatest extent possible under the time constraints and physical conditions (lack of electricity or internet, widespread destruction in the event of a sudden wildfire or earthquake, etc.) which exist at the time a First Amendment order is ordered, the City of Berkeley shall publicize the First Amendment Curfew through, at a minimum, the following means:

- a. By posting a notice at all locations where formal notices are regularly posted
- b. By posting a notice prominently on the Home Page of the City of Berkeley website and on other appropriate pages of the website
- c. By publicizing notice of the order through major City of Berkeley and police department social media accounts

- d. By providing a copy of the notice to a broad array of traditional Bay Area media outlets including paper and online newspapers, radio and television stations, and other similar media
- e. If the order applies only to specific locations within the City of Berkeley, by posting temporary signs on street fixtures and poles in such area(s), and in particular at major entrances to such areas such as on arterials and collector streets as they enter such restricted areas.
- f. And by other means of broadcasting notice of the order to the general public.

In addition, notice and a reasonable opportunity to comply with the curfew (a “warning”) shall be provided to all individuals against whom enforcement is contemplated, by announcing the order through amplified communications and providing a verbal warning and reasonable opportunity to comply before enforcement.

FINANCIAL IMPLICATIONS

Cost of holding additional virtual or in-person meetings of the City Council to ensure rights guaranteed by the Constitution of the United States of America are upheld in all actions to declare Local Emergencies and impose First Amendment Curfews in the City of Berkeley.

CONTACT INFORMATION

Vice Mayor Sophie Hahn, Council District 5, 510-682-5905 (Cell)

ATTACHMENTS

1. ACLU of Northern California’s June 3, 2020 letter to Alameda County Sheriff Ahern
2. Karen J. Pita Loor, *When Protest Is The Disaster: Constitutional Implications of State and Local Emergency Power*, 43 SEATTLE U. L. REV. 1 (2019)
3. [Letters of support from Prof. Karen J. Pita Loor, Boston University School of Law; Margareta Lin, Just Cities/Dellums Institute for Social Justice; Tracy Rosenberg, Oakland Privacy; Seth Chazin, Meiklejohn Civil Liberties Institute](#)



July 23, 2020

Dear Honorable Members of the Berkeley City Council:

I am a law professor and am writing in support of Vice Mayor Sophie Hahn's Recommendation of Changes to the Berkeley Municipal Code and the City of Berkeley Policies with Respect to Local Emergency Declarations and First Amendment Curfews. I have been studying and writing in the area of protest movements for the past four years. See *Tear Gas + Water Hoses + Dispersal Orders: The Fourth Amendment Endorses Brutality in Protest Policing*, 100 BOSTON UNIVERSITY LAW REVIEW 817 (2020); *When Protest is the Disaster: Constitutional Implications of State and Local Emergency Powers*, 43 UNIVERSITY OF SEATTLE LAW REVIEW (2019); *A Study on Immigrant Activism*, 100 MARQUETTE LAW REVIEW 565 (2016). My research in this area has led me to conclude that government responses to protests must be carefully reigned in if the government is to remain true to its duty to protect an individual's right to express dissent. This Recommendation takes a common sense step in the right direction by distinguishing curfews to be enacted in response to protests from those enacted in response to a natural disaster, a terrorist attack or another emergency. A protest – mass dissent – is simply not a disaster and a curfew enacted in response to protests directly curtails First and Fourth Amendment rights in a different manner than a curfew after an earthquake. All curfews are not created equal and to treat them as though they are is not sufficiently protective of the community's protest rights.

I have conducted extensive research of mass protests including the 1999 Seattle World Trade Organization protests, the Ferguson uprising after the police murder of Michael Brown, the Baltimore protests after the killing of Freddie Gray, and the indigenous water protectors' protests of the Dakota Access Pipeline. I am now studying law enforcement response to the current protests over the police murder of George Floyd, as well as other BIPOCs. In all these protests, police response has been extreme, militarized, and violent and has resulted in fear, harm and injury to protestors seeking to express their disagreement and often distress over government action. In addition to too free access to military so-called "less lethal" weapons, emergency declarations and curfews are part of the

array of tools that are weaponized against community members expressing their rightful outrage via protests. Without an emergency declaration, the government cannot declare a curfew. In accordance with the Recommendation, an emergency should not be declared without the proper authority and without a documented factual basis since the power that it provides officials and first responders – i.e. police -- is dangerously expansive. Once an emergency is declared, subsequent emergency orders are the law of the land and violations of those orders are cause for often violent arrest. This encompasses civilian conduct that would -- in regular circumstances -- be innocuous, innocent and by no means criminal. Having one individual alone -- be that an emergency management official or another executive – with the sole authority to declare an emergency is a dangerous proposition, particularly to the First Amendment when the emergency is protest activity. Because of this expanded executive authority provided by a state of emergency, it is vital to strictly question and, if enacted, narrowly tailor any curfew in response or anticipation of protests. It is disingenuous to argue that these curfews are not intended to curtail First Amendment rights, particularly when not narrowly tailored and strictly circumscribed. It is intellectually dishonest –as we are flooded with videos of incidents of violent protest policing -- to assert that these First Amendment curfews impact freedom of expression and assembly in the same manner as a curfew enacted in response to a natural disaster. A curfew is an invitation for police to clear the streets through force, use of weapons, and violence. A curfew is an open invitation to arrest. These are the documented results of curfews enacted in response to protests. Ignoring this amounts to ignoring your duty to protect the right of your community to express their outrage, sadness and dissent. This is clearest when the subject of the protests are police – the very same entity further empowered by these emergency declarations.

I commend the Berkeley City Council for considering this Recommendation to protect the constitutional rights of community members to express their dissent in the streets of their city.

Sincerely,

Karen J. Pita Loor
Associate Dean of Experiential Education
Clinical Associate Professor of Law

Thursday, July 23, 2020

Dear Berkeley leaders,

We hope this finds you and your loved ones healthy, safe, and hopeful during these challenging, and also pivotal times. We greatly appreciate the sound, evidence-based, proactive leadership you have been providing in addressing the twin pandemics of COVID and persistent racism. We wanted to let you know that Just Cities is in strong support of Vice Mayor Sophie Hahn's Local Emergency policy proposal, co-sponsored by Mayor Arreguin and Councilmembers Harrison and Bartlett. It modernizes our understanding of local emergencies, no longer just earthquakes and fires, but also politically motivated demonstrations that intentionally turn into riots and politicized pandemics. It serves as a proactive and thoughtful measure that recognizes the essential role of the Mayor and Councilmembers as the vehicles for the moral and political values of Berkeley constituents like myself in the difficult decisions such as when curfews should be instituted. It also preserves the ability of the City bureaucracy to respond quickly should the Council not be available, with built in future accountability to the Council and public.

We believe that, like with so many other efforts such as the Ronald V. Dellums Fair Chance Housing ordinance, Berkeley's passage of the Local Emergency policy will serve as a model for the nation.

With love and gratitude,

Margaretta

--

Margaretta Lin

Executive Director

Just Cities/Dellums Institute for Social Justice

www.justcities.work; www.dellumsinstitute.org

Another world is not only possible, she is on her way. On a quiet day, I can hear her breathing.
Arundhati Roy

Thursday, July 23, 2020

Dear Mayor Arreguin and Honorable Members of the Council,

Firstly, I want to apologize for writing twice in such a short period of time. I reviewed the July 28 agenda while unaware that a special meeting was called for July 23. I would have tried to condense my comments.

I am speaking here on behalf of my constituents in both Media Alliance, a 44 year old democratic communications advocate and Oakland Privacy, a somewhat less venerable citizens coalition focused on privacy rights and surveillance regulation. Both organizations are cognizant of and concerned about issues of constitutional assembly and law enforcement use of force.

The letter I intended to write was strongly in support of Item 4, as introduced by Vice Mayor Hahn and supported by Mayor Arreguin and council members Harrison and Bartlett. As you know, we are in an unprecedented time. In addition to a public health emergency with a contagious pandemic, we face ongoing climate intensification and a national uprising against the killing of unarmed Black people by police. This is a volatile landscape and Berkeley remains a place where an educated and progressive population fully participates in protest activities. I know it is the intent of the Berkeley City Council to support Berkeley and the Bay Area's role as a leader in movements for social change. Vice-Mayor Hahn's proposal is a well-thought out policy for responding to volatile events that empowers the elected City Council to uphold Berkeley's values as a city during trying times.

We have seen both locally with the hastily adopted and hastily rescinded Alameda County curfew, that proactive guidance is necessary. The national scene, both in Oakland and even more frighteningly, in Portland with clearly more cities in the crosshairs, is even more reason to make sure the City Council firmly holds the reins. In a vacuum, overreach is what happens and there is little remedy for abridgements of human and civil rights after the fact, not to mention destroying the momentum of social justice movements that council members very much want to support. As with much of our governmental transparency work, mindfulness is key and the city can move both quickly and thoughtfully when it has a framework for decision making in challenging times.

Item 4, in essence, establishes three important policy points into a framework.

a) Differentiates between an emergency declaration with accompanying restrictions of activities (curfew) caused by a natural disaster like a fire or earthquake and one generated by protests, demonstrations, rallies or civil unrest.

b) Explicitly states that the elected City Council is the municipal body with the power to restrict First Amendment-related activities in the City of Berkeley and that any such recommendations by city staff are subject to City Council review and ratification (or disapproval) immediately, meaning at the first physically possible minute of review.

c) Requires a fact-based presentation of all terms, elements and conditions that accompany such a recommendation.

Nothing less should be required for an action as serious and as contrary to Berkeley's values as restricting the constitutionally provided right for any and all residents of the City to petition the government for a redress of their grievances.

We are glad to see 4 council members in support of this measure prior to its hearing and we strongly encourage the remaining 5 members of the Council to provide their unqualified support to the measure.

With regard to item 3, which is the revision of the city's use of force (UOF) policy, it has come to our attention that the supplementary agenda contains a significant rewrite by municipal staff of the proposed policy revisions forwarded to you from your Police Review Commission. While time does not permit a full review and discussion of the entire content of this Sup document, we want to highlight two things.

a) The documents provide a "good of the city" analysis which reads as follows:

"The analysis below must demonstrate how accepting this supplement/revision is for the good of the city and outweighs the lack of time for citizen review or evaluation of the council"

We must reiterate that preventing public review and council evaluation of important municipal policies is not good for the city in any way, shape or form.

b) BPD suggested revisions literally reverse the Council's recently approved ban on the use of CS gas, pepper spray and other chemical munitions. We must object to the reversal of council resolutions via supplemental policy adjustments. The time to object to council resolutions is at the time they are heard in a public hearing, when all arguments can be presented, which results in a vote by Council. This public hearing already occurred.

The document's case is that the intransigence of other agencies, primarily the Alameda County sheriff, in honoring the policies of local municipalities when rendering mutual aid, should overrule the will of the Berkeley City Council, which responds to the will of the residents of Berkeley. That is not how local government works.

The Alameda County Sheriff is bound, by the requirements of the position, to provide mutual aid to the municipalities in Alameda County, when requested. That mutual aid, as we all know, has often been problematic in the past. It is not discretionary based on the political views of the current sheriff. Such a threat has also been made in the direction of the Oakland City Council and it is not appropriate for either legislative body to cede their policy making role to the Alameda County Sheriff.

It should also be stated that, as the City Manager argues at length, that lethal force is rarely used in Berkeley, the purported danger that awaits the Alameda County Sheriff's Department and other law enforcement agencies should they police public events in Berkeley without the ability to spray chemical munitions, appears somewhat overstated. It is probably the more correct interpretation of the threat that it is more closely tied to disagreement with the policy than with concerns about danger to departmental officers, who remain armed with training, batons, helmets, and weapons. Instead of caving in to this unwarranted interference from the county in Berkeley's public safety policies, the city council should encourage the county to review their own use of force policies.

Thank you for your time and consideration.

Tracy Rosenberg
Executive Director, Media Alliance and Coordinator, Oakland Privacy

–

Tracy Rosenberg
Executive Director
Media Alliance
2830 20th Street Suite 201
San Francisco, CA 94110
www.media-alliance.org
415-746-9475
510-684-6853 Cell
Encrypted email at tracy.rosenberg@protonmail.com

Thursday, July 23, 2020

Dear City Manager,

I am writing on behalf of Meiklejohn Civil Liberties Institute to notify the City of Berkeley, and specifically the City Council, that we strongly urge passage of Vice Mayor Sophie Hahn's proposal limiting the issuance of curfews by the City of Berkeley, particularly as it protects the constitutional rights of Berkeley citizens' right to protest. Protecting these freedoms is essential to enforcing and protecting the individual civil rights of our residents here in Berkeley. With a long history of Berkeley residents protesting injustice, Berkeley, as much as any city in the United States, should protect the right to protest at all cost.

I ask that you pass this message on to the members of the City Council and that this message be submitted into the record during the time and place allotted for public comment.

Thank you,

Seth Chazin

Acting President

Meiklejohn Civil Liberties Institute