



City Clerk Department

October 9, 2014

Human Rights Treaties Division (HRTD)
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais Wilson - 52, rue des Pâquis
CH-1201 Geneva (Switzerland)

RE: Report to the United Nations Committee Against Torture: Compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

At its meeting of October 7, 2014, the Berkeley City Council adopted Resolution No. 66,813-N.S. approving the submission of the proposed Report to the United Nations Committee Against Torture and related international and national, state and local governmental entities and representatives, regarding compliance with the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("CAT").

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, CMC
City Clerk

Enclosure: Resolution No. 66,813-N.S.

Cc: Eric Brenman, Secretary, Peace & Justice Commission
Christine Daniel, City Manager

RESOLUTION NO. 66,813-N.S.

APPROVING SUBMISSION OF THE REPORT TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE REGARDING COMPLIANCE WITH THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

WHEREAS, on September 29, 2009, the City Council authorized that the Peace and Justice Commission and its U.N. Treaty Reports Subcommittee prepare a report to the United Nations Committee against Torture detailing Berkeley compliance with the provisions of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"); and

WHEREAS, the U.S. Government had ratified CAT in 1994 and has submitted the required reports on U.S. compliance with the treaty; and

WHEREAS, the Peace and Justice Commission, its U.N. Treaty Reports Subcommittee and other City Commissions, volunteers, and student interns contributed their time and effort required to research and draft this report.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby authorizes submission of this CAT report to the U.N. Committee Against Torture and the U.S. Department of State.

The foregoing Resolution was adopted by the Berkeley City Council on October 7, 2014 by the following vote:

Ayes: Capitelli, Maio, Wengraf, Wozniak and Bates.

Noes: Worthington.

Abstain: Anderson, Arreguin and Moore.

Absent:



Tom Bates, Mayor

Attest:



Mark Numainville, CMC, City Clerk

Berkeley, California City Council
Report to the United Nations Committee Against Torture
October 7, 2014

INTRODUCTION

Berkeley was the first city in the United States (U.S.) to adapt the Human Rights Articles 55 and 56 of the United Nations (U.N.) Charter on August 16, 1990 as the Berkeley Human Rights Ordinance (No. 5985), which promotes human rights without distinction as to race, sex, language or religion, and pledges to work with county, state, federal and U.N. bodies toward this goal.¹

On September 29, 2009, the City Council of Berkeley, California voted to present a report to the U.S. Department of State (DOS) as input into the DOS report that is required under Article 19 of the CAT treaty.² Berkeley's would be arguably the first such local report in the U.S. The preparation of the Berkeley report was assigned to the Berkeley Peace and Justice Commission. The role of the Commission is to "advise the Berkeley City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice, including [...] support for human rights [...] throughout the world."³

The City Council notes the U.N. Human Rights Committee's encouragement to the Department of State that its next report provide more detailed information on legislation and mechanisms *at the state level* as well as the federal level regarding compliance with the Convention.⁴ This Report is offered as a contribution towards meeting the Committee's request for local-level data.

In August 2010 the California State Legislature passed Assembly Concurrent Resolution (ACR) 129 for the State of California to provide the sought-after local input into U.S. reports to the U.N. human rights treaty committees.⁵

On January 20, 2010, the CAT Committee asked the U.S. State Department to focus its 2011 CAT report on certain key issues. See the "List of issues prior to the submission of the fifth periodic report of UNITED STATES OF AMERICA."⁶ This report on Berkeley's compliance with the CAT treaty responds to those of the Committee's issues that appear directly relevant to the people of Berkeley. As conditions of life at the City level are affected by policies set at superior levels of government (county, state, and federal), this report will reflect on those policies as well as Berkeley's, to the extent that they affect local conditions.

CAT Treaty Local Compliance Report, Berkeley, California

Article 10: Education and training of all law enforcement regarding the prohibition against torture.

All California local police are trained at a state-approved police academy. Academy training includes instruction on interrogation, with periodic legal updates given by the police department. Training does not specifically include instruction on how to identify signs of torture or cruel, inhuman or degrading treatment.⁷ State law mandates cultural and racial diversity training every five years. Berkeley provides additional ongoing training on these subjects.

Article 16: Prevent cruel, inhuman or degrading treatment or punishment.

Is the State party considering abolishing the death penalty?

On July 16, 2014, a U.S. District Court Judge ruled that the “broken” California death penalty was unconstitutional.⁸ There are 746 inmates on death row in California as of July 31, 2014.⁹

The City of Berkeley has taken an official position in opposition to capital punishment.¹⁰ The City declared itself a member of “Cities Against the Death Penalty” on November 15, 2005.¹¹

Steps taken to address concerns on lethal injection, specifically in California.

A *de facto* moratorium on executions has been in place in California since 2006 owing to three ongoing court challenges to the lethal injection process. All three raise serious problems about the procedure, including the possibility that the person will suffer a torturous death.¹²

Measures to detect, prevent, reduce, and punish sexual violence in detention centres; prevalence of the problem; effectiveness of measures in reducing cases of violence in detention.

Thirty-one CDCR facilities have included a local rape crisis center representative on their internal Sexual Assault Response Teams. In 2005, California passed the first state civil law to address sexual violence in prison, the Sexual Abuse in Detention Elimination Act (SADEA).¹³

California Correctional Institution (CCI) - Tehachapi, one of the largest men’s prisons, has created a Sexual Assault Response Team (SART), trained staff and inmates, and begun allowing outside counselors to provide confidential crisis counseling to survivors of sexual abuse.¹⁴

The U.S. Department of Justice reported in 2010 that 4% of adult prisoners surveyed in 15 California state prisons reported having been sexually victimized; 2.59% reported victimization by other inmates, and 2.12% by prison staff, within the preceding twelve months.¹⁵

“Sexual Victimization Reported by Adult Correctional Authorities, 2007-2008” is a U.S. Department of Justice report based on the annual “Survey of Sexual Violence” (SSV), which the Bureau of Justice Statistics (BJS) has conducted since 2004. The report states that prisoners reported six inmate-on-inmate nonconsensual sexual acts in Alameda County jails in 2008, compared to four in 2007.¹⁶ In 2008, nationwide, 931 allegations of sexual victimization (13%) were substantiated, i.e., determined to have occurred upon investigation.¹⁷

The SSV reported that total allegations of sexual victimization nationwide increased significantly between 2005 (6,241 incidents) and 2008 (7,444); the Prison Rape Elimination Act (PREA) was enacted in 2003 and the California Sexual Abuse in Detention Act (SADEA) in 2005. The increase in total allegations of sexual victimization between 2005 and 2008 was largely driven by incidents in state prisons, where allegations increased 21%, from 4,791 incidents to 5,796.¹⁸

Measures adopted by the State party to ensure that women in detention are treated in conformity with international standards, as well as on the effectiveness of these measures.

Berkeley:

Berkeley Police Department (BPD) General Order J-1 states that whenever possible, a booking search should be performed by an employee of the same gender as the person being searched.¹⁹

California:

Concerns have been raised about detoxification of female addicts entering state prisons,²⁰ overall health services for women prisoners,²¹ and male supervision of women prisoners.²²

In 2012 AB 568, the ban on shackling pregnant prisoners, was signed into law. This law bans shackling of a pregnant woman prisoner unless there is a security reason to keep her restrained.²³

In July 2013, an investigative report revealed a pattern of sterilization of female state prisoners.²⁴

Community groups have raised concerns about the impact of solitary confinement on women prisoners.²⁵ Public concerns led to an investigation by the inspector-general, with recommendations for policy and practice changes.²⁶

Steps taken to address the conditions of detention of children...the fact that they may not be completely segregated from adults, and the use of excessive force in juvenile prisons.

Berkeley:

In the Berkeley jail, juveniles are separated from adults.²⁷ Specific rules apply to Berkeley police interrogation of minors. "Immediately prior to interrogation, the juvenile shall again be advised of his/her Constitutional *Miranda* rights in language consistent with their age and sophistication. Reasonable effort should be made to obtain a written waiver of Constitutional rights from the juvenile...."²⁸

California/Alameda County:

A variety of factors have driven an 80% reduction in the state youth prison population. The County has allocated funds to build an expanded juvenile facility.²⁹ While siting young prisoners near their homes and families is a welcome step, it is unclear how Alameda County will guarantee humane conditions to an expanded population of young prisoners.³⁰

In Alameda County, efforts are being made to implement the recommendations of the criminal justice consultants Huskey & Associates Inc. of Hayward, California in their 2004 "California Comprehensive Study of the Juvenile Justice System."³¹

U.S. Department of Homeland Security (DHS):

The Los Angeles Times reported in June 2013 that thousands of juveniles were held past the legal limit at adult immigration facilities during the surge of deportations under President Obama's administration.³² The paper also reported in December 2013 that immigrants testified to being held in frigid conditions called "freezers" to force people to accept immediate deportation.³³ A June 2014 report by the Women's Refugee Commission states that the system of care is overwhelmed by the number of children in need, leading to reports of mistreatment, abuse or neglect of detainees.³⁴

In 2014 an increase in the number of immigrant children swamped shelter facilities across the southern border of the U.S. Some buses carrying the children have been met by angry mobs.

Steps taken to prohibit the sentencing of juveniles to life imprisonment without the possibility of parole.

California continues to sentence juveniles to life without parole ("JLWOP"). As of September 2012, there were approximately 310 people serving sentences of life in prison without parole for crimes they committed under the age of 18. This total is one of the highest in the nation.³⁵

Use of electroshock devices.

The BPD never utilized electroshock devices such as tasers.³⁶ In 2014, urged by the Berkeley Police Association, the City Council began a study of benefits and risks of issuing tasers to officers.

Steps taken to improve the extremely harsh regime imposed on detainees in "super-maximum security prisons," in particular the practice of prolonged isolation.

From July to September 2013, up to 3,000 California state prisoners engaged in the third hunger strike in three years.

Following the hunger strike, state legislators held hearings on solitary confinement, and correction authorities announced changes to allow prisoners to work their way out of solitary over a period of many years. Case reviews are also being conducted slowly (only 750 in the nine months after the hunger strike), but 60% of those resulted in transfer to general population.³⁷

Please describe steps taken to end the practice of corporal punishment in schools, in particular of mentally and/or physically disabled students.

Currently, corporal punishment is allowed in public schools in 19 states across the nation, and is prohibited in 31 and the District of Columbia. California banned corporal punishment in public schools in 1986. U.S. Catholic diocese schools also do not permit corporal punishment, while other private religious schools allow the practice.³⁸ For example, the Hanford Christian School in Hanford, California states: "Biblically, corporal punishment as an aspect of discipline is not a negative matter in correcting children nor is it to be seen as a last resort."³⁹

Steps taken to prevent and punish violence and abuse of women, in particular women belonging to racial, ethnic and national minorities. Do these measures include providing specific training for those working within the criminal justice system and raising awareness about the mechanisms and procedures provided for in national legislation on racism and discrimination?

Berkeley:

The BPD Training & Information Bulletin #50 states that law enforcement must exercise leadership in the community by treating domestic violence as a priority. Crisis intervention assistance is provided by the Berkeley-Albany Mental Health Services.⁴⁰ The BPD's General Order D-5 provides 17 pages on handling domestic violence investigations.⁴¹

After the Peace and Justice Commission and the Commission on the Status of Women held a joint public forum, the Berkeley City Council formed a subcommittee to "develop strategies to prevent sex trafficking and the sexual exploitation of minors in Berkeley."

Address the reported increase in incidences of domestic violence, rape and sexual assault.

In a 12-month period from 2008 to 2009, 382 reports of domestic violence were submitted to the BPD, and 403 from 2009 to 2010.⁴²

This is an improvement considering that during 1997-1998, 1,830 domestic violence (physical assaults) and domestic incidents (threatened physical violence, restraining order violations, harassment, and property damage) were reported to the Domestic Violence Prevention Unit (DVPU).⁴³ Approximately 50% (907) of these reports were physical assaults and 50% (923) were non-physical domestic violence; 84% of victims were women: 98% (1,496) were victimized by a male partner and 2% (37) were victimized by a female partner.⁴⁴

According to Public Health's "Domestic Violence Prevention Program," every year in Berkeley, more than 750 police reports relating to domestic violence are filed. Many incidents are never reported.⁴⁵

Brutality and use of excessive force, and ill-treatment by law enforcement officials.

(a) Describe steps taken to address this concern.

The BPD's policy is that it does not condone abuse by its officers,⁴⁶ harassment of transgender people,⁴⁷ or detention of "vagrants,"⁴⁸ and guarantees equal service to the disabled⁴⁹ and the right of citizens to observe the police.⁵⁰ Berkeley police work in a partnership with Berkeley Mental Health, whose Mobile Crisis Team (MCT) provides in-field mental health assistance to officers on emergency calls.⁵¹

In June 2007 the City Council enacted the Public Commons for Everyone Initiative (PCEI) to "improve Berkeley's public areas to make them safer and healthier environments for everyone who uses them."⁵² PCEI outlaws "lying on or blocking the sidewalk, smoking near doorways, littering, drinking in public, public urination and defecation." While the initiative does not explicitly criminalize the poor or homelessness, it does outlaw actions symptomatic of these conditions.

b) Measures to end racial profiling used by federal and state law enforcement officials.

California Penal Code 13519.4 (f) states, "A law enforcement officer shall not engage in racial profiling." Specific training utilizing the "Tools for Tolerance for Law Enforcement Professionals framework" is mandated for all officers in the state.

On June 17, 2014, Berkeley adopted a new General Order on Fair and Impartial Policing. California Penal Code Section 13519.4(f) prohibits racial profiling and other biased policing.⁵³

An unarmed African-American man, Oscar Grant, was fatally shot in the back by a Bay Area Rapid Transit (BART) police officer on January 1, 2009.⁵⁴

The U.S. Department of Homeland Security (DHS) Secure Communities ("S-Comm") program requires local police departments to collaborate with Immigrant and Customs Enforcement (ICE) by providing access to the fingerprints of every person booked into jail. Human rights advocates have expressed concern that S-Comm will lead to racial profiling by local police and sheriffs' departments.

On October 30, 2012, the Berkeley City Council ordered that the BPD "will not honor requests by the United States Immigration and Customs Enforcement (ICE) to detain a Berkeley jail inmate for suspected violations of federal civil immigration law."⁵⁵ Similar actions, if not as comprehensive, have been taken on the county and state levels.

Other Issues: Complaints related to ill-treatment allegedly committed by law enforcement officials.

In 2013, the Berkeley Police Review Commission (PRC) received 22 new complaints. A total of nine cases, containing 27 allegations against specific officers, went to Board of Inquiry hearings. There were a total of 22 complainants in 2013: 10 complainants were African American, 7 were Caucasian, 2 Asian, and 3 multi-ethnic or declined to state. The Commission held nine boards of inquiry and sustained four allegations out of 27 heard. The allegations sustained were for excessive force, discourtesy, and improper arrest, seizure or detention.⁵⁶

Additional types of allegations that did not result in Board of Inquiry hearings included improper police procedure, improper citation or tow, harassment, and discrimination. "The Commission sustained 14.75% of the allegations and exonerated, did not sustain, or [determined to be] unfounded 85.25% of the allegations." With respect to gender, the number of female complainants in 2013 was seven, with 14 male complainants and one transgender person. The PRC Report does not disaggregate the sustained allegations by sex or ethnicity of the complainant, or type of police conduct.

Prevent acts of torture, or cruel, inhuman or degrading treatment or punishment in detention.

Two class action lawsuits prompted a federal receivership of the state prison medical system and a court order to release 46,000 inmates, more than a quarter of the prison population.⁵⁷

Ensure that anti-terror measures comply with obligations under international law.

On September 18, 2012, the City Council directed the BPD to limit its submission of "Suspicious Activity Reports (SARs)"⁵⁸ to the Northern California Regional Intelligence Center (NCRIC), the local anti-terrorism "intelligence fusion center," to suspected criminal incidents only.⁵⁹

¹ Berkeley's Human Rights Ordinance, <http://codepublishing.com/ca/berkeley/> [Find Chapter 1.22].

² Berkeley City Council Annotated Agenda, September 29, 2009

<<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=38244>> [Find Item 19]

³ "Peace and Justice Commission", <http://www.ci.berkeley.ca.us/uploadedFiles/Clerk/Level_3_-_BMC/BMC-Part1-T1-22--120808.pdf> [Find Chapter 3.68].

⁴ Concluding Observations in Consideration of 2006 ICCPR report submitted by USA, July 10-28, 2006

<http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUSA%2fCO%2f3%2fRev.1&Lang=en> [Select one of the English options to view the report. Then read the final paragraph of the report.].

⁵ "Assembly Concurrent Resolution No. 129—Relative to international treaties," http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0101-0150/acr_129_bill_20100914_chaptered.pdf

⁶ List of Issues Prior to the Submission of the fifth periodic report of the USA," United Nations Committee Against Torture, January 20, 2010,

<http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUSA%2fQ%2f3-5&Lang=en>

⁷ Captain C. Harris, Commander, Professional Standards Unit, Berkeley Police Department, verbal interview, April 25, 2011

⁸ Judge Cormack Carney wrote that systemic delays result in execution of only a "random few (who) will have languished for so long on Death Row that their execution will serve no retributive or deterrent purpose and will be arbitrary." California's Death Penalty Ruled Unconstitutional," CNN, July 16, 2014,

<http://www.cnn.com/2014/07/16/justice/california-death-penalty/>

⁹ Between 2000 and 2009, Alameda County was the fifth highest death-sentencing county in California. Since 2009, the Alameda district attorney has sought only one death sentence. "Death Row Population Size and Characteristics," Death Penalty Focus, retrieved July 29, 2014, <http://www.deathpenalty.org/article.php?id=86>

¹⁰ "Resolution for an End to Death Sentences in Alameda County," December 8, 2008,

<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=27184>, item 24.

¹¹ Berkeley City Council, November 15, 2005, <<http://www.ci.berkeley.ca.us/citycouncil/resos/2005/63116.pdf>>

¹² The California Department of Corrections and Rehabilitation (CDCR) has refused to make changes to the drug combination. Evidence presented in court shows that of the 11 executions between 1996 and 2006, mistakes in administration of the drugs were made in six. In at least one case, even the state admitted that the prisoner was conscious when the second and third painful drugs were administered. *ACLU vs. CDCR*, January 7, 2011, see: Declaration of Natasha Minsker (Dec. 14, 2010),

<http://www.aclunc.org/cases/active_cases/aclu_v_california_department_of_corrections_and_rehabilitation.shtm>

¹³ SADEA makes legislative findings and declarations to protect all inmates and wards from sexual abuse while held in institutions operated by the CDCR. This bill requires the agency to provide inmates and wards with informational handbooks regarding sexual abuse in detention published by outside organizations, as specified. "State and Local Corrections Reform," Just Detention International, 13 February 13, 2011,

<http://www.justdetention.org/en/state_reforms.aspx>

¹⁴ Just Detention International, "Rape is Not Part of the Penalty" April 2010,

<<http://www.justdetention.org/en/actionupdates/AUApril2010.pdf>>.

¹⁵ The report summarizes the National Inmate Survey by the Bureau of Justice Statistics. Statistics are also provided in this Report for all other states and federal prisons, by facility. U.S. Department of Justice, Bureau of Justice Statistics, August 2010 "Sexual Victimization in Prisons and Jails Reported by Inmates, 2008-2009."

<<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2202>>

¹⁶ Guerino, Paul, and Allen Beck, U.S. Department of Justice, "Sexual Victimization Reported by Adult Correctional Authorities, 2007-2008." January 2011, <<http://bjs.ojp.usdoj.gov/content/pub/pdf/svraca0708.pdf>>.

¹⁷ Guerino and Beck, "Sexual Victimization," op.cit.

¹⁸ Jenness, Valerie, Cheryl Maxson, Kristy Matsuda, and Jennifer Sumner. "Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault." California Department of Corrections and Rehabilitation, April 27, 2007, <http://ucicorrections.seweb.uci.edu/pdf/FINAL_PREA_REPORT.pdf>.

¹⁹ "However, as necessary, male or female prisoners may be searched by officers of the opposite sex. In the event a female employee is immediately unavailable, a male employee may conduct a cursory search on the person of a female prisoner for weapons only." Berkeley Police Department, "J-1 Jail Regulations," General Orders & Police Regulations, 2009. (Paragraph 43)

²⁰ California Coalition for Women Prisoners, March 2007,

<http://www.womenprisoners.org/resources/critical_statistics.html>

²¹ Zaitzow, Barbara H, "Psychotropic Control of Women Prisoners: The Perpetuation of Abuse of Imprisoned Women," Justice Policy Journal, 2010, http://www.cjcr.org/files/Psychotropic_Control.pdf, 8

²² California Coalition for Women Prisoners, *The Fire Inside!* "Cross Gender Pat Searches Halted," Winter 2003-2004, <<http://www.womenprisoners.org/fire/000361.html>>.

²³ "No More Shackles: AB 2530 is SIGNED!," Legal Services for Prisoners with Children, September 28, 2012, <http://www.prisonerswithchildren.org/2012/09/28/no-more-shackles-ab-2530-is-signed/>

²⁴ "Doctors under contract with the California Department of Corrections and Rehabilitation sterilized nearly 150 female inmates from 2006 to 2010 without required state approvals. At least 148 women received tubal ligations in violation of prison rules during those five years – and there are perhaps 100 more dating back to the late 1990s." Corey G. Johnson, Center for Investigative Reporting, July 7, 2013, <http://cironline.org/reports/female-inmates-sterilized-california-prisons-without-approval-4917>

²⁵ The California Coalition for Women Prisoners has cited a dramatic rise in both overcrowding (174% of capacity at Central California Women's Facility) and the use of solitary due to the conversion of Valley State Prison for Women into a male facility. Women placed in solitary for their own protection are allegedly being kept indefinitely. There have been several suicides in recent months. Letter from CCWP to Assembly Member Nancy Skinner, October 17, 2013

²⁶ Office of the Inspector-General, State of California, December 13, 2013, <http://www.oig.ca.gov/media/reports/Reports/Reviews/Special%20Review%20-%20Female%20Inmates%20Serving%20Security%20Housing%20Unit%20Terms%20in%20CDCR.pdf>

²⁷ The Berkeley jail is under the jurisdiction of the city police. The maximum stay for juveniles is six hours, with no overnight stays. Only juveniles arrested for violent offenses are sent to county juvenile facilities; all others are released to parents or guardians. Berkeley Police Department (BPD), General Order J-18 (section 29a), May 7, 2007. Also, internal regulations restrict the police from securing minors to a stationary object for more than 60 minutes "unless no other locked enclosure is available," and then only with a supervisor's approval. (Section 30)

²⁸ BPD, General Order J-18 (section 37). Also, "A request from a juvenile to speak with their parent or guardian prior to, or have that person present during, interrogation shall be explored to determine whether or not it constitutes an invocation of Miranda (e.g., the right to counsel, or a conditional invocation of the right to silence). Officers are under no obligation to advise a minor that he/she has a right to contact parent or guardian, or have that person present during questioning, as no such right exists." (Section 38)

²⁹ Factors including increasing cost of DJJ imprisonment and an increased understanding that state prisons are not the best setting for rehabilitation of young people reduced the population from 10,122 in 1996 to 1,499 in 2011, and state officials are discussing complete closure of the DJJ. Governor Brown's Realignment program has escalated the pace of transfer from state to county facilities. The County has allocated funds to build an expanded juvenile facility.

"Programs & Services—Juvenile Facilities," Alameda County Probation Department, <http://www.acgov.org/probation/ji.htm>

³⁰ "There is ongoing uncertainty that state funding to offset county costs will still be available as the state budget deficit becomes more severe." Barry Krisberg, PhD, Berkeley Center for Criminal Justice, "A New Era In California Juvenile Justice: Downsizing the State Youth Corrections System," October 2010, <www.law.berkeley.edu/files/A_New_Era_10-22-2010.pdf> 12

³¹ *Huskey* recommends alternatives to Juvenile Hall, extended probation services, a graduated system of intermediate sanctions and services, alternatives to incarceration (such as family therapy, day/evening reporting), local placement and step-down options, re-entry and aftercare services, and restorative justice. *Huskey & Associates, Inc.* Alameda County, "California Comprehensive Study of the Juvenile Justice System. Final Report", Executive Summary and Recommendations (2004): 382. Hayward, CA.

³² "More than 1,300 minors — including several dozen 14 or younger — were held for days in immigration detention facilities for adults over a four-year period when the Obama administration ramped up deportations." "Minors Detained at Adult Immigration Facilities, Report Says," <http://articles.latimes.com/2013/jun/03/nation/la-na-immigration-kids-20130604>

³³ "Immigrant Groups Complain of 'Icebox' Cells," <http://www.latimes.com/nation/la-na-ff-detention-centers-20131206-story.html#page=1>

³⁴ "An administrative complaint on behalf of 116 children who had reported abuse and mistreatment while in CBP custody... includes reports that children were shackled, subjected to inhumane detention conditions, had inadequate access to medical care, and were verbally, sexually, and physically abused." "Border Surge of Unaccompanied Children: Why they're Coming and What the Government Should Do," June 26, 2014, <http://womensrefugeecommission.org/press-room/2080-an-administration-made-disaster-the-south-texas-border-surge-of-unaccompanied-alien-minors>

³⁵ California is one of 39 U.S. states that continue to sentence juveniles to life without parole. The U.S. is the only

country in the world to allow this sentence.

In 2013, California enacted a law granting juvenile offenders sentenced to life in prison without parole the chance to petition the sentencing court for a new, parole-eligible sentence. If granted a new sentence, an individual could seek parole after serving 25 years.

A bill to completely eliminate the sentence of JLWOP in California would require a two-thirds super-majority vote in both houses of the Legislature, because the sentence was enacted through a voter initiative. Proposition 115 (1990) established that JLWOP is the presumed sentence for 16- and 17-year-olds convicted of murder with special circumstances (giving judges some discretion to reduce the sentence). Elizabeth Calvin, Human Rights Watch, "Fair Sentencing for Youth," <www.fairsentencingforyouth.org>

In 2010, a Supreme Court decision in *Graham v. Florida*, 130 S.Ct. 2011 (2010), quoted local scholar Professor Connie de la Vega's research showing that "imposing life without parole sentences on juveniles who did not commit homicide runs counter to international standards of juvenile justice," http://www.usfca.edu/law/news/supreme_court_cites_us/

³⁶ There is no city or department policy barring taser use. Other local jurisdictions including the regional mass transit authority, BART (Bay Area Rapid Transit), do use tasers.

Captain C. Harris, op. cit.

³⁷ The hunger strikers specifically cited violations of the CAT treaty, Article 2, including long-term solitary confinement for as long as 40 years, withholding showers and exercise as punishment, and hogtying. On March 20, 2012, 400 California state prisoners filed a petition to the UN Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment. The petition was brought "on behalf of approximately 4,000 California prisoners who are being detained in isolated segregated units for indefinite periods of many years solely because they have been identified as members of gangs or found to have associated with a gang," most of whom have never been found guilty of a single gang-related illegal act. Laura Magnani, American Friends Service Committee (AFSC), San Francisco Bayview Newspaper, <http://sfbayview.com/2014/05/shining-a-light-on-the-historic-moment-reflections-on-prison-isolation-and-the-struggle-for-change/>

³⁸ Deborah D. Sendek, Program Director, Center for Effective Discipline, <www.stophitting.org>

³⁹ Hanford Christian School Handbook, <<http://www.hanfordchristian.org/handbook.htm#discipline>>

⁴⁰ "Domestic Violence." Training & Information Bulletin. Berkeley: Berkeley Police Department, 2009. Print.

⁴¹ The document lists numerous factors that are not to influence the officer's course of actions in domestic violence cases, including the assumption that violence is more acceptable in certain cultures. "D-5 Domestic Violence," General Orders & Police Regulations. Berkeley: Berkeley Police Department, 2009. Print.

⁴² Dating Violence incidents reported to Berkeley police totaled 363 (data pulled from 2000) in residents 15 years and older. African Americans accounted for 64% of victims and 68% of suspects. Approximately 4% involved same-sex victims and suspects. Approximately 20% involved 15-24 year olds both victims and suspects. Dating Violence incidents reported to the BPD are highest in southwest Berkeley census tracts, with a high percentage of people of color. Elias, Karla. Interview. Family Violence Law Center. Print. 12 Jan 2011. <<http://www.fvlc.org/rap>>.

⁴³ "A Public Health Analysis of Berkeley Police Department Data Including: Reported Domestic Violence and Family Violence." Domestic Violence Prevention Program. 2000. Print.

⁴⁴ Ridel, Suzanne, Interview, Berkeley Teen Dating Violence Program, January 12, 2011.

⁴⁵ City of Berkeley Public Health Department, "Domestic Violence Prevention Program." Public Health. City of Berkeley, undated, <<http://www.cityofberkeley.info/ContentDisplay.aspx?id=3928>>

⁴⁶ Excessive force is immediately investigated and a use of force report is reviewed up the chain of command. If inappropriate force is found to have occurred, Internal Affairs will open an administrative investigation. There is continuous training on this policy. Captain C. Harris, op. cit.

⁴⁷ Berkeley police policy states that "harassment and victimization of individuals who have changed their sex, or who are in the process of sex reassignment, or who have gender presentations or characteristics that seem to conflict with an observer's perception of the individual's sex, is not to be condoned or sanctioned." BPD, Training and Information Bulletin #275, January 15, 2000.

⁴⁸ Berkeley police policy states that "Vagrancy (inability of persons to support themselves financially) is not a crime. Presence of a homeless person on the street or sidewalk or in a public park, in and of itself, is not a crime. Factors such as race, sex, sexual preference, age, dress unusual or disheveled or impoverished appearance, do not justify even a brief detention or a request for identification, absent individualized suspicion of that person's specific criminal activity.... Nor can generalized complaints by residents or merchants or others justify detention of any person." BPD, Training and Information Bulletin #188, January 10, 2000.

⁴⁹ Berkeley police are required to "ensure that a consistently high level of police service is provided to all members of the community, including people with disabilities who may require accommodations, auxiliary aids or services, modifications to procedures or practices." BPD, General Order T-19, March 28, 2005.

⁵⁰ “Citizens have the right to observe the behavior of officers.... It is Departmental policy to set the least possible restriction on public observation of police officer conduct.... Officers should restrict the practice of requesting onlookers to withdraw only to those instances where a threat to safety is involved.” BPD, Training and Information Bulletin #91, August 25, 1983.

⁵¹ The MCT assists with conflict resolution and management in domestic disputes, anxiety management and counseling for crime victims, evaluation and emergency psychiatric committals, and the like. BPD Training and Information Bulletin #105, September 17, 2007.

⁵² “Public Commons for Everyone Initiative (PCEI),” Berkeley City Manager website, <www.ci.berkeley.ca.us/ContentDisplay.aspx?id=5122>

⁵³ The new General Order helps implement state law by establishing that with the exception of limited circumstances and based on reasonable suspicion or probable cause, discrimination is considered serious misconduct. The city policy requires the collection of demographic statistical data for vehicle and pedestrian stops with disaggregated data to be regularly reported to the public. http://www.ci.berkeley.ca.us/Clerk/City_Council/2014/06_Jun/City_Council__06-17-2014_Special_Meeting_Annotated_Agenda.aspx. See Item 3.

⁵⁴ National Organization of Black Law Enforcement Executives, “BART Management Audit,” March 25, 2010, <www.bart.gov/docs/NOBLE_Final_Report.pdf>

⁵⁵ http://www.ci.berkeley.ca.us/Clerk/City_Council/2012/10Oct/City_Council_10-30-2012_%E2%80%93_Regular_Meeting_Annotated_Agenda.aspx. See item 19.

⁵⁶ Berkeley Police Review Commission, “2013 Annual Report,” June 25, 2014, page 1, http://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Level_3_-_General/2013%20Stat%20Rpt%207-7-14%20ADOBE%20ACROBAT%20PRO%20for%20the%20Web.pdf

⁵⁷ The lawsuits are *Coleman v. Brown*, 933 F. Supp.2d 955 (2013) and *Brown v. Plata*, 131 S. Ct. 1910, 1924 (2011). By February 28, 2016, the prison population must be down to 137.5% of capacity. “The state must also implement a system of credits for good behavior, alternative incarceration proposals for female inmates, and redesign the parole system for inmates over 60 years old or who have served 25 or more years in prison.” The court stated, “we recognize that this Court must also accept part of the blame for not acting more forcefully with regard to defendants’ obduracy in the face of its continuing constitutional violations.” “Federal judges grant California extension to reduce prison overcrowding,” February 11, 2014, *Jurist*, <http://jurist.org/paperchase/2014/02/panel-of-federal-judges-grants-california-two-year-extension-to-reduce-prison-overcrowding.php>

⁵⁸ “The Government is Spying on You: ACLU Releases New Evidence of Overly Broad Surveillance of Everyday Activities,” ACLU, 9/9/2013, <https://www.aclu.org/blog/national-security-technology-and-liberty/government-spying-you-aclu-releases-new-evidence>. Also see: <http://www.constitutioncampaign.org/blog/?p=16767#more-16767>

⁵⁹ “The Council indicated that the current threshold for submitting Suspicious Activity Reports (SAR) to the NCRIC when specific individuals or groups are named was too low. The Council directed the department to follow federal guidelines in compliance with 28 CFR 23 and the 2007 Attorney General guidelines for criminal intelligence.... The two last examples of Criteria Guidance as provided by NCRIC (Photography and Recruiting) are not to be included in the list of suspicious activity without a criminal predicate.” See:

http://www.ci.berkeley.ca.us/Clerk/City_Council/2012/09Sep/Documents/2012-09-18_Item_10a_Consideration_of_Revisions.aspx

See also: May 15, 2012 PRC recommendation to Council: “Limit the submission of Suspicious Activity Reports (SARs) to only those individuals/groups that have been charged with a crime, exempting individuals/groups who have committed only a non-violent civil disobedience offense.”

Also see these civil society sources: “The Government is Spying on You: ACLU Releases New Evidence of Overly Broad Surveillance of Everyday Activities,” ACLU, 9/9/2013, <https://www.aclu.org/blog/national-security-technology-and-liberty/government-spying-you-aclu-releases-new-evidence>. And: <http://www.constitutioncampaign.org/blog/?p=16767#more-16767>