

**INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION**

**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

**REPORT SUBMITTED BY THE CITY OF BERKELEY
UNDER ARTICLE 9 OF THE CONVENTION**

June 2007

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INTRODUCTION

1. The Council of the City of Berkeley, California welcomes the opportunity to report to the Committee on the Elimination of Racial Discrimination (CERD) on the legislative, administrative and other measures giving effect to its undertaking under the International Convention on the Elimination of All Forms of Racial Discrimination, in accordance with Article 9 thereof. The form and content of this report follow the general guidelines adopted by the Committee in July 1993.
2. This Report was prepared by the Berkeley City Manager with the assistance from the Berkeley Peace and Justice Commission, Meiklejohn Civil Liberties Institute, and other departments, agencies, and entities of the Berkeley City Government most closely concerned with the issues addressed by the Convention.
3. Berkeley was the first city in the United States (U.S.) to adopt the Human Rights Articles 55 and 56 of the United Nations (U.N.) Charter August 16, 1990 as the Berkeley Human Rights Ordinance (No. 5985) to promote all human rights, including the right to eliminate racial discrimination and to work with county, state, federal and U.N. bodies toward this goal.
4. Berkeley Unified School District (BUSD) was the first school district in the United States to integrate without court order.
5. In 1973, Berkeley was the first city in the U.S. to establish a citizen Police Review Commission. The Police Review Commission provides for community participation in setting Police Department policies, practices and procedures, and a means for investigation of complaints brought by individuals against the Berkeley Police Department.
6. Berkeley was also the first city in the U.S. to ask its City Commissions to prepare reports in April 1993 for submission to the United Nations Human Rights Committee under the International Covenant on Civil and Political Rights, and to have representatives of a Berkeley non-governmental organization attend that Committee's consideration of the 1st U.S. Report in New York in 1995 and the 2d/3d Report in Geneva in 2006.
7. In 2005, "as one step in upholding the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Convention on the Elimination of Racial Discrimination", the City Council authorized submission of a copy of the report prepared by Meiklejohn Civil Liberties Institute (Berkeley non-governmental organization): "*Challenging U.S. Human Rights Violations Since 9/11*," to the U.S. State Department, U.N. High Commissioner for Human Rights, and U.N. Human Rights Committee during its Spring 2005 meeting in New York (Resolution No. 62,841-N.S., March 15, 2005).

GENERAL

8. In accordance with the Committee's guidelines, the following sections provide general information about the land and people, political and legal structure, and status of civil and human rights in the City of Berkeley, California.

Land & People

9. Berkeley is a charter city in the State of California with a land area of 10.5 square miles, a population of 102,743 and an average density population of 9,823 per square mile. Berkeley is the 4th most populated city in the County of Alameda. Residents from a wide range of geographic, educational, socioeconomic, and ethnic backgrounds call Berkeley home.
10. Located in western California on the San Francisco Bay, Berkeley boasts one of the world's most moderate climates, with a daytime temperature that rarely ventures more than ten degrees outside a median 68 degrees. Invigorating breezes sweeping from the San Francisco Bay, an extended summer season, and springtime filled with green hills and wildflowers combine to offer some of the best outdoor living to be found.
11. Berkeley is a built-out city where land use has remained relatively unchanged since 1900. Single-family neighborhoods define South and West Berkeley, while more mixed-use neighborhoods are found in the Downtown and University of California areas. Approximately 48% of Berkeley's land area is in residential uses. 94% of owner-occupied units were built before 1960. With median home values continuing to grow at record levels, housing affordability for both low-income renters and homebuyers remains an important community concern.
12. As reported in the 2000 Census, the racial makeup of Berkeley was 55.2% White, 16.4% Asian/Pacific Islander, 13.3% African American, 9.7% Hispanic or Latino (of any race), 0.3% American Indian, and 4.5% two or more races.
13. There were 44,955 households out of which 17.8% had children under the age of 18 living with them, 28.9% were married couples living together, 9.5% had a female householder with no husband present, and 58.5% were non-families and/or unmarried couples, 38.1% of all households were made up of individuals and 7.9% had someone living alone who was 65 years of age or older. The average household size was 2.16 and the average family size was 2.84.
14. The population was spread out with 14.1% under the age of 18, 21.6% from 18 to 24 years old, 31.8% from 25 to 44, 22.3% from 45 to 64, and 10.2% who were 65 years of age or older. The median age was 32 years.
15. The median income for households was \$44,485, and the median income for a family was \$70,434. Males had a median income of \$50,789 versus \$40,623 for females. The per capita income was \$30,477. About 8.3% of families and 20.0% of the population were below the poverty line, including 13.4% of those under age 18 and 7.9% of those age 65 or over.

POPULATION BY DECADE	
1890	5,101
1900	13,214
1910	40,434
1920	56,036
1930	82,109
1940	85,547
1950	113,805
1960	111,268
1970	116,716
1980	103,328
1990	102,724
2000	102,743

16. Berkeley's slow growth ended abruptly with the Great San Francisco Earthquake of 1906. The town and other parts of the East Bay somehow managed to escape even moderate damage from the massive temblor, and hundreds of refugees flowed across the Bay.
17. Rapid growth continued right up to the Stock Crash of 1929. The Great Depression hit Berkeley hard, but not as hard as many other places in the United States thanks in part to the University. Since 1868, Berkeley has been the proud home of a great public university, the University of California, Berkeley, the oldest campus of the University of California system.
18. The next big growth occurred with the advent of World War II when large numbers of people moved into the Bay Area to work in the many war industries. During the war, an Army base, Camp Ashby, was temporarily sited in Berkeley.
19. The postwar years saw moderate growth in the City, but events on the University of California (U.C.) campus began to build up to the recognizable activism of the 1960s. In the 1950s, McCarthyism induced the University to demand a loyalty oath from its professors, many of whom refused to sign any such oath on the principle of freedom of thought. In 1960, a United States House committee came to San Francisco to investigate the influence of communists in the Bay Area. Meanwhile, a number of U.C. students became active in support of the Civil Rights Movement. Finally, the University in 1964 provoked a massive student protest by banning the distribution of political literature on campus. This protest became known as the Free Speech Movement.
20. The 1970s saw a decline in the population of Berkeley, partly due to an exodus to the suburbs. Some moved because of the rising cost of living throughout the Bay Area, and others because of the decline and disappearance of many industries in West Berkeley.
21. The period from the 1980s right up to the present has been marked by a continuation of rising costs, particularly with respect to housing. In 2004, the median home sales price was \$631,000 and the median condominium sales price was \$443,000.

22. Berkeley's economic base is comprised of over 13,000 business and institutions covering government, educational, manufacturing, retail and service sectors which provide nearly 76,000 jobs that generate nearly \$4.2 billion in gross receipts, and \$1.3 billion in taxable sales.
23. The composition of Berkeley's economic base, with the University of California as the largest employer, has historically contributed to a relatively stable local economy. Berkeley's retail mix is a variety of restaurants, bookshops, specialty shops and boutiques, with an increasing number of green and sustainable businesses.

Occupations of Employed Berkeley Residents			
Sector	1980	1990	2000
Management, Technical, and Professional	50%	56%	61%
Service	12%	10%	10%
Sales and Office	25%	21%	20%
Farming, Fishing, and Forestry	1.0%	1.0%	0%
Construction and Maintenance	6%	4%	4%
Production and Transportation	6%	5%	5%

24. Berkeley established California's first accredited high school, and in 1968 was the nation's first school district to desegregate without a court order. Our goal is always to give each of our children an equal opportunity to achieve the productive and fulfilled life that education brings.
25. With an enrollment of nearly 9,000 students, the Berkeley Unified School District has fourteen schools, from kindergarten through high school, plus extensive preschool and adult education programs. Its eleven elementary schools, with an average enrollment of about 375, are the product of an enduring community commitment to providing small, nurturing environments for our youngest students. Each school's student body represents the full spectrum of Berkeley families, both culturally and economically. Berkeley High School boasts more team sports than any public school west of the Mississippi.
26. Well over 90% of Berkeley teachers are qualified with full state-certified teaching credentials, and many have earned post-graduate degrees in their areas of expertise. There are three national board certified teachers in our district, including the first special education teacher to receive a national board certification.

Education Level of Residents		
Doctorate	5,347	8.1%
Masters/Professor	17,339	26.2%
Bachelor's Degree	19,805	29.9%
Some College	12,815	19.4%
High School graduate or equivalent	5,693	8.6%
Did not finish High School	5,134	7.8%

27. Berkeley's level of transit service ranks in the top ten metropolitan areas, nationwide. In addition to regional transit services, Berkeley policies and programs include employer shuttles, taxis, van service for the elderly, vans for the disabled and locally owned school buses. Although Berkeley makes up only 7% of Alameda County, Berkeley residents comprise over 37% of the population countywide that commute by walking or by bicycle.
28. In addition to promoting a variety of policies that support public transportation, the City adopted a comprehensive Bicycle Plan, designed to create a bicycle-friendly city, as well as a Pedestrian Charter.
 - 100% of all Berkeley residents are within ¼ mile of a transit stop
 - City street system is comprised of 221 miles with approximately 300 miles of concrete sidewalk
 - Over 15 miles designated bike routes

General Political Structure

29. The City of Berkeley is one of the oldest Council-Manager Cities in the State of California, this form of government having been adopted in 1923. The City Manager is appointed by the City Council, and all other employees and officers are appointed by the City Manager.
30. The elective officers of the City consist of a Mayor, eight Councilmembers, an Auditor, a School Board comprised of six directors, and a Rent Stabilization Board comprised of nine commissioners. The Mayor, Auditor, School Board Directors, and Rent Board Commissioners are elected at large for four-year terms. The Council is elected by districts for four-year terms. A Board of Library Trustees, appointed by the City Council, operates the City Library system.
31. The Mayor serves as the chairperson of the Council, and presides at the meetings of the Council and performs such other duties consistent with his or her office as may be imposed by the Council. The Mayor is entitled to vote on all matters coming before the Council, but does not possess veto power.
32. The City Manager is responsible to the Council for the implementation of Council policy and for the efficient administration of all the affairs of the City. The City Manager has the authority to appoint, discipline or remove all officers and employees of the City, subject to Civil Service provisions of the City Charter.
33. The City believes it is not only the right but also the duty of citizens to participate in planning for their future. The City of Berkeley enjoys a wide variety of Council-appointed citizen boards, commissions and committees that advise the Council on numerous issues. Berkeley's system of boards and commissions provides a means for residents who have special experience or interests to participate in the City's decision-making process.
34. The government decision-making process has other citizen participation mechanisms, such as speaking at public hearings, speaking before the City Council and its subcommittees, participating in neighborhood based organizations, petitioning, and letter writing.

35. The board and commission system provides the opportunity to interact creatively with people of all ages, interests, and backgrounds. Democracy can be realized when citizens are able to come together across race, sex, religious, neighborhood and economic lines to assist in making the decisions that will shape the Berkeley community. While commissioners are themselves appointed from within the community, it is important that they in turn ensure that a wide variety of viewpoints from the rest of the community are considered when commissions make recommendations to the Council. Commissioners treat these widely varying viewpoints of other commissioners and members of the public with respect so that all citizens are encouraged to participate in government.
36. As citizen participation has evolved into a vital and integral part of local government, the number of commissions has steadily grown so that there are approximately 45 such bodies functioning within the City of Berkeley, not counting the Board of Education or the Rent Stabilization Board, both of which are separately elected and independent of the City Council.
37. Several boards and commissions play important roles in safeguarding human rights recognized by the Convention:
- a) **Commission on Aging** is charged with identifying the needs of the aging and creating awareness of these needs; and to encourage improved standards of services to the aging and the establishment of needed new services.
 - b) **Commission on Disability** is charged with actively promoting the total integration and participation of persons with disabilities into all areas of economic, political and community life.
 - c) **Commission on Labor** establishes policy in the area of labor by preparing reports, developing information and referral services, observing and reviewing labor disputes, and promoting equal rights.
 - d) **Commission on the Status of Women** seeks to eliminate all forms of violence against women, including but not limited to discrimination on the basis of race, sex, class or sexual preference; identify and eliminate laws, practices, or conditions concerning or affecting women which impose special limitations or burdens upon them, or which limits opportunities available to women; and advocates women's issues.
 - e) **Community Health Commission** is concerned with health planning, education, and informational service to the community about problems and proposals relating to health resources in Berkeley.
 - f) **Homeless Commission** is charged with the ongoing functions of monitoring and assisting in the City's progress in implementing needed homeless services and facilities.

- g) **Housing Advisory Commission** hears and determines matters regarding the abatement of substandard and deficient buildings, and serves as an appeals board for tenants and property owners regarding relocation and correction of code violations.
 - h) **Housing Authority**, composed of the elected City Council and two Public Housing Program/Section 8 tenant members who are appointed by the City Council, was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities at rents they can afford. Berkeley Housing Authority owns or provides rental assistance for a total of 2,175 units through the Section 8 Program, its Moderate Rehabilitation Program, and Shelter Plus Care housing choice voucher programs.
 - i) **Human Welfare & Community Action Commission** is charged with identifying social welfare needs of the community and creating citizen awareness of these needs; and to identify and study existing and potential areas of interracial friction and tension that are detrimental to the general welfare of the community, and to recommend corrective actions.
 - j) **Mental Health Commission** is charged with reviewing and evaluating the community's mental health needs, resources and programs.
 - k) **Peace & Justice Commission** advises the Berkeley City Council and Berkeley Unified School District on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and reallocation of our national resources so that money now spent on war and preparation for war is spent on fulfilling human needs and the promotion of peace.
 - l) **Police Review Commission** provides for community participation in setting Police Department policies, practices, and procedures; and provides a means for investigation of complaints brought by individuals against the Berkeley Police Department.
 - m) **Youth Commission** identifies the needs of the youth of the community and creates citizen awareness of these needs, recommends and encourages improved standards of services to youth, and the establishment of needed new services.
38. The elected Board of Education sets policy for the Berkeley Unified School District (BUSD), a diverse community deeply committed to public education. A Student Director is appointed by the Board of Directors as a whole and serves a one-year term ending June 30 each year.
39. BUSD's mission is to ensure that all students discover and develop their special talents, achieve their educational and career goals, become life long learners, and succeed in a rapidly changing society by:
- a) Empowering students, parents and staff,
 - b) Providing a strong standards based curriculum, and

c) Offering alternative learning experiences in a racially integrated, multilingual environment.

40. Berkeley schools enjoy the fervent support of our community. The Berkeley Schools Excellence Project, a special tax on residences and businesses, allows for small class sizes and a range of enrichment programs. Thanks to school construction bond measure, Berkeley is one of the few school districts in the State that has fully retrofitted its buildings for earthquake safety. Parents and community leaders participate in classrooms, immediate and long-range facilities planning and maintenance, and the many advisory board established at individual schools and by the School Board. Partnerships with local arts, business, and civic organizations give our children additional learning opportunities in an array of ways.

41. The elected Rent Stabilization Board regulates residential rent increases in the City of Berkeley, protects tenants against unwarranted rent increases and evictions, helps maintain the diversity of the Berkeley community, and ensures compliance with legal obligations relating to the rental of housing.

General Legal Framework

42. The original Town of Berkeley was incorporated on April 4, 1878 by an Act of the State Legislature, Stats. 1878-79, Chapter DLXV, Pg. 888. The Town had no Charter, but was able to act as a Town and was governed in its actions by the laws of the State and by its Articles of Incorporation.

43. The first Charter was adopted under authority of the State Constitution and approved by the Legislature on March 5, 1895, and may be found in Stat. 1895, Pg. 407. Chapter XI, Section 6 of Article XI of the State Constitution in 1895 authorized cities to adopt charters, but provided that all such charters were subject to and controlled by general state laws.

44. As a Charter City, Berkeley derives most of its authority from its Charter. The California Constitution Article XI, Section 5(a) states, "In all matters other than municipal affairs, Chartered Cities shall be subject to general laws." The City may be preempted with regard to a municipal matter where the State legislates with the intent to fully occupy a field, or where the State determines that certain subjects are matters of statewide concern.

45. The City of Berkeley has the power to make and enforce ordinances where the subject matter is a municipal affair. Under the Charter of the City of Berkeley, the Council may act by ordinance, resolution or motion. In general, an ordinance sets forth standards of general applicability that apply throughout the community, whereas a resolution records an administrative action and applies to only one or a few situations.

46. The City Council does not have the authority, however, to amend, alter or rescind any ordinance that has been enacted by the people of the City of Berkeley. Thus, an initiative ordinance or any portion of an ordinance resulting from initiative action would have to be returned to the people at an election in order to later the wording or rescind the content.

47. The Board of Education has entire control and management of public schools in the City in accordance with the Constitution and general laws of the State of California, and is vested with all the powers and charged with all the duties provided by the City Charter and by the general laws of the State for City Boards of Education.
48. The elected Rent Stabilization Board derives its authority from Article XVII of the City Charter.
49. Berkeley is one of three cities in California with its own public health jurisdiction, providing valuable services in health education, maternal child and adolescent health, and mental and environmental health. As a result, the community scores extremely well on national healthy cities' performance indicators. Innovative programs include a mobile crisis team that works closely with the police as well as collaborating with the Berkeley schools to supplement services provided at the high school health clinic. Continuing efforts to address health inequity issues as well as provide comprehensive services to members of the homeless community remain a top priority.

Information & Publicity

50. In the City of Berkeley, information about human rights, civil rights and related subjects are readily available. As a general matter, people are well informed about their civil and political rights, including the rights of equal protection, due process, and non-discrimination. The scope, meaning, and enforcement of individual rights are openly and vigorously discussed within the various boards and commissions that advise the City Council.
51. It is the City's goal to provide the public with timely access to public documents and information about their city and the business of city government. To that end, the Citizen's Guide on How to Obtain Information and Records was created to provide an on-line resource tool for the public and City employees. This on-line guide demonstrates the City's commitment to open government by providing the public with an index of city records and a way of researching city information and records on-line at their convenience rather than waiting in line. The accessibility of the internet allows this service to be available 24 hours a day, seven days a week. The website contains:
 - a) A clear, concise statement of City policy on records and access to information
 - b) City's procedures for responding to requests for information and records
 - c) Listing of department contacts and links to department homepages
 - d) Alphabetical listing of City services
 - e) Searchable records index
 - f) Frequently asked questions
 - g) Links to Federal, State and Local resources for recordkeeping, archival and historical information
52. The Office of the City Clerk plans on expanding the website to include an "on-line records request form" and a searchable digital repository of legislative history and historical records including City Council Minutes, Ordinances, Resolutions and Deeds.

53. Many government entities post meeting agendas on the web; a few provide some of their agenda reports on the web; and a few provide video streaming of their meetings on the web. However, the City of Berkeley's website brings together all of these technologies to provide the end user with complete and easy access to the agendas, agenda reports, minutes, captioning and video streaming of City Council meetings. The Office of the City Clerk publishes the City Council agendas on the web with links to the complete agenda packet, including all reports and attachments provided prior to the meeting or distributed at the meeting. In addition, the agendas and minutes of the City's boards and commissions are posted on the web.

PROHIBITION OF RACIAL DISCRIMINATION

54. Existing Federal and State Constitutional and statutory laws and practices provide strong and effective protections against discrimination on the basis of race, color, ethnicity, or national origin in all fields of public endeavor and provide remedies for anyone who, despite these protections, becomes a victim of discriminatory acts or practices anywhere within the United States or areas subject to its jurisdiction.
55. Most states, and many cities, have adopted their own statutory and administrative regulations for protecting individuals from discrimination in areas actively regulated by state and local governments. For example, state constitutions and statutes typically protect individuals from discrimination in housing, employment, public accommodations, government contracting, and education. As a result, a particular discriminatory act might well violate federal, state, and local law – each having its own sanctions. States and local jurisdictions may also provide protections which differ from or exceed the minimum requirements of federal law. Where such protections exist, state or municipal law also provides judicial or administrative remedies for victims of discrimination.
56. This re-enactment of similar or expanded protections at the state and local level serves several important purposes. First, this process involves a broad range of legislators at all levels of government taking positive steps toward the elimination of racial discrimination. This is important both for the specific legislative action that results, and for increased local participation in the effort to eradicate race-based inequalities. Second, the process usually involves the creation of a state or local agency for the administrative enforcement of the protections involved. This frequently involves the appointment of a local commission with the power to investigate complaints and to enforce the legislation in question. Accordingly, enforcement offices are made available at locations closer to, and more accessible by, the affected individuals. Since local officials may more fully understand underlying issues and complexities in individual cases, adjudication of cases by them may yield better public understanding.

LOCAL ANTI-DISCRIMINATION MEASURES

57. The City of Berkeley has a long history of supporting efforts to eliminate discrimination. With a view to the creation of conditions of stability and well being, which are necessary for peaceful and friendly relations among the people of this City, the City of Berkeley strives to promote universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

City Council Actions - Ordinances

58. In 1978, Ordinance No. 5,106-N.S. (Appendix 1) was adopted establishing a policy to eliminate discrimination based on sexual orientation within the City. It is the intent of the City Council to make discrimination based on sexual orientation unlawful in all circumstances in which discrimination is based on race, color, religion, sex or national origin are unlawful under state and federal law.

59. In 1985, Ordinance No. 5,655-N.S. (Appendix 2) was adopted making it unlawful for any owner, or home listing service, or any agent or employee thereof to discriminate in the provision of housing accommodations against person's pregnancy or family or student status.
60. In 1986, Ordinance No. 5,712-N.S. (Appendix 3) was adopted establishing a policy to eliminate discrimination within the City of Berkeley against persons who have Acquired Immune Deficiency Syndrome (AIDS) or any related condition or who are suspected of or perceived as having AIDS or are believed to be at risk of having AIDS or to associate with persons having AIDS.
61. In 1988, Ordinance No. 5,876-N.S. (Appendix 4) was adopted to assure that contractors with the City of Berkeley do not discriminate against any employee or applicant for employment on any grounds specified in any state, federal or municipal law, and to require that any existing discrimination be remedied by appropriate measures including establishment of an approved affirmative action program. The nondiscrimination clause is part of all City boilerplate contracts and must also be included in all non-boilerplate contracts. In addition, the Ordinance requires that certain contractors enter into first source agreements with the City. First source employment program means an employment program operated by the City of Berkeley, which is to be utilized as contractors "first source" for recruiting applicants for both new and replacement employment.
62. In 1990, Ordinance No. 5,985-N.S. (Appendix 5) was adopted to establish a human rights policy for the City of Berkeley based on Articles 55 and 56 of the United Nations Charter.
63. In 2000, Ordinance No. 6,548-N.S. (Appendix 6) was adopted to assure that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts, which furnish services to or for the City in any twelve-month period of time, should provide City mandated minimum compensation to all eligible employees.
64. In 2001, Ordinance No. 6,623-N.S. (Appendix 7) was adopted requiring that public funds be expended in a manner to prohibit discrimination in the provision of employee benefits by City contractors between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees.
65. In 2005, Ordinance No. 6,855-N.S. (Appendix 8) was adopted mandating that any contractor providing insurance or financial services (including any bank in which the City deposits public funds) to the City must disclose in writing whether they, directly or through its parent entities, subsidiaries or predecessors in interest, engaged in commerce in slavery, including bought or sold slaves, used slaves as collateral, provided loans to purchase slaves, insured such transactions or slaves, or provided any other services to aid in such transactions.

City Council Actions - Resolutions

66. On May 12, 1970, Resolution No. 43,734-N.S. (Appendix 9) was adopted stating "no Berkeley resident shall be forced to fight in the undeclared war in Southeast Asia".

67. On November 2, 1971, Resolution No. 44,777-N.S. (Appendix 10) was adopted stating support for the nonviolent efforts of the men of the U.S.S. Coral Sea in asking the United States Congress to stop their ship from sailing to Vietnam.
68. On November 9, 1971, Resolution No. 44,784-N.S. (Appendix 11) was adopted as a further statement of policy of the Berkeley City Council with respect to sanctuary for the men of the U.S.S. Coral Sea.
69. October 12, 1984, Resolution No. 52,423-N.S. (Appendix 12) was adopted proclaiming October 1 through December 15, 1984 NAACP recruitment days in Berkeley.
70. On February 19, 1985, Resolution No. 52,596-N.S. (Appendix 13) was adopted to reaffirm the City's support for the principle of sanctuary and for those groups that engage in this time-honored tradition of humanitarian assistance.
71. On July 5, 1988, Resolution No. 54,370-N.S. (Appendix 14) was adopted recognizing apartheid as a crime against humanity and prohibiting the Berkeley City government from hosting officials of the Apartheid government.
72. In 1988, Resolution Nos. 54,372 (Appendix 15) and 54,459-N.S. (Appendix 16) were adopted to establish Berkeley as a City of Refuge for refugees from South Africa and Namibia.
73. On October 25, 1988, Resolution No. 54,533-N.S. (Appendix 17) was adopted to establish a Labor Bill of Rights Policy with the following chapters:
 - a) Chapter 1 – Job Creation and Retention
 - b) Chapter 2 – Labor Education
 - c) Chapter 3 – Disability
 - d) Chapter 4 – Childcare and Eldercare (Resolution No. 55,228 – Appendix 18)
 - e) Chapter 5 – Prevailing Wage on Construction Jobs
 - f) Chapter 6 – Strikes and Boycotts
 - g) Chapter 7 – Conduct of Police in Management Labor Disputes
 - h) Chapter 8 – Drug Testing
 - i) Chapter 9 – Planet Closure Guidelines
75. On January 15, 1991, Resolution No. 55,705-N.S. (Appendix 19) was adopted to establish a policy to decline to commit or expend any City financial or other resources to assist the United States Armed Forces and Selective Service Administration in the implementation or enforcement of the United States Armed Forces and Selective Service Law or to gather and disseminate information regarding the Military or Selective Services status of individuals living in the City of Berkeley or their ethnic, racial or religious background that is not required by federal or state statute, regulation or court decision; and reaffirmed the City of Berkeley as a refuge for all persons who for moral, ethical or religious reasons cannot participate in war.

76. On February 19, 1991, Resolution No. 55,765-N.S. (Appendix 20) was adopted declaring the policy that the City of Berkeley will continue to support and protect the rights of the Arab-American community.
77. On January 12, 1999, Resolution No. 59,853-N.S. (Appendix 21) was adopted expressing support for a National Foreign Policy, which places paramount importance on human rights by prohibiting the expenditure of public funds for personal services or for the procurement of goods or for deposit or investment with the following countries:
- South Africa (Resolution No. 53,038 - Appendix 22)
 - Burma (Resolution No. 57,881 - Appendix 23)
 - Tibet (Resolution No. 59,009 - Appendix 24)
 - Nigeria (Resolution No. 59,107 - Appendix 25)
 - Republic of Indonesia & East Timor (Resolution No. 59,857 - Appendix 26)
78. On January 11, 2000, Resolution No. 60,382-N.S. (Appendix 27) was adopted amending Appendix A of Resolution No. 59,853-N.S. to remove the Federal Republic of Nigeria and the Republic of Indonesia from the Oppressive States List.
79. On December 19, 2000, Resolution No. 60,893-N.S. (Appendix 28) was adopted to support strong sentencing for cases involving trafficking of women and children, due to serious human rights violations and unethical, inhumane treatment toward women and children.
80. On September 25, 2001, Resolution No. 61,285-N.S. (Appendix 29) was adopted supporting the efforts of many local organizations to eliminate racism, discrimination and actions of hate against those of Arabic descent and Muslim faith through education and media campaigns, and establishing the City of Berkeley as a Hate-Free Zone.
81. On February 5, 2002, Resolution No. 61,449-N.S. (Appendix 30) was adopted to establish a policy that the City of Berkeley will cooperate with constitutionally valid requests from federal government to question named individuals, and all actions by the Berkeley Police Department will remain in accord with Amendments 4-8 of the United States Constitution, the due process clauses of the California Constitution, and United Nations Charter Article 55. Further, the City shall follow the lead of Portland and Detroit in prohibiting our police from responding to requests from federal government to question named individuals, until it can be determined that these orders do not violate the California or United States Constitutions.
82. On September 10, 2002, Resolution No. 61,747-N.S. (Appendix 31) was adopted to reaffirm the importance of Constitutional rights and civil liberties, and the belief that all levels of government shall assure that all enforcement and administrative proceedings are conducted consistent with due process of law and Constitutional principles.
83. On September 16, 2003, Resolution No. 62,229-N.S. (Appendix 32) was adopted supporting the passage of the Student Adjustment Act (H.R. 1684) to determine state residency for purposes of higher education without regard to immigration status.

84. On March 15, 2005, Resolution No. 62,841-N.S. (Appendix 33) was adopted supporting submission of the Meiklejohn Civil Liberties Institute Report on U.S. human rights violations since 9/11 to the U.S. State Department, the U.N. High Commissioner for Human Rights, and the U.N. Human Rights Committee.
85. On February 27, 2007, Resolution No. 63,596-N.S. (Appendix 34) was adopted supporting the enforcement of the Convention on the Elimination of all forms of Racial Discrimination, and urging the Attorney General of California to seek reports from all cities, counties and state agencies in order to make his State Report accurate and complete.
86. On May 22, 2007, Resolution No. 63,711-N.S. (Appendix 35) was adopted reaffirming Berkeley as a City of Refuge.

Communications Access Policy

87. It is policy of the City of Berkeley to ensure that communications with applicants, employees and recipients of services are effective to meet the needs of persons with hearing, speech, vision, language and mobility impairments; and make all City services and meetings which are otherwise available to the public accessible to people with communication disabilities.
88. The Communications Access Policy applies to all City departments, boards, commissions, task forces and other duly constituted bodies and offices operated by the City of Berkeley. This applies, in particular, to those departments and organizations relating directly to the general public.

Disabled Access Policy

89. It is the policy of the City of Berkeley to ensure that all services and programs, including grants and contracts, are available to people with disabilities in the same manner as accorded to all other residents of the City of Berkeley; that complaints will be processed in a orderly fashion, allowing a complete and impartial investigation and resolution within a reasonable period of time; and that information and assistance will be provided to disabled persons, resulting in the orderly processing of the complaint(s).

Equal Employment Opportunity

90. It is the policy of the City of Berkeley to be fair and equitable in all its relations with its employees and applicants. All recruitment, hiring, placements, transfers and promotions will be made solely on the basis of individual qualifications for the positions being filled, and all other personnel actions such as compensation, benefits, layoffs, returns from layoffs, family care leave, terminations, training, social and recreational programs are also to be administered regardless of race, color, religion, ancestry, national origin, age (over 40), sex, sexual orientation, marital status, political affiliation, veterans' status, disabilities (physical and mental), and medical condition (including cancer and HIV status).
91. The City of Berkeley is committed to the concept of equal employment opportunity as a necessary element of basic merit system principles. All persons shall be afforded equal access to positions in the public service limited only by their ability to do the job.

Additionally, employment efforts will focus on establishing and maintaining a diverse work force reflective of the relevant labor market areas.

92. Each City employee must realize that policies to remove inequities cannot be merely passive. All employees are charged with the responsibility of furthering Equal Employment Opportunity (EEO) to remove conditions which could result in employment discrimination. In any instance in which an employee believes the intent or principles of the law have been violated, that employee is encouraged to consult with the City's Equal Employment Opportunity & Diversity Officer with the assurance that no reprisals (retaliation) or otherwise adverse action will be taken against the employee. All allegations of discrimination and reprisal will be taken seriously and promptly investigated. Appropriate remedial actions will be taken with respect to any substantiated allegations.
93. The City is committed to a results oriented management program aimed at achieving equal employment opportunity in all occupational levels of the City service, and shall apply good faith efforts to seek out, employ, train and promote underutilized women and minority group members within and entering the City's workforce. Assessment of EEO efforts and cultural diversity issues will be incorporated into the management program.

City Workforce

94. As of December 2006, the City of Berkeley government workforce comprised 1,436 employees, out of which 57.9% were male and 42.1% female. The racial makeup was 42.5% White, 30.8% African American, 12.4% Hispanic, 13.9% Asian, and 0.3% Native American.
95. The racial makeup of the City's Police Department was 55.2% White, 18.0% African American, 9.8% Hispanic, 16.4% Asian, and 0.5% Native American; and the Fire Department was 66.7% White, 10.0% African American, 12.5% Hispanic, 9.1% Asian, and 1.7% Native American.

Domestic Partnership

96. The City of Berkeley was one of the first employers in the United States to provide domestic partner benefits for its employees. Since 1985, the City has provided medical and dental coverage as well as family sick leave, bereavement leave, and Employee Assistance Plan benefits for employees with approved domestic partners. In order to be eligible for these benefits, the employee and domestic partner must complete and sign an Affidavit of Domestic Partnership form. The employee must also provide evidence that they have resided together at the same address for at least six months.

Employment of Near Relatives Policy

97. It is the policy of the City of Berkeley that no person shall be appointed, promoted, demoted, flexibly placed, or transferred to any position, whether exempt, permanent, provisional, acting, part-time, seasonal or temporary, in any division of any department of the City or to a department without divisions, where such person's near relative already holds a position which would create a supervisory relationship; and no person shall interview, recommend or in any way be involved in the selection or disciplinary process of an employee's near relative.

98. Near Relative means an individual's spouse, parent, sibling, child, grandparent, aunt, uncle, niece, nephew, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, stepparent, stepsibling, grandchild, dependent or domestic partner.
99. Any City employee, whether a supervisor, manager, or department director, who knowingly violates this policy may be subject to disciplinary action, up to and including termination of employment.

Harassment Prevention Policy

100. It is the policy of the City of Berkeley that harassment on the basis of race, color, religion, ancestry, national origin, age, sexual orientation, marital status, political affiliation, family care leave status, physical or mental disability or medical condition, as well as sexual harassment based on gender will not be condoned or tolerated. All employees are guaranteed the right to a work place free of hostility and intimidation. The City will neither tolerate nor condone harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business, service, or professional relationship. Retaliation against an employee who complains or reports any act of harassment in violation of this policy is prohibited. The City is committed to ensuring and providing a work place free of harassment. The City will take disciplinary action, up to and including termination, against an employee who violates this policy.
101. The City Manager, Department Directors, and EEO Officer will enforce the City's harassment policy. The EEO Officer is responsible for investigating complaints. Each reported incident will be investigated promptly, impartially and in a confidential manner, accompanied by disciplinary action as appropriate. Persons reporting false charges will be subject to appropriate disciplinary actions also.

Violence in the Workplace

102. The City of Berkeley is firmly committed to providing a workplace that is safe, secure, and free from harassment, hostility, and threats or acts of violence. Violence, or the threat of violence by any employee of the City, is unacceptable and will not be tolerated. Any employee who threatens, attempts to, or commits a violent act (with or without a weapon) against another employee, or the public, or against City property will be subject to disciplinary action up to and including termination. An act of workplace violence is a serious offense and may lead to a recommendation for immediate termination.
103. In keeping with this commitment, the City prohibits dangerous weapons such as firearms and knives on City premises, in City vehicles, in private vehicles parked on City property, and in the possession of City employee while on duty or engaged in activities for the City in other locations. This prohibition shall not apply to duly appointed police officers as defined in Penal Code Section 830 et. seq., or any employee who has been obtained written permission from the City Manager. Any unauthorized City employee who carries, transfers, or sells a dangerous weapon on City time and/or on or within City property will be subject to disciplinary action, up to and including termination.

Police Review Commission

104. The Berkeley Police Review Commission (PRC) has independent authority to investigate complaints filed against employees of the Berkeley Police Department (BPD) and to provide for citizen involvement in setting and reviewing BPD policies, practices, and procedures. There are several options for handling PRC complaints. Upon receipt, cases are screened for timeliness of complaint submission, allegations of misconduct, and policy issues. Cases that fall within PRC guidelines are investigated and prepared for Boards of Inquiry. Cases that do not warrant investigation are reviewed and submitted to the Commission for administrative closure or summary dismissal. Policy issues are researched and brought to the full Commission for recommendations for change in BPD policy. In addition, a mediation pilot project has been underway for several years—providing an alternative dispute resolution approach for complainants and officers to resolve the issues of the complaint.
105. Upon completion of an investigation, the PRC investigator compiles all relevant documents into a report and a Board of Inquiry (Board) is scheduled. The Board is made up of three commissioners who assemble with involved parties and hold an evidentiary hearing of the complaint. Complainants and officers testify and have the opportunity to question all parties regarding the incident.
106. At the conclusion of the hearing, the Board deliberates and determines findings based upon a “clear and convincing” standard of evidence. The findings of the Board are forwarded to the complainant and the subject officer, City Manager, Chief of Police and City Council in an advisory capacity.

ANNUAL STATISTICAL OVERVIEW			
Complaint Data	2004	2005	2006
Cases Filed	45	49	34
Allegations Received	213	183	101
Average Allegations Per Case	4.7	3.7	2.9
Cases Closed	39	27	34
Cases Closed with Sustained Allegations	9	8	2

107. The City of Berkeley has implemented a new appeal process for officers who have had allegations sustained by the PRC. A panel of three city staff appointed by the City Manager presides over the appeal hearing and makes findings. In the appeal hearing, the PRC has the burden to prove to the hearing panel that the PRC’s sustained findings were based upon clear and convincing evidence, the standard delineated in the PRC Regulations. The hearing panel reviews the full PRC investigative packet, transcripts of the PRC Board of Inquiry, and briefs submitted by the officer and the PRC.
108. This process places considerable scrutiny on the PRC. With the burden of proof on the PRC, it is necessary to research and cite the record to document the evidence the board relied on in making credibility determinations and factual findings. Commissioners who presided over the PRC Board of Inquiry may attend the appeal hearing and have the option of briefing and arguing the case; however, due to time constraints, most commissioners are unable to be involved on this level and this workload falls on the PRC staff.

APPEAL HEARINGS			
Appeal Data	2004	2005	2006
Appeal Hearings Held	6	8	0
Sustained Allegations Reviewed	10	13	0
Panel Concurred – Sustained Allegations	3	3	0
Panel Disagreed – Sustained Allegations	7	10	0

CONCLUSION

109. Berkeley is home to many active neighborhood associations and community volunteers who work tirelessly for the benefit of all residents. The Berkeley community is actively engaged in political issues on many levels – local, national, and international. Long considered the home of free speech, City residents and officials continue work to ensure all voices are heard and that Berkeley remains a diverse, multicultural community.
110. Berkeley's contributions to society have ranged from research that led to the creation of the atomic weapons to culinary developments that revolutionized American cooking, from discoveries in genetic engineering and superconductivity to a radical activism that sets off political seismographs far beyond the City's borders. Berkeley's international reputation as an intellectual mecca and a dynamic social center continues to make it a magnet for inventive people and new ideas.