



**Jesse Arreguín**  
Councilmember, District 4

December 15, 2011

To: Christine Daniel, Interim City Manager  
Michael Meehan, Chief of Police

From: Councilmember Jesse Arreguín

Subject: Occupy Berkeley Health and Safety Plan

**RECOMMENDATION:**

Consider the proposed strategies to develop an Occupy Berkeley Health and Safety Plan for immediate implementation.

**BACKGROUND:**

The Occupy Movement, which began in New York several months ago with the Occupy Wall Street protests, has spread to cities throughout the country, including Berkeley. The Occupy Movement's aim is to raise awareness of economic inequality in the United States in which a small percentage of people benefit disproportionately at the expense of the majority. It also seeks to address economic inequality and many other inequitable features of our society by highlighting the causes of our current economic crisis due to the lack of accountability of banks and other corporations and the effect it has had on everyday Americans, from unemployment to foreclosures.

The goal of Occupy Wall Street, as stated in their "Declaration of the Occupation of New York City" is to take action, as well as support others in the taking of action, to exercise their legal right to peacefully assemble and occupy public space, and to create a process to address the problems we face and generate solutions accessible to everyone. Occupation has been the main form of direct action employed by the Occupy movement.

On November 8, 2011, the Berkeley City Council publicly endorsed the Occupy movement and its goals.

In solidarity with the Occupy Wall Street movement and with other encampments throughout the Bay Area, such as in Oakland, the Occupy Berkeley encampment was formed at the corner of Shattuck and Center Street on October 15, 2011.

Over the next few weeks as the encampment grew, it relocated to Civic Center Park.

Throughout the progression of the Occupy Movement, issues endemic to prolonged encampments have arisen, such as sanitation and public safety. There have been varying responses from other municipalities ranging from cooperation to mitigate impacts to forceful, and sometimes violent, eviction.

City staff have monitored and addressed problems at the Occupy Berkeley encampment as they have arisen. They have also maintained communication with people camping in Civic Center Park and have worked with them to address issues concerning public health and safety. However, the encampment has increased in size in the last several weeks, particularly after the disbandment of other Occupy encampments in nearby cities. Consequently, the volume of public safety and health issues has also increased.

Given the growth of the encampment over the past few weeks and the resulting public safety and health problems, the City should develop a new approach to enforce city laws to protect public health and safety, but consistent with the City's longstanding values of compassion and social justice. Such an approach should recognize that with effective enforcement and cooperation, preserving health and safety in the Park and respecting the right to free speech and assembly are not mutually exclusive.

While City staff and the Berkeley Police Department have regularly patrolled the park and have worked with people who are camping to address health and safety issues, camping in the park as a form of political expression is a privilege and anyone who wishes to camp in the park should abide by city laws to maintain the safety of those in the Park and throughout the community. Clearly communicating and enforcing the laws by which all people who wish to use the park must abide will proactively address problems so that those problems do not rise to the level of an imminent threat to public safety, while still allowing all law-abiding individuals who wish to camp in the park to remain.

GOAL:

Create a safer and healthier environment at Civic Center Park while continuing to support the Occupy Movement consistent with City Council's adopted support of the Occupy movement.

OBJECTIVE:

Utilize effective enforcement in cooperation with Occupy Berkeley to decrease and prevent crime within and around the encampment, and to improve and maintain sanitary conditions of the Park.

STRATEGIES:

Many of the issues related to public health and safety stem from individuals ignoring park rules and city laws, such as smoking, consumption of alcohol or drugs, littering, having dogs off leashes etc. The sense by some participants of the encampment is that many laws can be willfully ignored because of the perception of lax enforcement. Additionally, there is a sense that most of the serious violations are committed by problem participants that have come in from out of town and express an unwillingness to cooperate. Some of the problems resulting from the encampment include drinking in public, urination in public, assault and battery, carrying dangerous weapons, and drug use. All of these forms of behavior are completely unacceptable and will not be tolerated. The growing number of assaults and other illegal behavior poses a threat to public safety, which must be immediately addressed. By clear education and enforcement of city laws, we can send a message to people who are participating in the encampment that such behavior will not be tolerated and those individuals who consistently violate the law will not be allowed to return to Civic Center Park for a specified period of time.

The following laws and any other laws necessary to maintaining public health and safety must continue to be clearly communicated to all people camping in Civic Center Park and any violations will result in penalties and possible removal consistent with the Zero Tolerance Policy outlined below.

- Possession of weapons
- Assault and Battery
- Theft
- Smoking
- Drinking in public and presence of open containers
- Drug use and possession
- Littering
- Off leash dogs and not cleaning up after dogs
- Excessive noise at late hours

The following Zero Tolerance Policy is designed to address these enforcement issues:

- ZERO TOLERANCE POLICY
  - All violations of the Law and park rules, with the exception of camping in the park overnight, shall be strictly enforced with appropriate citation or arrest.
  - Any individual at Civic Center Park who commits a serious or violent crime or repeatedly violates the Law subsequent to the Zero Tolerance Policy going into effect shall be ejected from the park and subject to a Stay Away Order for the duration of the Occupy

encampment. A violation of the Stay Away Order shall result in immediate arrest.

- Prior to the implementation of the Occupy Berkeley Safety Plan, a public announcement of this Zero Tolerance Policy should be clearly communicated with the participants of the Occupy Berkeley encampment, including the possibility of posting signage in the park informing all people who use and are camping in the park that any violation of these rules will result in citation, arrest or removal from the park.

Such a Zero Tolerance Policy will need a judicious use of our limited police resources. An increased police presence at strategic or sensitive times, as we already have done in cooperation with Berkeley High School during lunch and after school, will serve as a deterrent to many violations and will enable a more effective monitoring of the encampment to actively cite any violations and prohibit any habitual or serious offenders from coming back to the park. The City should consider asking the Host Ambassador's to assist in monitoring at specific times of the day.

Since the inception of Occupy Berkeley at Civic Center Park, the City Manager's office has cooperatively worked with Occupy Berkeley relating to public health issues, and communicated the City's expectations. Additionally, the City Manager's office has provided reasonable accommodations to help mitigate the impacts of the encampment, such as additional trash receptacles. Due to the recent surge in issues resulting from the growth of the encampment, however, clear expectations and standards must be made clear to all people camping in the park to ensure that they comply with appropriate city laws to protect health and safety or appropriate enforcement action will be taken.

An essential component of the Occupy Berkeley Health and Safety Plan should include extensive outreach to participants in need of shelter and/or services. This includes outreach by City staff and appropriate case workers to enter the encampment to offer homeless services and shelter.

City staff should also consider the idea of limiting the number of tents. Additionally, continued multiple violations of these laws and the Zero Tolerance Policy, an imminent threat to public safety or a failure of participants to maintain an acceptable level of public health at the Park may result in the City evaluating the removal of the encampment.

Some people have asked why, if there has have been so many problems, doesn't the City just remove the encampment?

Immediate physical removal of the encampment is not a viable option at this time. Given that Berkeley's Occupy encampment is one of the last major

encampments in the Bay Area, all eyes are now on Berkeley to see what we will do. We have seen how other cities have responded to encampments. Oakland, for example, has had a series of police actions to remove encampments after the initial eviction that involved excessive use of force. Oakland and San Francisco's removal of their encampments only emboldened the occupiers to set up more camps and to occupy space even longer, complicating any resolution and increasing costs.

Ultimately, the City Manager's office and City staff should consider a reasonable date in which the encampment should transition to a daily demonstration or other forms of political assembly, consistent with city law limiting the use of city parks until 10 p.m.

In keeping with Berkeley's values as a compassionate and thoughtful city, we respect people's right to political assembly; however, preserving public safety and public health is paramount. Any efforts to end the encampment should be a last resort after all reasonable efforts are exhausted and done in consultation and coordination to the extent possible with individuals camping in Civic Center Park. Any removal should not involve a large amount of police, unless critical to the preservation of public safety, and should not involve use of force or destruction of property.

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