

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
AGENDA**

**Wednesday, July 26, 2017
7:00 P.M.**

South Berkeley Senior Center
2939 Ellis Street, Berkeley

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**
(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers. They may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)
- 4. APPROVAL OF MINUTES**
Regular Meeting of July 12, 2017.
- 5. CHAIR'S REPORT**
- 6. PRC OFFICER'S REPORT**
Status of complaints; scheduling BPD jail and property room tour; other items.
- 7. CHIEF OF POLICE'S REPORT**
Crime, budget, staffing, training updates, and other items.
- 8. SUBCOMMITTEE REPORTS (discussion & action)**
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
 - a. Fair & Impartial Policing Subcommittee
 - b. General Orders C-64, etc. Subcommittee
 - c. Homeless Encampment Subcommittee
 - d. June 20, 2017 Subcommittee

9. OLD BUSINESS (discussion & action)

- a. Release of Draft Interim Report from the Center for Policing Equity.
- b. Prioritization of Commission tasks: Report results of Commissioners' rankings.
From: PRC Officer *(Rankings to be delivered.)*
- c. Possible participation in National Night Out, August 1, 2017.
- d. Observing 2017 Urban Shield exercise.
From: Commissioner Lippman
- e. Continue policy review of General Order W-1, Public Recording of Law Enforcement Activity (Right to Watch): consider draft of new policy.
From: Commissioner Prichett
(See also materials from July 12, 2017 packet.)

10. NEW BUSINESS (discussion & action)

- a. Message of sympathy to family of Ofc. Roberds and to BPD.
From: Commissioner Lippman *(To be delivered.)*
- b. City Attorney's Office response to Commission's questions regarding requirements of confidentiality applied to challenges of commissioners selected to Board of Inquiry hearings.
- c. Approval of recommended draft Surveillance & Community Safety Ordinance; possible dissolution of Subcommittee.
From: Surveillance & Community Safety Ordinance Subcommittee
- d. Support for Council Committee on Urban Shield participation and NCRIC relationship.
From: Commissioner Lippman
- e. How to proceed on City Council referral regarding police accountability reform measures.
From: Commissioner Lippman

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on the agenda at this time.)

Closed Session

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002 057569, the PRC will recess into closed session to discuss and take action on the following matter(s):

13. STAFF RECOMMENDATION FOR ADMINISTRATIVE CLOSURE – COMPLAINT #2421

End of Closed Session

14. ANNOUNCEMENT OF CLOSED SESSION VOTE

15. ADJOURNMENT

Communications Disclaimer

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the PRC Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary for further information.

 Communication Access Information (A.R.1.12)

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 1st floor, during regular business hours.

Contact the Police Review Commission at (510) 981-4950 or prc@cityofberkeley.info.

PRC REGULAR MEETING ATTACHMENTS

July 26, 2017

MINUTES

July 12, 2017 *Regular Meeting Minutes* Page 7

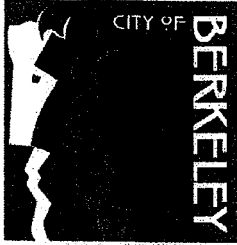
AGENDA-RELATED

- Item 8** – PRC Subcommittees List, updated 7-17-17. Page 13
- Item 9.a.** – Memo to the City Manager, dated July 14, 2017, from the Chief of Police, re Release of Draft Interim Report from the Center for Policing Equity, and attaching report. Page 15
- Item 9.b.** – Email to the PRC Commission, from the PRC Officer, re PRC task list for priorities, updated 7-12-17. Page 71
- Item 9.e.** – Revised Proposed General Order W-01 (7-20-17). Page 75
- Item 10.a.** – Email from the City Manager, dated July 15, 2017, re the Passing of Officer Alan Roberds. Page 79
- Item 10.b.** – Memo to the PRC Officer, dated July 19, 2017, from the City Attorney's office, re Confidentiality of Challenge to Police Review Commission; Commissioner Sitting on a Board of Inquiry Panel. Page 81
- Item 10.c.** – Proposed Surveillance & Community Safety Ordinance from Subcommittee. Page 87
- Item 10.d.** – Annotated Agenda, Special Meeting of the Berkeley City Council, dated June 20, 2017, re Urban Shield participation, NCRIC relationship, and policy for using Specially Equipped Panel Van. Page 97
- Item 10.e.** – Consent Calendar Item dated July 25, 2017, from Councilmember Kriss Worthington, re Referral to the City Manager, City Attorney, and Police Review Commission for Police Accountability Reform. Page 105

COMMUNICATION(S)

- Communication to the Berkeley Police Review Commission, dated July 12, 2017, from George Lippman, Chair, re PRC Meeting Processes for Efficiency and Democracy. Page 131
- Reminder of the BPD Community Forums scheduled starting July 17, 2017. Page 133

Letter to the Chief of Police, dated July 19, 2017, from Rachel Lederman & Alexis C. Beach, Attorneys at Law, re Center for Policing Equity Report, June 20, 2017 incident, and PRA request.	Page 135
BPD Bulletin Notice, dated July 19, 2017, re Sergeant Promotion.	Page 137
Memo dated July 20, 2017 from PRC Officer to PRC re Friendly amendments and substitute motions.	Page 139
Commissioner Attendance Report for the period January 1 – June 30, 2017.	Page 141
Email to the PRC, dated July 18, 2017, from a citizen, re California: Let's End Unchecked Police Surveillance.	Page 145
Email to the PRC, dated July 18, 2017, from a citizen, re ALPR's for new parking program.	Page 147
Email to the PRC, dated July 13, 2017, from a citizen, re the ALPR vote in Berkeley, Tuesday July 11, 2017.	Page 149
Email to the PRC, dated July 12, 2017, from a citizen, re Two letters to UASI, July 12, 2017.	Page 153
Email to the PRC, dated July 11, 2017, from a citizen, re Only 7 or 8 ALPR's for a small town size of Berkeley.	Page 159
Email to the PRC, dated June 28, 2017, from a citizen, re Thoughts of my speech for consent calendar.	Page 161



Police Review Commission (PRC)

**POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(unapproved)**

**Wednesday, July 12, 2017
7:00 P.M.**

**South Berkeley Senior Center
2939 Ellis Street, Berkeley**

1. CALL TO ORDER & ROLL CALL BY CHAIR LIPPMAN AT 7:06 P.M.

Present: Commissioner George Lippman (Chair)
Commissioner Gwen Allamby
Commissioner Cooper Price
Commissioner Andrea Prichett
Commissioner Terry Roberts
Commissioner Ari Yampolsky (arrived 7:30 p.m.)
Commissioner Elliot Halpern (*temporary*)

Absent: Commissioners Kim DaSilva, Clarence Ford, George Perezvelez

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Andy Greenwood, Lt. Angela Hawk, Sgt. Rashawn Cummings,
Sgt. Sean Ross (BPA)

2. APPROVAL OF AGENDA

With the postponement of the certificate of appreciation and noting that Item 9.b. in Old Business is in fact a New Business item, the agenda was approved by general consent.

3. PUBLIC COMMENT

There were 8 speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of June 28, 2017

Moved/Seconded (Allamby/Yampolsky) **Motion Carried**

Ayes: Allamby, Lippman, Price, Roberts, Yampolsky, and Halpern.

Noes: None **Abstain:** Prichett **Absent:** DaSilva, Ford, Perezvelez

5. CHAIR'S REPORT

-- An item will be on the July 25 City Council agenda affecting the PRC: suggestions pertaining to our mandate, short and long-term. Will agendaize for July 26 meeting.

-- Council Committee on Urban Shield has been formed; 6-month mandate. Committee members are Arreguin, Davila, Harrison, Wengraf.

-- Have heard interest from commissioners and staff on making commission more efficient. 7 suggestions for doing so:

1. Keep meetings as short as possible; 3 hours or shorter.
2. Keep comments on topic and don't repeat others' comments.
3. Reduce the number of items on the agenda; More discussion doesn't mean we're accomplishing more
4. Make real priorities and stick to them.
5. When appropriate, move discussions to subcommittee.
6. Don't use non-action sections of the agenda to start substantive discussions.
7. Read entire packet before the meeting.

That said, city business sometimes unpredictable and urgent matters may require taking precedence or holding another meeting.

6. PRC OFFICER'S REPORT

-- Reinforcing Chair's comment, at the last meeting a question to the Chief during his report re DUI checkpoints turned into a lengthy discussion; to avoid Brown Act violations, should avoid such discussions and instead agendaize the topic.

-- Status of complaints: 3 new complaints filed since the last meeting.

-- Agenda items being held over or upcoming: 1) Assistant City Attorney attending July 26 meeting re questions on confidentiality of the BOI commissioner challenge process; her answers to be provided in writing beforehand. 2) Chair & I have discussed timing of annual Mutual Aid Pacts review and thus it was not agendaized for today's meeting. Will start review each Sept. with goal of having recommendation to Council ready when BPD sends its compendium of pacts for approval each January or so.

-- NACOLE Conference Sept. 10-14 in Spokane, WA. PRC Officer & Investigator will attend as they have in past years; no budget to send commissioners but they are welcome to attend on their own.

-- PRC Officer will coordinate with commissioners and the BPD times and dates for 2 separate jail and property room tours, one in August and one in Sept.

7. CHIEF OF POLICE'S REPORT

-- The Chief reported on departmental staffing.

-- Currently in contract negotiations with the BPA.

-- Hiring new and lateral police officers; application period open July 24 – August 21. Please get word out to community.

-- Chief holding 4 community forums in various locations. First one July 17, Berkeley Adult School; then Aug 8, South Berkeley Library; Aug. 24, Berkeley Jewish Community Center; Sept. 7 location TBD. All 6 – 9 p.m. Will make opening comments and also request input about issues, strengths, areas for improvement. Reps from various divisions -- detectives, PEOs, traffic, CSOs -- as well as beat officers for that area will be present to engage with community. Feedback from all forums to be collected and help inform direction of BPD.

-- National Night Out August 1; interested commissioners invited to join Chief. Begins with kick-off at BPD, then go out to various block parties.

-- On Sept. 9 supporting a community supply bank sponsored by a nonprofit and Mayor's office to distribute backpacks/school supplies.

-- Awaiting word from CPE. Prepared to reply timely

Questions:

-- First time for forums? Haven't held for quite some time.

-- Had a discussion with CPE? Expecting a response soon.

-- BPD job description online? Yes. Google Berkeley Human Resources and Police. Also looking at ways to broaden recruitment, e.g. recruiting at a national alumni meeting of historically black colleges in DC.

-- Thanks for providing training orders. How do you know which officers to send to what trainings? Is there an overall curriculum? How do you establish a training objective? There are a broad variety of trainings people are sent to, so there is no easy answer. Some are unit-specific, such as detectives. Some concern special assignments, like sexual assault. Every 2 months a day of field training. *(Topic to be agendaized for a future meeting; meanwhile, PRC Officer to provide additional training orders.)*

8. SUBCOMMITTEE REPORTS (discussion & action)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

a. Fair & Impartial Policing Subcommittee

Met July 6; discussed recent events around CPE report and resolved to continue with their report and come back to PRC with disposition. Next meeting Thursday, Aug. 3 at 6:00 p.m.

b. Surveillance and Community Safety Ordinance Subcommittee

At July 10 meeting made significant progress on proposed ordinance; next meeting will be next Monday or Tuesday; will then be ready to forward to full Commission for review and recommendation.

c. General Orders C-64, etc. Subcommittee
PRC Officer to schedule meeting.

d. Homeless Encampment Subcommittee

July 11 meeting held in conjunction with Homeless Encampment Subcommittee of Homeless Commission. Trying to gather various proposals that relate to the topic. Next meeting Tuesday, Aug. 8 at 7:00 p.m.

9. OLD BUSINESS (discussion & action)

a. Review Chief Greenwood's response to City Council regarding release of CPE report.

Discussed without action taken.

b. Whether to open review of BPD's actions at the June 20, 2017 City Council meeting.

Motion to open up a process to review police use of force after the City Council meeting of June 20, 2017.

Moved/Seconded (Halpern/Price)

Substitute motion: To undertake a review of whether the police response on June 20, 2017 resulted from militarization of the BPD and, if so, whether that is desirable.

Moved by Prichett, died for lack of second

Friendly amendment: That the motion be reworded to open an investigation into whether the police response at and after the Council meeting was appropriate, and to create a subcommittee for that purpose.

Moved by Prichett; Accepted by Halpern and Price

Friendly amendment: to add, following, "appropriate," "to determine whether the Department was acting within current policy."

Moved by Roberts, rejected by Halpern

Substitute Motion: to add, following, "appropriate," "to determine whether the Department was acting within current policy."

Substitute motion died for lack of a second.

Motion, as amended: To open an investigation into whether the police response at and after the June 20, 2017 City Council meeting was appropriate, and to create a subcommittee for this purpose.

Moved/Seconded (Halpern/Price) **Amended Motion Carried**

Ayes: Allamby, Lippman, Price, Prichett, Yampolsky, and Halpern.

Noes: Roberts Abstain: None Absent: DaSilva, Ford, Perezvelez

Chair Lippman appointed Commissioners Prichett, Roberts, and Halpern to the subcommittee.

By general consent, the Commission asked the PRC Officer to request the operational plan, after-action report, incident reports, police videos,

Councilmembers' communications and concerns, emails from public to Council, emails from/to BPD on this subject.

c. Prioritization of Commission tasks

i) Prioritize tasks undertaken or under consideration by PRC

By consensus, the Commissioners agreed that they would rank the tasks on the list attached to the agenda packet, including the subcommittees, and adding the Council Committee on UASI/NCRIC and the Police Accountability Reform referral, and send rankings to the PRC Officer, who will compile them into an overall ranking.

ii) Review and approve Commission's 2017-2018 Work Plan 2:47

Motion to adopt the draft Work Plan attached to the packet, with the understanding that the PRC Officer may add some items from the Commissioners' prioritized list.

Moved/Seconded (Price/Halpern) **Motion Carried**

Ayes: Allamby, Lippman, Price, Prichett, Roberts, Yampolsky, and Halpern
Noes: None Abstain: None Absent: DaSilva, Ford, Perezvelez

- d. Continue policy review of General Order W-1, Public Recording of Law Enforcement Activity (Right to Watch): consider draft of new policy.
(Item postponed to a future meeting.)
- e. BPD budget: Review Chief's answers to Commission's questions, and discuss timing of and resources needed to address remaining questions.
(Item postponed to a future meeting.)
- f. Consider amendment to PRC regulations allowing the PRC to take action against any party who knowingly submits false or misleading information to the PRC in support of a challenge to a commissioner seated on a BOI.
(Item postponed to a future meeting.)
- g. Discussion and possible policy review of BPD's policy regarding recommendation to the Berkeley Unified School District that schools shelter in place.
(Item postponed to a future meeting.)
- h. Continue review of new procedure for handling of informal complaints
(Item postponed to a future meeting.)
- i. Whether to reinstate Media Credentialing subcommittee, and if so, establish scope of work.
(Item postponed to a future meeting.)

10. NEW BUSINESS (discussion & action)

- a. Possible participation in National Night Out, August 1, 2017.
(Item postponed to a future meeting.)
- b. Observing 2017 Urban Shield exercise.
(Item postponed to a future meeting.)

- c. Whether to open review of DUI checkpoints.
(Item postponed to a future meeting.)

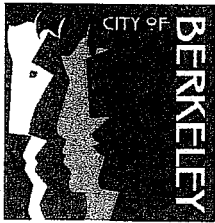
11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS
Attached.

12. PUBLIC COMMENT
There was 1 speaker.

13. ADJOURNMENT
By general consent, the meeting was adjourned at 10:00 p.m.

**POLICE REVIEW COMMISSION
SUBCOMMITTEES LIST
Updated 7-17-17**

Subcommittee	Commissioners	Chair	BPD Reps / Others
General Orders on Crowd Control C-64, U-2, M-2 Formed 1-13-16 Renewed 3-22-17	Lippman Perezvelez Prichett		Lt. Michael Durbin
Fair & Impartial Policing Formed 1-13-16 Renewed 3-22-17	Allamby Halpern (temp.) Lippman Roberts <i>Public members:</i> Christina Murphy Paul Kealoha-Blake	Lippman	Lt. Michael Durbin
Surveillance and Community Safety Ordinance Formed 9-14-16	Allamby Halpern (temp.) Roberts Yampolsky <i>Public members:</i> Tracy Rosenberg Brian Hofer Juliet Leftwich	Yampolsky	Capt. David Reece
Outreach Formed 9-21-16	DaSilva	DaSilva	Review status of subcommittee at 9-6-17 meeting.
Homeless Encampments Formed 2-1-17	DaSilva Prichett Yampolsky	Prichett	
June 20, 2017 (Review of BPD Response at City Council Meeting) Formed 7-12-17	Prichett Roberts Halpern		



Police Department

July 14, 2017

To: D. Williams-Ridley, City Manager

From: A. Greenwood, Chief of Police

Re: Release of Draft Interim Report from the Center for Policing Equity

The Draft Interim report from the Center for Policing Equity (CPE) is attached, in accordance with Council's June 27 direction. CPE is an independent, non-profit, grant-funded organization, and we are not paying CPE for this report, which is available to the public here:

www.cityofberkeley.info/CPEDraftInterimReport.aspx

We volunteered to participate in CPE's National Justice Database, not knowing what their analysis and recommendations would be, but confident that the men and women of the Berkeley Police Department carry out their work with honor and dedication, and great respect for the law and for the people whose community we work to keep safe.

Racial Profiling—basing police action solely on a person's appearance, rather than specific information connecting the person to a possible crime—is wrong, and is illegal. We know racial profiling by police has caustic consequences for police-community trust and relationships, as we have all seen across our country. The Berkeley Police Department has not, does not, and will not tolerate racial profiling.

CPE's work in this draft report focuses on a *greater* challenge in this discussion, across the nation, and locally in our work: Understanding and addressing disparate treatment in stops, searches, and uses of force, across differing racial and ethnic groups in our community. How do we best understand disparities in the data? To what can we attribute these disparities, in the absence of explicit racial animus and bias? What are the implications for an agency which always seeks to improve and optimize its performance? How do we compare to other agencies in CPE's work?

By sharing our data, and by receiving their analysis and recommendations, we seek to inform our efforts to provide the highest level of service to our community, and to support CPE's work on the national level, on their National Justice Database, which "collects policing data to measure fairness and improve policing equity, and to make its findings transparent to law enforcement and to communities."

As can be seen, there are numerous instances where CPE's findings reflect well on our officers' work, e.g.:

"Overall, racial disparities in BPD stops and reported use-of-force incidents were low in comparison to many other US Police agencies and much of the observed disparity was attributable to variation in neighborhood crime rates. Moreover, Black-to-White and Hispanic-to-White disparities in vehicle search rates declined by about 40% between 2013 and 2015." --CPE Draft Interim Report, p. 6.

There are also findings which invite further inquiry and analysis, and recommendations which represent opportunities for improvement and deepening community trust.

Today however, it is important to keep in mind the attached report is a *draft*, provided to BPD in early May. There are numerous issues in the draft which call for additional communication between BPD and CPE to address. Absent these follow-up discussions, it is concerning that some information in the draft report may cause some level of confusion within our community.

Our Department's mission, vision, and values are in accordance with our community's values, and progressive law enforcement practices. We aspire to foster strong relationships with our community, and to inspire trust in our actions. Our core values include treating people with dignity, compassion, empathy, and fairness, while valuing diversity, in our workforce and community.

Our Department has long been committed to policing without racial profiling. In fact, BPD has a long history of proactively working to understand and mitigate implicit bias in our work to safeguard our community, while treating people with dignity and respect.

While there is focus on stops, we are also interested in use of force. In this discussion, context in the data matters: In 2016, our officers handled over 78,000 incidents, conducted over 3,200 arrests, and issued over 5,600 citations... and reported only 32 uses of force (use of a weapon, leaving a visible injury, or where the arrestee complained of pain). These results reveal a culture and practice of treating people with respect, with a minimal reliance on force.

BPD's commitment to policing without racial profiling is evident in our policies, our long history of training intended to mitigate implicit bias, and our department's proven performance. This information is not illuminated in the draft report; out of fairness and to provide some additional context, it's essential to provide more information about BPD policy and training.

Racial Profiling has a specific legal definition in California:

“... the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop, or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description.” - California Penal code 13519.4 (e)

Racial Profiling is prohibited per Penal Code 13519.4 (f), and it is expressly prohibited in our policies, which affirm our commitment to fairness in policing, and also provide a framework for accountability for our staff:

- **General Order B-4, Fair and Impartial Policing,**
 - Reaffirms the commitment of the Berkeley Police Department to fair and impartial policing; to clarify the circumstances in which officers can consider race, ethnicity and other demographics; and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way.
- **Police Regulation 282 Non-discrimination/Equal Employment**
 - Mandates employees to be fair and equitable in all their relations with citizens. Harassment on the basis of race, color, religion, ancestry, national origin, age, sex, et al. shall not be tolerated.
- **Police Regulation 255 Obedience – Laws and Orders**
 - Mandates BPD employees follow all laws of the US, the State of California, Berkeley City Ordinances, and Departmental Orders.
- **Police Regulation 257 Enforcement of Laws – Impartiality**
 - Mandates that employees shall enforce laws in a fair and impartial manner.
- **Police Regulation 200 Misconduct - Duty to Report**
 - Mandates that discrimination-based conduct is a “serious allegation” of misconduct and requires immediate reporting by knowledgeable employees.
- **Police Regulation 201 Misconduct – Supervisory and Command Officer Responsibilities**
 - Mandates that Supervisory or Command officers aware of “serious allegations,” including discrimination-based misconduct, shall take appropriate corrective action and immediately report the alleged misconduct to their chain of command.
- **General Order P-26 Personnel Complaint Procedure**
 - Mandates that bias-based conduct is “discrimination,” and requires prompt investigation.
- **General Order H-4 Hate Crime Policy and Procedure**
 - Defines hate crime and hate incidents and affirms policy that related crimes/conduct shall be “high priority” investigations.

The draft interim report does not review related training, for example:

- **Leveraging Differences for a Competitive Advantage** – This City-wide course was designed to understand a business case for diversity, how perception impacts team effectiveness, how differences in communication styles can impact the workplace, and tools for improving effectiveness. 2017
- **Fair and Impartial Policing** – BPD In-House training, Multiple Workshops spanning 2010-2016
- **Tactical De-escalation** – BPD In-House Training, 2016
- **Crisis Intervention Training** – 37 hour class (over 40% have attended thus far; we send officers whenever a class is offered) 2011-present
- **Crisis Intervention Training** – 8 Hour training 2016
- **POST Biased-based Policing** – 2014

As you know, during our review of this report, we became concerned over questions and issues regarding the analysis of 2015 stop data. I shared many of these concerns with the Police Review Commission via email on May 10, May 18, and in person at the May 24 PRC meeting, and again in my July 6 memorandum to you.

Our major concerns: (1) CPE should specifically consider the “reason for stop” data in their analysis; and (2) is 2015 data missing relevant information that could undermine understanding and analysis?

We have further concerns as well. This is a draft report, and timelines prevented us from discussing our concerns at this draft stage. Out of fairness to CPE, we would expect that many of these concerns would be discussed, clarified, and addressed or considered prior to release of a final report. Note that CPE is ultimately the author of the report, its analyses and recommendation, and that our feedback and input is a part of their process, a process which has not informed the draft.

Out of fairness, since this draft will now be read without the benefit of that process, it is incumbent upon me to point out these examples for the reader.

Examples of concerns include:

- A crime witness or victim’s suspect description is outside of an officer’s control, yet the officer is (rightly) expected to take action, to make an arrest. While making an arrest, the *suspect’s actions, the suspect’s resistance to arrest*, plays a significant part in what force an officer is required to use. It’s therefore extremely important to consider how these factors are both outside the officer’s control, and yet they effect when force may be used.

- Discussion of use of force relies on census data, rather than an examination of suspect demographics. Many arrestees are not Berkeley residents. Since force is always related to the actions of an arrestee—who is often not a resident—this deserves attention.
- The Berkeley Police Department's Use of Force policy is described erroneously at several points in the draft.
- The use of the word "resident" is used even though the data does not contain residency information. Berkeley is an active city, with non-residents—and very often non-resident offenders—coming through town at all times, day or night.
- In several instances, community demographics are relied upon in making predictions... this—like labelling *everyone* BPD contacts, "residents"—can be extremely misleading.
- A description of the December 2014 riots is inaccurate, and would undermine the legitimacy of the report within the Department.
- Given a 40% decline in disparity of vehicle searches for Black and Hispanic drivers occurred over several recent years, the 2016 data analysis is necessary to consider potential actions today.

We look forward to CPE's full and complete report and presentation. We are confident the completed full report will serve as an opportunity to engage in these important conversations with our community, and will provide the greatest value for our community, in our discussion of issues around fair and impartial policing.

DRAFT

THE SCIENCE OF JUSTICE

BERKELEY POLICE DEPARTMENT INTERIM REPORT

A PRODUCT OF THE NATIONAL JUSTICE DATABASE // SPRING 2017



Center For
POLICING EQUITY

NEW YORK · LOS ANGELES · WASHINGTON, D.C. · SALT LAKE CITY

policingequity.org

Table of Contents

Overview	3
National Justice Database Analytic Framework	4
Executive Summary	6
History of City Involvement in the National Justice Database Project	9
Section I: Data	10
Section II: Descriptive Statistics and Disparities	13
A Note on Racial Disparities in Berkeley	13
II.A. Vehicle Stop Counts and Racial Disparities	14
II.B. Pedestrian Stop Counts and Racial Disparities.....	21
II.C. Use of Force Counts and Racial Disparities	29
Section III: Interpreting Disparities	31
III.A. Arrest and Search Rates	31
III.B. Multivariate Regression Analyses	34
III.B.1. Negative Binomial Regression Predicting All Stops Based on Contextual Characteristics at the District or Tract Level.....	35
III.B.2. Negative Binomial Regression Predicting Vehicle Stops Based on Contextual Characteristics at the District or Tract Level.....	36
III.B.3. Negative Binomial Regression Predicting Pedestrian Stops Based on Contextual Characteristics at the District or Tract Level.....	37
III.C. Negative Binomial Regression Predicting Use of Force Based on Contextual Characteristics at the District or Tract Level.....	38
Section IV: Review and Recommendations	41
Appendix A: Map of BPD Beats	48
Appendix B: LASSO Analysis	49

Overview

How do you measure justice? Despite the philosophical, methodological, and logistical difficulty of this question, law enforcement executives are increasingly asked to turn over data with the aim of evaluating how fairly they are doing their jobs. At the same time, many community members perceive law enforcement activities to be targeted toward—and biased against—nonwhite people. Communities wracked by mass incarceration and highly publicized police shootings have called for greater transparency and accountability on the part of the police. And research shows that positive police-community relationships are crucial for safer communities: citizens are more likely to engage as witnesses and as partners in crime reduction if they believe in the legitimacy of police as equitable and impartial agents of the law.¹

Increasingly, then, courageous and forward-looking law enforcement executives seek hard metrics on current practices as a way to measure changes in response to policies aimed at reducing bias and improving police-community relations. They are seeking out partnerships with prominent researchers to solve this riddle, and to lead policing in the nation with respect to civil rights and public accountability.

The aim of this interim report is to begin to provide the Berkeley Police Department (BPD) a powerful tool toward that end. It is intended as a preliminary guide toward options for ensuring equity in public safety. Too often, law enforcement data have been captured with an eye towards accounting or litigation, without leveraging the data to optimize performance. This report is designed to help fill that gap, providing straightforward statistical answers to some of the most pressing questions facing BPD and other law enforcement agencies.

The Center for Policing Equity (CPE) aims to address the needs of both law enforcement and communities, who can avail themselves of the CPE's National Justice Database (NJD). The NJD collects policing data to measure fairness and improve policing equity, and to make its findings transparent to law enforcement and to communities. NJD's analysis applies a rigorous analytic framework to make sense of policing data, seeking to identify and understand the consequences of policing activities and the sources of racial disparity. In this research brief, we present empirical documentation of the degree of racial and ethnic disparities in BPD's policing practices, as well as possible interpretations of such differences. While the results are mixed, the NJD analysis reveals encouraging findings and heartening trends. It also flags questions and disparities that warrant further investigation and reform.

Our purpose is to demonstrate what can be learned by thoroughly analyzing democratized data. We empirically document the degree of racial and ethnic differences in BPD's policing practices, as well as possible interpretations of such disparities. We hope the brief provides law enforcement officials with a road map for greater transparency and accountability in police practices, so they can transform agencies to adopt more just and equitable means of promoting public safety.

¹ See Tom R. Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006).

NATIONAL JUSTICE DATABASE ANALYTIC FRAMEWORK

The BPD-specific findings embodied in this brief offer an example of the types of questions the NJD analytic framework is designed to answer. The NJD framework aims to distinguish among three broad types of explanations for racial disparities in policing, all of which are likely to play some role in producing racial disparity:

1. Disparities that arise from **community characteristics**. For instance, high crime rates or poverty within a community may draw increased police attention. Individuals within a community may place disproportionately more calls for service to police.
2. Disparities that arise from **police characteristics**. For instance, police may patrol some neighborhoods with less commitment to the dignity of those who live there. Or, deploying more officers to high-crime neighborhoods may produce disproportionately more interactions between police and nonwhite communities.
3. Disparities that arise from the **relationships between communities and police**. For instance, mistrust of law enforcement may incite some communities to flee approaching officers or resist arrest more than other communities do. Similarly, a sense that communities do not trust or respect police may cause officers to feel unsafe or defensive in some neighborhoods.

While the whole story likely incorporates elements of each of these explanations, the comprehensive NJD framework allows departments to learn about how all three contribute to racial disparities. By combining police administrative data with population data (e.g., income, education, racial demographics), police department climate surveys, and community surveys, we can credibly examine the role that each explanation plays in the disparities that both police departments and communities want to reduce. The analysis conducted for this Interim Report has not involved any surveys. For this report, our analysis can address only community-based and police-driven explanations for racial disparities.

This brief carefully analyzes the role that community-level factors play in racial disparities—that is, explanation 1. The resulting analyses can be used to steer community engagement, relationship building, and continued department reform. Importantly, the persuasive power of analytics grows substantially the longer a department measures and analyzes important indicators. As a result, we encourage the BPD, the people of Berkeley, and all law enforcement agencies involved in the NJD to see these analyses as a preliminary benchmark against which progress can be measured. With many departments set to receive similar briefs in the coming years, we hope this analytic framework will serve as a road map for police and communities—establishing where they are now and charting a path toward a more just future.

In fairness, no police department in the country currently collects all the data recommended by the NJD analytic framework (though several departments collect each element of non-survey data). The BPD has shared comprehensive information about its recent pedestrian and vehicle stops, and has also shared information about use-of-force incidents reported pursuant to departmental policy.

The BPD's collection of vehicle stop data has been quite comprehensive; researchers were able to analyze data from vehicle stops between January 2012 and October 2015. The BPD began documenting pedestrian stops in January 2015. As a result, this report was prepared with the only year of data that was available. We encourage the BPD to continue its collection of vehicle and

pedestrian stop data so that more powerful analyses can be conducted on a larger dataset representing multiple years of BPD practice.

Along the same lines, BPD's data collection with respect to use of force is not comprehensive. When its officers use force, BPD does not necessarily require its officers to complete a Use of Force report. Unlike many other departments, BPD requires that use of force incidents be reported only if a weapon is used, the person is injured, or the person files a complaint. As a result, we are unable to report any findings with respect to racial disparities in unreported use of force incidents. We encourage BPD to begin data collection of all use-of-force incidents. CPE recognizes that new data collections can be time consuming, may lower morale in the short term, and require technical infrastructure to aggregate and analyze. Nonetheless, more comprehensive use-of-force reporting would be in line with the practices of most police departments nationally, would address concerns that have been raised by Berkeley community advocates, and would allow for empirical data analysis that might allow BPD to respond to use-of-force concerns raised by the community.

The above description of BPD's data collection is offered to demonstrate the tremendous opportunity for greater clarity on fairness in policing that could be afforded by further democratization of policing data. These opportunities are not for the BPD alone, but for law enforcement agencies nationwide.

Executive Summary

This report provides feedback on BPD vehicle stop, pedestrian stop, and use-of-force data provided as part of the Center for Policing Equity's National Justice Database (NJD). The report begins by describing BPD's role in the project. Results and recommendations are provided in subsequent sections.

The pages that follow present analyses of BPD traffic stops and searches for calendar years 2012 through 2015, pedestrian stops for calendar year 2015, and officers' use of force for calendar years 2012 through 2016. For all these analyses, we isolate race and ethnicity, exploring differences in practices and modeling outcomes of interest while controlling for competing factors, such as place-specific crime rates. The raw data point to disparate treatment of Berkeley citizens based on race and ethnicity in vehicle stops and in use of force. While neighborhood variations in crime rates explain some of these disparities, some racial disparities remain after controlling for crime and other nonracial factors. After adjusting for community-level demographic differences, Black and Hispanic drivers remain exposed to higher stop rates than White drivers, and Black individuals remain much more likely to experience use of force.

In short, our analysis of BPD data offers some support for both community-level and police-level explanations for disparities in police stops and use of force. On one hand, our regression analyses are consistent with impartial policing conduct by BPD: much, though not all, of the variation in stops and use of force can be explained by variations in local crime rates. On the other hand, the data are also consistent with claims by community advocates that Black and Hispanic community members experience policing differently: members of both groups are more likely than Whites to be stopped and searched while they are not committing crimes, and Black community members experience use of force at much higher rates than other groups.

Overall, the results of our interim analysis offer abundant reasons for optimism, as well as opportunities for improvement. The reasons for optimism are found in some of the analyses of racial bias. Overall, racial disparities in BPD stops and reported use-of-force incidents were low in comparison to many other US police agencies, and much of the observed disparity was attributable to variations in neighborhood crime rates. Moreover, Black-to-White and Hispanic-to-White disparities in vehicle search rates declined by about 40% between 2013 and 2015. None of the regression analyses conducted by CPE found that the racial composition (Black or Hispanic percentage) of a particular neighborhood predicted the number of stops or use-of-force incidents. On the other hand, alternative statistical analyses found that the racial composition of a particular neighborhood was likely a secondary predictor of vehicle stops, pedestrian stops, and reported use-of-force incidents.

Other results of this interim analysis offer reasons for concern and opportunities for further investigation and reform. Although disparities declined over the time period measured, Black and Hispanic drivers, and Black pedestrians, remain much more likely to be stopped by police than their

White counterparts. Moreover, BPD data indicated wide and unexplained racial disparities in search rates. Black and Hispanic drivers, in particular, were disproportionately likely to be stopped and searched without being arrested. Meanwhile, although Asian drivers were less likely than White drivers to be stopped, they were five times more likely to be searched, and four times more likely to be arrested, at a stop. Furthermore, data with respect to stops and searches revealed wide variation in racial disparity among BPD beats. Finally, Black people were subjected to reported use of force at about six times the rate of Whites. These disparities are largely unexplained, and warrant further investigation, in particular with respect to the charges filed against drivers of these racial² groups.

This report's analysis and explanation of observed racial disparities in BPD policing data is limited by the data BPD has shared with researchers, and by the time available for data analysis and reporting. Many questions about these disparities remain unanswered, but could be addressed through more complete data collection and by further empirical investigation using more detailed geolocation data and more nuanced statistical analysis than can be provided in this interim report. Several such opportunities are identified in this report and its recommendations.

In this interim report, we advance 11 specific recommendations:

1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint.
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband found during vehicle or pedestrian searches, and that it analyze data about charges filed at vehicle and pedestrian stops.
3. We recommend that BPD track and analyze whether law enforcement actions are officer-initiated, or respond to calls for service.
4. We recommend that BPD affirm that the egalitarian values of their officers are visible in the work they do.
5. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values.
6. We recommend BPD track hit rates and monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success.
7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

² In this report, "racial" is used as a shorthand for the demographic groups described in BPD records as Asian, Black, Hispanic, and White. In our analyses comparing BPD policing statistics to census data, these four identities are mapped onto the following census categories, respectively: non-Hispanic Asian, non-Hispanic Black, Hispanic (any race), and non-Hispanic White. This simplified terminology does not represent a claim that such persons belong to monolithic "races," or indeed that the category of "race" has objective meaning independent of its social context.

8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist.
9. We recommend that trainings include clear messaging that group-based hierarchy is not consistent with the values of BPD.
10. We recommend that value-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department.
11. We recommend leveraging the existing community advisory board to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. While not an exhaustive list of possible solutions to the issues raised in this report, these nine recommendations represent straightforward first steps towards addressing each of them.

These findings of this report demonstrate that even in an agency such as the BPD—which implemented numerous commendable reforms aimed at enhancing equity in policing during and before the time period of this data collection—unwelcome disparities persist. More work remains to be done, both within BPD, between BPD and the Berkeley communities, and with the communities and law enforcement agencies of the broader Bay Area. Our research also underscores the value of rigorous and impartial analysis of police data—together with public dissemination of the findings—as well as the importance of continual, ongoing analyses that can help promote and measure change over time. When departments can identify the real-world effects of their policies and practices, they can consult with the communities affected to design practical and evidence-based interventions to implement their shared commitment to equitable policing.

History of City Involvement in the National Justice Database Project

In this section, we describe how the relationship between BPD and CPE began, and why BPD chose to participate in the National Justice Database.

The City of Berkeley is home to one of the nation's leading research universities, and is renowned as a bastion of liberal values and egalitarian culture. Over the past decade or so, the current and prior leadership of BPD have implemented their commitment to equitable policing by introducing multiple policy reforms designed to reduce racial disparity and bias. These reforms have included enhanced data collection, a "fair and impartial policing program," anti-racial-profiling training, and crisis intervention training to prepare officers to deal with people in mental health crisis. The current police Chief, Andrew Greenwood, has been leading the department since October 2016, and has committed to "building community trust" as one of the primary goals of his leadership.

Nonetheless, BPD has not been immune to the realities of racial inequity nor to allegations of excessive force. In December 2014, for example, the BPD faced intense criticism for its forceful response to a Black Lives Matter protest that was the largest political demonstration the City had seen in more than 20 years. After some vandals broke windows, police ordered the crowd to disperse. After repeated orders to disperse seemed to attract more protesters, and attempts to kettle the crowd proved ineffective, BPD officers used batons, tear gas, and pepper spray to disperse the largely peaceful crowd. Dozens of nonviolent protesters were reportedly injured by tear gas canisters and baton strikes, including a journalist who was reportedly struck in the back of the head by a baton. This event gave rise to an internal investigative report in June 2015, as well as to an excessive-force lawsuit by a number of protesters. In February 2017, BPD settled the lawsuit, agreeing to more complete reporting of the use of force at crowd management events, and promising to equip BPD officers with body-worn cameras.

In 2015, CPE began working with BPD on a comprehensive data analysis plan, but limited data were provided to the researchers. When Andrew Greenwood was appointed Interim Chief, data-sharing efforts grew rapidly, and researchers completed their data collection in February 2017. Analysis continued from there, and this interim report was delivered in May 2017.

Section I: Data

The Berkeley Police Department employs 170 sworn officers and another 100 non-sworn employees serving a city of more than 112,000. Berkeley forms part of the Bay Area, the 11th-largest Metropolitan Statistical Area in the United States, with a population of some 4.6 million as of 2016. In this report, we focus on three sets of BPD data made available through the NJD: vehicle stops between 2012 and 2015, pedestrian stops in 2015, and reported incidents of police use of force between 2012 and 2016. This Section sets out total counts for vehicle stops, pedestrian stops, and use of force incidents affecting persons of Asian, Black, Hispanic, White, and Other or unknown ethnicity. According to the 2010 census, more than half of Berkeley residents—about 55%—are non-Hispanic White (“White”), 19% are non-Hispanic Asian (“Asian”), 11% are Hispanic of any race (“Hispanic”), and 10% are non-Hispanic Black (“Black”). 5% of Berkeley residents are non-Hispanics who identify with two or more races. Each of American Indian/Alaska Native, Native Hawaiian and Other Pacific Islander, and “Some other race” accounts for less than half of one percent of the Berkeley population.

Berkeley is an economically vibrant city with a large university. It experiences a daily influx of regional residents who visit Berkeley for work, school, or recreation, as well as tourists from other parts of the state, the country and the world, and commuters passing through Berkeley on their way to adjacent municipalities. Racial and ethnic differences in policing data must also be contextualized with other contributing factors, including neighborhood characteristics, level of illegal activity, and other factors we model by using Census tract-level Part I crimes as a proxy.

DATA PROVIDED

This section describes the data BPD provided to CPE for analysis.

BPD provided four main data sources:

1. Vehicle stop data from 1/01/2012 – 12/31/2015,
2. Pedestrian stop data from 1/01/2015 - 12/31/2015,
3. Use of force data from 1/01/2012 - 12/31/2016, and
4. Crime data from 1/01/2012 – 12/31/2015.

The vehicle and pedestrian stop files contained 33,880 observations and the following data fields:

- Incident Number
- Date
- Time
- Address
- Latitude/Longitude

- Police Beat
- Disposition Code
 - Reason for Stop/Offense
 - Disposition
 - Search Conducted
 - Subject Race
 - Subject Gender
 - Subject Age
 - Officer Race
 - Officer Gender

The use of force data contained 366 police uses of force on 180 individuals and the following data fields:

- Unique ID
- Date/Day
- Time
- Street # / Street Name / Type
- Latitude/Longitude
- Zip code
- Beat
- Nature of Contact
- Disposition/Subject Arrest
- Force Reason
- Subject Race
- Subject Sex
- Subject Date of Birth
- Subject Injured/Hospitalized
- Officer Race
- Officer Sex
- Officer Age
- Officer Department Years

The crime data contained 51,047 observations and the following data fields:

- Unique ID
- Date/Time
- Classification

- Offense
- Address
- Latitude/Longitude
- Location
- Bias Motivation (as coded by the CJIS Uniform Crime Reporting)
- Subject Race
- Subject Sex
- Subject Age

Section II: Descriptive Statistics and Disparities

In this section, we present a descriptive analysis of the stop and use-of-force data your agency provided. We begin by presenting counts of vehicle stops, pedestrian stops, and use of force incidents, both for the department as a whole and separately by citizen race/ethnicity. We also describe disparities that emerge when incidents are compared across race/ethnicity groups. In Section III, we will provide context and support for interpreting these statistics.

In keeping with BPD's records, we categorize race/ethnicity using 5 categories: Asian, Black, Hispanic, White and Other/unknown.³

Much of the racial analysis in this report focuses on results for Black and White citizens, who together account for the great majority of stops and use-of-force incidents. Although Asian-Americans comprise a large proportion of the Berkeley population, they account for relatively few vehicle stops, pedestrian stops, or recorded use-of-force incidents. Where the number of incidents involving Hispanic, Asian, or Other categories are too small for meaningful statistical analysis, they are typically presented only in tables and not discussed in the text. Please note that statistics for these smaller groups tend to be "noisier" (that is, they fluctuate more over time) than statistics for larger groups, such as White or Black people.

A Note on Racial Disparities in Berkeley

The charts and analysis in this report show strong evidence of racial disparities in policing. When reading the report, though, one should keep in mind one very important caution about how these numbers were derived, and about how that applies to Berkeley. The methodology for measuring whether or not law enforcement is fairly policing all racial groups is based on an assumption about the size of the underlying population of each racial group. If a racial group makes up 10% of the city's population but accounts for 30% of the traffic stops in the city, this would be evidence of a disparity in traffic law enforcement. It is important to recall, though, that the people present in Berkeley at any given time may come from other parts of the Bay Area (or of the state, or of the world), whose demographics may be different from those of Berkeley proper. Thus people who are stopped by police in Berkeley may not necessarily be residents of Berkeley. In the data we have, there is no way to ascertain whether the people who were stopped, searched, or upon whom force was used, were or were not Berkeley residents.

For example, only 10% of Berkeley's residents are Black. If 25% drivers in Berkeley were Black (they could be commuting from neighboring cities to visit or work in Berkeley, or driving through it), then a traffic stop rate of 30% would indicate less disparity in vehicle stops than a comparison to the

³ See note 3, supra. "Other" is a category used by BPD officers to describe persons who do not fit one of the other four racial descriptors. "Unknown" is the categorization used by CPE researchers for those records where the race or ethnicity of the citizen involved was left blank.

Berkeley resident population might suggest. If only 5% of Berkeley’s driving population were Black (for example, if Black people were more likely than others to walk or use public transit), the disparity would be greater than the resident population might suggest. At this time, though, there is no way to control for this effect or to benchmark the effective representation of each racial group in the city. As a result, census-based comparisons are essential, but should be viewed with caution.

II.A. VEHICLE STOP COUNTS AND RACIAL DISPARITIES

This section presents information extracted from BPD’s vehicle stop data. We begin by presenting aggregate vehicle stop trends over time, and then present differences by race – measured in terms of both the total number of stops, and population-adjusted stop rates. We then examine trends and racial disparities in stop procedures (e.g., whether a stop included a search) and outcomes (e.g., whether stops end in arrest, citation, or some other outcome). Finally, we conclude with an assessment of the relative magnitude of observed racial disparities.

Figure 1a. Quarterly Vehicle Stop Counts, 2012-2015

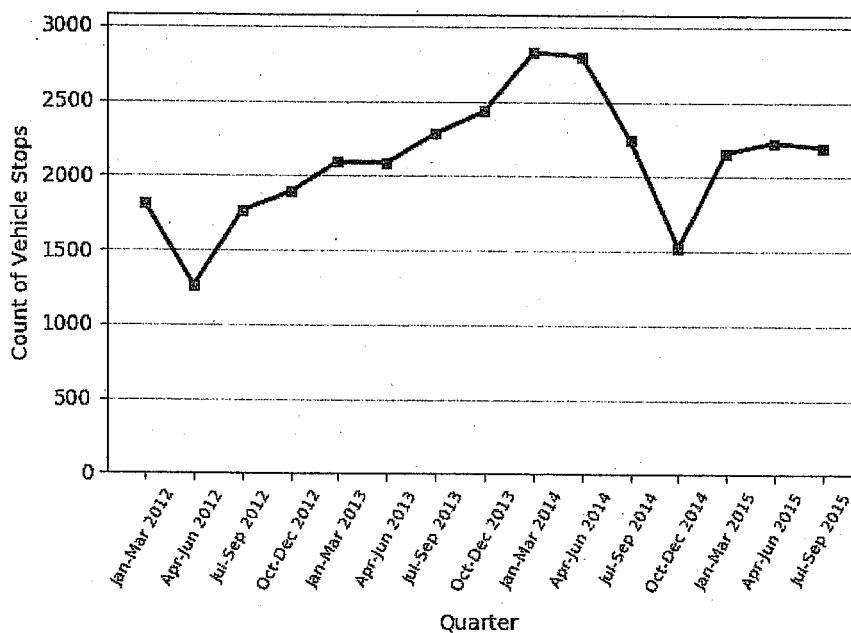


Figure 1a shows the number of traffic stops per quarter. The data show an overall slightly upward trend without apparent seasonal effect. It should be noted that the dataset does not include any traffic stops after October 2015. An average of 2306 stops are performed per quarter, or about 770 per month.

Figure 1b. Quarterly Vehicle Stop Counts by Race, 2012-2015

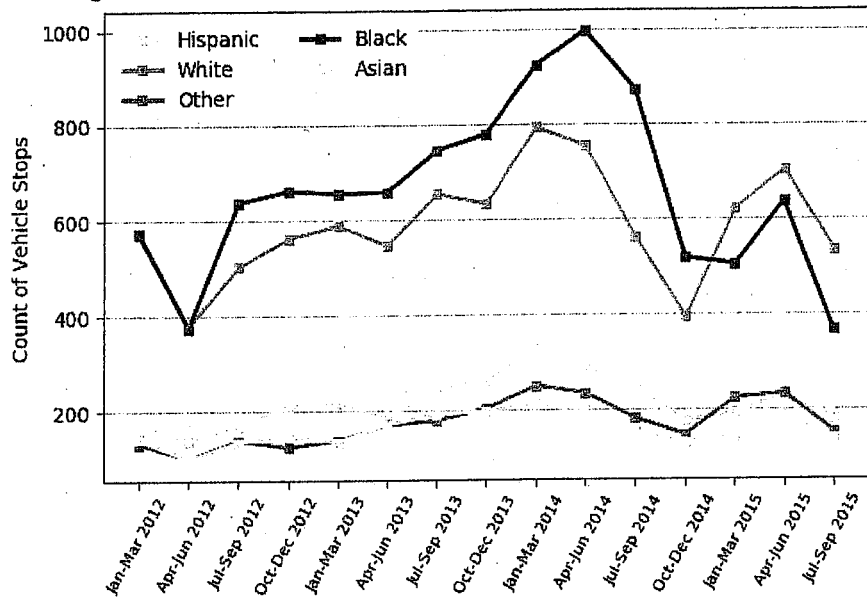


Figure 1b shows the racial breakdown of the vehicle stops shown in Figure 1a. Here, a strong disparity is evident. In an average quarter, 36% of traffic stops involve a Black subject, while only 34% involve a White subject. While these figures are not wildly different, 55% of the Berkeley population is White while only 10% is Black, meaning that a Black driver is nearly six times more likely to be pulled over than a White driver. Disparities are also evident with respect to Hispanic drivers: they represent 12% of the stops performed by the department, while they make up approximately 11% of the population, a stop rate nearly double that of Whites.

Figure 2. Per Capita Stop Rates by Citizen Race/Ethnicity (Estimated), 2012-2015

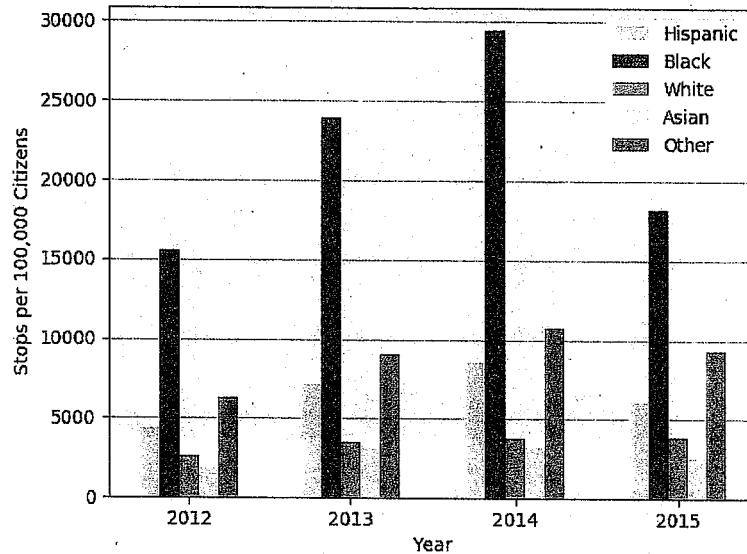


Figure 2 shows per capita stop rates for each race by year. These figures were calculated by using census data on the percentages of each racial group in the city, multiplying each percentage by the city's population, then dividing the number of stops of each group by its estimated population and multiplying the resulting figure by 100,000. The resulting number gives one an idea of the probability of a driver being stopped given their race. The racial disparity described in Figure 1B is apparent here again across all quarters: Black drivers are far more likely to be stopped than are drivers of any other race, and Hispanic drivers are consistently more likely to be stopped than Asian or white drivers.

Figure 3a. Vehicle Stops by Whether Search Was Conducted, 2013-2015

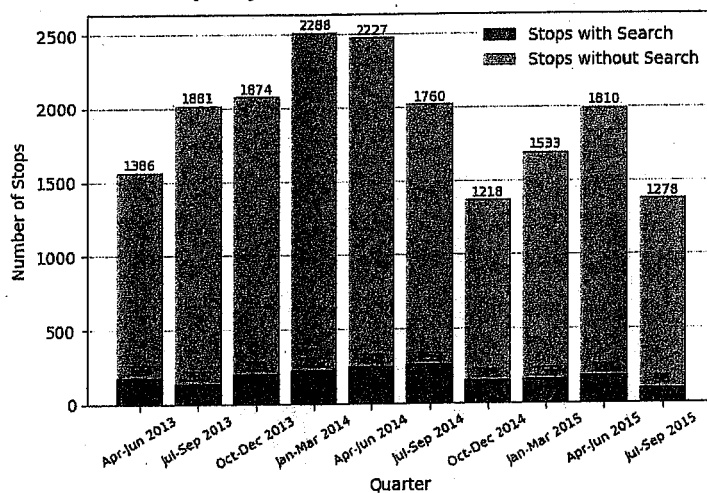


Figure 3a presents the proportion of vehicle stops in which the vehicle was searched. The height of the bar represents the total number of stops per quarter. The dark area represents stops where a search occurred, while the light area represents stops where no search occurred. Over time, between 8-15% of stops resulted in a car search. The average vehicle search rate was about 10%.

Figure 3b. Likelihood of a Search, by Citizen Race/Ethnicity

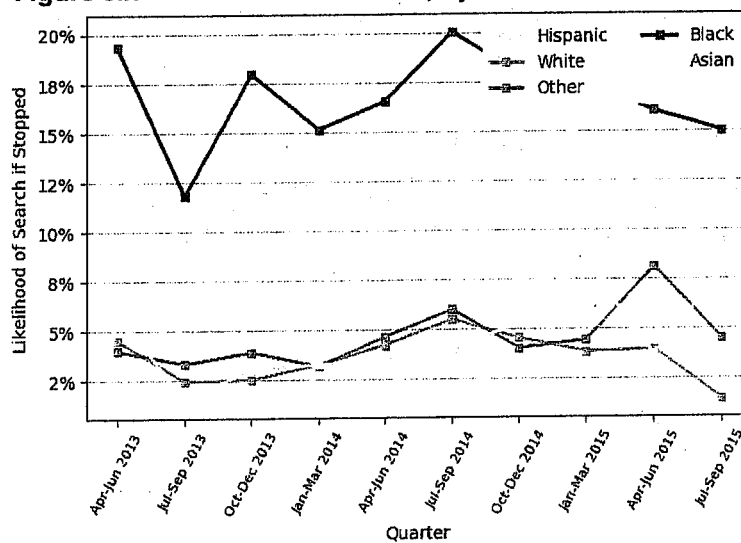


Figure 3b breaks out the data seen in figure 3a by race. The color of each line represents the race of the driver, and each point on the lines represents the percentage of stops of drivers of that race that resulted in a search. While the overall percentage of stops resulting in a search remained steady at around 10% for the general population, this graph shows that Black and Hispanic drivers are much more likely to be searched than are drivers of other races. Once pulled over, Black drivers

are about five times more likely to be searched than White drivers, while Hispanic drivers are about 2.5 times more likely.

Table 4. Annual Nonwhite-to-White Ratios* in Vehicle Stop Search Rates, 2013-2015

Comparison	2013	2014	2015
Black-White	5.3	4.0	3.2
Hispanic-White	3.7	3.0	2.2
Asian-White	1.1	0.9	1.5
Other-White	1.2	1.0	1.1

* The search rate is the proportion of vehicle stops that resulted in a search. Each number in this table represents the search rates for nonwhite (Black, Hispanic, Asian or Other) drivers divided by the search rate for White drivers.

Table 4 quantifies the racial disparities in traffic stop searches that were first shown in figure 4b. A ratio greater than 1 indicates that a minority driver was more likely to be searched than a White one; a ratio less than 1 indicates that a minority driver was less likely to be searched. Racial differences among the three most-stopped ethnic groups remained constant across time. Every quarter, Black drivers were more likely to be searched than Hispanics, who were in turn more likely to be searched than Whites. Over the time period measured, the racial disparity diminished by about 40% for both Black and Hispanic drivers, but it did not disappear. By 2015, Black drivers remained more than three times more likely than Whites to be searched at a vehicle stop, while Hispanic drivers remained more than twice as likely to be searched than Whites. The number of stops of Asian and Other drivers was much smaller; trends over time could not be easily discerned.

BPD provided vehicle stop and search data for each of the 16 geographic “beats”, or precincts, of the BPD. A map of Berkeley showing the boundaries of each beat is attached as Appendix A to this report. Table 5 shows nonwhite-to-White search-rate ratios for each BPD beat.

Table 5. Nonwhite-to-White Ratios in Vehicle Stop Search Rates, by Beat

Beat	Black-White	Hispanic-White	Asian-White	Other-White
1	0.9	1.3	2.2	2.7
2	5.2	4.0	1.3	1.6
3	2.9	1.9	1.0	0.6
4	2.2	1.3	1.2	0.8
5	2.8	2.2	0.7	0.5
6	1.7	1.0	1.5	-
7	3.3	2.5	1.4	0.8
8	4.7	2.9	1.5	1.1
9	4.0	2.9	1.1	1.0
10	4.0	3.5	-	0.8
11	4.7	2.5	0.8	2.7
12	-	-	-	-
13	2.5	3.3	1.7	2.1
14	3.6	3.0	1.0	0.9
15	-	-	-	-
16	6.6	-	-	-

Note: Each number in this table represents the search rates for nonwhite (Black, Hispanic, Asian or Other) drivers divided by the search rate for White drivers. Blank cells did not have enough stops to support comparisons (i.e., involved groups with fewer than 10 stops in a given beat).

Table 5 demonstrates large geographic disparities in nonwhite-to-White search ratios. In six of the sixteen BPD beats (2, 8, 9, 10, 11 and 16), Black drivers were searched more than four times more often than Whites who were stopped. In four beats (2, 10, 13 and 14), Hispanic drivers were searched at least three times more often than Whites who were stopped. In two beats (1 and 13), Asian drivers were searched about twice as often as White drivers who were stopped. In Beats 5 and 6, nonwhite-to-White search ratios were smaller, indicating less racial disparity. Data were sparse for beats 15 and 16.

Figure 6a. Annual Vehicle Stop Outcomes

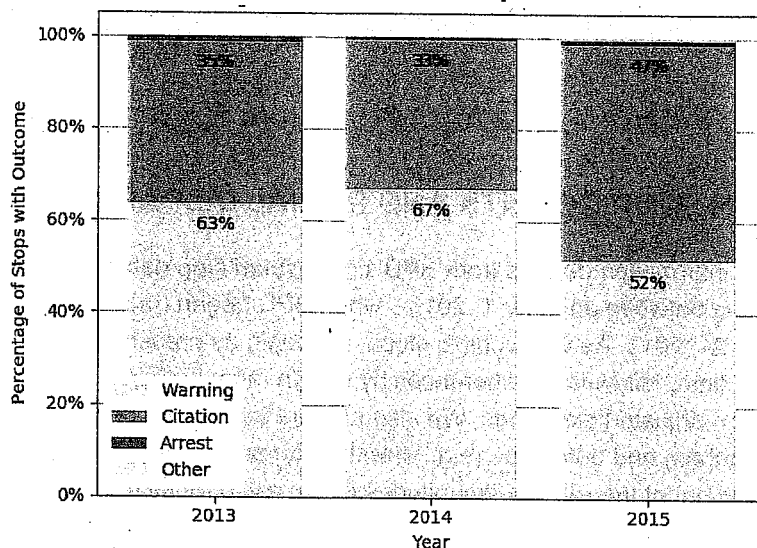


Figure 6a shows a breakdown of the outcomes of vehicle stops by year. From the data available, the possible outcomes of a vehicle stop were that the driver was issued a warning or a citation, the driver was arrested, or some other unspecified outcome occurred. As the graph makes clear, citations and warnings were by far the most common outcomes of a traffic stop, accounting for 98% to nearly 100% of all stops. Arrests and “other” outcomes are therefore rare in traffic stop situations.

Figure 6b. Vehicle Stop Outcomes by Driver’s Race, 2014

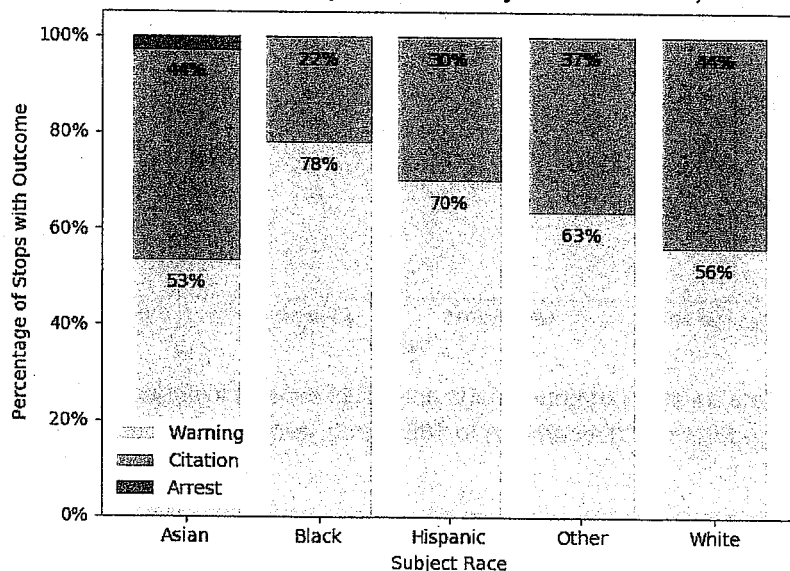


Figure 6b shows the outcomes of traffic stops by racial/ethnic category. While Black, Hispanic and Other drivers were much more likely to be stopped than White or Asian drivers (see Figures 1b and

2), nearly half of White and Asian drivers who were stopped received a citation. By contrast, about three quarters of Black and Hispanic drivers who were stopped received only a warning. Asian drivers who were stopped were much more likely to be arrested than drivers in any other racial/ethnic category.

II.B. PEDESTRIAN STOP COUNTS AND RACIAL DISPARITIES

This section presents information derived from BPD's pedestrian stop data. These figures and tables capture stops occurring between January 1, 2015—when BPD began tracking pedestrian stop data—and December 31, 2015. As with vehicle stops, we begin by presenting aggregate trends in pedestrian stops over time, followed by differences by citizen race, both in terms of the total number of stops and population-adjusted stop rates. We also present trends and disparities in stop procedures (e.g., searches) and outcomes (e.g., arrests, citations, others). Finally, as in Section II.A, we provide an assessment of the relative magnitudes of observed racial disparities.

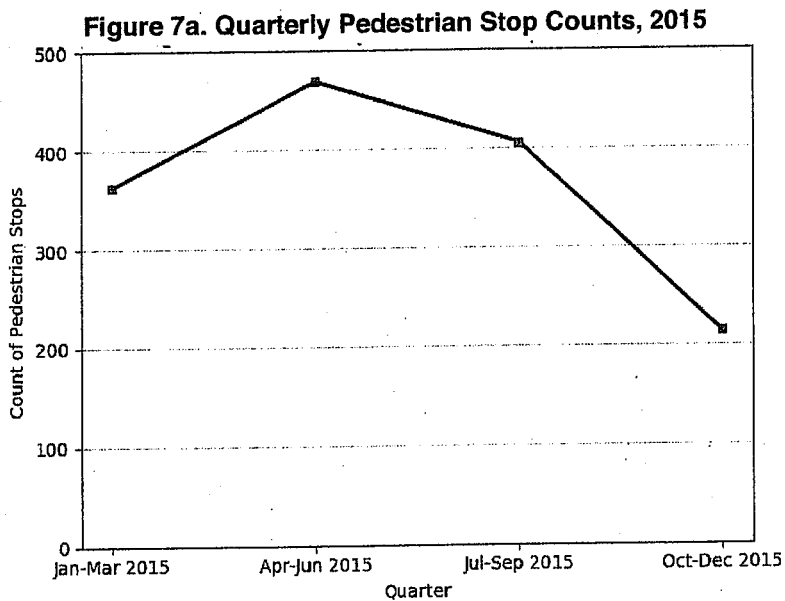


Figure 7a displays data on stops of pedestrians only. This dataset included 1451 observations; stops per month ranged from 52 (December) to 185 (April), averaging approximately 121 stops per month.

Figure 7b. Quarterly Pedestrian Stop Counts by Race, 2015

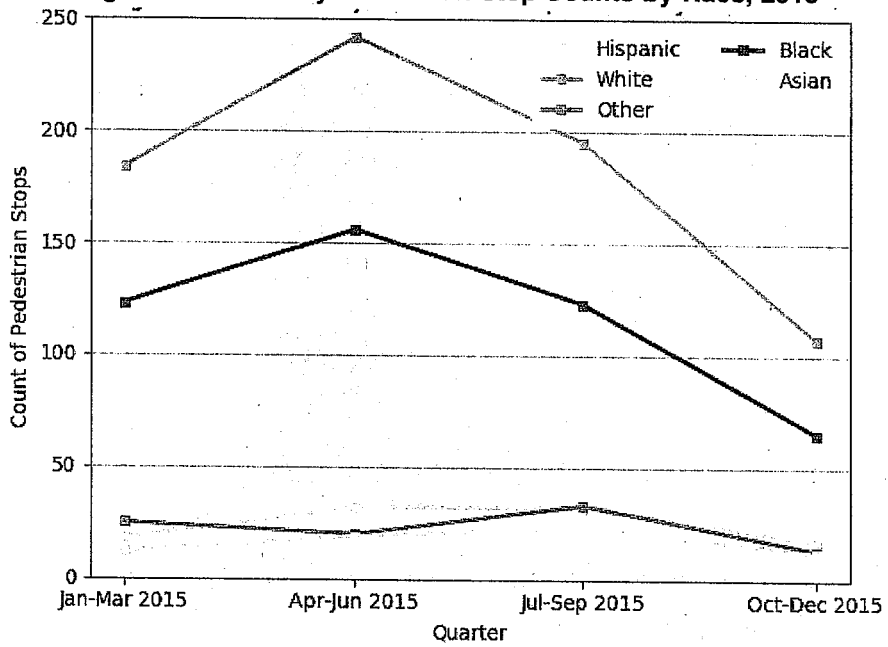


Figure 7b breaks down the number of pedestrian stops by racial/ethnic category. Most pedestrian stops involved either White or Black pedestrians. In 2015, stops of White or Black pedestrians accounted for approximately 82% of all pedestrian stops: 50% were of White pedestrians and 32% were of Black pedestrians. This, however, is out of step with the demographic makeup of Berkeley: although only one in every 10 Berkeley residents is Black, nearly one third of pedestrian stops involved a Black subject. Relative to population, Black pedestrians were about 3.5 times more likely than Whites to be stopped by police. Hispanics were slightly less likely than Whites and much less likely than Blacks to be stopped by police while on foot.

Figure 8. Per Capita Pedestrian Stop Rates by Citizen Race/Ethnicity (Estimated), 2015

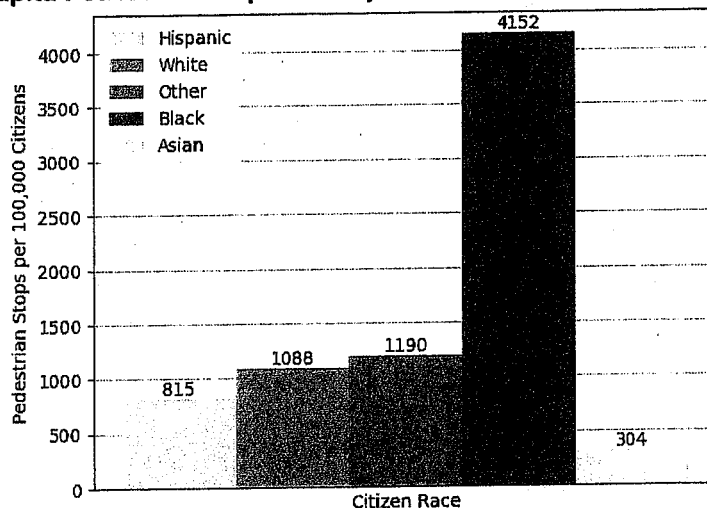


Figure 8 presents per-capita stop rates by race, giving an indication of the approximate chance that a Berkeley resident of a given race had of being stopped in 2015. As figure 7b illustrated, Black individuals had a chance of being stopped that is approximately 3.5 times higher than any other race. Asians were much less likely than Whites, Blacks, Hispanics or Others to be stopped by police while on foot. An average Black resident of Berkeley had a 4% chance of undergoing a pedestrian stop in 2015, as compared to just over 1% for White residents and 0.3% for Asian residents.

Figure 8. Pedestrian Stops by Beat and Citizen's Race

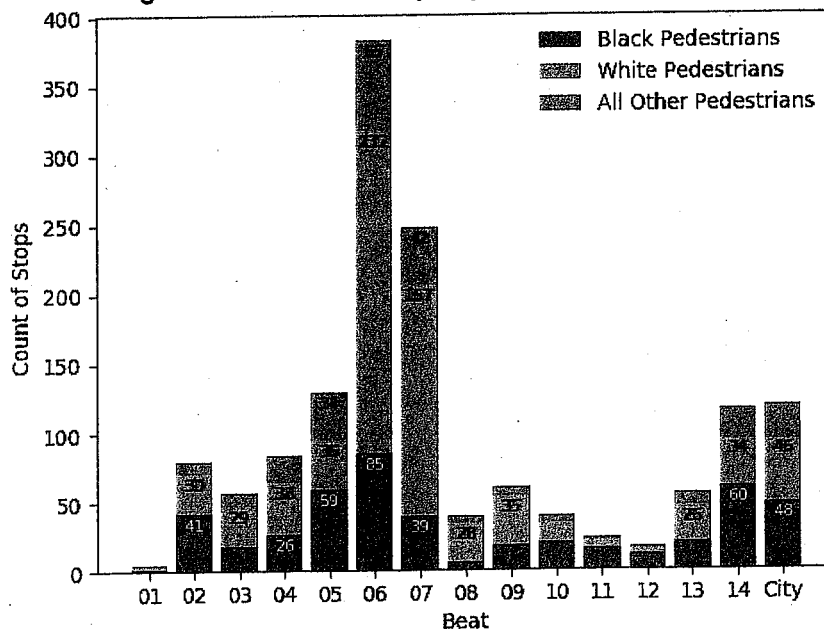


Figure 8 breaks out the data on pedestrian stops by race by BPD beat. Because the numbers of pedestrian stops were so small, Hispanic, Asian, and all other races were consolidated into the category of 'other'. By far the most pedestrian stops occurred in Beat 6 (382 total stops), just west of the university campus. Beat 7, just south of the university campus, had the second-most pedestrian stops (248). These two campus-adjacent precincts accounted for 56% of total pedestrian stops. The racial distribution of pedestrian stops varies widely across BPD beats, but without information about the demographic makeup of each precinct, it is difficult to draw inferences from these differences.

Figure 9a. Share of Pedestrian Stops Resulting in Searches by Quarter, 2015

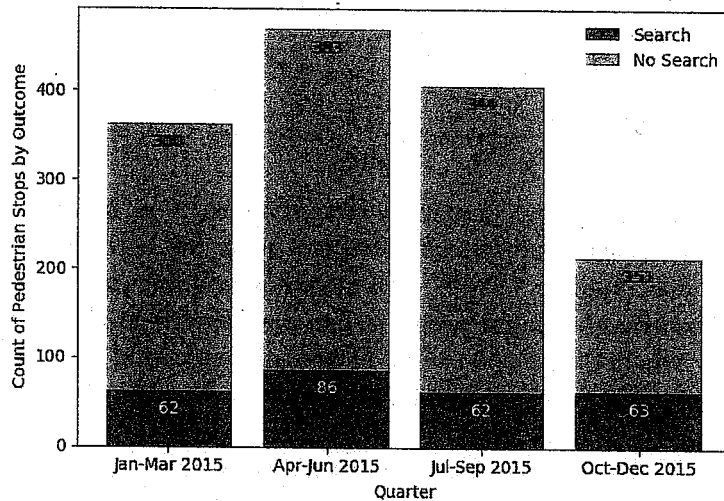


Figure 9a presents the outcome of pedestrian stops: whether a pedestrian who was stopped was searched, or not. The light area on each bar represents the number of pedestrian stops that did not result in a search, while the dark areas represent the number of pedestrian stops that did result in a search. Of the 1451 pedestrian stops observed in the data, 271 pedestrians (about 19%) were searched. This figure is almost double the search rate for vehicle stops (figure 3a).

Figure 9b. Share of Pedestrian Stops Resulting in Searches by Quarter and by Race, 2010-2015

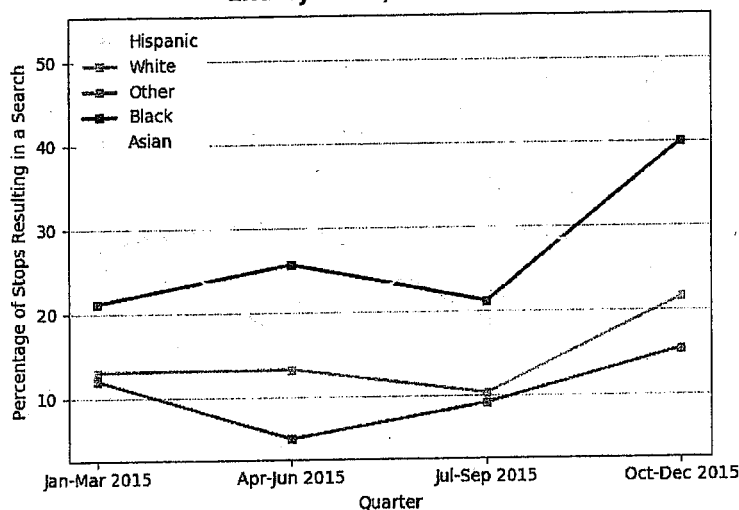


Figure 9b breaks down the data from Figure 9a by race. The color of each line represents the race of the pedestrian, while the points represent percentage of stops that resulted in a search. Racial disparity is apparent in most quarters. In 2015, 14% of Whites who were stopped on foot were searched. Pedestrian search rates for every minority group were close to double the White pedestrian search rate. 25% of Blacks and 26% of Asians were searched at pedestrian stops, while 30% of Hispanic pedestrians who were stopped were searched.

At the same time, because Black pedestrians were much more likely to be stopped in the first place (see Figure 8, above), the chance that a Black Berkeley resident might be searched by police was about 1% in 2015: that is, 1 in 100 Black Berkeley residents were stopped and searched while on foot in 2015, compared to less than one quarter of 1% of Hispanic, Asian and White residents.

Figure 10. Share of Pedestrian Stops Resulting in Searches, by Beat

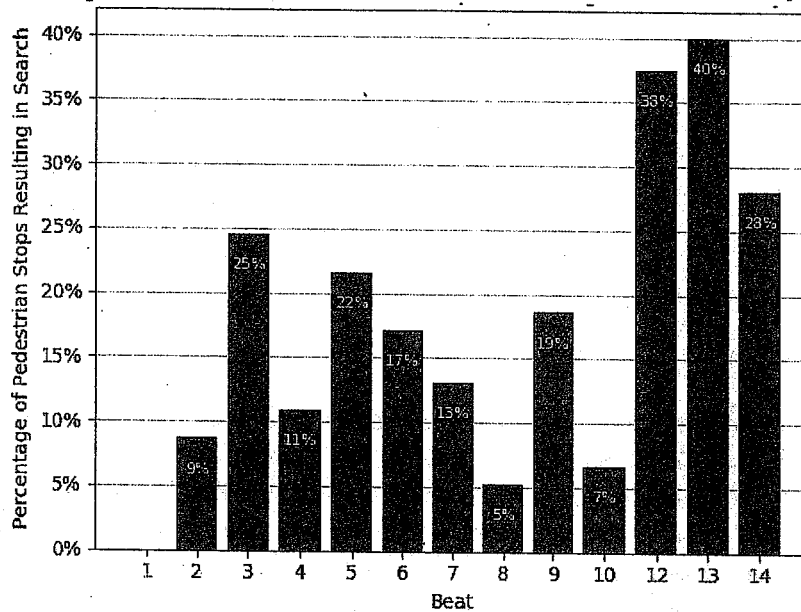


Figure 10 presents the percentage of pedestrian stops resulting in searches by the beat in which the stop occurred. Each bar represents a beat, while the height of the bar represents the total percentage of stops in each beat resulting in a search. Five beats (3, 5, 12, 13, and 14) had above-average search rates; pedestrians stopped in beats 12 and 13 were searched at least double the average pedestrian search rate, although these two beats had the second- and third-lowest overall number of pedestrian stops (11 stops in beat 12 and 21 in beat 13). By comparison, beat 5 had 444 total stops, with a search rate of 17%.

Table 11. Annual Non-White-to-White Ratios in Pedestrian Stop Search Rates, 2015

Comparison	Ratio
Black-White	1.8
Hispanic-White	2.2
Asian-White	1.9
Other-White	0.7

Table 11 quantifies the racial disparities in pedestrian stop searches shown in figure 13b. Each number represents the ratio of a minority group's pedestrian search rate to the search rate for White pedestrians. A ratio greater than 1 indicates that a pedestrian of this ethnic group was more likely than a White pedestrian to be searched; a ratio less than 1 indicates that pedestrians of that group was less likely to be searched. In 2015, pedestrians who were Asian, Hispanic and Black were 1.9, 2.2 and 1.8 times more likely to be searched than pedestrians who were White.

Table 12. Non-White-to-White Ratios in Pedestrian Stop Search Rates, by District, 2015

Beat	Black-White	Hispanic-White	Asian-White	Other-White
3	0.9	4.1	-	-
4	2.0	-	4.2	-
5	1.5	1.4	1.1	-
6	1.7	2.3	3.7	1.1
7	1.4	2.0	2.6	-
9	18.5	-	11.7	-
14	0.9	1.1	1.7	-

Table 12 presents racial disparities in pedestrian stop searches by beat. Beat 9 has the greatest search rate disparity for both Black and Asian pedestrians: in Beat 9, an Asian pedestrian is almost 12 times more likely to be searched than a White pedestrian, and a Black pedestrian is almost 20 times more likely to be searched. (It should be noted that the search rate for Asian pedestrians is calculated from a very small sample in beat 9.) The disparity for Hispanics is most pronounced in beat 3, but this is also based on small numbers. Beat 5 showed the lowest racial disparity in pedestrian search rates.

Figure 13a. Pedestrian Stop Outcomes, 2015

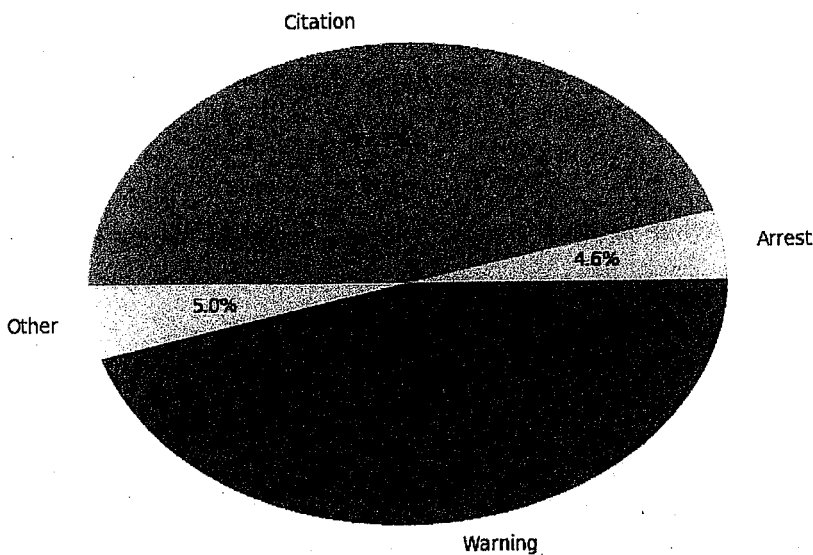


Figure 13a shows the outcomes of pedestrian stops. Since data are only available for 2015, no comparisons can be made to other years. The pattern for pedestrian stop outcomes is similar to the pattern for traffic stop outcomes: an overwhelming majority of pedestrian stops ended with either a

warning or a citation. The arrest rate is slightly higher than with traffic stops (Figure 6a), at about 4.6%.

Figure 13b. Pedestrian Stop Outcomes by Citizens' Race, 2015.

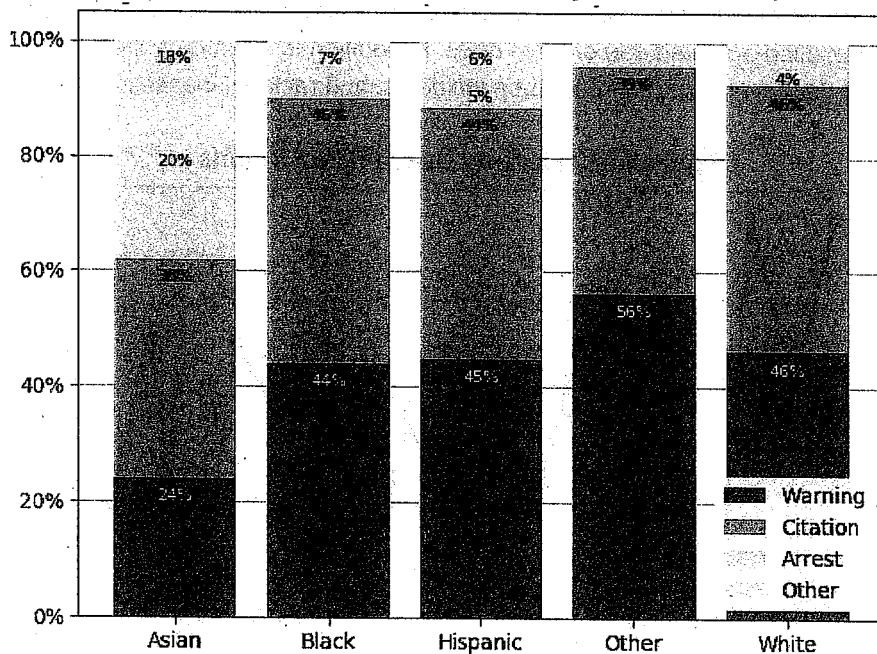


Figure 13b presents the outcomes of pedestrian stops (figure 13a) by racial/ethnic category. As with traffic stops, Asian pedestrians were rarely stopped (50 in 2015), but those who were stopped were much more likely to be arrested than pedestrians of any other race. By comparison, out of 352 stops of Black pedestrians, only 11 arrests were made (3%); out of 618 stops of White pedestrians, 27 arrests were made (4%).

II.C. USE OF FORCE COUNTS AND RACIAL DISPARITIES

This section presents information gleaned from use of force data BPD shared with CPE. The dataset shared by BPD consisted of use of force reports from January 2012 to December 2016

As with vehicle and pedestrian stops, we begin by presenting aggregate trends in use of force incidents over time, followed by differences by citizen race, both in terms of the total number of incidents and population-adjusted use of force rates. In addition to aggregate statistics, we provide an assessment of the severity of recorded force incidents, and racial disparities in force severity.

Figure 14a. Quarterly Use of Force Counts

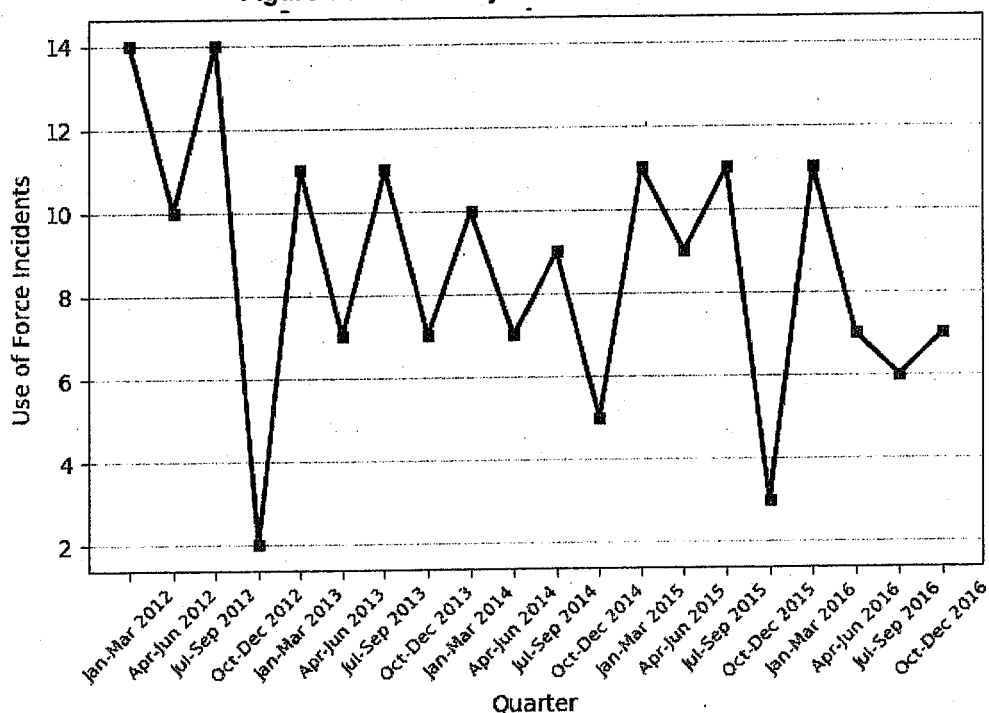


Figure 14a shows the number of use of force incidents reported in Berkeley by quarter. It shows a slight downward trend in use of force from 2012-2016, with an average of between 8 and 9 use of force incidents per quarter.

Use-of-force data must be viewed in the context of BPD departmental policy, which requires the completion of a use of force report when an officer uses lethal force, discharges a firearm, or uses a nonlethal weapon (e.g. oleoresin capsicum spray or baton).⁴ BPD departmental policy apparently does not require that use of physical force be reported (in a Use of Force Report or Incident Report) unless the officer used a weapon, the subject was injured, or the subject complains. As a result,

⁴ BPD General Order U-2, ss.23 and 24.

incidents of physical force not involving a weapon are not comprehensively reported or tracked by BPD, and are not reflected in Figures 14a or 14b.

Figure 14b. Quarterly Use of Force by Citizen Race, 2012-2016

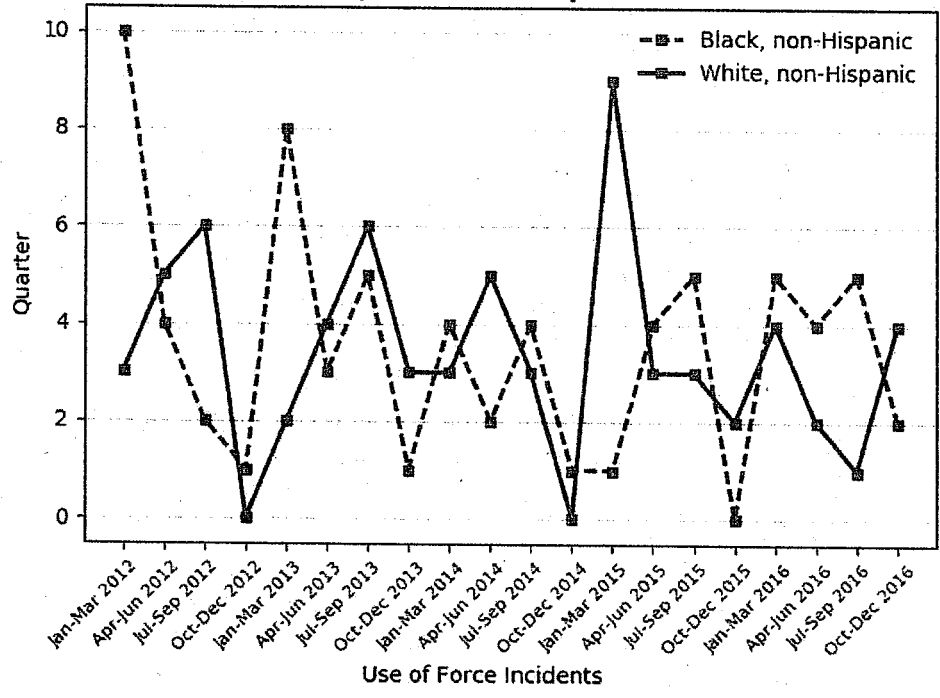


Figure 14b presents reported use of force by race, comparing use of force rates for Black and White subjects (other races were excluded as not enough data were available. Possibly because of the reporting rules described above, BPD records unusually low numbers of use of force incidents. There were more reported use of force incidents for Black residents of Berkeley than there were for White residents. The per-capita use-of-force rate for Black residents was 65.2 per 10,000, while that for White residents was only 11.0 per 10,000, suggesting that Black residents were about six times more likely to be subject to use of force.

Section III: Interpreting Disparities

In Section II, we provided descriptive statistics for vehicle stops, pedestrian stops, and reported incidents of use of force, and described racial disparities that were observable from BPD's data. In this section, we further analyze this data to allow you to interpret these results in Section II, particularly with regard to understanding racial disparities and gaining a sense of how well they might be explained by nonracial factors.

In Section III.A, we assess disparities in vehicle and pedestrian stops by comparing arrest rate across racial groups. In the absence of "hit rate" data tracking the number of times that a BPD search found contraband (such data was not shared with CPE researchers), the arrest rate could provisionally be viewed as a proxy for the hit rate. Hit rate analyses posit that if members of different racial groups are subjected to equal levels of suspicion and equivalent treatment, then stops of members of each group should be equally likely to uncover illegal activity. On the other hand, if one group is more likely to be stopped at lower levels of suspiciousness, "hit rates" (or in the case of this report, arrest rates) for this group are likely to be lower. The analyses below examine the hit rates of both stops, measured by arrests. Although equivalent search and hit rates across racial groups are not sufficient to conclude that the department is free of racial bias, observed differences in search and hit rates are an indicator of disparity that indicates the likely utility of further investigation.

In Section III.B, we contextualize observed racial disparities in stop activity by examining stop counts and reported use-of-force incidents in their broader neighborhood context. Vehicle and pedestrian stops, and disparities therein, may be a byproduct of targeting high-crime neighborhoods, coupled with residential racial segregation; if minority neighborhoods experience more crime than other parts of a city, residents of those neighborhoods may be exposed to higher rates of police stops if officers target high-crime areas for enforcement. If racial disparities in stop rates were wholly the result of targeting high-crime areas, then controlling for local crime rates would fully explain racial disparities in stop and search rates, independent of the racial composition of the neighborhood. The residual racial disparity—racial disparity that remains unexplained by nonracial factors—offers cause for concern, and warrants further investigation.

We therefore use a series of regression models to predict neighborhood stop counts or rates as a function of local crime and other neighborhood characteristics. These regression analyses estimate the proportion of observed racial disparity that can be explained by nonracial factors such as local crime rates.

III.A. ARREST AND SEARCH RATES

This analysis examines the outcomes of stops once they occur. If officers stop and search all drivers at the same level of suspicion, regardless of race, then arrest rates—the rate at which stops

and searches uncover illegal activity—should be similar for each racial group. Where the arrest rate for one racial group is lower than for another group, it suggests that the group with the lower hit rate is being stopped and searched for lesser reason (i.e., at a lower level of suspicion) than a group with a higher hit rate: that is, members of that group are more likely to be stopped while they engaged in no unlawful conduct. Hit rates can also be used to assess the efficiency of policing resource allocation: to the extent that searches of a particular group are frequent but yield a low hit rate, officers' time and attention is being spent on behavior that fails to detect or deter criminal activity.

Our use of arrest as a proxy for the “hit rate” assumes that, if an officer discovers evidence of any unlawful activity, s/he will arrest the driver. A limitation of this assumption is that officers almost certainly do not exercise their discretion in this mechanical way. An officer who discovers evidence of a minor crime—say, finds a marijuana cigarette in the car—might not invariably arrest the driver. Conversely, a driver could be arrested for a criminal offense without the car being searched, or for reasons unrelated to the search. The use of arrest as a proxy for unlawful behavior will necessarily miss any racial disparities in officers' discretionary decision-making about whether or not to make an arrest. To more precisely assess the productivity of BPD searches, BPD should track and share information about whether a search results in the discovery of contraband.

Table B1. Descriptive Statistics on Vehicle Stop Results by Citizen Race and Gender

	Number of Stops	% of Stops Resulting in Search	% of Stops Resulting in Arrest
All drivers			
Asian	1,862	6%	4%
Black	7,946	18%	1%
Hispanic	2,546	13%	1%
Other	2,153	5%	1%
White	7,576	5%	1%
Male drivers			
Asian	1,150	6%	2%
Black	5,790	21%	1%
Hispanic	2,015	16%	1%
Other	1,668	6%	1%
White	4,912	7%	1%
Female drivers			
Asian	712	7%	8%
Black	2,156	9%	1%
Hispanic	531	5%	1%
Other	485	3%	1%
White	2,664	3%	1%

Table B1 demonstrates that arrest rates for White, Black, and Hispanic drivers are similar: in all three groups, arrests are made in about 1% of vehicle stops. That is, although White drivers are much less likely to be pulled over and searched than Black or Hispanic drivers (see Figures 1b, 2

and 4, above), Whites who are pulled over are about equally likely to be arrested. This finding is encouraging, but it is also unexplained, and warrants further investigation.

The best-case explanation for this finding might be that BPD officers systematically apply similar, nonracial levels of suspicion to Black, Hispanic and White drivers, and that the higher stop and search rates for Black and Hispanic drivers reflect higher rates of unlawful conduct by Black and Hispanic drivers. However, aspects of these findings cannot be fully explained by this theory. As has been shown above (Figures 1b and 2), Black drivers are stopped more than five times as often (per capita) as White drivers, and Hispanic drivers are stopped nearly twice as often. It is possible that Black and Hispanic drivers engage in criminal activity at higher rates, and that BPD officers stop them more often because they are more likely to be engaged in criminal behavior. On the other hand, it is unclear why higher *search rates* would be required to detect crime by Black and Hispanic drivers once they are stopped. At vehicle stops, 13% of Hispanic drivers are searched, and nearly one in five stops of a Black driver involves a search. Only 5% of stops of White drivers involve a search, yet the arrest rate is the same: 1% of each group is arrested. Assuming that arrest is an unbiased measure of criminal behavior, it is unclear why much higher search rates for minority drivers are required to uncover similar levels of criminal wrongdoing (or why White drivers' criminality can be more easily detected without searching innocent Whites). If 1% of Black, White and Hispanic drivers who are stopped are engaged in crime, it is unclear why one in five Black drivers must be searched at a vehicle stop to discover this, while similar levels of wrongdoing can be detected among Whites by searching only one in twenty White drivers. Put another way, if White drivers were searched at the same rate as Black and Hispanic drivers, would their arrest rate increase?

While BPD's roughly equal arrest rates offer an encouraging sign, the experience of many other US jurisdictions suggests that another explanation should also be considered: because stop, search and arrest are all discretionary decisions by the officer, it is possible that Black and Hispanic drivers might be subjected to a less forgiving exercise of discretion compared to White drivers. It is possible, for example, that Black or Hispanic drivers might be arrested for minor offenses more often than White drivers. To confirm or rule out either the "best-case" or the "discretionary" explanation, BPD would need to share, and CPE would need to analyze, the charges that are filed against drivers who are arrested during vehicle stops.

By contrast, Asian drivers were somewhat less likely than White drivers to be stopped, and they were about equally likely to be searched. Nonetheless, the arrest rate for Asians was four times higher than for Whites (or any other group). Both the high percentage of arrests among Asian drivers and their relatively low stop rates are unexplained, and warrant further investigation. Information about charges filed against drivers who are arrested at stops might help to illuminate the respective roles of community behavior and officer discretion in this result.

III.B. MULTIVARIATE REGRESSION ANALYSES

As the data in the graphs and tables above show, Black and Hispanic individuals in Berkeley are much more likely than White individuals to be pulled over, and Black individuals are much more likely subjected to police use of force. As the discussion in Section III.A, above, suggests, not all disparities result from biased or unjust decision-making by police officers or executives. As is mentioned in the Introduction, above, our analysis seeks to distinguish, as much as possible, three possible explanations for disparate policing outcomes: (1) disparities that arise from community characteristics (such as poverty, high crime rates, and calls for service); (2) disparities that arise from police behavior (such as policing practices or individual officer biases); and (3) disparities that arise from the (trusting or wary) relationship between communities and police.

These factors cannot be precisely disaggregated using the limited dataset available to researchers for this interim report. However, to begin to quantify the effects of race on policing outcomes, we use statistical analysis techniques called "regression analysis." These analyses allow for estimates of how much of the observed racial disparity is accounted for by racial or nonracial factors that can influence law enforcement patterns, and how much of the racial disparity is unexplained (and possibly attributable to policing policy and practice).

In the data we have received from BPD, one of the major questions to be investigated was the effect of race on policing outcomes. The BPD datasets provided information about vehicle stops, pedestrian stops, and use of force incidents. Each record of a stop or use-of-force incident provided information about the location at which it occurred. Geocodes were developed using the longitude and latitude or street intersection information in the records. Using these geocodes, researchers were able to ascertain the census tract in which each stop or incident took place. Using data from the decennial census and the American Community Survey (ACS), researchers were able to ascertain demographic information about the census tract in which each stop or incident took place. BPD shared data on all arrests made, including geographic location, which enabled us to match crime rate data to each census tract. For each census tract, researchers were able to assess how much variation in racial disparities in stops, searches and uses of force was attributable to a set of predictor variables: the crime rate, home ownership (percentage of the housing units in the area that are owned instead of rented), education (percentage of the population with a bachelor's degree or higher), population (expressed as a logarithm to correct for skew which is common in population data), national origin (percentage of the population that was born outside the US), poverty (percentage of the population living below the poverty line), unemployment rate, and the percentage of the population that is Black or Hispanic. The existing research literature has found relationships between all of these factors and policing outcomes.

The distance-from-campus factor was added to this analysis because the university campus may tend to skew the effects of other demographic data. UC Berkeley has 40,000 students in a city of 112,000. Most Berkeley students come from middle-class or wealthy families, but have not yet finished a bachelor's degree, earn low or no income, do not work full-time, and do not own their homes. For that reason, we would not expect census measures like poverty, unemployment, and

education level to have the effect on this model that they might have in another city (or in areas of Berkeley where few students live). For this reason, an additional control variable was added measuring the distance of each incident from the center of the university campus (and the average distance was taken for each census tract).

None of our models for vehicle stops, pedestrian stops, or reported use-of-force incidents found any significant effect for neighborhood racial composition. That is, neither the percentage of Black residents nor the percentage of Hispanic residents in a census tract served as a statistically significant predictor of police stops or use of force that occurred there. To the extent that our model did identify predictive factors for BPD officer behaviors, they were nonracial. For each policing behavior measured (vehicle stops, pedestrian stops, and use of force), the strongest predictor of how many stops would occur in a neighborhood was the neighborhood's per-capita crime rate (that is, the number of arrests for Part I crimes as a proportion of the neighborhood's population).

Nonetheless, it is likely that vehicle stops, pedestrian stops, and use-of-force incidents were in fact more common in low-income Black and Hispanic neighborhoods. The neighborhood characteristics that were statistically significant predictors of these behaviors (poverty, home ownership, percentage of residents who are foreign-born) are closely linked to race. We therefore conducted statistical analyses designed to take this reality (known as "multicollinearity") into account. These analyses found that an area's percentage Black and percentage Hispanic were important but secondary predictors of stops, searches, and use of force.

III.B.1. Negative Binomial Regression Predicting All Stops Based on Contextual Characteristics at the District or Tract Level

The first regression we conducted considered all these neighborhood characteristics—Part I crime rate, unemployment, home ownership, percent of population with a bachelor's degree, population size, percent living in poverty, percent foreign-born, and percent Black or Hispanic—to ascertain how much they predicted the total number of stops (vehicle and pedestrian) in a particular census tract. By far the strongest predictive factor was the crime rate. Census tracts with higher crime rates, tracts further from the university, and tracts with larger populations experienced higher numbers of police stops.

Our analysis found no significant relationship between the number of police stops and the percentage of a census tract population that was Black, Hispanic, or foreign-born.

Indicator	Coefficient	Std Error	Z-test	p-value
Distance to Univ.	-0.7	0.3	-2.3	0.02*
% Unemployment	1.2	6.4	0.2	0.86
% Home ownership	-0.5	1.4	-0.4	0.69
% Bachelor's degree	-2.5	3.3	-0.8	0.45
Pop size (log)	3.0	0.7	4.4	<0.01**
% Living in poverty	-6.0	3.1	-1.9	0.06
% Foreign-born	-1.0	2.4	-0.4	0.66
% Black residents	-2.0	3.2	-0.6	0.54
% Hispanic residents	7.6	4.0	1.9	0.06
Crimes per capita	9.1	1.6	5.5	<0.01**

** $p < 0.01$, * $p < 0.05$

Note. This table shows the results of the regression for all stops (pedestrian and traffic). Results from the negative binomial regression on all stops are largely a reflection of traffic stops, since traffic stops make up more than 90% of all police stops in the dataset.

The coefficient for each significant variable estimates the effect that a one-unit increase in that variable will have on the outcome (here, number of police stops). For example, a 1% increase in the Part I crime rate will mean that an area will have 9.1 more stops. The p-value is a measure explaining the significance of the estimate, or the chance that the result found in the equation came from random chance instead of as a result of the data observed. In most studies, a variable p-value lower than 0.05 is considered to be significant. A more stringent common p-value criterion for significance is < 0.01 .

III.B.2. Negative Binomial Regression Predicting Vehicle Stops Based on Contextual Characteristics at the District or Tract Level

The next regression we conducted considered all these neighborhood characteristics—Part I crime rate, unemployment, home ownership, percent of population with a bachelor's degree, population size, percent living in poverty, percent foreign-born, and percent Black or Hispanic—to ascertain how much they predicted the number of vehicle stops in a particular census tract. The strongest predictor of the number of vehicle stops was the neighborhood's crime rate: neighborhoods with higher crime rates experienced fewer vehicle stops. Census tracts with lower proportions living in poverty (that is, wealthier neighborhoods), tracts with larger populations, and tracts closer to the university campus also experienced higher numbers of traffic stops.

As with our analysis of all stops, the vehicle-stop analysis found no significant relationship between the number of police stops and the percentage of a census tract's population that was Black, Hispanic, or foreign-born.

Indicator	Coefficient	Std Error	Z-test	p-value
Distance to Univ.	-0.9	0.2	-3.8	<0.01**
% Unemployment	1.5	6.7	0.2	0.83
% Home ownership	-2.3	1.3	-1.8	0.07
% Bachelor's degree	-1.7	3.2	-0.5	0.61
Pop size (log)	2.6	0.6	4.1	<0.01**
% Living in poverty	-9.1	3.0	-3.1	<0.01**
% Foreign-born	-1.1	2.2	-0.5	0.63
% Black residents	0.8	3.2	0.3	0.80
% Hispanic residents	3.4	3.7	0.9	0.35
Crimes per capita	6.6	1.4	4.6	<0.01**

** p < 0.01, * p < 0.05

III.B.3. Negative Binomial Regression Predicting Pedestrian Stops Based on Contextual Characteristics at the District or Tract Level

The next regression we conducted considered all these neighborhood characteristics—Part I crime rate, unemployment, home ownership, percent of population with a bachelor's degree, population size, percent living in poverty, percent foreign-born, and percent Black or Hispanic—to assess how well they predicted the number of pedestrian stops in a particular census tract. Again, local crime rates were by far the strongest predictor of the number of stops it would experience: higher crime rates in a census tract were associated with larger numbers of pedestrian stops. The only other factor that significantly predicted the number of pedestrian stops was the percentage of an area's population that was foreign-born. Tracts with larger foreign-born populations experienced higher pedestrian stop rates.

As with our analysis of total stops and vehicle stops, the pedestrian stop analysis found no significant relationship between the number of stops and the percentage of a census tract that was Black or Hispanic.

Indicator	Coefficient	Std Error	Z-test	p-value
Distance to Univ.	-0.1	0.3	-0.3	0.75
% Unemployment	-9.0	5.6	-1.6	0.11
% Home ownership	-1.5	1.4	-0.8	0.41
% Bachelor's degree	-1.2	2.9	-0.4	0.68
Pop size (log)	0.5	0.6	0.7	0.46
% Living in poverty	3.3	2.6	1.3	0.20
% Foreign-born	4.8	2.3	2.1	0.04*
% Black residents	-1.8	2.8	-0.7	0.51
% Hispanic residents	3.3	3.6	0.9	0.35
Crimes per capita	3.9	1.4	2.8	<0.01**

** p < 0.01, * p < 0.05

III.C. Negative Binomial Regression Predicting Use of Force Based on Contextual Characteristics at the District or Tract Level

The next regression we conducted considered all these neighborhood characteristics—Part I crime rate, unemployment, home ownership, percent of population with a bachelor’s degree, population size, percent living in poverty, percent foreign-born, and percent Black or Hispanic—to ascertain how much they predicted the number of reported incidents of use of force. As with police stops, an area’s crime rates was by far the strongest predictor of the number of reported use-of-force incidents: areas with higher per-capita crime rates experienced larger numbers of use-of-force incidents. Census tracts with larger populations, and those with a lower percentage of residents who had completed a bachelor’s degree or higher, experienced higher numbers of reported use-of-force incidents. It should be noted that x incidents (y% of all reported use-of-force incidents) involving use of force by BPD officers reportedly occurred outside the Berkeley city limits, and were not included in this regression analysis.

As with our analysis of total stops, vehicle stops, and pedestrian stops, the use-of-force regression analysis found no significant relationship between the number of use-of-force incidents and the percentage of an area’s population that was Black, Hispanic, or foreign-born.

A parallel regression analysis was performed taking force severity into account (not shown). The results were essentially identical to those for all use-of-force incidents.

Indicator	Coefficient	Std Error	Z-test	p-value
Distance to Univ.	-0.3	0.2	-1.4	0.16
% Unemployment	-2.7	3.5	-0.8	0.44
% Home ownership	-1.3	0.8	-1.5	0.12
% Bachelor’s degree	-3.1	1.5	-2.1	0.03*
Pop size (log)	0.6	0.2	3.2	<0.01**
% Living in poverty	-1.5	1.6	-1.0	0.34
% Foreign-born	2.0	1.4	1.4	0.15
% Black residents	-1.2	1.7	-0.7	0.45
% Hispanic residents	-1.8	2.0	-0.9	0.37
Crimes per capita	3.0	0.9	3.5	<0.01**

** p < 0.01, * p < 0.05

A Note about Collinearity

The independent variables used in these regressions are “multicollinear”, meaning they are highly correlated with each other (e.g., neighborhoods with high crime rates, high levels of poverty, and higher percentages of foreign-born residents are likely to be neighborhoods whose populations are disproportionately Black and/or Hispanic). When multicollinearity is salient, the model as a whole can be accurately predictive, but the estimates of the coefficients can vary wildly, and coefficient values

are not likely to be accurate individually. To disaggregate the effects of these related factors (percentage Black, percentage Hispanic, crime rate, poverty rate, etc.), we used a statistical technique known as a LASSO (least absolute shrinkage and selection operator) regression, which is designed to tease out correlations in situations involving multicollinearity.⁵

The results of our LASSO analysis suggest that some of the encouraging results of the regression analysis (i.e., the nonsignificance of neighborhood racial composition) should be viewed with caution: the LASSO analysis found that neighborhood Black and Hispanic percentages were indeed predictive of vehicle stops and pedestrian stops. The LASSO analyses also found that a neighborhood's Hispanic percentage was predictive of the number of reported incidents of use of force. Moreover, the LASSO analyses indicated that, for all police behaviors measured, racial factors were more predictive than the crime rate. The tension between the findings of the LASSO analysis and those of the regression results suggest that BPD should continue to monitor and analyze apparent racial disparities in stops, searches, and use of force.

The LASSO findings are summarized below. Tables presenting the results of the LASSO analyses are appended to this report as Appendix B.

LASSO regression results for all stops:

Using conservative significance criteria, the percentage of the population that is Black and the percentage that is Hispanic are the second- and fourth-strongest predictors of total stops, respectively, behind the unemployment rate and the percentage holding a bachelor's degree. This suggests a significant relationship between an area's Black and Hispanic populations and the number of stops that occur in that area. In this analysis, both the percentage Black and the percentage Hispanic had larger effects than the crime rate.

LASSO regression results for traffic stops:

Using conservative significance criteria, the percentage living in poverty was the leading predictor, followed by the population size, unemployment rate, and distance from the university. Again, the percentage Black and the percentage Hispanic (6th and 7th strongest predictor, respectively) had larger effects than the crime rate (9th strongest predictor).

LASSO regression results for pedestrian stops:

LASSO results for pedestrian stops were similar to those for traffic stops, with the percentage living in poverty as the leading predictor, followed by the population size, unemployment rate, and distance from the university, and homeownership rate. Again, the percentage Black and the percentage Hispanic (6th and 7th strongest predictor, respectively) had larger effects than the crime rate (8th strongest predictor).

⁵ In a LASSO model, a multiplier known as a "bias term" is introduced to keep the estimates of each coefficient within a set of boundaries. (A "bias term" is a statistical expression not related to racial or any other kind of discriminatory bias.) In most applications, a LASSO model will be run many times with different levels of bias. At higher levels of bias, certain variables will see their coefficient values drop to 0; the variables that are non-0 at high levels of bias are considered to be the most important variables in predicting a relationship in the model.

LASSO regression results for the frequency of uses of force:

In the LASSO use-of-force model using conservative significance criteria, the percentage Black was not a significant predictor; however the percentage Hispanic was the strongest predictor. In this analysis, the crime rate was the second strongest predictor.

A limitation of both the regression models and the LASSO analysis that might illuminate the discrepancy between them is that, as noted above, both models compare people interacting with police to the demographics of the City of Berkeley, while it is likely that BPD officers routinely interact with people who are not Berkeley residents. As mentioned above, Berkeley is a small city that is part of a much larger metropolitan area. To the extent that BPD officers may be interacting with people who do not live in Berkeley, it seems possible that the demographics of people who are the subjects of BPD stops, searches, or uses of force might differ somewhat from those of the population of Berkeley as a whole.

Section IV: Review and Recommendations

This report applies NJD's independent analytic framework to police data shared by BPD. Although several limitations apply to the findings, as noted throughout, the analyses are encouraging because they represent the start of a more comprehensive and transparent effort to identify, understand, and help correct any racial and ethnic disparities in policing practices. This analysis, we hope, can benefit community members and policing executives alike.

As described earlier, the NJD analytic framework identifies three categories of explanation for racial disparities in policing. Racial disparities in stops, searches, or use of force may arise from community characteristics and behavior, police policies and behavior, or from aspects of the mutual relationship (e.g., confidence or distrust) between police and communities. Police-level explanations can be further explored by means such as policy reviews and climate surveys. Relationship-level explanations can be explored by means such as community interviews and surveys. Given the BPD data available to researchers at this time, this interim report can analyze community-level explanations only. Specifically, this brief analyzes racial disparities in BPD vehicle stops, pedestrian stops, and use of force.

The results of the NJD analysis of BPD policing data are encouraging, but mixed. The findings of this interim report indicate that both community-level and police-level factors may contribute to the racial disparities seen in BPD stops and use of force incidents.

It is very encouraging that racial disparities in vehicle stops, pedestrian stops, and uses of force are largely explained by nonracial factors such as crime rates. Nonetheless, the divergent results of the regression and LASSO analyses indicate a need for further analysis about the relationships between neighborhood racial composition and rates of BPD stops and use of force. Moreover, the wide disparities seen in search rates at pedestrian and vehicle stops cannot be explained by hit rates, and warrant further investigation.

Analyses of vehicle stop data reveal six important findings.

1. **Black and Hispanic drivers were much more likely to be pulled over than Whites.** Black drivers were more than five times more likely to be pulled over than White drivers; Hispanic drivers were more than twice as likely. Moreover, among drivers who were stopped, Black drivers were three to five times more likely to be searched than their White counterparts, while Hispanic drivers were two to three times more likely to be searched. For both Hispanic and Black drivers, the racial disparity in vehicle searches declined by about 40% from 2013 to 2015. This trend is encouraging, but racial disparities remain substantial, and warrant further data collection and investigation, particularly with regard to discretionary and nondiscretionary stops.

- 2. Drivers who were Black or Hispanic were searched at much higher rates than White and Asian drivers.** Among drivers who were pulled over, about 5% of Whites and 6% of Asians were searched. By contrast, 13% of stopped Hispanic drivers and 18% of stopped Black drivers were searched. These much higher search rates did not apparently uncover higher rates of criminal wrongdoing: more than 90% of Hispanic and Black drivers who were searched were released without charges. The disparity in search and arrest rates warrants further data collection and analysis, particularly with regard to the reasons for searches, whether contraband was found, and of charges filed at vehicle stops.
- 3. Arrest rates at vehicle stops were equal for Black, Hispanic and White drivers, but were higher for Asian drivers.** Black and Hispanic drivers were much more likely to be pulled over and to be searched than White drivers were. Nonetheless, Black, Hispanic, and White drivers who were stopped were arrested at the same rate: about 1%. Nonetheless, because they were pulled over much more often than Whites, Black and Hispanic drivers were arrested at much higher per-capita rates than Whites. This finding is consistent with an inference that racially disparate rates of vehicle stops may be driven by differential rates of offending.³ On the other hand, the apparently lower hit rates for searches of Black and Hispanic drivers tend to undercut this interpretation: if Black and Hispanic drivers commit crimes at the same rate as White drivers, it is unclear why Black or Hispanic drivers would be searched more often than Whites when they are pulled over. Meanwhile, Asian drivers, who were less likely to be stopped than any other group, and who were searched as rarely as Whites, were much more likely to be arrested if they were stopped. Four percent of Asian drivers who were pulled over were arrested, compared to 1% of all other drivers. As with other racial disparities in stop, search and arrest rates, Asian-White disparities in search and arrest rates are unexplained, and warrant further investigation.
- 4. BPD data showed wide geographic disparities in vehicle searches.** Some BPD beats showed nonwhite-to-White disparities of more than 5 to 1, while others showed much smaller racial disparities. Every BPD beat except Beat 6 showed a disparity of at least 2:1 for at least one minority group compared to Whites. In almost every beat, both Black and Hispanic drivers were more likely than Whites to be searched at vehicle stops. These geographic disparities are unexplained, and warrant further investigation.
- 5. Vehicle stop rates were predicted mainly by crime rates and poverty.** Our regression analyses indicated that neighborhoods with higher per-capita crime rates experienced higher numbers of BPD vehicle stops. Wealthier neighborhoods closer to the university campus also experienced higher numbers of vehicle stops. While our regression analysis found that a neighborhood's Black or Hispanic population did not significantly predict the number of vehicle stops, our LASSO analysis found that neighborhood racial demographics were

⁶ Kate Antonovics and Brian G. Knight, "A New Look at Racial Profiling: Evidence from the Boston Police Department," 91 Review of Economics and Statistics 163 (2009).

secondary predictors whose relevance exceeded that of neighborhood crime rates. These findings are mixed, but encouraging, and they highlight the necessity of further data collection and analysis to shed light on these findings.

Analysis of pedestrian stop data was more limited: the dataset covered only the calendar year 2015. These analyses must therefore be viewed with caution. Nonetheless, patterns of racial disparity in pedestrian stops were roughly consistent with racial disparities in vehicle stops, which offers some reason for confidence in the pedestrian-stop results. Analyses of pedestrian stop data reveal five important findings:

- 1. Black pedestrians were much more likely than White pedestrians to be stopped by police.** Black residents were approximately 3.5 times more likely than residents of any other race to be stopped by police while on foot. Most pedestrians who were stopped by BPD were Black or White. Hispanic pedestrians were stopped at a slightly lower rate than Whites. Asian pedestrians were much less likely to be stopped than any other racial group. In 2015, an average Black resident of Berkeley had a 4% chance of being stopped by police while on foot, as compared to just over 1% for White residents, just under 1% for Hispanic residents, and 0.3% for Asian residents.
- 2. Among pedestrians who were stopped, nonwhites were searched at about twice the rate of Whites.** Blacks, who were stopped the most often, were searched at 1.8 times the White rate. Hispanic and Asian pedestrians, who were stopped less frequently, were searched at more than double the White rate.
- 3. Racial disparity varied widely among BPD beats.** While Beat 5 showed little racial disparity in searches at pedestrian stops, Beat 9 showed the greatest disparity, with Asian pedestrians more than 11 times more likely to be searched than Whites, and Black pedestrians more than 18 times more likely to be searched. Similarly, in Beat 3, Hispanic pedestrians were more than four times more likely than Whites to be searched at a stop. As with vehicle stops, these disparities are unexplained.
- 4. Black, White, and Hispanic pedestrians were arrested at similar rates, while Asian pedestrians were arrested at a much higher rate.** Among pedestrians who were stopped, 3% of Whites, 4% of Blacks, 5% of Hispanics, and 20% of Asians were arrested. This pattern, also observed in vehicle stops, is unexplained and warrants further investigation.
- 5. Pedestrian stop rates were predicted mainly by crime rates.** The strongest predictive factor for the stop rate in a particular census tract was its per-capita rate of Part I crimes: areas with higher crime rates experienced more pedestrian stops. The only other predictive factor was the percentage of a neighborhood's population that was foreign-born: the higher the percentage of immigrants, the higher the number of pedestrian stops. A neighborhood's Black or Hispanic population did not predict its pedestrian stop rate.

BPD departmental policy does not require the comprehensive tracking of use of force incidents. In particular, BPD policy does not require that an officer's use of physical force be reported unless the officer used a weapon, the subject was injured, or the subject complains. As a result, incidents of physical force not involving a weapon are not comprehensively reported or tracked by BPD, and are not reflected. Analysis of BPD use of force data, then, is limited to those incidents that were the subjects of use-of-force reports. Subject to this caveat, analyses of use-of-force data reveal two important findings.

1. **Black citizens were much more likely than White citizens to be subjected to use of force by BPD officers.** Although Blacks comprise only 10% of the Berkeley population, most people who were subjected to police use of force (53%) were Black. Black residents of Berkeley were about six times more likely than White residents to be subjected to reported use of force. Only a handful of Hispanic or Asian Berkeley residents were reportedly subjected to police use of force.
2. **Census tract-level disparities in use of force were predicted by crime rates.** According to our regression analysis, disparities in reported use of force were largely predicted by per-capita rates of serious crime in each census tract: areas with higher rates of crime experienced higher numbers of reported use-of-force incidents. The proportion of a neighborhood's population that was Black, Hispanic or foreign-born did not predict the number of incidents of reported use of force.

These findings yield to two major takeaways. The first is an encouraging finding: local crime rates appear to be a primary driver of racial disparities in BPD vehicle stops, pedestrian stops, and use of force. Areas with higher rates of per-capita serious crime experience higher rates of pedestrian and vehicle stops, and higher rates of reported use of force. This important and encouraging finding is tempered by contradictory findings from the LASSO analyses, which suggest that the racial composition of a neighborhood is a significant predictive factor for vehicle stops, pedestrian stops, and for use of force. Furthermore, BPD vehicle searches (the police behavior for which we received the most comprehensive data) showed an encouraging trend: Black-to-White and Hispanic-to-White disparities in vehicle search rates declined by about 40% between 2013 and 2015. Nonetheless, even after this decline, Hispanic drivers were searched at roughly double the White rate, and Black drivers were pulled over at more than three times the White rate.

Differences in the per-capita crime rate can explain some but not all of the observed racial disparities. Observed racial disparities in search and arrest rates, however, remain unexplained and warrant enhanced data collection and more detailed analysis.

Even when controlling for neighborhood levels of crime, education, employment, homeownership, foreign-born percentage, and distance from the university, unexplained racial disparities in stops and use of force persisted. In other words, community-level explanations could not completely account for observed racial disparities in use of force. While crime rates, poverty, and other factors

contributed to these disparities, controlling for them did not completely explain disproportionate stop rates and disproportionate use of force in communities with higher percentages of Hispanic and Black residents.

Furthermore, the current BPD dataset available to researchers cannot account for which, whether, or when antisocial behaviors are treated as crimes: whether the behaviors treated as crimes vary across neighborhoods; whether those behaviors vary by individual race, age, gender, or whether s/he is a student; and whether a given law enforcement action is officer-initiated, or responds to a call for service.

The second major takeaway of this analysis is that the wide racial disparities observed in BPD stops, searches, arrests and use of force combine to create an experience of policing for Black and Hispanic individuals in Berkeley that is quantitatively different from the experience of Whites. Compared to Whites and Asians in Berkeley, Black and Hispanic people are much more likely to be stopped and searched by BPD officers without being charged with any criminal offense. Because they are stopped and searched at higher rates (but arrested at the same rate per stop), Black and Hispanic individuals are much more likely to be arrested than Whites. BPD use of force reports indicate that Black individuals are six times more likely than Whites to experience police use of force. These findings confirm that racial disparities in policing continue to be matters of public concern to BPD and Berkeley residents, and warrant further data collection and investigation with a view to further reducing those disparities.

Unexplained racial disparities are not direct evidence of racial prejudice. Rather, they suggest that police-level and/or relationship-level explanations of these disparities may also be implicated. Thus we advise BPD to focus its efforts on police-level and relationship-level concerns to further reduce racial disparities in stops and searches. Common police-directed interventions to minimize racially disparate policing include trainings, particularly ones on how to identify and disarm unintended forms of bias (e.g., identity traps and/or implicit bias), policy reviews conducted by external auditors, and policy reviews conducted in collaboration with communities as well as with justice experts. Relationship-directed interventions highlight principles of procedural justice, particularly issues of community voice and police transparency, and are best developed in cooperation with the communities most affected by the disparities.

We encourage BPD to continue monitoring these issues and to continue the collection, sharing and analysis of vehicle stop, pedestrian stop, and use-of-force data to assess the equity of officer behavior more accurately.

Both the current and previous leadership of BPD have expressed commitments to identify, analyze, and remedy racial disparities in BPD policing. This report indicates that these efforts are already beginning to bear fruit, as seen in low (and in some cases declining) racial disparities that are partially (though not entirely) explained by variations in crime rates. BPD's leadership on issues of data transparency also signals a willingness to receive criticism and reform in line with the shared

values of police and communities—a transparency that assumes particular importance given concerns expressed by community advocates about BPD reporting of its officers' use of force.

Nonetheless, because Black and Hispanic individuals and communities remain disproportionately affected by unexplained disparities in BPD policing practices, we recommend that BPD continue and expand its existing initiatives with regard to data collection, data and policy analysis, and community consultation. We also recommend that BPD engage the broader communities of Berkeley in collaborative efforts to reform and implement policies that reflect their shared values. We also encourage police and community collaboration to design metrics of accountability that are easily understood by the community and leveraged for change both inside the BPD and in the Bay Area.

The science of policing equity demonstrates clearly that collaboration between communities and police is necessary to rebuild trust and reduce the negative consequences that can result from racial disparities in unwelcome police contacts.⁷ We encourage further pursuit of those collaborations and the use of these analyses as benchmarks for both racial equity and progress toward that goal.

CPE's intention in limiting the number of recommendations is to aid the department in both conceptualizing the changes and in messaging about the changes both internally and with the broader community. Across the sections of this report, we advance 11 specific recommendations:

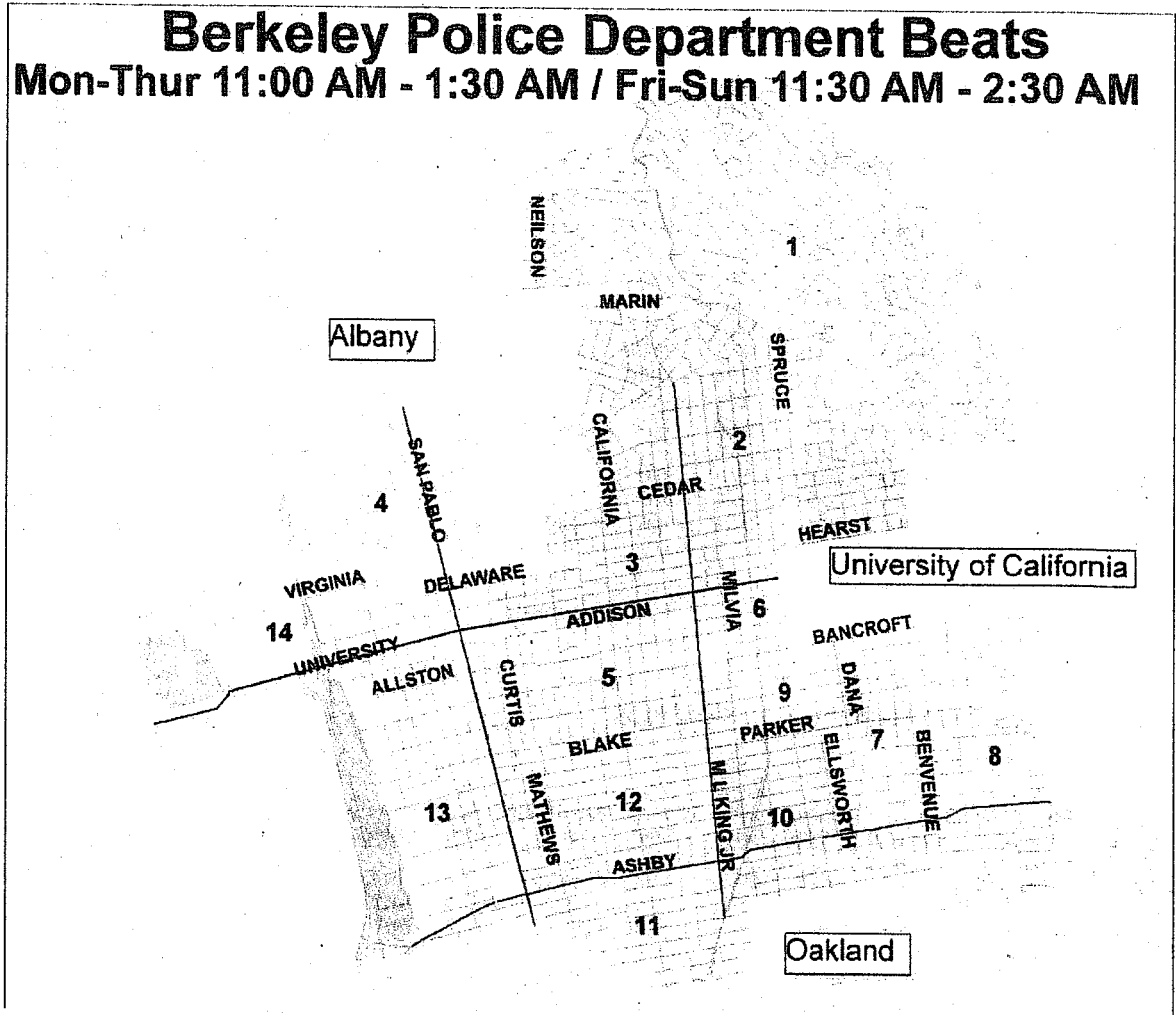
1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint.
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband found during vehicle or pedestrian searches, and that it analyze data about charges filed at vehicle and pedestrian stops.
3. We recommend that BPD track and analyze whether law enforcement actions are officer-initiated, or respond to calls for service.
4. We recommend that BPD affirm that the egalitarian values of their officers are visible in the work they do.
5. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values.
6. We recommend BPD track hit rates and monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success.
7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

⁷ See Tom R. Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006).

8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist.
9. We recommend that trainings include clear messaging that group-based hierarchy is not consistent with the values of BPD.
10. We recommend that value-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department.
11. We recommend leveraging the existing community advisory board to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. While not an exhaustive list of possible solutions to the issues raised in this report, these nine recommendations represent straightforward first steps towards addressing each of them.

While not an exhaustive list of possible solutions to the issues raised in this report, these eleven recommendations represent straightforward first steps towards addressing each of them. We stand ready to help if we can be of further assistance, and look forward to producing our next report for BPD next year.

Appendix A: Map of BPD Beats



14 Beat Configuration

Appendix B: LASSO Analysis

LASSO Regression Results: All Stops

Alpha	Residual Sum of Squares	Intercept	Distance to UCB	% Home-ownership	% College Grad	Population Size	% Foreign-born	Poverty Rate	Unemployment Rate	% Black	% Hispanic	Crime Rate
0.001	14352795	456.8	122.2	-145.0	-303.0	235.5	184.9	-131.7	-365.2	306.9	-267.1	265.6
0.0025	14352844	456.6	120.7	-143.1	-300.5	233.0	184.6	-132.0	-360.9	301.4	-265.2	265.5
0.005	14353017	456.2	118.1	-139.9	-296.3	228.9	184.2	-132.6	-353.8	292.2	-262.0	265.4
0.0075	14353306	455.9	115.5	-136.7	-292.1	224.8	183.8	-133.2	-346.6	283.0	-258.8	265.3
0.01	14353711	455.5	113.0	-133.4	-288.0	220.7	183.4	-133.8	-339.5	273.8	-255.6	265.2
0.02	14356483	454.1	102.7	-120.6	-271.3	204.3	181.7	-136.2	-310.9	237.0	-242.8	264.9
0.05	14375861	449.9	71.9	-82.1	-221.5	155.2	176.7	-143.2	-225.3	126.7	-204.4	263.7
0.1	14428019	444.7	25.8	-27.5	-150.2	85.5	163.0	-144.3	-120.9	0.0	-161.0	258.0
0.2	14512388	441.5	0.0	-5.7	-70.0	9.3	114.7	-100.3	-75.1	0.0	-146.1	205.5
0.3	14620143	436.0	0.0	-14.0	-30.2	0.0	42.0	-51.2	-45.3	0.0	-102.8	135.1
0.4	14715191	431.8	0.0	-19.0	-7.7	0.0	0.0	-27.5	-22.1	0.0	-66.7	77.7
0.5	14768140	429.3	0.0	-19.3	0.0	0.0	0.0	-35.6	-2.5	0.0	-41.3	34.9
0.6	14809632	427.1	0.0	-20.9	0.0	0.0	0.0	-33.6	0.0	0.0	-16.5	7.2
0.7	14822013	426.2	0.0	-21.4	0.0	0.0	0.0	-32.9	0.0	0.0	-9.3	0.0
0.8	14822344	425.8	0.0	-21.2	0.0	0.0	0.0	-32.9	0.0	0.0	-9.1	0.0

LASSO Regression Results: Vehicle Stops

Alpha	Residual Sum of Squares	Intercept	Distance to UCB	% Home-ownership	% College Grad	Population Size	% Foreign-born	Poverty Rate	Unemployment Rate	% Black	% Hispanic	Crime Rate
0.001	12162049	430.5	378.7	-324.2	31.5	-595.9	-42.3	1018.6	-455.2	-97.6	55.7	-38.7
0.0025	12162078	430.4	376.3	-321.8	30.5	-593.7	-42.0	1015.5	-454.7	-97.0	56.3	-38.7
0.005	12162178	430.4	372.4	-317.9	29.0	-590.1	-41.5	1010.1	-454.0	-96.1	57.3	-38.8
0.0075	12162346	430.3	368.6	-314.0	27.4	-586.4	-41.0	1004.8	-453.2	-95.2	58.4	-38.8
0.01	12162582	430.2	364.7	-310.0	25.8	-582.8	-40.5	999.5	-452.4	-94.3	59.4	-38.9
0.02	12164193	430.0	349.2	-294.4	19.6	-568.2	-38.5	978.2	-449.4	-90.5	63.5	-39.1
0.05	12175450	429.2	302.8	-247.5	0.9	-524.5	-32.3	914.5	-440.2	-79.4	75.9	-39.8
0.1	12202466	426.8	265.0	-211.1	-6.1	-477.8	-13.1	824.4	-420.6	-63.1	74.9	-40.8
0.2	12320390	423.3	150.4	-96.9	-46.3	-346.7	0.0	635.8	-387.0	-27.7	93.1	-42.4
0.3	12497073	419.5	53.0	0.0	-81.8	-212.8	0.0	460.6	-349.8	0.0	106.3	-42.9
0.4	12645289	413.9	50.7	0.0	-83.0	-107.8	0.0	325.0	-296.4	0.0	86.3	-41.0
0.5	12835656	408.2	48.4	0.0	-84.2	-2.9	0.0	189.5	-243.1	0.0	66.2	-39.2
0.6	12929363	403.9	46.5	0.0	-74.3	0.0	0.0	151.7	-193.5	0.0	41.9	-35.8
0.7	13036928	399.6	44.7	0.0	-64.2	0.0	0.0	116.9	-143.2	0.0	16.8	-32.3
0.8	13152036	395.4	42.4	0.0	-54.2	0.0	0.0	78.5	-96.4	0.0	0.0	-29.7

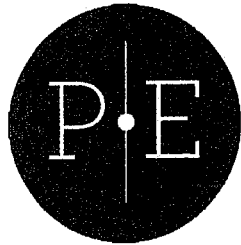
LASSO Regression Results: Pedestrian Stops

Alpha	Residual Sum of Squares	Intercept	Distance to UCB	% Home-ownership	% College Grad	Population Size	% Foreign-born	Poverty Rate	Unem ployment Rate	% Black	% His panic	Crime Rate
0.001	12162049	430.5	378.7	-324.2	31.5	-595.9	-42.3	1018.6	-455.2	-97.6	55.7	-38.7
0.0025	12162078	430.4	376.3	-321.8	30.5	-593.7	-42.0	1015.5	-454.7	-97.0	56.3	-38.7
0.005	12162178	430.4	372.4	-317.9	29.0	-590.1	-41.5	1010.1	-454.0	-96.1	57.3	-38.8
0.0075	12162346	430.3	368.6	-314.0	27.4	-586.4	-41.0	1004.8	-453.2	-95.2	58.4	-38.8
0.01	12162582	430.2	364.7	-310.0	25.8	-582.8	-40.5	999.5	-452.4	-94.3	59.4	-38.9
0.02	12164193	430.0	349.2	-294.4	19.6	-568.2	-38.5	978.2	-449.4	-90.5	63.5	-39.1
0.05	12175450	429.2	302.8	-247.5	0.9	-524.5	-32.3	914.5	-440.2	-79.4	75.9	-39.8
0.1	12202466	426.8	265.0	-211.1	-6.1	-477.8	-13.1	824.4	-420.6	-63.1	74.9	-40.8
0.2	12320390	423.3	150.4	-96.9	-46.3	-346.7	0.0	635.8	-387.0	-27.7	93.1	-42.4
0.3	12497073	419.5	53.0	0.0	-81.8	-212.8	0.0	460.6	-349.8	0.0	106.3	-42.9
0.4	12645289	413.9	50.7	0.0	-83.0	-107.8	0.0	325.0	-296.4	0.0	86.3	-41.0
0.5	12835656	408.2	48.4	0.0	-84.2	-2.9	0.0	189.5	-243.1	0.0	66.2	-39.2
0.6	12929363	403.9	46.5	0.0	-74.3	0.0	0.0	151.7	-193.5	0.0	41.9	-35.8
0.7	13036928	399.6	44.7	0.0	-64.2	0.0	0.0	116.9	-143.2	0.0	16.8	-32.3
0.8	13152036	395.4	42.4	0.0	-54.2	0.0	0.0	78.5	-96.4	0.0	0.0	-29.7

LASSO Regression Results: Use of Force

Alpha	Residual Sum of Squares	Intercept	Distance to UCB	% Home-ownership	% College Grad	Population Size	% Foreign-born	Poverty Rate	Unem ployment Rate	% Black	% His panic	Crime Rate
0.001	589	6.9	-4.4	-12.0	8.0	6.5	9.7	-2.4	-3.2	0.0	-20.2	18.5
0.0025	613	6.7	-3.5	-9.6	6.8	4.7	7.6	-0.3	-3.2	0.0	-17.4	15.3
0.005	668	6.5	-2.9	-6.5	4.8	3.3	5.7	0.0	-1.9	0.0	-13.4	11.4
0.0075	758	6.3	-2.4	-3.5	2.9	2.0	3.9	0.0	-0.5	0.0	-9.6	7.6
0.01	875	6.1	-1.6	-0.5	1.0	0.5	1.9	1.0	0.0	0.0	-5.6	3.8
0.02	1007	5.9	-0.7	0.0	0.0	0.1	1.0	1.0	0.0	0.0	-1.2	0.0
0.05	1076	5.7	-0.3	0.0	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.0
0.1	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.2	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.3	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.4	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.5	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.6	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.7	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.8	1112	5.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

DRAFT



Center For
POLICING EQUITY

Center for Policing Equity
524 West 59th St
Room 6.63.14
John Jay College of Criminal Justice
New York, New York 10019

310.206.3438
Email: coordinator@policingequity.org



@PolicingEquity



Center for Policing Equity

Lee, Katherine

From: Lee, Katherine
Sent: Thursday, July 13, 2017 9:07 AM
To: Lee, Katherine
Subject: USE THIS LIST for prioritizing
Attachments: PRC task.list for priorities 7-12-17.docx

Dear Commissioners:

At last night's meeting, you decided that you all should prioritize your tasks by ranking numerically, and send those to me. My job will then be to do the math and come up with the ranking of the Commission as a whole.

You decided to add the subcommittees in the ranking, as well as two items forthcoming on your July 26 agenda: the Council Committee studying UASI and NCRIC, and a referral on the Council's July 25 agenda regarding strengthening the PRC or restructuring it into a Police Commission like the SF and Oakland models.

For those reasons, I have revised the list [ATTACHED] to reflect the new items; I have also designated each item with a letter, to avoid confusion between the rankings and the item numbers. Please use this list instead of the one starting at p. 33 of your packet. I think this should make it easier. Each of you can report back to me like this, for example:

1. – B
 2. – M
 3. – A
- Etc.

If you have already completed this assignment, don't re-do it. I can figure it out.

I don't remember if a deadline was set. Let's say by Monday, July 17.

Thanks,
Kathy

Katherine J. Lee
Police Review Commission Officer
City of Berkeley
510.981.4960

PRC Task List for prioritization

July 12, 2017

	Subcommittees	Notes
A.	General Orders C-64, U-2, M-2	Review Commander's Guide. Also, 2 issues from Dec. 7 & 8 Subcommittee.
B.	Fair & Impartial Policing	Work continuing, pending release of CPE report.
C.	Surveillance & Community Safety Ordinance	Work continuing and nearing completion.
D.	Outreach	Subcommittee on hiatus. Next event National Night Out August 1.
E.	Homeless Encampments	Work continuing.

Note: Numbers in first column are for reference only and do NOT reflect PRC prioritization.

	Other activities	
F.	Review G.O. W-1, Public Recording of Law Enforcement Activity (Right to Watch)	Draft revised policy agendized 4.26; on 5.10 requested postponement until 1 st June meeting and include background materials. Agendized 6.14 and postponed to 7.12 to allow Commissioners to submit written comments.
G.	Review BPD budget	Chief's answers to PRC questions discussed 6.14; to be continued 7.12.17.
H.	BPD's policy for shelter-in-place directive to schools.	Agendized but postponed 3.22, 4.12, 5.24, 6.14, on 7.12.17 agenda.
I.	Amending PRC Regulations to address knowingly submitting false or misleading information in support of a BOI commissioner challenge.	Agendized but postponed 5.10, 5.24, 6.14; on 7.12.17 agenda.
J.	Consideration of informal complaints	Discussion of how to handle, per City Attorney's opinion, begun 4.26.17; to be continued but postponed. Agendized for 7.12.17.
	Commission Work Plan [DONE]	APPROVED 7.12.17.
K.	Release of CPE Report	Planned release to PRC for 5.24 postponed; PRC authorized letter to Council asking them to request Police Chief to release report on 2015 data. Council action 6.27; CM/Chief response 6.30. Agendized for 7.12.17.

PRC Task List for prioritization

July 12, 2017

.L	BPD actions at end of June 20, 2017 Council meeting	Initiation of investigation agendized for 7.12.
M.	Media Credentialing Subcommittee	Dissolved 4.12.17; possible resurrection agendized for 6.14, 6.28 but postponed. Agendized for 7.12.17
N.	Regional radio interoperability for common encrypted channels (Dec. 2014 post-incident recommendation #1)	At 2.8.17 meeting, determined only this and Recommendation #14 (re technology, which will be addressed by Surveillance Ord.) remain to be considered by PRC.
O.	Council Committee on UASI and NCRIC	Formed at June 20 Council meeting. To be agendized for PRC 7.26.17 meeting
P.	Increase PRC power or create new structure	Referral from Council; on their July 25 agenda. To be agendized for PRC 7.26.17.

THE RIGHT TO WATCH

PROPOSAL TO REVISE: GENERAL ORDER W-01

(revised ~~5-24-17~~ 7-20-17)

The purpose of this General Order is to adopt policies and procedures regarding a citizen's right to observe, photograph or video record officers during the course of the officers' public duties that reflect these clarifications.

POLICY

It shall be the policy of the Berkeley Police Department to place the least possible restriction on public observation, photographing or video recording of police officers' performance of their duties, while ensuring the safety of the public and the officers. The "least possible restriction" means that the officer's mindset should be to only limit observation if necessary for law enforcement purposes.

It is Departmental policy that any restriction an officer imposes on public observation of police officer conduct should be narrowly tailored to meet legitimate law enforcement purposes. In all instances, it is expected that officers will conduct themselves in a professional manner, exercising good judgment and treating all persons courteously.

Officers should restrict the practice of requesting that onlookers withdraw only to those instances where a potential threat to safety is involved.

PROCEDURES

It is the policy of this Department that persons not involved in an incident be allowed to remain **in the immediate vicinity** to witness stops, detentions and arrests of suspects occurring in public areas, except under the following circumstances:

1. When the safety of the officer or the suspect is jeopardized.
2. When persons interfere or violate law.
3. When persons threaten by words or action, or attempt to incite others to violate the law.

Citizens also have the right to communicate with the detained person, provided, however:

1. that the observer does not interfere physically or verbally with the investigation being conducted by the officer. Penal Code Section 148 prohibits delaying or obstructing any peace officer engaged in the duties of his/her office.
2. that the observer's actions or communications do not jeopardize the safety of the officer conducting the inquiry nor the safety of the person who is the

subject of the officer's attention. An officer may instruct an observer to maintain a safe distance from the scene, with the understanding that what constitutes a "safe" distance may vary depending on the circumstances.

3. If the conditions at the scene are peaceful and sufficiently quiet, and the officer has stabilized the situation, persons shall be allowed to approach close enough to overhear the conversation between the suspect and the officer, except when:
 - i. The suspect objects to persons overhearing the conversation.
 - ii. There is a specific and articulable need for confidential conversation for the purpose of police interrogation.
4. Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing cameras or recording media.

7-20-17: Commissioner Prichett proposes deleting sections 5 & 6, below:

5. Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that ~~would cause their recording or behavior to become~~ **that is** unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance.
6. If an arrest or other significant enforcement activity is taken ~~as the result of a recording that interferes with law enforcement activity~~, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

SUPERVISOR RESPONSIBILITIES

7. A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior. The supervisor should review the situation with the officer and:
 - (a) Request any additional assistance as needed to ensure a safe environment
 - (b) Take a lead role in communicating with individuals who are observing and recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
 - (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint

Lee, Katherine

From: Williams-Ridley, Dee
Sent: Saturday, July 15, 2017 5:35 PM
To: SET
Cc: Hogan, Ann-Marie; Kelekian, Jay; Dolamore, Heidi; Gan, Yvette; Beasley, Melanie E.; Lee, Katherine; Funghi, Amelia
Subject: Fwd: Passing of Ofc. Alan Roberds

Hi everyone,

Please see the below correspondence from the Chief. Feel free to share this information with your teams/staff. Services are being arranged and will be shared as specified by the family of Officer Roberds.

A very sad day indeed for all.

Please keep them in your thoughts and prayers.

Thanks, Dee

Begin forwarded message:

From: "Greenwood, Andrew" <AGreenwood@cityofberkeley.info>
Date: July 15, 2017 at 3:57:14 PM PDT
To: All Police <dIPolice@cityofberkeley.info>
Cc: "Williams-Ridley, Dee" <DWilliams-Ridley@cityofberkeley.info>
Subject: Passing of Ofc. Alan Roberds

To the BPD Family:

It is with a profound sense of sadness that I write to you about the passing of Officer Alan Roberds.

Alan's body was discovered in his vehicle this morning in a parking lot in El Sobrante. The Contra Costa County Sheriff's Office notified BPD, and BPD personnel responded to the scene. Preliminary information strongly indicates Alan took his own life. CoCo County Detectives are investigating this incident, and there is no further information to share at this time.

The BPA and BPD are working to support Alan's family, including his wife and their two children, in this time of need. Ofc. Castle will be coordinating meal arrangements, and officers are and will be present at the house to provide support as needed, today and beyond.

We are fully committed to giving care and support to our BPD family as well:

- A mental health clinician from Claremont EAP is now set up in the Multi-Purpose Room.
- BPD Peer Support folks are at the PSB now.
- This afternoon at 1700 hrs, several CHP Peer supporters will be at the PSB.
- Sunday July 16, BPD Peer Support will be at the PSB.

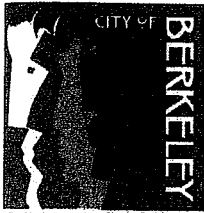
- Critical Incident Stress Debriefs are being scheduled as follows, so that we best serve those at BPD who worked closely with Alan:
 - Monday July 17, Team 1, time and location TBD
 - Monday July 17, Teams 2 & 3, time and location TBD
 - More details will follow on the CISD plans.

Additionally, at any time, all BPD personnel have counseling services available through the Claremont Employee Assistance Program, at 510/337-8834. Depending on the needs of the caller, counseling can occur on the phone, or arrangements can be made for face-to-face counseling. This is a no-cost, fully private, confidential benefit. Each employee can use this benefit eight times/year (and more can be authorized). There's a list of cop-knowledgeable mental health professionals posted in the hallway to the briefing room as well.

Mourning bands are authorized for wear, as a way to honor Alan for his many years of service at BPD, and a way to honor and support his family—especially his wife and their two children—and friends.

Just as loss and grief are an inextricable part of our lives, so too are the daily acts of kindness and support we can extend to one-another, on good days and bad. Be vigilant for your own well-being, and for the well-being of those around you.

Andrew Greenwood
Chief of Police
Berkeley Police Department
(510) 981-5700



Office of the City Attorney

Date: July 19, 2017
To: Katherine J. Lee, PRC Officer
From: Zach Cowan, City Attorney
By: Kristy van Herick, Assistant City Attorney *KH 7/19/17*
Re: Confidentiality of Challenge to Police Review Commission
Commissioner Sitting on a Board of Inquiry Panel

Issues

The members of the Police Review Commission (PRC) voted at its May 24, 2017 meeting to ask the City Attorney's Office the following set of questions:

- 1) Is it the opinion of the City Attorney that the fact that an officer (or her or his representative) has challenged a commissioner sitting on a Board of Inquiry (BOI) confidential? If so, what is the authority for this information being confidential?
- 2) Is it the opinion of the City Attorney that the outcome of the challenge is confidential? If so, what is the authority for the outcome of the challenge being confidential?
- 3) Is it the opinion of the City Attorney that the basis for the challenge is confidential regardless of whether it is related to the subject officer? In other words, if the basis for the challenge is to alleged conduct by the challenged commissioner, having no connection to the subject officer, is the basis for the challenge confidential? If so, what is the authority for the basis of the challenge being confidential?

Conclusions

1. No, disclosure of the fact that a Commissioner has been challenged from sitting on a BOI is not confidential.
2. No, the "outcome" of the challenge is not confidential, assuming that the PRC is only disclosing that the Commissioner challenge was granted or denied. A limited disclosure of this type would not disclose information from the written records of the PRC's BOI or

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.6998 TDD: 510.981.6903 Fax: 510.981.6960
E-mail: attorney@cityofberkeley.info

the personnel records of a peace officer, both of which are confidential under *Berkeley Police Ass'n v. City of Berkeley*.

3. Yes, under current PRC Regulations and practices, the "basis" of a challenge is information contained in the BOI records, and is therefore confidential.

Discussion

Confidentiality of BOI Records

The PRC has been conducting BOI hearings on alleged police officer misconduct for over thirty years. The majority of that period involved BOI hearings conducted in public. However, beginning in 2007, after a writ of mandate issued by the Alameda Superior Court in the case of *Berkeley Police Ass'n (BPA) v. City of Berkeley*, the PRC's BOI hearings have been held in closed session and its findings and records have been considered confidential. The California Court of Appeals, in its published decision in *BPA v. City of Berkeley* (2008) 167 Cal.App.4th 385, concluded that:

"the records and findings of the PRC are protected from disclosure under section 832.7, subdivision (a), both as "records maintained by any state or local agency pursuant to Section 832.5" and as "personnel records." The records fall into the former category because the PRC is a governmental agency in this state that investigates complaints by members of the public against peace officers. The PRC's records fall into the latter category because they relate to complaints or investigations of complaints pertaining to the manner in which Berkeley police officers perform their duties. (See § 832.8, subd. (e).)"

(*Id.* at p. 404–405.)

Penal Code section 832.7(a), provides, in relevant part, that:

"[p]eace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code."

Section 832.8 defines a peace officer "personnel record" as follows:

"As used in Section 832.7, "personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

- (a) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.
- (b) Medical history.
- (c) Election of employee benefits.

July 19, 2017

Page 3 Re: Confidentiality of Commissioner Challenge

- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy."

Consistent with the finding in *BPA v. City of Berkeley*, the PRC Regulations specify the PRC Commissioners' role in protecting confidential information. PRC Regulation Section IV, Confidentiality of Personnel Matters, states:

"A. Responsibilities of PRC Commissioners

In their capacity as PRC Commissioners, each Commissioner will have access to confidential data or information related to Berkeley Police Department personnel. Confidential information may be provided through witness testimony or through electronic or hard-copy transmission. Regardless of how the confidential information is communicated, no Commissioner shall disclose it to any unauthorized person or organization.

B. Conduct

1. It is the responsibility of each PRC Commissioner to protect confidential information from unauthorized disclosure.
2. At any proceeding in which **confidential information was distributed to the Commissioners, each Commissioner shall return all confidential material to the PRC staff at the close of the proceeding** or as soon thereafter as practicable."

Moreover, to ensure compliance with the BPA decision, pursuant to PRC Regulations, Section I.B.4, "...a BOI Commissioner is required to **sign a confidentiality and nondisclosure agreement.**" The **Confidentiality and Nondisclosure Agreement** is typically signed at the beginning of the Commissioner's service and generally yearly thereafter, and states:

"... I will keep confidential and will not disclose to any unauthorized person or organization the nature of any individual complaints against police officers that come before the PRC, and **all records relating to the complaints**, including, but not limited to, the identity of the officers and the substance of any investigative report."

Moreover, at its May 14, 2014 meeting, the PRC adopted the following resolution to reaffirm the confidentiality of PRC complaint proceedings:

1) Motion to adopt the following resolution:

The Berkeley Police Review Commission was created by the citizens of Berkeley to ensure that there is meaningful civilian oversight both in setting and reviewing police department policy and in the prompt and impartial investigation of any complaints brought against members of the Berkeley Police Department.

The confidentiality of personnel matters, including PRC proceedings, is of critical importance in insuring the dignity and fair working conditions of all city employees, including the women and men of the Berkeley Police Department.

The Commission reaffirms its understanding and commitment to maintaining the confidentiality of personnel matters in the course of PRC proceedings.

Moved/Seconded (Perezvelez/Rogers) *Motion Carried*. Ayes: Allen, Bernstein, Lowhurst, Perezvelez, Rogers, Shenoy, Zerrudo, and Bender. Noes: None Abstain: None Absent: Sherman, Cardoza.

Regulations on Handling Challenge

PRC Regulations, Section VI.C, address the basis and procedure for challenging the appointment of a Commissioner to a BOI panel on grounds of a personal interest.

“A Commissioner who has a personal interest, or the appearance thereof, in the outcome of a hearing shall not sit on the Board. Personal interest in the outcome of a hearing does not include political or social attitudes or beliefs. Examples of personal bias include, but are not limited to:

- a) a familial relationship or close friendship with the complainant or subject officer;
- b) witnessing events material to the inquiry;
- c) a financial interest in the outcome of the inquiry;
- d) a bias for or against the complainant or subject officer.” (PRC Regulations, Section VI.C.1.)

The Regulations, at Section VI.C.2, allow for either the “complainant or the subject officer(s)” to file a written challenge for cause to any Commissioner. Such challenge must **specify the nature of the conflict of interest.** The Commissioner may agree with the challenge and recuse him or herself from serving, or he or she may disagree, in which case the decision on whether to uphold the challenge falls to the remaining two Commissioners. If “both agree that the challenge is for good cause,” the Commissioner does not serve and a new Commissioner is selected for the BOI. However, if they don’t unanimously find good cause to remove the Commissioner, the Commissioner continues to serve on BOI, and “the **written challenge and the Commissioner’s written response shall be part of the record of the complaint.**”¹

The three questions posed by the PRC are examined under the context of the law, regulations and procedures set forth above.

¹ The PRC has recently voted to make revisions to this section of the PRC Regulations, but the revisions have not yet been finalized, so are not relied on in issuing this Opinion.

The Fact of a Challenge

Confirmation that a challenge has been filed *generally* would not result in the disclosure of confidential information. The "fact" of a challenge is relevant to providing appropriate notice on the closed session agenda of the reason for the closed session. The Brown Act provides that closed session items must be briefly described on the posted agenda and the description must state the specific statutory exemption. (Government Code section 54954.2 and 54954.5.) A limited disclosure that the Commission will be hearing a "Commissioner challenge" would not include any personnel records, information protected by the PRC Ordinance and Regulations, or other private information. However, a disclosure of the "fact" of a challenge on the closed session agenda should be limited to (1) the BOI number, (2) a brief statement that the meeting is to consider a Commissioner challenge pursuant to PRC Regulations, Section VI.C, and (3) a reference to *BPA v. City of Berkeley*. Beyond this limited disclosure, the Commission should not disclose any underlying information or documentation related to the challenge.

As an aside, this question, as phrased, only seeks this office to weigh in on disclosure of the fact that an *officer* has challenged a Commissioner, and is silent as to a challenge by a *complainant*. It is recommended that disclosure of the fact that a challenge has been raised, regardless of the source of the challenge, be consistently handled, as outlined above, by simply identifying the fact of a challenge, and not who filed the challenge. There is no need to disclose whether the challenge was filed by an officer or a complainant in order to comply with the Brown Act, and going beyond the fact of the challenge could result in disclosure of information from the confidential BOI records of the PRC.

The Outcome of a Challenge

In order to determine whether the "outcome" of a challenge is confidential, it is necessary to identify the information that the Commission seeks to disclose. Assuming that disclosure of the "outcome" of a Commissioner challenge is limited to announcing out after closed session that the challenge was granted or denied, without further information, such a disclosure would not result in disclosure of confidential BOI records or personnel records. To the extent that the two Commissioners who consider the challenge prepare a written analysis or decision explaining the "outcome", such written decision is part of the BOI record and is thus confidential.

The Basis of a Challenge

The Commission has inquired whether it is the opinion of this office that the "basis" for the Commissioner challenge is confidential. The Commission has not included in its inquiry the type or quantity of information that it is considering to fall within the "basis" of the challenge. For example, information on the basis of the challenge may involve (1) the subtype of the challenge under PRC Regulations, Section VI.C.1 (financial, family, witness or bias), (2) a more detailed description of the basis of the challenge, or (3)

disclosure of the written Commissioner challenge, opposition or any final written decision prepared by the two reviewing BOI panel members. This opinion assumes that the Commission is considering releasing at least the first category of information (subtype of challenge), if not more.

While just identifying a subtype of personal bias on its face would not appear to disclose peace officer personnel or other confidential information, because the only **source** of this information is confidential, this office recommends maintaining the basis of the challenge as confidential. As such, the basis of the challenge would not be disclosed in an open meeting, and would not be shared in response to a California Public Records Act request.

Under the current PRC Regulations, a Commissioner challenge *must* be based on a personal interest, or the appearance of a personal interest, and must specify the nature of the conflict. Information specifying the substantive nature of the conflict would be received by the Commission only through either: (1) a written challenge and opposition filed with the Commission, or (2) the substantive presentations regarding the challenge presented during the confidential closed session. The Commissioner challenge and any written opposition are generally maintained in the BOI record during the BOI process, and at least when the BOI members do not unanimously find good cause for the challenge, it is required that these documents "*shall* be part of the record of the complaint." (PRC Regulations, VI.C.2.) As noted above, pursuant to *BPA v. City of Berkeley*, the BOI records and findings of the PRC are protected from disclosure under section 832.7(a). Therefore, the written records and confidential closed session presentations specifying the nature of the conflict, like the rest of the BOI record, are protected from disclosure under section 832.7. Maintaining the basis of a challenge as confidential is also consistent with the Confidentiality and Nondisclosure Agreements signed by Commissioners and the Resolution passed by the Commission, by keeping all records related to a complaint and the proceedings of the PRC confidential.

In closing, the Commission has inquired whether the record is confidential "regardless of whether it is related to the subject officer." There may be a scenario in which a challenge would have nothing to do with the subject officer and somehow not involve the "records and findings of the PRC". For example, a Complainant may challenge a Commissioner based on a neighbor dispute or other perceived personal bias between the Commissioner and the complainant that does not relate to the officer at all. However, in the recent history of the PRC, this office is not aware of any such challenge being filed. If such a challenge is raised in the future, this office can further analyze whether the basis of that specific challenge is protected from disclosure by law or regulation.

cc: Dee Williams-Ridley, City Manager
Jovan Grogan, Deputy City Manager
Mark Numainville, City Clerk

Opn. Index: II.E.1; II.F.6; II.G.8.a; II.I.2.

City of Berkeley

Surveillance and Community Safety Ordinance

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Title

This ordinance shall be known as the Surveillance and Community Safety Ordinance.

Section 2. Findings

The City Council finds as follows:

- 1) Through the enactment of this ordinance, the City seeks to establish a thoughtful process regarding the procurement and use of surveillance technology that carefully balances the City's duty to protect public safety with its duty to protect the privacy and civil rights of its community members.
- 2) Transparency is essential when the City is considering procurement and use of surveillance technology.
- 3) Although such technology may be beneficial to public order and safety, it has the potential to put both privacy and civil liberties at risk. In U.S. history, government surveillance has had a disproportionately repressive effect on marginalized racial, ethnic, religious, and LGBT communities and social change movements.
- 4) No decisions relating to surveillance technology should occur without strong consideration of the impact such technologies may have on civil rights and civil liberties, including those rights guaranteed by the California and United States Constitutions.
- 5) Surveillance technology involves immediate, as well as ongoing, financial costs. Before the City acquires any surveillance technology, it must evaluate all costs associated with the procurement, installation, use and maintenance of the technology.
- 6) Decisions regarding whether and how surveillance technologies should be funded, acquired, or used should give significant weight to public input.
- 7) Legally enforceable safeguards, including robust transparency, oversight, and accountability measures, must be in place to protect civil rights and civil liberties before any surveillance technology is acquired or deployed.
- 8) If a surveillance technology is approved, data reporting measures must be adopted that empower the City Council and public to verify that mandated civil rights and civil liberties safeguards have been strictly observed.

Section 3. Definitions

The following definitions apply to this Ordinance:

Proposed Ordinance from Surveillance &
Community Safety Ordinance Subcommittee
For July 26, 2017 PRC Meeting

- 1) "Surveillance Report" means an annual written report concerning a specific surveillance technology that includes all of the following:
 - a) A description of how the surveillance technology was used, including the quantity of data gathered or analyzed by the technology;
 - b) Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, and the justification for the disclosure(s);
 - c) Where applicable, a breakdown of what physical objects the surveillance technology software was installed upon; for surveillance technology software, a breakdown of what data sources the surveillance technology was applied to;
 - d) Where applicable, a breakdown of where the surveillance technology was deployed geographically, by whatever geographical unit is used by the City entity;¹
 - e) A summary of each community complaint received by the City entity or applicable reviewing commission about the surveillance technology;
 - f) The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response;
 - g) Information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response;
 - h) Information that helps the community assess whether the surveillance technology has been effective at achieving its identified purposes;
 - i) Statistics and information about public records act requests, ;²
 - j) Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year; and
 - k) Any request by the City entity for modifications to the Surveillance Use Policy and a detailed basis for the request.
- 2) "City entity" means any department, bureau, division, or unit of the City of Berkeley.
- 3) "Surveillance technology" means any electronic device, system utilizing an electronic device, or similar technological tool used, designed, or primarily intended to collect, retain,

¹ Comment: This would include, e.g., a police beat. It would be helpful to know what geographical unit is used by the Fire Department.

² Comment: The Subcommittee is inclined to delete this provision.

Proposed Ordinance from Surveillance &
Community Safety Ordinance Subcommittee
For July 26, 2017 PRC Meeting

process, or share audio, electronic, visual, location, thermal, olfactory, biometric, or similar information specifically associated with, or capable of being associated with, any individual or group. Examples of covered surveillance technology include, but are not limited to: cell site simulators (Stingrays); automatic license plate readers; gunshot detectors (ShotSpotter); facial recognition software; thermal imaging systems; body-worn cameras; social media analytics software; gait analysis software; video cameras that record audio or video, and transmit or can be remotely accessed; and personal communication devices.

- a) "Surveillance technology" does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a surveillance technology as defined in Section 8(3): (a) routine office hardware, such as televisions, computers, and printers, that is in widespread public use and will not be used for any surveillance or law enforcement functions; (b) Parking Ticket Devices (PTDs); (c) manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles; (e) manually-operated technological devices used primarily for internal municipal entity communications and are not designed to surreptitiously collect surveillance data, such as radios and email systems; (f) municipal agency databases that do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology; or (g) electrocardiogram machines.
- 4) "Surveillance Impact Report" means a publicly-released written report that, if the surveillance technology were to be used or deployed, includes the following:
 - a) **Description:** Information describing the surveillance technology and how it works, including product descriptions from manufacturers;
 - b) **Purpose:** Information on the proposed purposes(s) for the surveillance technology;
 - c) **Location:** The location(s) it may be deployed and reasons for deployment in the location(s);
 - d) **Impact:** An assessment identifying any potential impact on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups;
 - e) **Mitigation: Information regarding** specific, affirmative technical and procedural measures that will be implemented to appropriately safeguard the public from any impact identified in subsection (d);
 - f) **Data Types and Sources:** A list of all sources of data to be collected, analyzed, or processed by the surveillance technology, including "open source" data;

Proposed Ordinance from Surveillance &
Community Safety Ordinance Subcommittee
For July 26, 2017 PRC Meeting

- g) **Data Security:** Information about the steps that will be taken to ensure that adequate security measures are used to safeguard the data collected or generated by the technology from unauthorized access or disclosure;
 - h) **Fiscal Cost:** The fiscal costs for the surveillance technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding;
 - i) **Third Party Dependence:** Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis;
 - j) **Alternatives:** A summary of all alternative methods (whether involving the use of a new technology or not) considered before deciding to use the proposed surveillance technology, including the costs and benefits associated with each alternative and an explanation of why the proposed technology is preferable; and,
 - k) **Track Record:** A summary of the experience (if any) other entities, especially government entities, have had with the proposed technology, including, if available, quantitative information about the effectiveness of the proposed technology in achieving its stated purpose in other jurisdictions, and any known adverse information about the technology (such as unanticipated costs, failures, or civil rights and civil liberties abuses).
- 5) "Surveillance Use Policy" means a publicly-released and legally-enforceable policy for use of the surveillance technology that at a minimum specifies the following:
- a) **Purpose:** The specific purpose(s) that the surveillance technology is intended to advance;
 - b) **Authorized Use:** The uses that are authorized, the rules and processes required prior to such use, and the uses that are prohibited;
 - c) **Data Collection:** The information that may be collected by the surveillance technology. Where applicable, list any data sources the technology will rely upon, including "open source" data;
 - d) **Data Access:** The individuals who may access or use the collected information, and the rules and processes required prior to access or use of the information;
 - e) **Data Protection:** The safeguards that protect information from unauthorized access, including encryption and access control mechanisms;
 - f) **Data Retention:** The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond that period;

Proposed Ordinance from Surveillance &
Community Safety Ordinance Subcommittee
For July 26, 2017 PRC Meeting

- g) **Public Access:** How collected information may be accessed or used by members of the public;
 - h) **Third Party Data Sharing:** If and how other City or non-City entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information;
 - i) **Training:** The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology, including any training materials;
 - j) **Auditing and Oversight:** The mechanisms to ensure that the Surveillance Use Policy is followed, including the job title category and number of personnel assigned to ensure compliance with the policy, internal recordkeeping of the use of the technology or access to information collected by the technology, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the legally enforceable sanctions for violations of the policy; and
 - k) **Maintenance:** The mechanisms and procedures to ensure that the security and integrity of the surveillance technology and collected information will be maintained.
- 6) “Exigent circumstances” means a City entity’s good faith belief that an emergency involving imminent danger of death or serious physical injury to any person, or imminent danger of significant property damage, requires use of the surveillance technology or the information it provides.
- 7) “Appropriate reviewing commission” means the existing citizens commission with reviewing responsibilities over the City entity. If no such commission exists, the City Manager may designate a citizens commission to act as the reviewing commission or ask the City entity to submit reports directly to the City Manager.
- 8) “Personal communication devices” means mobile telephones, personal digital assistants, wireless capable tablets and similar wireless two-way communications and/or portable Internet accessing devices, whether procured or subsidized by a City entity or personally owned, that are used in the regular course of business.

Section 4. City Council Approval Requirement

- 1) A City entity shall notify the Chair of the appropriate reviewing commission prior to the entity:
 - a) Seeking or soliciting funds for surveillance technology, including but not limited to applying for a grant; or
 - b) Soliciting proposals with a non-City entity to acquire, share or otherwise use surveillance technology or the information it provides.

Upon notification by the City entity, the Chair shall place the item on the agenda at the next meeting for which it may be properly noticed, for discussion and possible action. At

this meeting, the City entity shall inform the reviewing commission of the cost of the proposal, the need for the funds or equipment, or shall otherwise justify the action the entity intends to take. The reviewing commission may vote its approval to proceed, object to the proposal, recommend that the entity modify its proposal, or take no action. Neither opposition to the act or failure by the reviewing commission to act shall prohibit the City entity from proceeding. The City entity is still bound by subsection (2) regardless of the action taken by the reviewing commission under this subsection.

- 2) A City entity must obtain City Council approval, subsequent to a regularly scheduled, non-consent City Council meeting prior to any of the following:
 - a) Accepting state or federal funds for, or in-kind or other donations of, surveillance technology;
 - b) Acquiring new surveillance technology, including but not limited to procuring such technology without the exchange of monies or consideration;
 - c) Using new surveillance technology, or using existing surveillance technology for a purpose, in a manner or in a location not previously approved by the City Council;
or
 - d) Entering into an agreement with a non-City entity to acquire, share or otherwise use surveillance technology or the information it provides.
- 3) A City entity must obtain City Council approval of a Surveillance Use Policy prior to engaging in any of the activities described in subsection (2)(a)-(d).

Section 5. Temporary Acquisition and Use of Surveillance Equipment

Notwithstanding the provisions of this ordinance, a City entity may temporarily acquire or temporarily use surveillance technology in exigent circumstances without following the provisions of this ordinance before that acquisition or use. However, a City entity that acquires or uses surveillance technology in exigent circumstances must: (1) provide notice of that acquisition and use to the City Council and appropriate reviewing commission in writing within 30 days following the commencement of those circumstances; (2) if it is anticipated that the use will continue beyond the exigent need, submit a proposed Surveillance Use Policy to the City Council regarding that surveillance technology within 90 days following the commencement of those circumstances pursuant to Section 4; and (3) include that surveillance technology in the City entity's next annual Surveillance Report to the City Council following the commencement of those circumstances.

Section 6. Information Required

- 1) Prior to seeking City Council approval under Section 4, the City entity shall submit the Surveillance Impact Report and proposed Surveillance Use Policy to the appropriate reviewing commission for its review at a regularly noticed meeting.
- 2) The reviewing commission shall recommend that the City Council adopt, modify, or reject the proposed Surveillance Use Policy.

Proposed Ordinance from Surveillance &
Community Safety Ordinance Subcommittee
For July 26, 2017 PRC Meeting

- 3) After receiving the recommendation of the reviewing commission, the City entity seeking approval under Section 4 shall submit to the City Council a Surveillance Impact Report and a proposed Surveillance Use Policy at least forty-five (45) days prior to the City Council meeting. The City Council shall publicly release in print and online the Surveillance Impact Report, proposed Surveillance Use Policy, and reviewing commission recommendation at least thirty (30) days prior to the City Council meeting.
- 4) The City Council, or its appointed designee, shall continue to make the Surveillance Impact Report and Surveillance Use Policy, and updated versions thereof, available to the public as long as the City entity continues to utilize the surveillance technology in accordance with its request pursuant to Section 4.

Section 7. Determination by City Council that Benefits Outweigh Costs and Concerns

The City Council shall only approve any action described in Section 4 (2) or Section 5 of this ordinance after first considering the recommendation of the appropriate reviewing commission, and subsequently making a determination that the benefits to the community of the surveillance technology outweigh the costs; that the proposal will appropriately safeguard civil liberties and civil rights; and that, in the City Council's judgment, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective.

Section 8. Compliance for Existing Surveillance Technology

Each City entity possessing or using surveillance technology prior to the effective date of this ordinance shall submit a Surveillance Impact Report and a proposed Surveillance Use Policy in compliance with Section 6 and no later than one hundred eighty (180) days following the effective date of this ordinance for review and approval by the City Council pursuant to Section 4. If such review and approval has not occurred within ninety (90) days of the City Council submission date, the City entity shall cease its use of the surveillance technology until such review and approval occurs.

Section 9. Oversight Following City Council Approval

- 1) A City entity that obtained approval for the use of surveillance technology must submit a written Surveillance Report for each such surveillance technology to the City Council within twelve (12) months of City Council approval and annually thereafter on or before November 1.
 - a) Prior to submission of the Surveillance Report to the City Council, the City entity shall submit the Surveillance Report to the appropriate reviewing commission for its review.
 - b) The reviewing commission shall recommend to the City Council that the benefits to the community of the surveillance technology outweigh the costs and that civil liberties and civil rights are appropriately safeguarded; that use of the surveillance technology cease; or propose modifications to the Surveillance Use Policy that will resolve the concerns.

- 2) Based upon information provided in the Surveillance Report and after considering the recommendation of the reviewing commission, the City Council shall determine whether the requirements of Section 7 are satisfied. If the requirements of Section 7 are not satisfied, the City Council shall direct that use of the surveillance technology cease and/or require modifications to the Surveillance Use Policy that will resolve any deficiencies.
- 3) No later than January 15 of each year, the City Council shall hold a public meeting and publicly release in print and online a report that includes, for the prior calendar year:
 - a) A summary of all requests for City Council approval pursuant to Section 4 or Section 8 and the pertinent reviewing commission recommendation, including whether the City Council approved or rejected the proposal and/or required changes to a proposed Surveillance Use Policy before approval; and
 - b) All Surveillance Reports submitted.

Section 10. Enforcement

- 1) Any violation of this Ordinance, or of a Surveillance Use Policy promulgated under this Ordinance, constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this Ordinance. An action instituted under this paragraph shall be brought against the city entity, the City of Berkeley, and, if necessary to effectuate compliance with this Ordinance or a Surveillance Use Policy (including to expunge information unlawfully collected, retained, or shared thereunder), any third party, except a city employee, with possession, custody, or control of data subject to this Ordinance.
 - a) Prior to the initiation of any legal proceeding under subsection 1), the City of Berkeley or City entity must be given notice of the violation(s) and an opportunity to correct such violation(s) within 30 days of receipt of the notice.
- 2) Any person who has been subjected to a surveillance technology in violation of this Ordinance, or about whom information has been obtained, retained, accessed, shared, or used in violation of this Ordinance or of a Surveillance Use Policy, may institute proceedings in any court of competent jurisdiction against any person who committed such violation and shall be entitled to recover actual damages.
- 3) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought under paragraphs (1) or (2).

- 4) In addition, for a willful or intentional violation of this Ordinance or of a Surveillance Use Policy, an individual shall be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$1,000 per violation.³

Section 11. Secrecy of Surveillance Technology

It shall be unlawful for the City to enter into any surveillance-related contract or other agreement that conflicts with the provisions of this Ordinance, and any conflicting provisions in such future contracts or agreements, including but not limited to non-disclosure agreements, shall be deemed void and legally unenforceable.

To the extent permitted by law, the City shall publicly disclose all of its existing and future surveillance-related contracts, including any and all related non-disclosure agreements, if any regardless of any contract terms to the contrary.

Section 12. Whistleblower Protections.

1) It shall be a violation of Section 12 for the City or anyone acting on behalf of the City to take or fail to take, or threaten to take or fail to take, an adverse employment action with respect to any employee or applicant for employment, because:

a) The employee or applicant was perceived to, about to, or assisted in any lawful disclosure of information concerning the funding, acquisition, or use of a surveillance technology or surveillance data based upon a good faith belief that the disclosure evidenced a violation of this Ordinance.

Section 13. Severability

The provisions in this Ordinance are severable. If any part of provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 14. Construction

The provisions of this Ordinance, including the terms defined in Section 3, are to be construed broadly so as to effectuate the purposes of this Ordinance.

Section 15. Effective Date

This Ordinance shall take effect on [DATE].

³ Comment: Subcommittee members had differing views about including criminal penalties. Some thought they were overly harsh and should be deleted, while others thought they were necessary to ensure compliance with the ordinance.

**ANNOTATED AGENDA
SPECIAL MEETING OF THE
BERKELEY CITY COUNCIL**

Tuesday, June 20, 2017

6:00 P.M.

Longfellow Middle School Auditorium – 1500 Derby Street, Berkeley, CA
Teleconference Location – 907 South Lumina Avenue, Wrightsville Beach, North Carolina 28480

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – LORI DROSTE

Preliminary Matters

Roll Call: 6:15 p.m.

Present: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington, Arreguin

Absent: None

Recess 7:00 p.m. – 7:12 p.m.

Recess 9:01 p.m. – 9:18 p.m.

Public Comment - Limited to items on this agenda only - 153 speakers.

Action: M/S/C (Arreguin/Maio) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: All Ayes.

Action: M/S/C (Arreguin/Maio) to accept supplemental material from Mayor Arreguin on Item 1.a.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Wengraf, Worthington, Arreguin;
Noes – None; Abstain - Droste.

Action Calendar

- 1a. **MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of UASI Grant Funds; Item #3.12: Berkeley Police Department Relationship with NCRIC as Codified in BPD General Order N-17** (Continued from May 16, 2017. Item includes revised material.)

From: City Manager

Recommendation: Approve Police Department MOU Compendium revised Item # 3.6, Agreement with City & County of San Francisco for Distribution of UASI Grant Funds, and revised Item # 3.12, Relationship with Northern California Regional Intelligence Center (NCRIC).

Financial Implications: See report

Contact: Andrew Greenwood, Police, 981-5900

Action: M/S/C (Maio/Wengraf) to) to adopt Resolution No. 68,050–N.S. approving Police MOU Compendium Item #3.12 Relationship with Northern California Regional Intelligence Center (NCRIC) as stated in the resolution submitted by the City Manager for one year, and to refer the tasks below to a Task Force/Ad Hoc Subcommittee for further review.

Key tasks regarding NCRIC will include, but not be limited to:

- *In-depth review of the NCRIC database and all related protocols, including but not limited to:*
 - *How and on what basis is data entered into the database by BPD, other law enforcement agencies at city, county, state, and federal levels, and by other agencies, organizations, or the public?*
 - *How and on what basis does BPD have access to the data? Details must include who can access the data, under what circumstances, how often or how frequently, and in what ways the data can be accessed.*
 - *Does the database include data gather by means that citizens of Berkeley might find objectionable?*
 - *What jurisdictions do not participate in or use NCRIC, and what alternatives do they use in place of NCRIC participation?*
 - *Is it possible for BPD to segment what information it receives?*
- *Review other databases Berkeley has access to that can provide similar or the same types of information, and potential pros and cons of using those databases*
- *Consider whether Berkeley should end its relationship with NCRIC, continue, and/or create formal protocols to limit Berkeley's contribution and access to the database*

Vote: Ayes – Maio, Hahn, Wengraf, Worthington, Droste; Noes – Davila, Bartlett, Harrison, Arreguin.

Action: M/S/C (Arreguin/Wengraf) to adopt Resolution No. 68,051–N.S. approving Police Department MOU Compendium revised Item #3.6, Agreement with City & County of San Francisco for Distribution of UASI Grant Funds as stated in resolution submitted by the City Manager.

Vote: Ayes – Maio, Bartlett, Harrison, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila.

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:35 a.m.

Vote: Ayes – Maio, Davila, Bartlett, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – None; Abstain – None; Absent - Harrison.

Councilmember Harrison absent 12:20 a.m. – 12:23 a.m.

Action: M/S/C (Arreguin/Bartlett) to:

1) Create a City Council Subcommittee: to review the City's involvement in Urban Shield, and to ultimately determine whether the City should continue to participate in Urban Shield and to present alternative programs that better reflect the values of Berkeley's citizens. The subcommittee will be comprised of four Councilmembers including the Mayor.

Refer to the Subcommittee all the proposed Subcommittee actions recommended by Councilmembers Davila/Harrison, Worthington, and the following tasks:

- Reviewing Urban Shield scenarios in the past 3-5 years, as well as current and upcoming scenarios, and scoring procedures
- Attend and observe Urban Shield exercises
- Attend and observe Urban Shield vendor Expo
- Attend and review keynote speakers, workshop topics, and materials of past, current, and planned exercises and expos
- Observing or participating in Supervisor Carson's community task force on Urban Shield, reviewing of reports generated by this group.
- Researching other training opportunities that the Berkeley Police Department might participate in, either domestic or international, and consider whether BPD could work with police from other progressive cities to create specialized training
- Contacting other Northern California jurisdictions that do not participate in urban Shield exercises, to understand why they do not participate and how and where they obtain relevant training. These include, but are not limited to:
 - All Police Departments of Sonoma, Napa, and Marin Counties, except for the City of Novato
 - The City of Santa Cruz
 - The City of Palo Alto,
 - And many others
- Undertake any other research and investigation necessary to help inform the subcommittee about the nature of Urban Shield exercises and any possible elements that might go contrary to the City of Berkeley's values of community policing, nondiscrimination, and respect for human and civil rights.
- Report and recommend to Council regarding Urban Shield within 6 months. The report and recommendations should answer questions including, but not limited to:
 - How does Urban Shield contribute to or detract from public safety and the safety of police and firefighters and other medical and law enforcement personnel?
 - What are the benefits and costs of participation in Urban Shield? Are there any specific elements that are commendable or objectionable, given Berkeley's values and needs?
 - Does Berkeley's participation in the program positively influence or enhance Urban Shield, and how might the city's positive impact be enhanced in the future, should Berkeley continue to participate?

- Does Berkeley's participation support or run contrary to Berkeley's values or interests, and how or why might the city's involvement be continued, enhanced, limited or ended if this is the case?
 - What other training opportunities are available for the Berkeley Police Department and other first responders?
- Explore and evaluate alternative trainings to explore future decision making in regards to Urban Shield.

2) Allow Berkeley Fire Department and Berkeley Police Department to participate in this year's Urban Shield activities.

3) Direct the subcommittee, as one of the first priorities, to review the letter proposed by Council Member Worthington to the Urban Area Security Initiative and make modifications and then send along that statement to the Urban Area Security Initiative after it has been approved by Council.

Vote: Ayes – Maio, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison; Abstain – Worthington.

1b. Purchase Order: The Armored Group for One Specially Equipped Panel Van
(Continued from May 16, 2017)

From: City Manager

Recommendation: Adopt a Resolution pursuant to City Charter Article XI Section 67.2 requirements, accepting the General Services Administration (GSA) bid procedures, and authorizing the City Manager to execute a purchase order for one Specially Equipped Panel Van for an amount not to exceed \$205,373.

Financial Implications: UASI Regional Fund - \$205,373

Contact: Andrew Greenwood, Police, 981-5900

Action: M/S/Failed (Harrison/Davila) to adopt the resolutions proposed by the mayor amended to state that the City would not purchase the van until the policy is developed.

Vote: Ayes – Harrison, Worthington; Noes – Maio, Davila, Bartlett, Hahn, Wengraf, Droste, Arreguin

Action: M/S/C (Hahn/Arreguin) to:

1) Adopt Resolution No. 68,052–N.S. introduced by Mayor Arreguin to establish the terms and conditions of the City of Berkeley's cooperation with UASI programs and activities with the resolved clause to read as follows:

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the terms and conditions as referenced in Section 10.13(a) of the Agreement between the City and County of San Francisco and the City of Berkeley for the distribution of FY 2016 UASI Grant Funds, dated November 1, 2016 are as follows:

(1) The City of Berkeley ("Berkeley") retains authority to determine the UASI-sponsored programs and activities Berkeley will participate in; and

(2) The equipment acquired with funds furnished by the above referenced Agreement (the Specially Equipped Panel Van) shall be used only in UASI-sponsored exercises that Berkeley chooses to participate in, and in such instances shall only be used by Berkeley personnel, according to Berkeley's policies and protocols, under Berkeley's exclusive command and control.

2) Adopt Resolution No. 68,053–N.S. as proposed by the City Manager with the following resolved clauses added:

BE IT FURTHER RESOLVED because of the unusual nature of this piece of equipment, and the potential that when deployed in certain ways it may be perceived to limit or chill free speech and/or assembly, and because it was purchased for specific scenarios it should only be used in those instances when it is clearly called for; and

BE IT FURTHER AND FINALLY RESOLVED that the City Council will adopt a policy for use of the Specially Equipped Panel Van prior to its being deployed in any capacity by the City of Berkeley. The policy will be developed by the Mayor, in

consultation with the Chief of Police and reviewed by the PRC, and will be approved by the City Council.

Vote: Ayes – Maio, Bartlett, Hahn, Wengraf, Worthington, Droste, Arreguin; Noes – Davila, Harrison.

Action: M/S/C (Arreguin/Maio) to suspend the rules and extend the meeting to 12:30 a.m.

Vote: Ayes – Maio, Davila, Bartlett, Harrison, Hahn, Worthington, Droste, Arreguin; Noes – None; Abstain - Wengraf.

Adjournment

Adjourned at 12:35 p.m.

Communications

- None

Supplemental Communications and Reports 1

Item 1a: MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of UASI Grant Funds; Item #3.12: Berkeley Police Department Relationship with NCRIC as Codified in BPD General Order N-17

Item 1b: Purchase Order: The Armored Group for One Specially Equipped Panel Van

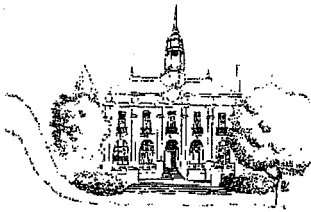
1. Diana Bohn
2. Pam Speich
3. Gene Bernardi, on behalf of Veterans for Peace and SuperBOLD

Supplemental Communications and Reports 2

Item 1a: MOU Compendium Items: Item #3.6: Agreement with City & County of San Francisco for Distribution of UASI Grant Funds; Item #3.12: Berkeley Police Department Relationship with NCRIC as Codified in BPD General Order N-17

Item 1b: Purchase Order: The Armored Group for One Specially Equipped Panel Van

4. Supplemental presentations and materials, submitted by Councilmembers Davila and Harrison
5. Supplemental materials, submitted by Councilmember Worthington
6. JP Massar
7. Erica Etelson
8. Cindy Shamban
9. Carol Denney
10. Jewish Voice for Peace
11. Andrew Gutierrez
12. Showing Up for Racial Justice Bay Area
13. Margy Wilkinson



Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170, FAX 510-981-7177, EMAIL
kworthington@cityofberkey.info

CONSENT CALENDAR

July 25, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Referral to the City Manager, City Attorney, and Police Review
Commission for Police Accountability Reform

RECOMMENDATION:

- 1) Refer to the City Manager and City Attorney to review the Berkeley Police Review Commission's suggestions for short-term reforms and detail the steps that may be taken.
- 2) Refer to the Police Review Commission to review the Oakland Ballot Measure LL and develop a similar full-fledged ballot measure to reform police accountability.

BACKGROUND:

In 2016, Oakland voters created a Police Review Commission that has the power to implement real change. San Francisco has also passed similar reforms. Berkeley now trails behind both cities in police accountability standards.

Berkeley's Police Review Commission was established in 1973. Since the Commission's creation, the relationship between the community and police organizations has changed. After the Berkeley Police Department's response to the Black Lives Matter protests, many cities and communities realized a more pressing need to address police misconduct.

This Council item will refer to the City Manager and City Attorney to differentiate:

- 1) Which suggestions for police accountability reform can be accomplished by the City Council as a policy vote.
- 2) Which suggestions require a meet and confer process with the Berkeley Police Department Association.
- 3) Which reforms can only be passed through a ballot measure, if the city decides to do so. This information will help the City reform the Police Review Commission as soon as possible. By referring to the Police Review Commission, the process of writing a ballot measure for the November 2018 election will begin. We request the Commission have a draft ballot measure within 6 months of the referral.

FINANCIAL IMPLICATIONS:

Staff time.

ENVIRONMENTAL SUSTAINABILITY:

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

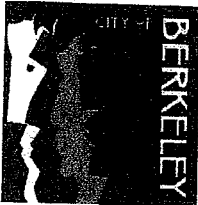
CONTACT PERSON:

Councilmember Kriss Worthington 510-981-7170

Intern Sahana Matthews s.matthews@berkeley.edu

Attachment:

1. Police Review Commission short-term reforms
2. Oakland Ballot Measure LL
3. Ten Reasons Why reform is needed



Police Review Commission (PRC)

June 14, 2016

To: Honorable Mayor and Members of the City Council
From: George Perezvelez, Chair, Police Review Commission *GP/16/16*
Re: Suggestions for Ballot Measure to Amend Current Enabling Ordinance
Establishing the Police Review Commission (Response to Item #52 on
the Council's June 14, 2016 agenda.)

The Berkeley Police Review Commission (PRC) was created with the general purpose of providing for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. section 3.32.010.)

In the interest of creating a more robust and effective avenue for citizen oversight of the Berkeley Police Department (BPD), the members of the PRC suggest the following changes to the PRC ordinance, to be either approved by the City Council or submitted to the voters in November. We believe these proposed changes will greatly enhance the effectiveness of the PRC, and assure that we are able to fully able to provide meaningful oversight to BPD.

- 1) The PRC shall use the "preponderance of the evidence" as the standard of proof for all decisions.
- 2) The current 120-day limit on the imposition of discipline shall be extended to one year, consistent with existing California law.
- 3) The PRC shall have full discretion to review complaints as to alleged officer misconduct from any person with personal knowledge of the alleged misconduct. Additionally, the PRC shall have the discretion to accept complaints from anonymous sources professing first-hand knowledge of alleged police misconduct, so long as the complainant requests anonymity based upon a credible belief that the complainant will face prosecution or harassment. The determination of whether the request for anonymity is based upon a credible belief shall be made by the a 2/3 vote of the full commission, acting in closed session.
- 4) The Commission shall have the same access to all BPD files and records, in addition to all files and records of other City departments and agencies, as the BPD's Internal Affairs Division. The BPD and other City departments and

1947 Center Street, 1st Floor, Berkeley, CA 94704 Tel: 510-981-4950 TDD: 510-981-6903 Fax: 510-981-4955
e-mail: prc@cityofberkeley.info website: www.cityofberkeley.info/prc/

agencies shall make every reasonable effort to respond to the Commissioner's requests for files and records within ten (10) days.

5) Upon a sustained finding of misconduct, the Board of Inquiry shall have the authority to suggest appropriate discipline to the Chief and/or City manager.

6) In addition to the training required of all Berkeley City Commissioners, all members of the PRC shall be required to complete training in the following areas: use of force; criminal procedure; Fourth Amendment; BPD general orders and standard operating procedures. This training shall include law, policy and best practices. The training shall be organized annually by the PRC Officer, in consultation with the City Attorney's office, the BPD, the BPA, and other community organizations.

7) Expand the jurisdiction of the PRC to include non-sworn employees of the BPD.

8) Review the Mayor's proposed budget to determine whether budgetary allocations for the Department are aligned with the Commission's approved policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.

The members of the PRC voted at its June 8, 2016 meeting to send this communication to you by the following vote: Ayes – Bernstein, Lippman, Murphy (temporary appointment), Perezvelez, Roberts, Sherman, Smith, and Yampolsky; Noes – None; Abstain – None; Absent – Javier, Waldman.

cc: Dee Williams-Ridley, City Manager
Michael Meehan, Chief of Police
Zach Cowan, City Manager
Christian Stines, BPA
PRC Commissioners

Measure 86333

Measure __. Shall Oakland's City Charter be amended to establish: (1) a Police Commission of civilian commissioners to oversee the Police Department by reviewing and proposing changes to Department policies and procedures, requiring the Mayor to appoint any new Chief of Police from a list of candidates provided by the Commission, and having the authority to terminate the Chief of Police for cause; and (2) a Community Police Review Agency to investigate complaints of police misconduct and recommend discipline?

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE LL

**A PROPOSED AMENDMENT TO OAKLAND'S CITY CHARTER
ESTABLISHING A POLICE COMMISSION TO OVERSEE
THE POLICE DEPARTMENT'S POLICIES AND PROCEDURES,
AND A COMMUNITY POLICE REVIEW AGENCY
TO INVESTIGATE COMPLAINTS OF POLICE
MISCONDUCT AND RECOMMEND DISCIPLINE**

Summary:

Police Commission

This measure would establish a Police Commission ("Commission") consisting of seven regular and two alternate members.

Commission members would be Oakland residents. No member could be a current police officer, current City employee, former Oakland police officer, or current or former official, employee or representative of a union that represents police officers. The first group of Commissioners would serve two, three or four-year terms. Later members would serve three-year terms, with a two-term limit.

The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council's approval. A nine-member Selection Panel would nominate four regular Commissioners and one alternate, subject to the City Council's approval. Each City Council member and the Mayor would make an appointment to the Selection Panel. No panel member could be a current OPD employee.

Many changes to the Oakland Police Department's ("OPD's") policies and procedures would be subject to the Commission's approval. The Commission could require the Chief to submit annual reports, and the Commission would disclose the information in the Chief's reports to the Mayor, the City Council and the public, if permitted by law. The Mayor would appoint any new Chief from a list of four candidates identified by the Commission. The Commission could remove a Chief from office for cause.

Community Police Review Agency

The Commission would establish a Community Police Review Agency ("Agency"), which would receive and review complaints of police misconduct. The Agency would be required to investigate complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. The officer would have an opportunity to appeal by filing a grievance.

If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, and the officer would have an opportunity to appeal by filing a grievance.

Budget and Staffing

The City would have to allocate enough money to the Commission and the Agency so that they can perform their required functions and duties. At a minimum, staff would consist of an Agency Director and Agency investigators. There would be at least one Agency investigator for every 100 OPD officers. The City would also be required to allocate enough money for the City Attorney to assign outside counsel to provide legal advice to the Commission and Agency. No current or former Oakland police officer or current official, employee or representative of a union that represents police officers could serve as staff for the Commission or Agency.

s/DENNIS J. HERRERA
San Francisco City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE LL

Currently, the City Administrator supervises the Oakland Police Department ("OPD"). The Chief of Police ("Chief") is responsible for the OPD's day-to-day operations. The Chief investigates possible police misconduct, but the City Administrator must approve all suspensions of five or more days, fines, demotions or discharges. The City's Citizens' Police Review Board ("CPRB") investigates citizen complaints of police misconduct.

This measure would establish a Police Commission ("Commission") to oversee the Police Department's policies and procedures, and a Community Police Review Agency ("Agency") to investigate complaints of police misconduct and recommend discipline.

Police Commission

The Commission would review the OPD's policies, procedures and General Orders. The Commission may also propose changes, and approve or reject the OPD's proposed changes, to those policies, procedures and General Orders that govern use of force, profiling, and general assemblies. The Commission's proposed changes, and any rejections of the OPD's proposed changes, would be subject to the City Council's review and approval. The Commission would also conduct at least one public hearing a year on OPD policies, procedures and General Orders.

The Commission would consist of seven regular and two alternate members. The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council's approval. At least one of the three appointees must be a retired judge or lawyer with trial experience in criminal law or police misconduct.

A nine-member Selection Panel would nominate four regular Commissioners and one alternate. Each member of the City Council and the Mayor would appoint one member to the Selection Panel. The Selection Panel's nominees would become members of the Commission, unless the City Council rejects all of the panel's nominees.

Community Police Review Agency

Currently, after investigating a complaint of police misconduct, the CPRB may recommend proposed discipline. The CPRB must submit any recommendations regarding discipline to the City Administrator, who must respond to the CPRB in writing and make the final decision.

Under the proposed measure, the Commission would establish the Agency, which would receive and review all complaints of police misconduct. The Agency would be required to investigate all complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, subject to the officer's ability to file a grievance.

Budget and Staffing

The City must allocate enough money to the Commission and the Agency so that they can perform their required functions and duties.

After the City Council confirms the first group of Commissioners, the CPRB's pending business would be transferred to the Commission and the Agency. The CPRB's Executive Director would become the Agency's Interim Director, and all other CPRB staff would become Agency staff.

s/DENNIS J. HERRERA
San Francisco City Attorney

CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE LL

This Measure is a Charter amendment which will establish a Police Commission to oversee the Oakland Police Department. This new Police Commission and Community Police Review Agency will replace the current Citizens' Police Review Board (CPRB).

The CPRB's Director will become the Interim Director for the new Community Police Review Agency, and the CPRB's pending business and staff will be transferred to the new Community Police Review Agency.

Financial Impact

The 7 regular Commissioners and 2 alternate Commissioners for the new Police Commission will serve their duties without pay. The City Attorney would assign to the Commission an attorney who would not be a City employee. We estimate the annual cost at \$227,800, which is equivalent to the cost of a full-time Deputy City Attorney III. Part of this outside counsel cost is already borne by the City for the CPRB.

This Measure increases the current CPRB staffing level from 11 full-time employees to a minimum of 14 full-time employees. An additional 3 employees are required if this Measure passes because the Measure requires at least one Investigator for every 100 sworn police officers. As of July 2016 there were approximately 770 sworn officers and 60 trainees.

The current Police Review Board has 5 Investigators in their budget, so that an additional 3 Investigators will be required to meet the required ratio. We estimated the additional Investigators to cost the City between \$403,400 to \$495,200 for salaries and benefits.

This Measure also requires specific, professional training for the 9 Commissioners. The exact cost of this training is unknown; we estimated a minimum of \$9,000 annually for Commissioner training.

Passing this Measure may cost the City an additional \$560,400 to \$652,200 annually, as detailed below; we also estimate an additional one-time equipment cost for new employees at \$6,000.

Cost Component	City's Current Costs (11 full-time employees)	Additional Costs per Year	Costs	Total Estimated Annual Cost (14 full-time employees)
Staffing	\$1,580,000	\$403,400 to \$495,200	to	\$1,983,400 to \$2,075,200
Outside Counsel	\$85,800	\$142,000		\$227,800
Operations	\$155,000	\$15,000		\$170,000
Total	\$1,820,800	\$560,400 to \$652,200	to	\$2,381,200 to \$2,473,000

There are three potential, financial impacts that cannot be quantified at this time, as noted below:

- Reconfiguration of workspaces for new and current employees, and the addition of private interview rooms may be necessary. The cost of any renovation cannot be determined because it is project-specific.
- Specialized, professional training for the Commissioners may be higher than the minimum amount estimated.
- Staff salaries and benefit rates may increase over time due to cost of living adjustments and future union negotiations, which will increase the cost to the City.

s/BRENDA D. ROBERTS
City Auditor

Oakland Police Commission Ballot Measure LL-Pro Argument

Oakland residents want effective community-oriented policing, less violent crime in our neighborhoods, and a police force that we trust. That is why we have come together to support the creation of a civilian Police Commission for Oakland.

Serious police misconduct impedes effective policing. We need improved oversight and effective discipline in order to better focus our police force on the things we want our officers doing: community policing in our neighborhoods, responding to 911 calls and investigating serious crimes.

OPD has been under federal oversight way too long our city needs to get its house in order. While we know that most of our officers are good people doing a very difficult job, that's not good enough. We've seen unacceptable scandals and inadequate consequences. It's time for Oakland to have effective civilian oversight!

Our city needs a strong police oversight commission to help build greater trust with the community, improve police response, and ensure constitutional policing. And we need this now.

Measure LL establishes a civilian Police Commission with authority to set policy, hold the police chief accountable for the effectiveness of OPD, and impose discipline when serious misconduct occurs. And it incorporates appropriate checks and balances to ensure we can hold our local elected leaders accountable as well.

Voting YES on Measure LL also will re-create a Community Police Review Agency, but this time with beefed up investigatory resources and real authority to not only investigate allegations of misconduct but also propose meaningful discipline.

For improvements and accountability and OPD, join us in voting YES on Measure LL.

Louise Rothman-Reimer
President, League of Women Voters of Oakland

Reverend Dr. George Cummings
Chair, Oakland Community Organizations (OCO)

Noel Galo
Oakland City Councilmember

David Muhammad
Criminal Justice & Youth Violence Prevention expert

Dan Kalb
Oakland City Councilmember

No Argument Against was submitted

FULLTEXT OF MEASURE LL

Section 1. Amendment to the Charter of the City of Oakland.

SECTION 604 – POLICE COMMISSION

(a) Creation and Role.

1. There hereby is established the Oakland Police Commission (hereinafter, Commission), which shall oversee the Oakland Police Department (hereinafter, Department) in order to ensure that its policies, practices, and customs conform to national standards of constitutional policing. The Commission shall have the functions and duties enumerated in this Section, as well as those assigned to the Commission by Ordinance.
2. There hereby is established a Community Police Review Agency (hereinafter, Agency), which shall have the functions and duties enumerated in this Section, as well as those assigned to the Agency by Ordinance.
3. Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a Department sworn employee under his or her command, nor shall anything herein prohibit the Chief of Police from taking disciplinary or corrective action with respect to complaints investigated solely by the Department.
4. No later than two (2) years after the City Council has confirmed the first set of Commissioners and alternates, the City Auditor shall conduct a performance audit and a financial audit of the Commission and the Agency. Nothing herein shall limit the City Auditor's authority to conduct future performance and financial audits of the Commission and the Agency.

(b) Powers and Duties.

The powers and duties of the Commission are as follows:

1. Organize, reorganize and oversee the Agency.

2. Conduct public hearings at least once a year on Department policies, rules, practices, customs, and General Orders. The Commission shall determine which Department policies, rules, practices, customs, or General Orders shall be the subject of the hearing.
3. Consistent with state law and in accordance with Section 1207 of the City Charter, entitled "Oaths and Subpoenas," issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before it. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, the majority of the members of the Commission may find him in contempt, and shall have power to take proceedings in that behalf provided by the general law of the State.
4. Propose changes, including modifications to the Department's proposed changes, to any policy, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect at the time this Charter Section 604 takes effect for so long as such federal court orders and settlements remain in effect. All such proposed changes and modifications shall be submitted to the City Council for approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, the changes or modifications will become final.
5. Approve or reject the Department's proposed changes to all policies, procedures, customs, and General Orders of the Department which govern use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect at the time this Charter Section 604 takes effect for so long as such federal court orders and settlement remain in effect. If the Commission does not approve or reject the Department's proposed changes within one hundred and twenty (120) days of the Department's submission of the proposed changes to the Commission, the Department's

proposed changes will become final. If the Commission rejects the Department's proposed changes, notice of the Commission's rejection, together with the Department's proposed changes, shall be submitted to the City Council for review. If the City Council does not approve or reject the Commission's decision within one hundred and twenty (120) days of the Commission's vote on the Department's proposed changes, the Commission's decision will become final.

6. Review and comment, at its discretion, on all other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police who shall provide a written response to the Commission upon request.
7. Review the Mayor's proposed budget to determine whether budgetary allocations for the Department are aligned with the Department's policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.
8. Require the Chief of Police to submit an annual report to the Commission regarding such matters as the Commission shall require.
9. Report at least once a year to the Mayor, the City Council, and to the public to the extent permissible by law, the information contained in the Chief's report in addition to such other matters as are relevant to the functions and duties of the Commission.
10. Acting separately or jointly with the Mayor, remove the Chief of Police by a vote of not less than five affirmative votes. If acting separately, the Commission may remove the Chief of Police only after adopting a finding or findings of cause, which shall be defined by City ordinance. The Commission must make its finding of just cause by no less than five affirmative votes. Upon removal, by the Commission, by the Mayor, or by the Mayor and the Commission acting jointly, or upon the notice of vacancy of the position of Chief of Police, the Mayor, in consultation with the Chair of the Commission, shall immediately appoint an Interim Chief of Police. Such appointment shall not exceed six (6) months in duration unless approved by a majority vote of the Commission. The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least four candidates and transmit the

names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission. This provision shall not apply to any recruitment for the position of Chief of Police that is pending at the time of the Commission's first meeting.

11. Send the Chairperson of the Commission or another Commissioner appointed by the Chairperson to serve as a non-voting member of any level one Oakland Police Force Review Board.
12. Perform such other functions and duties as may be prescribed by this Charter or by City ordinance.

(c) **Appointment, Terms, Vacancies, Removal.**

1. The Commission shall consist of seven (7) regular members and two (2) alternate members, all of whom shall be Oakland residents of at least eighteen (18) years of age. To the extent practicable, appointments shall be broadly representative of Oakland's diversity and shall include members with knowledge and/or experience in the fields of human resources practices, management, policy development, auditing, law, investigations, law enforcement, youth representation, civil rights and civil liberties, as well as representation from communities experiencing the most frequent contact with the Department. Background checks shall be required for all Commission members and alternates. Such background checks shall not be performed by the Department. The following shall not be eligible to serve as a Commissioner:
 - a. current sworn police officer;
 - b. current City employee;
 - c. former Department sworn employee; or
 - d. current or former employee, official or representative of an employee association representing sworn police officers.
2. Within two hundred and ten (210) days of the enactment of this Section, the Mayor shall appoint three (3) Oakland residents as Commissioners, at least one of whom shall be a retired judge or lawyer with trial experience in criminal law or police misconduct, and one (1) Oakland resident as an alternate, and submit the names of these appointees to the Council for confirmation. The Council shall have sixty (60) days after the completion of

the background checks and from the date of receipt of the Mayor's submission to accept or reject each of the Mayor's appointees as Commissioners. The Mayor shall appoint an Oakland resident to fill any Commission vacancies that were previously filled by a Mayor's appointee. If the City Council does not accept or reject the Mayor's appointee within sixty (60) days after the completion of the background check and receipt of the Mayor's submission, the appointee shall be deemed appointed.

3. All other Commissioners and the other alternate shall be appointed as follows:
 - a. There is hereby established a nine (9) member Selection Panel. Within ninety (90) days of the enactment of this Section, each City Council member shall appoint one (1) person, and the Mayor shall appoint one (1) person, to the Selection Panel. No current Department employee is eligible to be a member of the Selection Panel. The Selection Panel, with the assistance of the City Administrator, will solicit applications from those willing to serve on the Commission. The Selection Panel will review the applications, and interview applicants to serve as members of the Commission.
 - b. Within one hundred and twenty days (120) of its formation, the Selection Panel, by a two-thirds vote, shall submit a slate of four (4) regular members and one (1) alternate member to the City Council. The City Council may require the nominees to appear before the Council or a Committee of the Council. If the City Council does not accept or reject the slate in its entirety within sixty (60) days after the completion of the background checks and submission by the Selection Panel, the four (4) regular members and one (1) alternate member shall be deemed appointed.
 - c. Each year the Selection Panel shall re-convene, as needed, to designate replacements for the five (5) Commissioner (four (4) regular members and one (1) alternate) vacancies initially filled by the Selection Panel and shall submit a slate of names of such designated persons to the City Council for acceptance or rejection. If the City Council does not accept or reject the entire slate within sixty (60) days after the completion of the background checks and submission by the Selection Panel, all designated replacements shall be deemed appointed.

- d. Each year the Mayor and each Councilmember may replace her or his assigned person on the Selection Panel. Selection Panel members may serve up to five (5) years.
4. With the exception of the first group of Commissioners which shall serve staggered terms, the term for each Commissioner shall be three (3) years.
5. Commission members are limited to no more than two (2) consecutive terms, except that a Commissioner serving a term of no more than one (1) year shall be allowed to serve two (2) additional consecutive terms.
6. To effect a staggering of terms among the Commissioners, the duration of the first group of Commissioners shall be determined by the Selection Panel as follows: Three (3) regular members, including one (1) of the mayoral appointees, shall have an initial term of three (3) years; two (2) regular members, including one (1) of the mayoral appointees, shall have an initial term of two (2) years; two (2) regular members, including one (1) of the mayoral appointees, shall have an initial term of four (4) years. The alternate member appointed by the Selection Panel shall have an initial term of two (2) years and the alternate member appointed by the Mayor shall have an initial term of three (3) years.
7. A vacancy on the Commission shall exist whenever a member dies, resigns, ceases to be a resident of the City, is convicted of a felony, or is removed.
8. For vacancies occurring for reasons other than the expiration of a regular member's term, the Commission shall select one of the alternates to replace the regular member for that regular member's remaining term of office. If the alternate chosen to replace the regular member was appointed by the Selection Panel, the Selection Panel shall appoint another alternate. If the alternate chosen to replace the regular member was appointed by the Mayor, the Mayor shall appoint another alternate.
9. All Commission members shall receive orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for police officer misconduct and failure to act. All Commission members shall receive training regarding Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and other subject matter areas which are specified by City ordinance.

10. The City Council may remove members of the Commission for cause as provided in Section 601 of the Charter, or members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, conviction of a misdemeanor involving moral turpitude, a material act of dishonesty, fraud, or other act of moral turpitude, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular Commission meetings or five regular meetings in a calendar year except on account of illness or when absent by permission.

(d) Meetings, Rules and Procedures

1. The Commission shall meet at least twice each month unless it determines that one meeting is sufficient in a particular month. The Commission shall notify the public of the time and place of the meeting and provide time for public comment at each meeting. The Commission shall meet at least twice each year in locations other than City Hall.
2. The Commission shall establish rules and procedures for the conduct and operations of its business. Such rules shall be made available to the public.
3. Five (5) members shall constitute a quorum. If a quorum is not established by the regular members in attendance, the Chairperson of the Commission may designate one or more alternate members to establish a quorum and cast votes. Motions on all matters may be approved by a majority of those Commission members present.

(e) Budget and Staffing

1. The City shall allocate a sufficient budget for the Commission, including the Agency, to perform its functions and duties as set forth in this section, including budgeting at least one full-time-equivalent non-City Attorney legal advisor that is specifically charged with providing legal services to the Agency related to investigations and recommended discipline. The one full-time-equivalent non-City Attorney legal advisor shall be assigned by the City Attorney after consultation with the Chair of the Commission. The non-City Attorney legal advisor shall not in the regular course of his or her

2. legal practice defend law enforcement officers and shall not participate in, nor serve as counsel to the City or any of its Council members or employees in defense of any lawsuit arising from any incident involving an Oakland police officer.
3. Within sixty (60) days of the City Council's confirmation of the first group of Commissioners and alternates, the Oakland Citizens' Police Review Board (hereinafter Board) shall be disbanded and its pending business transferred to the Commission and to the Agency. The Executive Director of the Board shall become the Interim Director of the Agency, and all other staff will be transferred to the Agency.
4. After the effective date of this Charter section, the Commission may identify special qualifications and experience that candidates for Agency staff positions must have. Candidates for future vacancies may be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time; said selective certification shall be subject to discretionary approval by the City Administrator or his or her designee.
5. The staff of the Agency shall consist of no fewer than one line investigator for every one hundred (100) sworn officers in the Department, rounded up or down to the nearest one hundred (100). The number of investigators shall be determined at the beginning of each budget cycle based on the number of sworn officers employed by the Department the previous June 1. At least one investigator shall be a licensed attorney. The budget set-aside for such minimum staffing may be suspended for a fiscal year or two-year budget cycle upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution.
6. The City Administrator shall assign a staff member to act as liaison to the Commission and to provide administrative support to the Commission.
7. Upon a vacancy, the Director of the Agency shall be hired by the City Administrator from among two (2) or three (3) candidates submitted by the Commission. By an affirmative vote of at least five (5) members, or by an affirmative vote of four (4) members with the approval of the City

8. Administrator, the Commission may terminate the Director of the Agency. The Commission shall periodically conduct a performance review of the Agency Director. The Agency Director shall be classified as a Department head, and shall have the authority to hire and fire Agency staff, in consultation with the City Administrator.
9. Agency and Commission staff, with the exception of the Agency Director, shall be civil service employees in accordance with Article IX of the City Charter. Background checks shall be required for all Agency investigator applicants before they are hired by the Agency. Such background checks shall not be performed by the Department. Staff of the Board who are transferred to the Agency as discussed in section (e)(2) above shall not be subject to background checks.
10. No current or former sworn employee of the Department, or current official, employee or representative of an employee association representing sworn police officers, is eligible for any staff position in the Agency or the Commission.

(f) Investigations

1. Beginning sixty (60) days after the City Council's confirmation of the first group of Commissioners and alternates, the Agency shall receive, review and prioritize all public complaints concerning the alleged misconduct or failure to act of all Department sworn employees, including complaints from Department non-sworn employees. The Agency shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but shall investigate public complaints involving uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies. The Agency shall also investigate any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, as directed by the Commission. The Agency shall forward a copy of each complaint received to the Internal Affairs Division of the Oakland Police Department within one business day of receipt.
2. Subject to applicable law, the Agency shall have the same access to all Department files and records, with the exception of personnel records, in addition to all files and records of other City departments and agencies, as

the Department's Internal Affairs Division (IAD). Access to personnel records shall be limited to the Agency Director who shall maintain confidentiality as required by law. The Department and other City departments and agencies shall make every reasonable effort to respond to the Agency's requests for files and records within ten (10) days.

3. The Agency shall make every reasonable effort to complete its investigations within one hundred and eighty (180) days of the filing of the complaint with the Agency. Within thirty (30) days of completion of the investigation, the Director of the Agency shall issue written findings and proposed discipline regarding the allegations stated in the complaint to the Commission and the Chief of Police. The City Administrator shall not have the authority to reject or modify the Agency's findings and proposed discipline.
4. To the extent allowed by law and after consultation with the Commission, the Agency shall forward information to other enforcement agencies, including but not limited to the Alameda County District Attorney, when such information establishes a reasonable basis for believing that a crime may have been committed by a sworn Department employee.

(g) Adjudication

1. If the Chief of Police agrees with the Agency's findings and proposed discipline, he or she shall send to the subject officer notification of findings and intent to impose discipline. The Chief of Police may send such notification to the subject officer before IAD has begun or completed its investigation.
2. If the Chief of Police disagrees with the Agency's findings and/or proposed discipline, the Chief of Police shall prepare his or her own findings and/or proposed discipline which shall be submitted to a Discipline Committee comprised of three Commissioners. The City Administrator shall not have authority to reject or modify the Chief of Police's findings and proposed discipline. The Agency's findings and proposed discipline shall also be submitted to the Discipline Committee which shall review both submissions and resolve any dispute between the Agency and the Chief of Police. Based solely on the record presented by the Agency and the Chief of Police, the Discipline Committee shall submit its final decision regarding the appropriate findings and proposed discipline to the Chief of Police who shall

notify the subject officer. The City Administrator shall not have the authority to reject or modify the Discipline Committee's final decision regarding the appropriate findings and level of discipline. The Discipline Committee shall not have the authority to conduct its own investigation.

3. If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that if the Agency is required to conduct an investigation by subsection (f) above, the Commission must approve the Agency's decision by a majority vote. If the Agency chooses not to close its investigation, imposition of final discipline shall be delayed until the Agency's investigation is completed and the Agency makes its findings and recommendations for discipline. The Agency shall notify the Chief of its final decision regarding how it will proceed within five (5) business days of the Chief's notice of completion of his or her investigation.
4. All employees are afforded their due process and statutory rights including Skelly rights. After the findings and imposition of discipline have become final, the subject officer shall have the right to grieve/appeal the findings and imposition of discipline if such rights are prescribed in a collective bargaining agreement.

(h) Enabling Legislation

The Commission may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this section 604. The City Council may, on its own initiative, enact legislation or regulations that will further the goals and purposes of this section 604. Once the Commission is seated, subsequent legislation or regulations shall be submitted to the Commission for review and comment. The Commission shall have forty-five (45) days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

Section 2. Severability. If any section, subsection, sentence, clause or phrase of this Measure is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Measure. The voters hereby declare that they would have passed this Measure and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

The top ten reasons why Berkeley needs police accountability reform: by Kriss Worthington

- 1. The system is so fatally flawed that Civil Rights and Civil Liberties attorneys tell clients it's not worth it to file complaint cases with the Police Review Commission.**
 - 2. Complainants report that restrictive rules leave them feeling violated and disrespected when they pursue their complaints.**
 - 3. Unfortunately, racial profiling is alive and well in Berkeley. The statistics generated by the Fair and Impartial Policing Policy provide substantial documentation that ethnic minorities appear to be disproportionately stopped by Police.**
 - 4. The media, students, and the General Public across all ethnicities report excessive use of force against both protestors and bystanders during the December Black Lives Matter protests. The police were seen beating and using CS on the crowd.**
 - 5. The media reports that other jurisdictions respond to Public Record Act requests about police accountability with far more details.**
 - 6. Blindfolded by restrictions on their access to documents such as tapes and video recordings, PRC commissioners cannot make fully informed decisions.**
 - 7. Berkeley trails behind other Bay Area jurisdictions, such as Alameda County, BART, San Francisco and Oakland, who have been adopting reforms to hold police accountable.**
 - 8. Many qualified PRC commissioners are frustrated to find the system full of severe rules and practices that prevent full review of facts. Commissioners who have promoted reform have seen them delayed many months and years.**
 - 9. In the 1970's Bell Bottoms were fashionable and the Berkeley Police Review Commission structure was forward thinking. But in the 21st century, the US Department of Justice's recommendations, and regional best practices have evolved from decades of experiences with new technologies and a multicultural society.**
 - 10. The PRC system is 43 years old. Isn't it time for a change?**
-

PRC Meeting Processes for Efficiency and Democracy
George Lippman, Chair
Berkeley Police Review Commission
July 12, 2017

I've heard interest from commissioners and staff in making our work more efficient. We are all volunteers (other than the staff), and I want to value the contributions and be humane to commissioners, the public, and city staff. I am instituting or reaffirming the following procedures.

1. Meetings will be kept as short as possible, kept to three hours, shorter if possible.
2. Commissioners will keep comments on topic; chair will encourage people not to repeat each others' points.
3. Reduce the number of items on agenda. More discussions is not a definitive indicator that we are accomplishing more.
4. Make real priorities and stick to them. We have a practice of prioritizing items in two or three tiers of importance. These are democratically chosen by the commission, and they can be changed as conditions change.
5. As appropriate, move discussions into subcommittees. It is often more efficient to begin the discussions in a small group, then bring them to the full commission for review.
6. Do not use the non-action sections of the agenda, including approval of minutes, Chair's report, PRC Officer's report, Chief's report, or Subcommittee reports, to start substantive discussions, which should instead be agendaized for a future meeting, and then if there is further interest, prioritized along with other work of the commission. These procedures will keep us in accord with the Brown Act, which is intended to benefit the openness and transparency of public bodies such as this one.
7. Please read the entire packet before the meeting. The meeting will be better informed and it is only fair to your fellow commissioners who have read it.

Having said all that: everyone should understand that the City's business is sometimes unpredictable and we may have urgent matters that take us past 10pm or even require additional meetings. Police review is critical work and I know everyone here takes it with the utmost seriousness. Please bear with the process and we'll try to make it work the best we can.

BPD Hopes to See You at the Forum

As a reminder, we are less than a week away from our first Community Forum. The event is scheduled for Monday, July 17, 2017 from 6:00pm to 9:00pm at the Berkeley Adult School (1701 San Pablo Avenue). This event is the first of four sponsored by Berkeley Police Chief Andrew Greenwood.

The forum will be structured to give attendees an opportunity to engage staff from throughout the department. This includes the Chief, Command Staff, Detectives, Dispatchers, Area Coordinators, Beat Officers, Special Response Team members, Personnel and Training Staff, Motor Officers and Parking Enforcement Officers.

The remaining forums are scheduled for:

- August 8, 2017, from 6:00pm to 9:00pm, Berkeley Public Library, South Branch, 1901 Russell St.
- August 24, 2017, from 6:00pm to 9:00pm, Berkeley Jewish Community Center, 1414 Walnut St.
- September 7, 2017, from 6:00pm to 9:00pm, (Location TBD)

If you have questions about the events, please feel free to contact the Community Services Bureau at (510) 981-5806. We look forward to meeting you at our first event.

RACHEL LEDERMAN & ALEXSIS C. BEACH
Attorneys at Law
558 CAPP STREET, SAN FRANCISCO, CA 94110
Oakland office (not a mailing address):
1736 FRANKLIN STREET, SUITE 400, OAKLAND, CA 94612.
phone: (415) 282-9300 fax: (510) 590-9296

July 19, 2017
by email

Dear Chief Greenwood:

The very first recommendation of the Center for Policing Equity report is that BPD's use of force data capture protocol be changed to register every use of force by BPD officers, regardless of weapon use, injury or complaint. In the East Bay Express, you are quoted as saying that you "anticipate" making this change. (<https://www.eastbayexpress.com/oakland/report-berkeley-police-six-times-more-likely-to-use-force-against-black-people/Content?oid=8046683>.)

However, this change to General Order U-2, §§ 23-28 is one that you agreed to in federal court as part of the settlement in *Law v. City of Berkeley et al.* on January 27, 2017. Specifically, you stated that U-2 would be amended to require a report *any time an officer uses force*. Why has this agreed reform not already been made as you assured us it would be?

We are also a bit mystified by your comment in your July 14, 2017, memorandum to the City Manager, indicating that CPE's description is inaccurate as to the events that were the subject of *Law v. City of Berkeley* (on page 9 of the report.) Other than the fact that the event in question occurred in November, not December, 2014, none of the facts recounted by CPE can reasonably be disputed. Are you denying that nonviolent protesters and a Chronicle photographer were injured in the 2014 incident? (See CPE report, p. 9.) It is disturbing that a nonviolent protester who was unable to move back was hit on the head mere months after you agreed to change BPD policy as a result of that 2014 incident: to prohibit batons from being used against a crowd prior to dispersal orders being given absent exigent circumstances; prohibit striking persons who are unable to move back; and prohibit baton strikes to the head, absent a need for deadly force. Your department cannot improve without acknowledging and learning from its mistakes. Moreover, you have never

responded to our June 22 letter, concerning the June 20, 2017, violations of the revised Use of Force and First Amendment policies.

Pursuant to the California Public Records Act (Govt. Code, § 250 et seq.), and Berkeley Open Government Ordinance (Berk. Municipal Code, Ch. 2.06), we request the following within ten days:

- 1) All police and security camera video of the police response to protesters on June 20 – early morning of June 21, 2017, in and outside Longfellow Middle School;
- 2) All police reports, use of force reports, logs, memoranda, supplemental reports, injury reports, and after action reports concerning the June 20-21, 2017, protest inside and outside Longfellow Middle School.

If the records are available in electronic format please email them to me at rlederman@beachledermanlaw.com. Thank you for your attention to this matter.

Sincerely,

Rachel Lederman
James B. Chanin

cc: City Attorney
City Manager
Mayor Arreguin
City Council

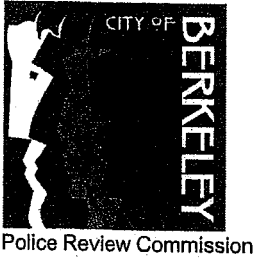
Bulletin Notice

Date: July 19, 2017
To: All BPD Employees
From: Andrew R. Greenwood, Chief of Police
Subject: Sergeant Promotion

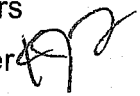


I'm pleased to announce the promotion of Officer Darrin Rafferty to Police Sergeant. This promotion will go into effect within the next few weeks, with precise dates to be determined.

Please join me in congratulating Darrin, and in wishing him well in his new role.



July 20, 2017

To: Police Review Commissioners
From: Katherine J. Lee, PRC Officer 
Re: Friendly amendments and substitute motions

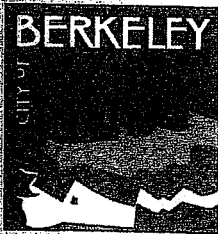
This memorandum is to clarify the rules regarding the making of friendly amendments and substitute motions at your meetings, as these motions were the source of some confusion or disagreement during your July 12, 2017 meeting. I begin with some background.

Underlying authority. The meeting procedures applicable to the PRC are established in the Commissioners' Manual, the PRC's Standing Rules, and Robert's Rules of Order. Commissions are allowed to establish additional rules. (Commissioner's Manual, p. 49.)

Friendly amendments. Use of the friendly amendment was formalized by inclusion in the Standing Rules in July 2015. It is not formally recognized in Robert's Rules of Order, but has long been used by the PRC as well as other City Boards and Commissions. Under the PRC Standing Rules, Section E.2., a friendly amendment modifies a pending motion if it is accepted by both the maker and seconder of the pending motion. No vote on the friendly amendment is required.

Substitute motions. A substitute motion may or may not be favored by the maker and seconder of the pending motion. Under Robert's Rules, and consistent with the PRC's practice, a substitute motion requires a second to move forward, and must be voted upon. The substitute motion may be used to substitute new language for all or part of the pending motion. While it is usually used at the PRC to replace the entirety of the pending motion, nothing prohibits its use to substitute new language for part of the pending motion.

It is the decision of the maker of the motion whether to offer a friendly amendment or make a substitute motion.



Commissioner Attendance Report

For the Period January 1 through June 30, 2017
(Scroll down for information on completing this form.)

Commission Name Police Review Commission
 Secretary Name Katherine J. Lee

of Regular Meetings Held During Reporting Period: 12

Commissioner Name	# of Meetings Attended	# of Meetings Not Attended	% of Meetings Attended	Dates of Meetings Absent	Dates of Excused Absences
1. Allamby Gwen	2	0	100%		
2. DaSilva, Kimberly	11	1	92%		
3. Ford, Clarence	0	2	0%		6-14, 6-28
4. Lippman, George	11	1	92%		
5. Perezvelez, George	9	3	75%		
6. Price, Cooper	1	0	100%		
7. Prichett, Andrea	11	1	92%		
8. Roberts, Terry	11	1	92%		
9. Yampolsky, Ari	8	4	67%		
10.					

Was any member absent from 3 consecutive regular meetings? (if not, leave blank)

Commissioner Name	Dates of Missed Meetings	Dates of Leave(s) of Absence
1. Yampolski, Ari	5-10, 5-24, 6-14	5-10, 5-24, 6-14
2.		
3.		

4.		
5.		
6.		
7.		
8.		
9.		

Instructions for Completing the Form

Only report the attendance for commissioners that are active as of the end of the reporting period. Do not include temporary appointments or commissioners that have already been terminated from the commission.

Report regular meetings only! Do not include special meetings or subcommittee meetings.

In the "# of Meetings Attended" column, input the number of meetings the commissioner attended (ex. "2"). In the "# of Meetings Not Attended/Absent" column, input the number of meetings the commissioner did not attend or was absent (ex. "4"). These two columns added together should equal the total number of meetings held during the reporting period (ex. 2 + 4 = 6). Please input "0" where appropriate. This information must reflect each current commissioner's physical presence or absence (excused or not) at regular meetings.

If the "% of Meetings Attended" column reflects 50% or less, input the applicable dates in the "Meetings Absent" and "Excused Absences" columns.

Only complete the lower portion of the form if a commissioner was absent from 3 consecutive regular meetings. If a commissioner was absent from 3 consecutive regular meetings, list the individual's name, dates of meetings missed, and dates of absence (if any).

Additional Attendance Rules

- a) A member must be present at least one hour, or 50% of the entire meeting, whichever is less, to be counted as present for purpose of attendance.
- b) If a commissioner was appointed part way through the reporting period, the "meetings attended" and "meetings not attended/absent" is based on the number of regular meetings held since their appointment and through the end of the reporting period. These commissioners must have attended more than half of all regular meetings held since being appointed.
- c) The City Clerk shall note any commissioner reported as being absent from 50% or more of all regular meetings held during the six (6) month period reported. The appointment of the commissioner shall expire on the date the attendance report is received by the City Clerk.
- d) Commissioners may be granted a leave of absence of up to three months by their appointing Councilmember. These approved leaves do not count against lack of attendance.
- e) Commissioners may request that an absence from a meeting be excused due to a conflict resulting from observance of religious or cultural holidays. This request needs to be made on the "Excused Absence Form" and submitted to the Secretary prior to the meeting for which the commissioner's absence is to be excused. The Secretary then excludes the absence from the semi-annual attendance report.
(BMC 3.02.030)

Lee, Katherine

From: PRC (Police Review Commission)
Sent: Tuesday, July 18, 2017 8:00 AM
To: Lee, Katherine
Cc: Norris, Byron
Subject: FW: California: Let's End Unchecked Police Surveillance | Electronic Frontier Foundation

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: For Agenda

From: Tracy Ann [mailto:incarlsbad@gmail.com]
Sent: Monday, July 17, 2017 7:01 PM
To: PRC (Police Review Commission) <prcmailbox@cityofberkeley.info>
Subject: California: Let's End Unchecked Police Surveillance | Electronic Frontier Foundation

To: Police Review Commission

EFF urges the California legislature to pass S.B. 21, a surveillance technology reform bill introduced by State Sen. Jerry Hill. **This legislation would require that police departments, before acquiring or using new spying technology, obtain approval in advance to do so from an elected board during a public hearing. When police obtain such approval, they must also get approval of a use policy that includes privacy safeguards.**

The bill would require a biennial transparency report on surveillance technology in which an agency must disclose information such as the total cost for each surveillance technology, the number of times each technology was used, how effective the technology was, instances in which technology was shared with another agency, and instances in which the technology was used in violation of department policy.

The bill would also allow individuals to sue an agency if they've been harmed by a violation of the legislation.

<https://www.eff.org/deeplinks/2017/04/california-lets-end-unchecked-police-surveillance>

Lee, Katherine

From: bob tom <cranberrysauce23@gmail.com>
Sent: Tuesday, July 18, 2017 6:46 PM
Subject: a letter from Blair. Tuesday July 18, 2017. _____ To reduce, the number of ALPR's, for new parking program.

Dear city of Berkeley government,

Sorry for the hour, in sending this letter. I have a busy week.

HI this is Blair Beekman. I hope all the frantic emotions and energy, of national security decisions, in late June and early July, is starting to subside, and everyone of Berkeley, can start to get get down, and simply continue, good, important reasoning, needed, at this time.

I thank you, for what I am getting a sense of, that your city council, and city government, can be willing to compromise, on the ALPR issue, a bit, if needed.

It may be obvious, 15 ALPR's for a small city like Berkeley, may be too many.

Even it is considered, 'just for parking and Vision Zero like purposes.'

I think 7 or 8 ALPR's, for your parking problem, is still a more practical number, without fully understanding your new parking program, with ideas around environmentalism.

Even 10 or 12 ALPR's is a more practical number.

And simply considerate, to the changes in thinking, we all need to make, in learning to make better sense, of how much actual national security tech., we need for a city. Instead of continually relying on, 'round numbers'.

Civil protections, and civil rights, should always be considered more important, than National security tech. It is these lessons, about peace, and good reasoning, local democracy, and learning how to leave war, that is important, at this time, in this country.

And, not for city councils, to continually rely on the idea, that someone else, is finally cleaning up the war effort.

As a rule of thumb, national security tech. is usually always invasive, to every day people, and individuals. and should be treated as rare. Not as 'bulk'.

I hope you can please re-consider, how to bring down the number of ALPR's, you will need, for your 'environmental parking program'. And, how they will obviously be used, for much more.

To mention another issue,

We are deciding how a local community, can have more say, over federal, national security policies. We are all looking for ways, to end a lot of the thinking, from the early days of 9/11/01, and return ourselves, to our better thinking and reasoning, as a many cultured democracy, with a well thought about constitution.

As an interesting reference, Santa Clara County, has left being a part of Yellow Command, in Urban Shield. I think this is worth looking into, and learning the reasons, as to why.

This can be needed information, for your future local community ad-hoc committee process, on the future of NCRIC MOU's, the future of Urban Shield in Berkeley, and the community effort, to talk about the paneled van, with the Berkeley PRC process.

Sincerely,
Blair Beekman

Lee, Katherine

From: bob tom <cranberrysauce23@gmail.com>
Sent: Thursday, July 13, 2017 4:51 PM
Subject: a letter from Blair Beekman. Thursday, July 13, 2017. _____ the ALPR vote in Berkeley, Tuesday July 11, 2017.

Dear city government of Berkeley,

The city of Berkeley, already has at least, 5 ALPR's.

15 more, would make 20 ALPR's altogether, and there are probably, a few more around.

But to stick with exact numbers, and to try to explain, good minimal use ideas.

Only 3 or 4, ALPRS are needed, for serious police work, around a small town, such as Berkeley.

For the new parking program, it is my guess, only 7 or 8, at a time, would be needed, at most.

Learning new practices, and learning to practice minimally, with this kind of national security equipment, is important.

I am new to this issue, but 15, new ALPR's, can be close to overreach. And continuing, the confusion, and misuse of national security ideas, and funds, since 9/11/01.

The FHA, has a new role, to help the next generation, of Vision Zero.

It may be a little inexperienced, untested, and unsure how to work.

We all may have a job in Berkeley, at this time, and an effort may be needed, at this time, between local city officials, and everyday people,
so the FHA can understand, and learn how to work towards things like, more realistic, planning, budgeting, and grant decision making, for the future.

I have feared, how the FHA will act, as a new 'right arm', to the future of Vision Zero. I feel, their help and decision making in Berkeley, with the ALPR grant process, has proven, they may not be getting something

As starting to become, a regular part of my life, I am not asking the city of Berkeley, to end its ALPR parking program. I am just trying to make sure, there are good practices, around the introduction, of this national security program, and its technology, to the city.

In what is also becoming routine, I am fairly certain, you can do this same job, with a much smaller number, of ALPR tech., than you have asked for, as a city.

I hope the ALPR question, is not over with, in Berkeley. And, there is time to reduce, the numbers of ALPR's, for a new, city of Berkeley parking program.

The incredible good, you accomplished a few weeks ago, with creating democratic, local, public, oversight committees, to ask about the future of urban shield, NCRIC, MOU's, and the paneled van, should not be considered, a freak show, or a one time shot.

It needs to be a part of, a discussion, a narrative, and an overall plan, for a local community, and its city government, working towards the ideas, of good, peaceful, local democracy.

Thinking of good ideas, for a local community democracy, usually brings up ideas of openness, better communication, accountability, the ideas of peace, and minimal use,

We are ending war, at this time. It takes thought and work. Lets make it, intelligent and fun.

Please re-consider, how you have approved 15 ALPR's, at this time.

Please consider, a more sensible and practical number, of ALPR's your city may actually need at this time.

Sincerely,

Blair Beekman
San Jose, Ca.

p.s. I felt, the public speakers, were mostly very helpful.
Parking questions, and environmental planning, for the future, is one thing,

But an old PRC member, Cl.Bartlett seemed to offer,

this ALPR parking data collecting, in the name of a future better environment,
and old ideas of govt. modification, around possible, new Vision Zero plans, will punish
people, by trial and error, to change driving and parking habits.

And, although promises were made, to not use the tech., for anything but parking
at first, where the city govt. and others will go, with actual privacy and data
collecting questions, and with new MOU agreements with NCRIC, could turn very ugly,
very fast.

Lee, Katherine

From: bob tom <cranberrysauce23@gmail.com>
Sent: Wednesday, July 12, 2017 7:15 PM
Subject: a letter from Blair Beekman. July 12, 2017. _____ Two letters to UASI, July 12, 2017.

Sorry for the hour of these letters, tonight. I have a busy schedule. I am going to try, the two letters, in one approach. They can be long, but well worth it. -blair.

Dear BAUASI,

To go over with you, what is becoming, my regular list of concerns and worries, about BAUASI, for Federal FY 2017.

1. The Future of CBRNE technology.

You are not being 'hemmed in', by the activist community, about CBRNE technology, at this time.

I see a disturbing trend starting.

I am politely shocked, at the language being used, to talk about the near future, of CBRNE technology, for local cities.

The language, of this past May's CBRNE item, was filled with the ideas, of glee and greed, that BAUASI, is not currently under, some sort of regulatory or everyday people control.

Please learn to address this, and correct this.

2. To continue to respect, the previous Obama administration, its DOJ, and the many, fair and impartial policing studies and reports.

Please continue, to respect and work with, previous administration DOJ practices, of fair minded and impartial, local policing.

This should be the template, for the next several years, in how to look at and build, more open, communicative, and healthier local communities.

And, what should be a part of, the important goals and work of UASI, at this time.

3. How to think of, the future of the CVE program.

Mentioned for the first time, at the May, BAUASI regional public meeting, was the new Countering Violent Extremism, CVE, program. A program that has some good, simple ideas, but that has data collecting ideas, that need to be much more thoroughly addressed.

I am trying to learn, how to work on, good civil protections, and privacy concerns, for everyday people, of local cities and communities. Local, state, and federal government agencies, should be exploring this as well.

4. A public meeting process for NCRIC, at least twice, or four times, a year.

A new concept, that I hope I can learn to talk about, with BAUASI staff, a bit, possibly, is the idea, of a public meeting process, twice a year, for NCRIC.

The NCRIC policy board, is already an elected board, made up of, mostly established and well regarded, public officials, of the Bay Area.

These sorts of public officials, should have the capability, the know how, and the stamina, to be able to create and withstand the rigors, of a public meeting process, at least twice, if not four times a year, to describe the developments, of the NCRIC program.

I feel all these items, will become regular talking points, between ourselves, for the rest of the year.

5. The July 2017 BAUASI regional public meeting, Item 4.

As part of Item 4, this month of July 2017, BAUASI will be developing, a new legal language, in how to talk about the future of everyday national security projects and ideas. I am assuming mainly in San Francisco. at this time.

They will be doing this, within a level 2 framework. to set new, legal frameworks, for the rest of the Bay Area to eventually follow.

This may be quite a compliment, to the ideas in better reasoned, local democracy, and the ideas of peace.

Ideas that not only a majority of everyday people, can more easily understand and believe in, at this time, but new legal reasoning and ideas, that your own federal government and others, has been learning to practice, in the past few years, as well.

Thank you again, for all of your work and effort, the past few years.

The problem, is that on this same item four, you seem to offer things like, new national security practices, in Marin County, that seem to simply continue, the opaque thinking of war, and the early days of 9/11/01.

A time, that we are all hopefully learning, to try to grow from. And a problem, that can be addressed in the short term, with simple ideas, of patience, good understandings, warmth, and care.

Before more serious ideas and legal language, can be put into place.

I feel this legal language, includes peace, good accountability, better reasoning, and better democratic and civil protections, for everyone, of a local city and community.

6. To continue the thought, it is the time to consider, how to change the name of UASI.

And finally, as the simple thoughts, for around the water cooler, the coffee break, and in everyday thinking.

How do we change the name of UASI, and its implications, that literally and institutionally, are meant to cancel out, most concepts of hope, and original good ideas, of this country's democracy.

And, invite only the most cynical of ideas, of how to think of a u.s. federal government agency.

War, and its ideas, are hell. Why are we continuing with a name, purposely meant to force this concept upon us.

It seems the name, UASI, has been chosen, in the many ways, it can be tied with, the fascist German government, of the 1930's.

This roller coaster ride, of figuring out the worst of ourselves, as a people, as individuals, and as a country, should be beginning to draw to close.

To embarrassingly admit, we need a name, more along the ideas of Yankee Doodle, and ideas of this country's good thinking democratic ideas, and more regular, bureaucratic practices.

How about something like, National Security and Technology for Regional Areas. NSTRA. A bit too 'ra' sunlight, at the end, but this sort of idea.

I imagine, I will be talking about these issues, for the rest of this year. In my inexperience, I hope you can at least note them, and almost happily think about them, as you go along, with your busy work day.

Sincerely,
Blair Beekman

Dear BAUASI staff, and approval authority,

I am beginning to have a regular pattern, and theme, in my writing to you. And, what I feel I need to make clear, at each of your public meetings, at this time.

I try to write these letters, in bcc, to the entire UASI regional staff, and to the regional approval authority members.

As a federal agency, you have done some good work, as your own work group, on these things, the past five years.

In this transition, to a new, republican presidential administration, it is important to remember the ideals, instilled in the work, of the previous Obama administration,

and the long term ideas, reports, studies, goals, and fair practices set, by federal agencies, like the DOJ.

Ideas that have helped build, the ideas of openness, communication, and cooperativeness, you are feeling and working with more, at this time.

And, probably feeling pretty good about.

My thinking sometimes lacks depth, understanding, or what is begin agreed upon, as the 'thinking of the time'.

But around this time of July 4, I hope my thoughts, feelings, and ideas, can offer how I would like to work and think, in talking about democratic issues, of this country.

And, an important part, in how to continue, as a country.

Although you may not like my ideas and opinions, thank you for allowing this time, for myself to speak, and write to you.

This can be an important time, for all of us, or wherever you are from, in how to question and leave, the past fifteen years of war,

And to try to learn, how to work towards, or return to, the better reasoned and more peaceful ideas, of this country's democracy.

Sincerely,
Blair Beekman

Lee, Katherine

From: bob tom <cranberrysauce23@gmail.com>
Sent: Tuesday, July 11, 2017 3:50 PM
Subject: a letter from Blair Beekman-1. Tuesday July 11, 2017. ____ Only 7 or 8 ALPR's, for a small town size of Berkeley.

Sorry for the hour of this letter. I hope you can read it, before the council meeting. I will send a this long version, and a short version as well. -blair.

Dear city government of Berkeley,

Hi it is Blair from San Jose again. I hope you are having, a good beginning of summer.

To respect both, the intended use, of future ALPR's, for parking enforcement, and that serious crime in Berkeley, can actually be, of a small town nature,

and to again, offer my apologies, in how I may not fully understand, the depth of this issue.

15 new ALPR's, seems like too many, for the size and population numbers, of the city and community of Berkeley.

To begin to sound like a broken record, the large city of San Jose, had this same question, a year or so ago.

It was met with considerable resistance, in asking for the same number, of 15 ALPR's, and it is twice the size of Berkeley.

The idea of shared, minimal use, should be a an important concept, and a part of the new ideas, in local accountability and transparency.

And as we are beginning to explore, different ways to end unreasonable and unthoughtful, national security and technology practices, since 9/11/01.

Re-organization, based on the ideas of peace and better reasoning, are the goals, beginning to make themselves clear, and how to create a healthier better practiced idea, of local community democracy.

We are officially, starting to look for ways, to leave the last fifteen years of war. And to try to begin to work towards, a more healthy, sustainable future.

I hope your city council can seriously consider tonight, reduce asking for 15 ALPR's, down to a more precise and practical number of 7 or 8 ALPR's.

Although you have offered good intentions, with use as parking issues. It will be used for other things, and with federal agencies often.

This issue raises the questions of gluttony. And how much national security technology is enough, for one city, or area.

This is one of the more important issues, of our time.

Among other things, this simple civil protection issue, may be a simple issue of overreach.

Lets begin to practice, and start to steer the ship, to the good ideas and future, we have hoisted the sails with.

Lets begin to practice, among what we are beginning to learn at this time, to leave war, to leave 9/11, to create better accountability, transparency and local community democracy,

And that a minimal, less can be more philosophy; in using of national security tech. can be a very good, cost saving, practical idea.

And in how to practice, more open and peaceful forms, of local community democracy.

Sincerely,

Blair Beekman\
San Jose, Ca.

Lee, Katherine

From: bob tom <cranberrysauce23@gmail.com>
Sent: Wednesday, June 28, 2017 12:16 PM
Subject: a letter from Blair Beekman. Wednesday June 28, 2017. _____ Thoughts of my speech, for consent calendar

Dear city government of San Jose,

My speech during the consent calendar, yesterday, was to basically talk about, the approval of the Rules and Open Government Committee meeting, of early June.

And to question. the support of a particular, local city measure, that is working to contradict, important ideas at this time, in the sanctuary movements, and with things like the Solidarity ideas, and the ordinance,, Councilperson Diep, is currently working on.

I am sorry, I was late. I didn't know how to better ask, for a bit of leeway, and forgiveness, so I could speak, yesterday.

No hard feelings on my part, at all.

As technology was mentioned, a few times, during the consent calendar,

Please be aware, how large a consent calendar can grow, and all that can be hiding, within it, without a good open public process, able to call out, each item, if needed.

Please also be aware, how fearful you must be, with the future of LED Streetlight Technology.

Please be aware, how more comfortable. you would probably be, studying health effects, civil protection ideas, first,

and ideas of how to create, a more responsible, accountable, transparent, local democratic process, for the future of this sort of technology.

After six months, of this sort of study, you can then be in a better space, and in a better frame of mind, to begin to talk about, the future of LED Streetlight Technology in San Jose.

So I would like to ask, that your city council, put your LED program, on hiatus. Please learn to study, what I have asking about, for over two years now.

In six months, you will be a lot more prepared, a lot less stressed, and have a more secure knowledge, in how to talk about, the future of LED technology, and technology, itself, in San Jose.

LED Smart Tech., may be a very important future road, of how this country may work. I hope you can prepare for this properly. And give future cities, a good road map, in how to talk about, and work with this issue.

I think it is time, to end being coy, with these large tech. corporations, that use money and profits, as a large part of their thinking, under the guise of individuality and inventiveness.

when there are things at this time, that are much more important to consider.

Like good health, good reasoning, community, and good ideas in local democracy, that can end war, and create peace.

Overall, Happy Summer Recess.

Sincerely,
Blair

p.s. my earlier letter, below, is on a future question, I would like answered, as how consent calendar, can work.

I hope it is thought of, in the spirit of good local government, friendship, and community, at this time, and I can be given an answer, during the summer recess.

as always, I hope if I write or call, to ask city council or city government, for simple information, on any of these city council items, there can be a free and open process, to be able to return, some simple information.