

Police Review Commission (PRC)

POLICE REVIEW COMMISSION REGULAR MEETING AGENDA

Note: This agenda carries over all items agendized for the October 9, 2019 meeting, which was canceled. Only Item 9 below is new.

**Wednesday, October 23, 2019
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 September 18, 2019. (See Oct. 9 packet)

- 5. CHAIR'S REPORT**

NACOLE conference reports from Chair and Commissioner Mizell, other items.

- 6. PRC OFFICER'S REPORT**

NACOLE conference report, status of complaints, other items.

- 7. CHIEF OF POLICE'S REPORT**

Crime, budget, staffing, training updates, 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. Lexipol Policies Subcommittee – report of Oct. 9 & Oct. 23 meetings.
- b. Probation & Parole Questioning Subcommittee – report of Oct. 8 meeting.
- c. MOU Compendium Subcommittee
- d. Standard of Proof Subcommittee
- e. Use of Force Subcommittee

9. PRESENTATION BY BERKELEY POLICE DEPARTMENT REGARDING SPECIAL RESPONSE TEAM (discussion & action)

10. OLD BUSINESS (discussion & action)

- a. Review and approve the following Surveillance Use Policies and related reports and policies under Surveillance Technology Use & Community Safety Ordinance:

1301 – Global Positioning System (GPS) Tracking Devices (Use Policy) and 1301 Appendix A – (Acquisition Report), as revised following July 24, 2019 meeting. *(See pp. 11 – 17 of Oct. 9 packet)*

11. NEW BUSINESS (discussion & action)

- a. Policy Complaint #2463: whether to accept policy complaint regarding enforcement of traffic laws against bicyclists who run stop signs and, if accepted, determine how to proceed. *(See pp. 19 – 23 of Oct. 9 packet)*
- b. Proposed amendment to PRC Regulations regarding handling of informal complaints. *(See pp. 25 – 33 of Oct. 9 packet)*
From: PRC Officer.
- c. Lexipol Policies for review and approval.
From: Lexipol Subcommittee

Lexipol #	G.O. (if any)	Title
349	F-06	Tactical Rifle Operator
410	I-16	Mental Illness Commitments
411	C-10	Cite and Release Policy
419	F-03	Field Training Officer Program

(See separate packet distributed with Oct. 9 packet.)

12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

13. 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):

14. PRESENTATION FOR ADMINISTRATIVE CLOSURE IN COMPLAINT #2419

End of Closed Session

15. ANNOUNCEMENT OF CLOSED SESSION ACTION

16. ADJOURNMENT

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 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 OCTOBER 23, 2019

MINUTES

September 18, 2019 Regular Meeting Draft Minutes (see 10-9-19 agenda packet).

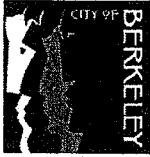
AGENDA-RELATED

(See 10-9-19 agenda packet.)

COMMUNICATIONS

- | | |
|---|---------|
| 2018 Internal Affairs Statistics. | Page 7 |
| 10-4-19 email from Andrea Prichett re Smoking Gun: Feds Partner with Local Police to Facilitate Warrantless Surveillance. | Page 9 |
| 10-4-19 email from PRC Officer to a citizen re Solano Stroll and Police assault rifles. | Page 17 |
| 10-8-19 article from www.latimes.com re LAPD searches blacks and Latinos more. But they're less likely to have contraband than whites. | Page 19 |
| Communications to City Council from the public from its Oct. 15, 2019 meeting re charter amendment. | Page 31 |

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BERKELEY POLICE DEPARTMENT MEMORANDUM



2018 INTERNAL AFFAIRS STATISTICS

	Complaints Received	Sustained	Not Sustained	Exonerated	Unfounded	Admin Closed
*External PRC	10	0	1	4	2	18
*External IAB	25					
**Internal	13	11	0	0	0	2
Total	38	11	1	4	2	20
Allegations						
Improper Use of Force	6	0	1	1	2	2
Discourtesy	19	0	3	2	4	10
Improper Stop/ Search/ Seizure/ Arrest	5	0	0	3	0	2
Inadequate Investigation	11	0	0	0	2	9
Improper Detention (Jail)	0	0	0	0	0	0
Discrimination	13	0	0	0	4	9
Harassment	8	0	0	0	1	7
Improper Procedure	10	0	1	2	3	4
Improper Citation / Tow	5	0	0	0	0	5
Other	1	0	0	0	0	1
Total Allegations	78	0	5	8	16	49

These statistics include complaints on all employees of the Police Department.

***PRC Complaints are counted in External IAB Complaints.**

****Internal complaints include at-fault vehicle collisions.**

Lee, Katherine

From: Andrea Prichett <prichett@locrian.com>
ant: Friday, October 4, 2019 2:51 PM
To: PRC (Police Review Commission); jbcofc@aol.com
Subject: Smoking Gun: Feds Partner with Local Police to Facilitate Warrantless Surveillance

Dear Ms. Lee,

Please include a copy of the following article on BPD use of facial recognition at last years protest. It is quite disturbing.

- Andrea Prichett

<https://tenthamentcenter.com/2019/09/30/smoking-gun-feds-partner-with-local-police-to-facilitate-warrantless-surveillance/>



Smoking Gun: Feds Partner with Local Police to Facilitate Warrantless Surveillance

By: MIKE MAHARREY | Published on: Sep 30, 2019 | Categories: FEDERAL FUNDING, SURVEILLANCE



Information uncovered by activists in Berkeley, California, revealed a web of cooperation between state, local and federal authorities as they secretly spied on a political rally. This smoking gun conclusively proves that federal agencies actively partner with local law enforcement to facilitate secret dragnet surveillance and indicates this is likely going on across the country.

Specifically, a U.S. Department of Homeland Security (DHS) fusion center partnered with Berkeley police to secretly spy on a 2018 “No To Marxism in Berkeley” rally. Local law enforcement borrowed high tech cameras with facial recognition technology from the Northern California Regional Intelligence Center (NCRIC) and secretly deployed them in Civic Center Park in order to surveil the rally organized by right-wing groups along with expected counterprotests by Antifa. NCRIC is part of the nationwide DHS Fusion Center Enterprise.

After Oakland Privacy uncovered information through open records requests, Berkeley City Manager Dee Ridley-Williams admitted the city borrowed Avigilon hi-tech cameras from NCRIC to conduct surveillance on the rally. According to Oakland Privacy, these IP enabled cameras are equipped with advanced analytics including appearance search recognition and movement detection. An email obtained by the organization revealed that Berkeley police gave officers at the NCRIC log-in credentials for the cameras and therefore access to any footage collected during the protest. Oakland Privacy’s Tracy Rosenberg said, “With NCRIC’s robust facial recognition capacities and close collaboration with the FBI and Joint Terrorism Task Force, all individuals in, at, near or by the park or other parts of downtown Berkeley on August 5, 2018, should assume their identities are known to the Trump Administration and the FBI.”

Activists discovered that the city borrowed cameras from the fusion center quite by accident.

After a rash of gun violence in and near Berkeley’s San Pablo Park in August 2018, city officials asked to install security cameras in the park under an “exigent circumstances” exceptions in the city’s surveillance transparency ordinance. That law requires government agencies to get council approval before obtaining or deploying any surveillance technology. The exigent circumstances exception would have required a review of the technology within 90 days, but the city ultimately installed the cameras under an exception in the law that allows fixed cameras on city property.

The city contracted for the park cameras with Edgewood Integration in January 2019, The Avigilon system is the same setup that was borrowed from the NCRIC.

Fast forward to July 2019. As the Berkeley City Council was considering an ordinance to ban facial recognition technology in the city, a policy recommendation drafted by the city's Information Security Manager, Tom Ray, suggested that the San Pablo Park cameras be exempted from the facial recognition ban. The document reveals that the CCTV cameras installed in the park use behavioral AI, which includes gait analysis, lip-reading, and voice recognition. The document also indicates that the system could use face pattern recognition. An October 2018 email obtained by Oakland Privacy confirmed that the city intended to use facial recognition with the cameras in San Pablo Park all along.

From: Marwick, Gregory
Sent: Tuesday, October 30, 2018
6:55 AM
To: Reece, Kevin A.
<KReece@cityofberkeley.info>
Cc: Loyola, Mike
<MLoyola@cityofberkeley.info>
Subject: FW: Avigilon

Kevin,

I have been looking into replacing the camera controller for some time now. The current Pelco system is poor at best (but it was cheap) and is no longer supported. This new system is

one we are looking into for the parks and other areas around the city. It uses facial recognition and smart AI features to track people and incidents. Its network capable and has a much simpler user interface and search features.

A second email between Berkeley Detective Joseph Le Doux and Jeff Couthren, an equipment tech at NCRIC, tipped Oakland Privacy off to the fact that there was already an Avigilon system in operation *before* the cameras were approved for San Pablo Park.

9/18/2019



From: LeDoux, Joseph <JLeDoux@cityofberkeley.info>
Sent: Thursday, August 2, 2018 1:09:30 AM
To: Jeff Couthren
Subject: RE: Avigilon client logins

Thanks,
Joe

From: Jeff Couthren [mailto:jcouthren@ncric.ca.gov]
Sent: Wednesday, August 01, 2018 4:42 PM
To: LeDoux, Joseph
Subject: RE: Avigilon client logins


The 'site' should show up after that info is entered.

I'll log in with your account and make it's good to go.

Note that this email is dated Aug 2, 2018. The contract for the park system was not finalized until five months later. This email had to refer to a camera system in place before the acquisition of the San Pablo Park cameras. Oakland Privacy had no knowledge of any such cameras and they were never subjected to the city's surveillance transparency process.

On Sept. 17, 2019, Oakland Privacy sent a letter to the Berkeley City Council suggesting that both the cameras in San Pablo park and the unknown cameras referred to in the NCRIC email should be put through the transparency process. In response, Berkeley City Councilmember Kate Harrison contacted the Berkeley city manager, who told her that the cameras used during the August 4, 2018, free speech rally were "borrowed from the NCRIC."

Rosenberg said the actions of the city violated "pretty much every single word of the surveillance transparency ordinance." Furthermore, the use of facial recognition cameras to surveil a political gathering is "exactly what abusing the First Amendment looks like."

The Tenth Amendment Center has long believed that federal, state and local law enforcement cooperate to create a national surveillance network, sharing manpower and equipment, and passing information back and forth through fusion centers and the broader Information Sharing Environment (ISE).

Fusion centers were sold as a tool to combat terrorism, but that is not how they are being used. The ACLU pointed to a bipartisan congressional report to demonstrate the true nature of government fusion centers: "They haven't contributed anything meaningful to counterterrorism efforts. Instead, they have largely served as police surveillance and information sharing nodes for law enforcement efforts targeting the frequent subjects of police attention: Black and brown people, immigrants, dissidents, and the poor."

Fusion centers operate within the broader ISE. According to its website, the ISE "provides analysts, operators, and investigators with information needed to enhance national security. These analysts,

operators, and investigators...have mission needs to collaborate and share information with each other and with private sector partners and our foreign allies.” In other words, ISE serves as a conduit for the sharing of information gathered without a warrant. Known ISE partners include the Office of Director of National Intelligence which oversees 17 federal agencies and organizations, including the NSA. ISE utilizes these partnerships to collect and share data on the millions of unwitting people they track.

The federal government facilitates this network by providing grant money to local law enforcement agencies for a vast array of surveillance gear, including ALPRs, stingray devices, cameras and drones. The federal government essentially encourages and funds a giant nationwide surveillance net and then taps into the information via fusion centers and the ISE.

The use of facial recognition on the Berkeley surveillance cameras is particularly troubling. The FBI rolled out a nationwide facial-recognition program in the fall of 2014, with the goal of building a giant biometric database with pictures provided by the states and corporate friends.

In 2016, the Center on Privacy and Technology at Georgetown Law released “The Perpetual Lineup,” a massive report on law enforcement use of facial recognition technology in the U.S. You can read the complete report at perpetuallineup.org. The organization conducted a year-long investigation and collected more than 15,000 pages of documents through more than 100 public records requests. The report paints a disturbing picture of intense cooperation between the federal government, and state and local law enforcement to develop a massive facial recognition database.

“Face recognition is a powerful technology that requires strict oversight. But those controls, by and large, don’t exist today,” report co-author Clare Garvie said. “With only a few exceptions, there are no laws governing police use of the technology, no standards ensuring its accuracy, and no systems checking for bias. It’s a wild west.”

With facial recognition technology, police and other government officials have the capability to track individuals in real-time. These systems allow law enforcement agents to use video cameras and continually scan everybody who walks by. According to the report, several major police departments have expressed an interest in this type of real-time tracking. Documents revealed agencies in at least five major cities, including Los Angeles, either claimed to run real-time face recognition off of street cameras, bought technology with the capability, or expressed written interest in buying it.

As the documents obtained by Oakland Privacy show, the Avigilon system Berkeley police borrowed from the fusion center and later installed in San Pablo park feature this kind of capability. Given the secrecy of the operation, we have to assume facial recognition data was collected during the rally and transmitted to state and federal databases – all without a warrant or probable cause.

This is a smoking gun that proves beyond doubt that our worst fears about the growing national surveillance state are a reality.

Tags: Berkeley, dhs, Fusion Centers, Police, Surveillance

Mike Maharrey

Michael Maharrey [send him email] is the Communications Director for the Tenth Amendment Center. He proudly resides in the original home of the Principles of '98 - Kentucky. See his blog archive here and his article archive here. He is the author of the book, *Our Last Hope: Rediscovering the Lost Path to Liberty*. You can visit his personal website at MichaelMaharrey.com and like him on Facebook [HERE](#)



September 17, 2019

The Honorable Jesse Arreguin, Mayor of Berkeley
Members of the Berkeley City Council
City of Berkeley
2180 Milva Street
Berkeley, CA 94709

Re: Surveillance Regulation Ordinance – 2019 Status

Dear Mayor Arreguin and Members of the City Council,

We are writing today to address the matter of the ongoing implementation of Ordinance 7,592–N.S the Surveillance Technology Use and Community Safety Ordinance. As you know, a year and a half after you unanimously passed Chapter 2.99 (3/31/18) to guide the City's acquisition and use of surveillance equipment, the City of Berkeley is still in the process of finalizing use policies. We expect an initial set to come before the Council later this fall.

The frightening events in San Pablo Park last fall moved you to add to the City's surveillance activities by installing a security system in the park. On October 16, 2018, the Council passed a resolution to authorize the City Manager to proceed with the installation of security cameras in the park. Originally phrased as a use of the exigent circumstances clause in Chapter 2.99, the resolution was amended to exempt the camera installation entirely based on the provided exception for security cameras affixed to city property.

More recently, in the process of discussing the possible addition of a ban on the use of facial recognition technology to the Chapter, as San Francisco, Oakland and Cambridge, MA have already enacted, city staff raised concerns that the existing San Pablo Park camera installation might be utilizing biometric surveillance technology that would conflict with the proposed ban. At the July 17, 2019 meeting of the Public Safety committee City staff were asked to return with a report on that equipment and the details about how it operates. However, no report was presented at the 9/16/19 meeting.

It is important to stress that the surveillance regulation process in Chapter 2.99 is a transparency measure. Neither you, nor advocates, nor Berkeley residents should be having to guess at the capabilities of the equipment, or what entities have access to the data. Putting the San Pablo Park cameras and any other municipal cameras with advanced analytics capacities through the process, whether following an exigency declaration or not, would have ensured that all of the relevant information was disclosed to the Council and to the public. Unfortunately the exemption, which was almost certainly intended only for routine and unsophisticated equipment, has left us all in the dark and created the uncertainty and mutual suspicion the Chapter was designed to avoid.

The city entered into a sole source contract with Edgeworth Security LLC, signed by a Brandon Haddad. Edgeworth Security describes themselves as specializing in military grade surveillance and security and Mr. Haddad has worked closely with the Northern California Regional Intelligence Center (NCRIC). The Avigilon cameras installed in San Pablo Park are IP-enabled and capable of performing advanced analytics including appearance search recognition and movement detection. These features would place all users of the park under active analysis rather than simply passive recording.

According to information the City released in a public records request, there are or were other Avilgon security camera installations located in the City. The video footage recorded by the cameras is apparently accessible to entities other than the City of Berkeley, including Homeland Security fusion center NCRIC, which was given a log-in to an Avilgon security camera system by a BPD detective in August of 2018, before the San Pablo Park cameras were purchased and installed.

See public records document here.

Pre-existing municipal law requires a written MOU with outside entities like NCRIC that provides the full scope of activities and that the Council annually approve that MOU. The document approved by the Council made no reference to NCRIC access to municipal security camera footage nor did it place any restrictions on the use of such footage by NCRIC. The City convened a NCRIC task force in the Fall of 2017 for the purpose of doing a thorough review of the City's relationship with NCRIC during which Oakland Privacy submitted extensive written comments. At no point in that panel's months of meetings was it disclosed that NCRIC was given log-in credentials to the camera controller for any city-owned Avilgon security camera system.

We believe it was the intent of the Council simply to place cameras to record video in the park which could be accessed in the event of another shooting or violent incident to help identify the perpetrators. We do not believe it was the intent of the Council to install an advanced military-grade surveillance system in the park that is accessible to the Department of Homeland Security.

Oakland Privacy regrets agreeing to an open-ended exemption for San Pablo Park without sufficient knowledge about the exact nature of the equipment that was contracted and then installed. We also are distressed that other Avilgon security camera installations have not been disclosed nor the required use policies written. As is always the case with technology, even in the scope of a year and a half, things can change greatly and the definition of a "routine security camera" can no longer assume the absence of advanced videoanalytics, biometric surveillance and the capacity for facial recognition.

We would like to suggest a proposal, a way to make things right. We agree that the Berkeley community overwhelmingly wants to feel safe in San Pablo Park, and we are certain the Council's unanimous vote for surveillance regulation demonstrates a commitment to transparency and civil rights, and that there is a way for these not to be in conflict.

We'd suggest that the camera system in San Pablo Park, and all other Avilgon security camera installations in the City, immediately go through the surveillance transparency process and that the earlier exemption be rescinded so that the equipment capabilities and data retention and distribution protocols are articulated and a use policy developed outlining the appropriate uses for the security system and restricting any inappropriate use, retention or access. We also suggest that NCRIC access to any Avilgon or any other security camera footage be terminated unless and until it is affirmatively approved by the City Council via a revised Memorandum of Agreement.

We also suggest amending Chapter 2.99 to clarify that the scope of the exemption for security cameras affixed to city property to be restricted to those capable only of simple passive recording, thereby not exempting sophisticated military grade surveillance from having appropriate transparency and usage policies.

Respectfully,

Tracy Rosenberg and JP Massar
Members of, and on behalf of, Oakland Privacy
4799 Shattuck Avenue
Oakland CA 94609
www.oaklandprivacy.org

Lee, Katherine

From: Lee, Katherine
Sent: Friday, October 4, 2019 2:54 PM
To: 'chris@gilbertbiz.com'
Subject: FW: Solano Stroll and Police assault rifles

Dear Mr. Gilbert,

I have spoken to Police Chief Greenwood, who confirmed that there were Berkeley Police Officers patrolling the Solano Stroll with assault rifles. He said that the decision to so arm these officers was made in light of the recent mass shootings in Gilroy and Dayton, OH, which occurred in highly accessible areas with large crowds, and that these measures were taken in an abundance of caution for the security of those who attend the Solano Stroll. Chief Greenwood said that Mayor Arreguin and Councilmember Hahn received notice before the Stroll about using Special Response Team members to increase safety on that day. He said further that the officers received lots of thanks and had positive dialogue with many community members. Finally, Chief Greenwood said that he made it a point to be present all day at the Stroll and accessible to our residents.

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

From: Chris Gilbert [<mailto:chris@gilbertbiz.com>]
Sent: Tuesday, September 10, 2019 7:37 PM
To: PRC (Police Review Commission) <prcmailbox@cityofberkeley.info>; Arreguin, Jesse L. <JArreguin@cityofberkeley.info>; Arreguin, Jesse L. <JArreguin@cityofberkeley.info>; 'Sophie Hahn' <sophie@sophiehahn.com>
Subject: Solano Stroll and Police assault rifles

Police Review Commission
Mayor Arreguin
Councilperson Hahn,

At the Solano Stroll last Sunday Berkeley police had assault rifles draped over their fronts. Albany police had none and when asked they said none were being carried.

This is unacceptable at a crowded family oriented event. What good can weapons like this do in such a crowd? What is the police dept thinking?

Chris Gilbert
1797 Madera St
Berkeley, CA 94707

<https://www.latimes.com/local/lanow/la-me-lapd-searches-20190605-story.html>

LAPD searches blacks and Latinos more. But they're less likely to have contraband than whites

By BEN POSTON, CINDY CHANG

OCT. 8, 2019 3:52 PM

Los Angeles police officers search blacks and Latinos far more often than whites during traffic stops, even though whites are more likely to be found with illegal items, a Times analysis has found.

The analysis, the first in a decade to calculate racial breakdowns of searches and other actions by LAPD officers after they pull over vehicles, comes amid growing nationwide scrutiny over racial disparities in policing.

The Times obtained the data used in its analysis under a new California law targeting racial profiling that requires the LAPD and other agencies to record detailed information about every traffic stop.

The Times analysis found that across the city, 24% of black drivers and passengers were searched, compared with 16% of Latinos and 5% of whites, during a recent 10-month period.

That means a black person in a vehicle was more than four times as likely to be searched by police as a white person, and a Latino was three times as likely.

Yet whites were found with drugs, weapons or other contraband in 20% of searches, compared with 17% for blacks and 16% for Latinos. The totals include both searches of the vehicles and pat-down searches of the occupants.

Racial disparities in search rates do not necessarily indicate bias. They could reflect differences in driving behavior, neighborhood crime rates and other factors.

But the lower contraband hit rates for blacks and Latinos raise serious questions about the law enforcement justification for searching them more often than whites, criminologists said.

Stop-and-search statistics are commonly used by law enforcement agencies to gauge the disparate racial impacts of policing. The U.S. Department of Justice sometimes requires agencies with civil rights issues to collect and analyze the data.

But the LAPD's constitutional policing advisor said this type of analysis does not account for the complexities of a police officer's decisions in sizing up a situation and deciding how to deal with the people in a vehicle. Officers receive training on their own implicit biases and have a lawful basis for every stop and search they perform, said the advisor, Arif Alikhan, who recently left the LAPD.

Alikhan noted that the analysis includes stops where officers exercise little discretion and racial bias is less likely to be a factor, such as a search during an arrest.

"We don't pull people over based on race. We're not supposed to do that," Alikhan said. "It's illegal. It's unconstitutional. And that's not the basis [on which] we do it."

To some community activists and academics, the numbers heighten concerns that the LAPD could be singling out blacks and Latinos for invasive searches, damaging relationships with minority residents that the department has worked to strengthen since the dark days after the 1992 riots.

"Even if you have reasonable suspicion or probable cause, if you're not producing arrests that go directly to the highest levels of public safety, all you're doing is dragnetting, with a very high cost in trust," said civil rights attorney Connie Rice, a longtime LAPD critic who in recent years has worked with the department on reforms.

Mayor Eric Garcetti called the Times analysis "both important and timely" and said he is committed to "helping the LAPD make forward progress on issues of race and community relations."

"I look forward to our Police Commission and department leaders using this information to improve best practices, and I expect the department to work consciously and even-handedly to earn the trust of every Angeleno, every day, with every interaction," Garcetti said in a written statement.

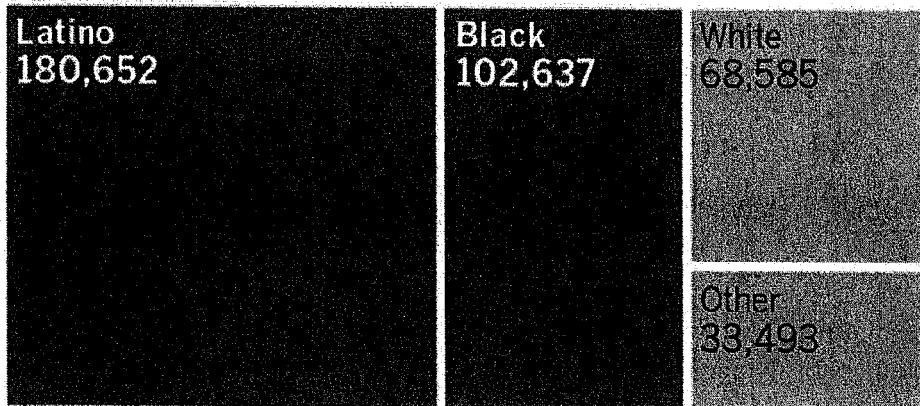
LAPD Chief Michel Moore declined requests for an interview. He said in a written statement that the Times analysis does not tell the complete story because it does "not define or describe the circumstances of each stop or search."

The statement noted that the LAPD does not tolerate racial profiling and will discipline officers if necessary.

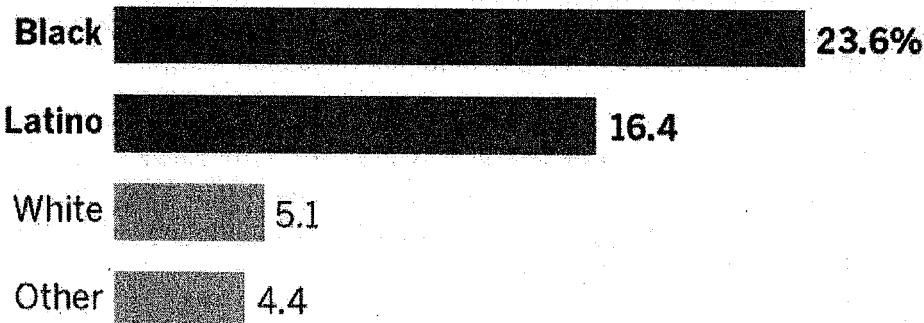
"We strive to ensure our stops and searches are lawful and done in a manner that builds community trust," Moore said in the statement.

LAPD searches blacks and Latinos more often in traffic stops

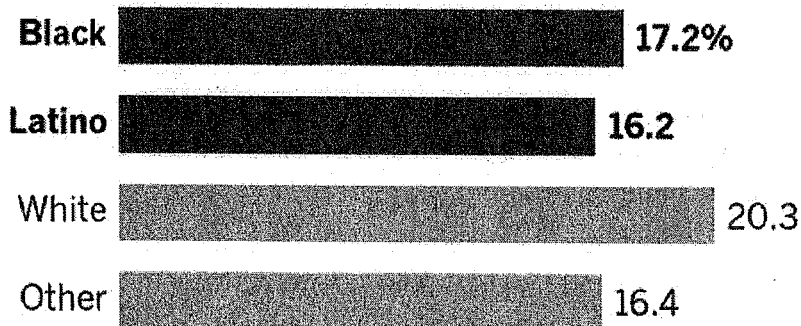
The LAPD stopped more than **385,000** drivers and passengers during a recent 10-month period. Nearly three-quarters of those stopped were black or Latino.



During those stops, black and Latino occupants were searched at **higher** rates ...



... despite **lower** rates of contraband found.



Note: Figures represent stops made from July 2018 to April 2019
 Source: Los Angeles Police Department

Zach Levitt / Los Angeles Times

The new findings follow a Times article published in January showing that the LAPD, including its elite Metropolitan Division, stopped black drivers at much higher rates than their share of the population.

According to the Times analysis of the new state data, black and Latino drivers and passengers were searched more often than whites in almost every part of the city.

Blacks and Latinos were more than three times as likely as whites to be removed from the vehicle and twice as likely to either be handcuffed or detained at the curb, the Times analysis found.

About 3% of blacks and Latinos stopped by the LAPD were arrested, compared with 2% of whites.

Overall, LAPD officers found contraband in 17% of the searches they performed. Most of the contraband was drugs or alcohol, while 9% was firearms.

::

The racial disparities begin when LAPD officers decide which cars to pull over. The Times analysis found that black and Latino drivers were stopped at higher rates than whites.

Of the more than 385,000 drivers and passengers pulled over by the LAPD from July 1, 2018, through the end of April, 27% were black, in a city that is about 9% black. About 47% of those pulled over were Latino, which is roughly equivalent to their share of the population. About 18% of those stopped were white, when 28% of the city is white.

Asians, not including those of South Asian descent, made up about 4% of those stopped and 11% of the population. The LAPD searched 2% of Asian drivers and passengers who were pulled over.

An equipment violation, such as a broken taillight or tinted windows, was listed as the reason for more than 20% of vehicle stops involving blacks and Latinos, compared with 11% of stops involving whites, according to the Times analysis.

Such violations can serve as a pretext for officers to look for more serious wrongdoing. Pretextual stops are legal but have been criticized by scholars and civil rights advocates as giving too much license to law enforcement to operate on instinct rather than evidence.

In response to the earlier Times report showing similar racial disparities, Garcetti ordered the department to scale back vehicle stops. Through August, the number of stops performed by the LAPD was down 11% compared with the same period last year, while stops by Metropolitan Division were down by 45%.

At a Police Commission meeting on Tuesday, Moore highlighted the overall decrease in vehicle stops, saying it was a response to residents' concerns about the disparate impact of traffic stops, particularly in South Los Angeles.

He said he will soon announce changes to Metro's crime suppression units, which community groups have demanded be withdrawn from South L.A.

Moore declined to elaborate on the changes, but he has previously spoken about possibly switching Metro officers from unmarked cars to black-and-whites as well as further reducing the reliance on vehicle investigative stops.

As night fell on South L.A. on a recent evening, two LAPD officers stopped a white Buick Regal.

They told the people in the car to get out. Then they spotted a handgun on the floor of the front passenger side.

"I know there's a gun in the car. Do you mind if we search the car?" Officer Charles Kumlander asked the two young black men and two young Latina women who stood facing a fence in handcuffs as a Times reporter and photographer watched. One of the men nodded.

Kumlander put the gun, along with a blue bandanna, on the hood of the car. Bullets spilled out. He fumbled through the women's purses.

The officers concluded that the gun belonged to the male passenger and let the others go.

"You shouldn't be driving around South L.A. with a gun wrapped in Crip colors," Officer Colt Haney admonished the women, who were from San Bernardino. "That's how people get shot."

LAPD officials did not allow a Times reporter to speak to the officers, who were with the 77th Street Division's gang unit. They briefed their supervisor, Sgt. Mario Cardona, on why they stopped the car at West 54th Street and South Vermont Avenue.

According to the officers, the front passenger was not wearing his seat belt and bent down to put something between his legs. The car's registration tags were also expired.

The car had tinted windows and was in a known gang area, and there were multiple people inside. The officers believed there was a safety risk and ordered the driver and three passengers to exit the vehicle. The gun was in plain view, so they could legally confiscate it and search the rest of the vehicle.

Demographically, the LAPD closely mirrors the city: 49% of officers are Latino, 10% are black, 31% are white and 10% are Asian, according to department figures.

As they cruise the streets of L.A., officers should be curious about what they see, Cardona told a Times reporter, likening the process to casting a line without knowing if you'll hook a small or big fish.

If a person seems out of place — for example, if he is wearing a hat associated with one gang but is on another gang's turf — an officer should find out who that person is, he said. But racial profiling is never involved, he added.

"Are we stopping you just because you're black? No," Cardona said. "You ran the light, so we'll do a traffic stop and figure out who you are."

LAPD officers found guns in less than 2% of searches they conducted, according to the Times analysis. More than 4 times out of 5, they came up empty-handed — no drugs or weapons.

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Citywide in 2018, 43% of violent crime suspects were black and 40% were Latino, according to LAPD statistics. Experts say this does not justify the disparate search rates, because contraband is found less often on the groups that are searched more often.

"At its simplest level, it appears that blacks and Latinos are being subjected to a lower threshold of suspicion in order to be searched," said Jack Glaser, a professor of public policy at UC Berkeley who has studied traffic stop data.

Glaser said the 24% search rate for African Americans raises questions about whether LAPD officers are targeting them because of their race.

“If you are searching a quarter of the people you’re stopping, you’re looking to search people,” he said. “You’re not just pulling people over for running stop signs and then happening to see they have a gun-shaped bulge in their pocket.”

Lorie Fridell, a criminology professor at the University of South Florida who authored a pioneering study on stop data, said the lower contraband rates for whites are a “warning signal” and should be reviewed by LAPD officials.

“Even though we can never prove or disprove bias, they are a strong red flag for unjustifiable disparity that requires an agency to at least take a closer look at the search practices,” said Fridell, who has conducted federally funded training on bias at police departments across the country.

[chart: Racial gaps found in search rates across L.A.] P-11

In addition to the traditional analysis involving racial breakdowns of stops and searches, The Times used a statistical model called a “threshold test” in collaboration with the Stanford Open Policing Project. The model weighs search rates and contraband recovery rates to determine how much evidence officers require before conducting searches of different racial groups.

The Stanford researchers found that the LAPD generally searched blacks and Latinos based on less evidence than whites.

This was true even when excluding “non-discretionary” searches — including those conducted because of an arrest or as a condition of probation or parole — as the primary reason for the search. In those cases, officers have explicit permission to search, so racial bias is unlikely to be at play, versus when the search is more of a judgment call, experts said.

Even if every search has a legal basis, it is unconstitutional to apply a different search standard to African Americans and Latinos than to whites, said Peter Bibring, senior staff attorney at the ACLU of Southern California and director of police practices for the ACLU of California.

“If that’s the kind of policing that they think fits the white community in Los Angeles, if that’s the kind that’s least intrusive, that’s the kind of policing that every Angeleno deserves,” he said.

For people who have been stopped and searched by the LAPD, the experience can be humiliating.

In November 2017, Bryant Mangum was driving home in his white BMW with tinted windows when he was pulled over by LAPD officers at gunpoint.

They patted him down and told him to stand facing a fence with his hands behind his back, he told The Times.

While one officer searched the car, the other asked whether he had guns or drugs, whether he was in a gang and how he could afford a BMW.

The officers didn't say why they pulled him over and didn't ask permission to search the car, Mangum said. They let him go without a ticket or a warning.

Mangum, 37, is a warehouse foreman who owns a home a block away from East 99th and South Main Streets, where the incident occurred. He has a criminal record, mostly for vandalism from his days as a guerrilla graffiti artist, but his last conviction was in 2006, court records show.

When he first bought the BMW and it still had paper plates, he was pulled over 10 times in one month, he said.

Mangum believes that officers see a nice car driven by a black man and want to investigate whether he is a gang member or drug dealer. He doesn't ask why he is being stopped or searched, since officers have bristled at questions in the past.

"It's very traumatic — I don't like to drive my car at night," Mangum said. "I can't enjoy it where I live. I'm more worried about cops than criminals."

In Van Nuys, Leo Hernandez said he was stopped by LAPD officers twice in 2015.

Once, the officers told him his Honda Civic was a model often stolen in the area. The other time, they said his tinted windows were too dark and the rosary beads on his mirror illegally obstructed his view.

Both times, the officers asked to search his car, Hernandez said. He agreed, and they found nothing.

"I asked, 'Why am I being stopped? Is it because of how I look?'" Hernandez, 36, who is Latino and works part time for the city's Recreation and Parks Department, said of the tinted windows stop, which resulted in a ticket. "Of course it felt like profiling."

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The gaps in search rates between blacks and whites in Los Angeles are wider than those found in other major California cities such as San Diego and Oakland, but smaller than San Francisco, according to the most recent reports available.

Policing experts acknowledge the limitations of the data but say that local law enforcement leaders should take it seriously.

The LAPD was required by a federal consent decree to collect detailed stop and search data but cut back after the decree was lifted in 2013. Until the new state law took effect last July, LAPD officers collected basic information on vehicle and pedestrian stops but almost nothing about searches.

“They have a responsibility to say, ‘Here’s the nature of the stop data, and here’s the nature of the crime in this area,’” said Chuck Wexler, executive director of the Police Executive Research Forum, which researches and recommends policies for police agencies. “I’m not saying the stops are wrong, but they’re a starting point for a discussion about the nature of crime in that neighborhood and what does that say about the strategy?”

In response to a lawsuit by the ACLU, the New York City Police Department drastically cut back on stopping and frisking black and Latino pedestrians. The Oakland Police Department has decreased its vehicle stops by nearly half since 2015.

Oakland police officers still stop and search blacks at higher rates than other races. But fewer residents are inconvenienced by traffic stops, while crime has decreased in many key categories.

Pretextual stops are more of a fishing expedition than a targeted crime-fighting effort, according to Oakland police leaders, and officers have been instructed to use them sparingly.

“We’ve reduced our footprint in the community. And that also heals relationships,” said Police Chief Anne Kirkpatrick. “You’re not stopping everybody with a broad net.”

Times staff writer Ryan Menezes contributed to this report.

The data, code and documentation for this story are [available on Github](#).

Ben Poston

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Ben Poston is an investigative reporter specializing in data at the Los Angeles Times.

Cindy Chang

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Cindy Chang covers the Los Angeles Police Department. She came to The Times in 2012, first covering immigration and ethnic communities before moving to the L.A. County sheriff's beat. Previously, she was at the New Orleans Times-Picayune, where she was the lead writer for a series on Louisiana prisons that won several national awards. A graduate of Yale University and NYU School of Law, she began her journalism career at the Pasadena Star-News.

Racial gaps found in search rates across L.A.

Black drivers and passengers were searched more often than whites during traffic stops in all but one LAPD division from July 1, 2018, through April 30.

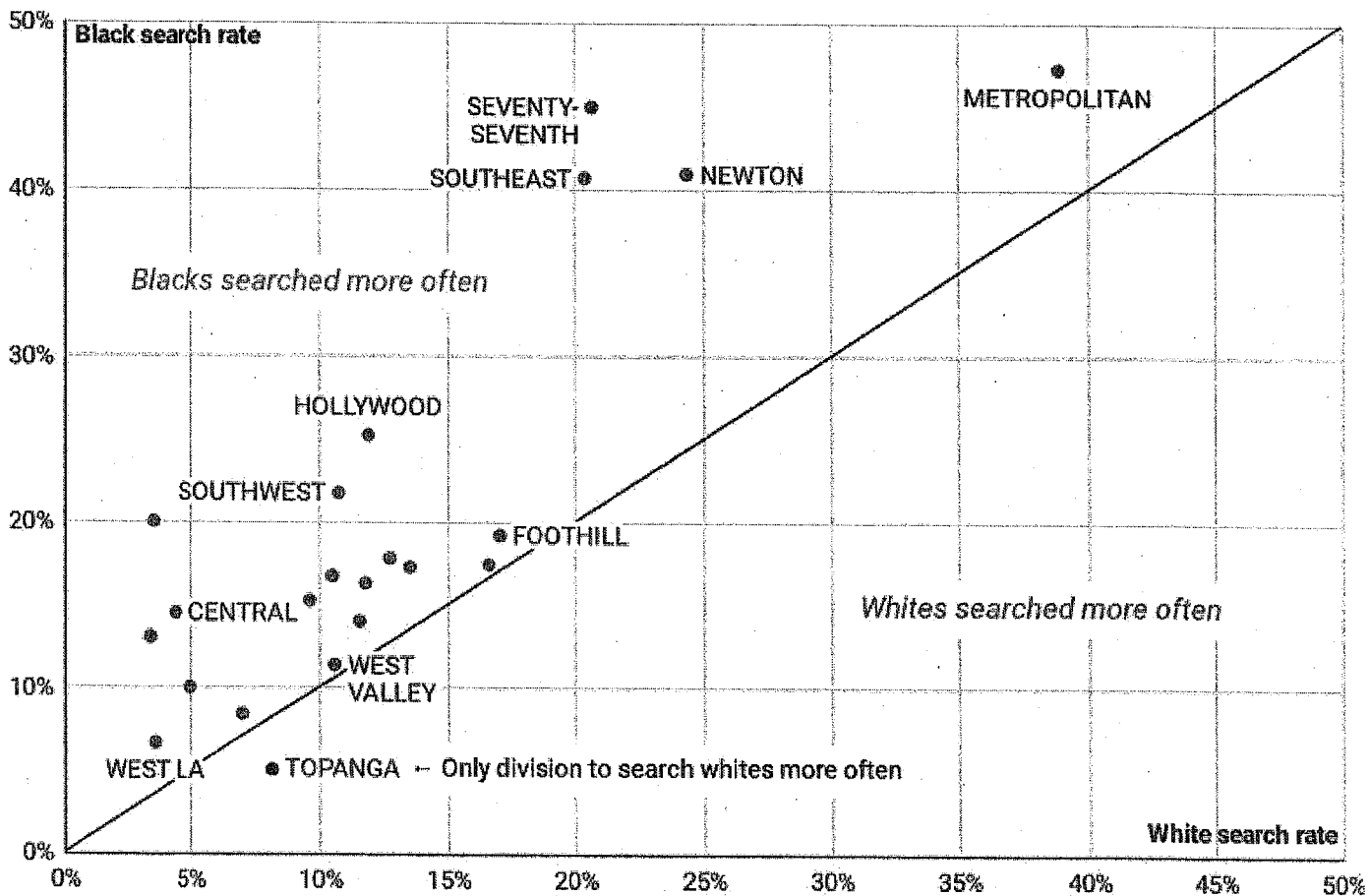


Chart: Ben Poston • Source: Los Angeles Police Department



Benado, Tony

From: Judith White <judithwhite16@gmail.com>
Sent: Monday, September 16, 2019 1:07 PM
To: Hahn, Sophie; Berkeley Mayor's Office
Cc: All Council
Subject: Police Review Commission

Dear Council Member Sophie Hahn and Mayor Arreguin,

I am writing in regards to placing a charter amendment on the November 2020 ballot to strengthen community oversight of the Berkeley police department. I believe that fair and impartial policing is required for public safety. Collaboration with the community and oversight by a civilian commission is known to make policing more effective.

While Berkeley was one of the first cities to create a Police Review Commission, the structure of the PRC has not kept up with current needs. To avoid any conflict of interest it is essential that the PRC and its staff be independent and report to the City Council, not the City Manager.

Please place on the 2020 ballot the version referred to last year to the meet-and-confer process with the police association. This is the version created by Mayor Arreguin and Council Member Kate Harrison. The most important provisions to retain are:

1. Full independence for the commission and its staff. It should be responsible only to the City Council, not the City manager.
2. Authority of the commission to obtain internal data from the Berkeley Police Dept. as required to fulfill it's role and duties.
3. A 365 day disciplinary period as allowed by state law.
4. "Standard of proof" to be changed to "preponderance of evidence" as it is in neighboring jurisdictions.

I hope you will act now to put this amendment on the ballot. This will be a important example of a collaborative process of civilian review that other communities can follow.

Sincerely,

Judith White
 McGee/Vine neighborhood

*"Our lives begin to end the day we become silent about things that matter."
 Dr. Martin Luther King, Jr.*

Benado, Tony

From: Rivka Polatnick <rivkapol@hotmail.com>
nt: Wednesday, September 25, 2019 11:12 AM
To: Wengraf, Susan; All Council
Subject: Please put the PRC Charter Amendment on the ballot, a.s.a.p.!

To Council member Wengraf, other City Council members, and Mayor Arreguin:

I've been a Berkeley resident for 49 years and currently live in Susan Wengraf's district. However, **I have been involved with a community group that includes residents of every Council district, united in our support for a stronger, more independent, and more effective Police Review Commission in Berkeley.** We are greatly encouraged by the prospect of a Charter amendment for that purpose actually making it onto the 2020 ballot.

I am writing to urge you to vote for putting the Arreguin/Harrison version of PRC reform on the ballot. Please do not allow it to be weakened in any significant way as a result of the meet-and-confer process.

Particularly important for the many community members committed to fair and impartial policing in Berkeley are these elements of the Arreguin/Harrison proposal:

1. The PRC and its staff must be **fully independent from the City Manager**, given that she oversees the Police Department. The PRC should be responsible just to the City Council.
2. The PRC must be **able to obtain internal data from the Police Department** that allow it to carry out its role.
3. The period for investigation and disciplinary action in cases of alleged police misconduct should be extended to **365 days**, to allow for a full and thorough process that is fair to all the parties.
4. The standard of proof for police misconduct must be changed to **"preponderance of evidence,"** as other progressive communities have done, instead of "clear and convincing evidence." The latter is an overly high bar that discourages complainants from coming forward and undermines the community's trust that they can receive justice.

Through my involvement on this issue with a community-wide group, I (who am white and live in an affluent predominantly white neighborhood) have become better informed about the **experiences of quite a few African American residents with the police**—people feeling it's not worth it to try reporting disturbing incidents with police; people feeling fearful and traumatized when stopped by police for no good reason, which they perceive as racial profiling; people experiencing excessive use of force by police; people being treated with disrespect and hostility by police; people seeing their children subjected to more unnecessary police interventions and over-surveillance than white children; etc. **A stronger PRC can help address these problems.**

Fair and impartial policing is vital to our community's well-being. Police chiefs nationally who agree with that statement have welcomed appropriate oversight by civilian boards and realize that collaboration with the community will make their work easier and more effective.

Thank you for your consideration,
 M. Rivka Polatnick

