Background

History of Fair and Impartial Policing Actions Leading to Working Group Initiation

- Berkeley City Council votes unanimously to approve a policy prohibiting racial profiling. In December, 2014, BPD issues Policy B-4
- Community Public Records Act reveals evidence for disparate policing outcomes. BPD contracts with Center for Policing Equity
- Draft CPE Report is released. Council directs reforms on use of force policy and tracking and addressing racial disparities
- Lack of progress on referrals, along with related PRC report leads to unanimous Council Action to develop a Departmental Action Plan and Convene a task force/working group
- Final CPE Report is released,
- BPD provides Referral response to update status of several Council Referrals
- Public Safety Committee recommends Mayor supplant City Manager and convene the Task Force
- Mayor’s Fair and Impartial Working Group meets 15 times to listen to experts, community and develop recommendations
Composition of Working Group

Membership developed based on initial Council Referral

- Berkeley Police Department, Chief Greenwood, Capt. Rolleri, Lt. Tate, Lt. Montgomery, Officer Matt Yee, Arlo Malmberg
- Police Review Commission Izzy Ramsey, Kitty Calavita, Nathan Mizell
- ACLU Northern California, Berkeley Chapter Elliot Halpern
- Civil Rights Attorney Jim Chanin
- NAACP, Berkeley Chapter Mansour Id-Deen
- Latinxs Unidos de Berkeley Héctor Malvido
- Berkeley Community Safety Coalition Moni Law
- Associated Students of University of California, Nathan Mizell
- Academic Expert, PhD Candidate, UC Berkeley Perfecta Oxholm
Process

Year long, five-phase process

Phase 1: Reviewing Objectives, Developing a Workplan
- Working Group focused on building a common understanding of past work surrounding this issue and progress that has been made in this field.

Phase 2: Quantitative Analysis
- Working Group focused on analysis of possible drivers of disparity as well as the appropriate and available metrics to analyze them.

Phase 3: Qualitative Analysis
- COVID-19 and limited resources complicated this effort.

Phase 4: Formulating Recommendations Based on Expert Input
- Including:
  - Dr. Frank Baumgartner
  - OPD Captain Chris Bolton
  - Scott Meadors, Stockton PD
  - Brandon Anderson, Raheem

Phase 5: Developing Final Report and Next Steps
- Draft recommendations developed by a subcommittee and discussed in detail
- Recommendations finalized through a consensus process
Key Recommendations

1. Focus traffic stops on safety
2. Use a clear, evidence-based definition for stops of criminal suspects
3. Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
4. Eliminate stops for low-level offenses
5. Implement an Early Intervention System (EIS) and a risk-management structure
6. Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group
7. Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole
8. Require written consent for all consent searches
9. For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complaint process with PAB
10. Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)
11. Fire racist police officers identified through social media and other media screens
12. Address Profiling by Proxy (Council develop & pass CAREN policy)
13. Require regular analysis of BPD stop, search, and use of force data
14. Make resources on police-civilian encounters more publicly available such as RAHEEM.org
15. Adopt Compliance and Accountability Mechanisms (NM)
   - Hire consultant to develop implementation plan
Stops per 1,000 by Race and Year 2015-2018

Source: BPD data; analysis provided by Perfecta Oxholm, Goldman School of Public Policy, UC Berkeley
BPD Stops per Capita by Race 2018

Source: BPD data; analysis provided by George Lippman
BPD Traffic Stops that Included a Search, by Race: 2015-2020

Source: BPD data; analysis provided by Perfecta Oxholm, Goldman School of Public Policy, UC Berkeley
Yield Rate in Traffic Stops, by Race: 2015-2020

Yield Rate by Race, City of Berkeley

Source: BPD data; analysis provided by George Lippman
Recommendations 1 & 4

1. **Focus traffic stops on safety** (Page 15 of the Packet)

4. **Eliminate stops for low-level offenses** (Page 16 of the Packet)

References:


Captain Bolton presentation to Working Group. See also, Oakland Police Department, “2016-2018 Racial Impact Report.”
Impact of Racially Disparate, Low-Level Stops on Trust
Community Relations Are Key

The Center for Policing Equity, 2018, p. 4: “Research shows that positive police-community relations are crucial for safer communities.”
2. Use a clear, evidence-based definition for stops of criminal suspects
   - Since the Oakland Police Department (OPD) has implemented evidence-based methods, the number of African American civilians stopped by the OPD has declined. Since Oakland Police Department has implemented evidence-based methods, the number of African American civilians stopped has declined from 19,185 in 2017 to 7,346 in 2019, a drop of 62% and a stop disparity rate reduction of almost 60%,[1] with no corresponding increase in crime.

5. Implement an Early Intervention System (EIS) and a risk-management structure
   - These measures to ensure individual accountability have operated successfully in Oakland and many other localities for some time. They involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities. Existing software programs to assist BPD in implementing an EIS could be utilized or BPD can build its own system.
   - These programs operate to identify officers who are a danger either to themselves or to the public. They are referred to as “risk management” systems because they help limit the financial liability of the City and hence its taxpayers.

9. For any individual detained, BPD officers shall provide a business card with the following information on the back
   a) A website similar to RAHEEM that collects information on police-civilian encounters.[1]
   b) Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.
3. Use race and ethnicity as relevant factors when determining law enforcement action only when provided as part of a description of a crime and suspect that is credible and relevant to the locality and timeframe of the crime and only in combination with other specific descriptive and physical characteristics.

Specific descriptive and physical characteristics may include, for example: the gender, age, height, weight, clothing, tattoos and piercings of the suspect, the make and model of the car, and the time and location of the crime. Simple race and ethnicity alone are not satisfactory as bases for reasonable suspicion under the law, and amount to racial profiling.

8. Require written consent for all consent searches

- The Working Group recommends that the BPD adopt the written consent form used in North Carolina

  - Baumgartner (pp. 195-209) and his team found that in cities requiring written consent to perform a consent search, these searches declined by 75%. Since people of color are disproportionately the subjects of these searches, it makes sense that a significant reduction would lead to fewer consent searches for people of color.

  - Examining three cities in North Carolina, Baumgartner found that in cities where there was resistance by leadership to the new written-consent policy, there was a substitution effect, such that as consent searches went down, probable cause searches went up. However, the substitution effect seemed to be directly correlated with leadership priorities. The chapter concludes, “We showed that a combination of leadership directives and simple initiatives can alter the relationship a department can have with their community” (pg. 213). This speaks to the need for clear buy-in from BPD leadership.
Written Consent Search Forms

Berkeley vs Durham, N.C.
Questions