



AGENDA
BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE
SPECIAL MEETING

MONDAY, JULY 7, 2025
2:30 P.M.

Redwood Room – 2180 Milvia Street, Berkeley, CA 94704

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

Use this URL <https://cityofberkeley-info.zoomgov.com/j/1607189946> to access the meeting remotely. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 718 9946**. To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email policycommittee@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting, however, if you are feeling sick, please do not attend the meeting in person.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

California Government Code Section 84308 (Levine Act) Parties to a proceeding involving a license, permit, or other entitlement for use are required to disclose if they made contributions over \$500 within the prior 12 months to any City employee or officer. Parties and participants with a financial interest are prohibited from making more than \$500 in contributions to a decisionmaker for the 12 months after the final decision is rendered on the proceeding. The above contribution disclosures and restrictions do not apply when the proceeding is competitively bid, or involves a personnel or labor contract. For more information, see Government Code Section 84308.

AGENDA

Roll Call

Public Comment

Review of Agendas

- 1. Approval of Minutes: June 23, 2025**
- 2. Review and Approve Draft Agenda:**
 - a. 7/22/25 – Regular City Council Meeting
- 3. Adjournments In Memory**

Scheduling

- 4. Council Worksessions Schedule**
- 5. Council Referrals to Agenda Committee for Scheduling**
- 6. Land Use Calendar**

Referred Items for Review

- 7. Discussion of potential improvements to the City’s legislative process and Rules of Procedure**

Unscheduled Items

- None

Items for Future Agendas

- Requests by Committee Members to add items to the next agenda

Adjournment – Next Meeting Monday, July 14, 2025

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**Additional items may be added to the draft agenda per Council Rules of Procedure.**

*Rules of Procedure as adopted by Council resolution, Article III, C3c - Agenda - Submission of Time Critical Items*

*Time Critical Items. A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or council member is received by the City Clerk after established deadlines and is not included on the Agenda Committee’s published agenda.*

*If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.*

*The City Clerk shall not accept any item past the adjournment of the Agenda Committee meeting for which the agenda that the item is requested to appear on has been approved.*

*Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee in advance of the meeting and retained as part of the official record.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900.*

**COMMUNICATION ACCESS INFORMATION:**  
 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 [ada@berkeleyca.gov](mailto:ada@berkeleyca.gov), (510) 981-6418 (V), or (510) 981-6347 (TDD) at least three business days before the meeting date. Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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I hereby certify that the agenda for this special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on Thursday, July 3, 2025.


Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@berkeleyca.gov.

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

MONDAY, JUNE 23, 2025

2:30 P.M.

Redwood Room – 2180 Milvia Street, Berkeley, CA 94704

Teleconference Location - Cabin 5, 18315 Ray's Road, Philo, CA 95466

Committee Members:

Mayor Adena Ishii, Councilmembers Terry Taplin and Mark Humbert

Alternate: Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. All Committee meetings are recorded.

Use this URL <https://cityofberkeley-info.zoomgov.com/j/1609934185> to access the meeting remotely. To request to speak, use the “raise hand” function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 160 993 4185**. To provide public comment, press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email policycommittee@berkeleyca.gov.

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Roll Call: 2:30 p.m. All present.

Public Comment – 9 speakers

Review of Agendas

1. Approval of Minutes: June 9, 2025

Action: M/S/C (Taplin/Humbert) to approve the minutes of 6/9/2025.

Vote: All Ayes.

2. Review and Approve Draft Agenda:

a. 7/8/25 – Regular City Council Meeting

Action: M/S/C (Taplin/Humbert) to approve the agenda of 7/8/2025 with the changes noted below.

- *Item Added: Vacate a Portion of Carleton Street (City Manager) – Added to Consent Calendar*
- *Item 22a/b Web Content Guidelines (Commission/City Manager) – scheduled for July 29*
- *Item 23 Fair and Impartial Policing (Police Accountability Board) – scheduled for July 22*
- *Item 24 Letter in Support (Taplin) – Mayor Ishii and Councilmember Tregub added as a co-sponsor; moved to Consent Calendar*

Order of Action Items

Item 20 Zoning Ordinance

Item 21 Stormwater Fees

Vote: All Ayes.

3. Adjournments In Memory - none

Scheduling

4. Council Worksessions Schedule - received and filed

5. Council Referrals to Agenda Committee for Scheduling - received and filed

6. Land Use Calendar - received and filed

Referred Items for Review

- None

Unscheduled Items

7. Discussion of possible formation of a subcommittee on legislative process changes/improvements.

Action: Removed from the agenda.

Items for Future Agendas

- Discussion regarding City legislative process

Adjournment

Action: M/S/C (Taplin/Humbert) to adjourn the meeting.

Vote: All Ayes.

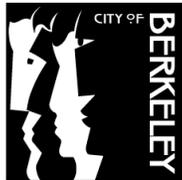
Adjourned at 3:03 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on June 23, 2025.

Mark Numainville, City Clerk

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DRAFT AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, July 22, 2025
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
 TELECONFERENCE LOCATION - 5617 NW JETTY AVE, LINCOLN CITY, OR 97367

ADENA ISHII, MAYOR
 Councilmembers:

DISTRICT 1 – RASHI KESARWANI
 DISTRICT 2 – TERRY TAPLIN
 DISTRICT 3 – BEN BARTLETT
 DISTRICT 4 – IGOR TREGUB

DISTRICT 5 – SHOSHANA O'KEEFE
 DISTRICT 6 – BRENT BLACKABY
 DISTRICT 7 – CECILIA LUNAPARRA
 DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. Live captioned broadcasts of Council meetings are available on B-TV (Channel 33) and via internet video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244. All Council meetings are recorded.

*To access the meeting remotely use this URL: <<INSERT ZOOM for GOV URL HERE>>. To request to speak, use the "raise hand" function in Zoom. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: <<INSERT MEETING ID HERE>>**. To provide public comment, Press *9 and wait to be recognized by the Chair. To submit a written communication for the public record, email council@berkeleyca.gov.*

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Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Up to ten persons will be selected to address matters not on the Council agenda. If five or fewer persons are identified to provide non-agenda comment, each person selected will be allotted two minutes each. If more than five persons are selected to address matters not on the Council agenda, each person selected will be allotted one minute each.*

In-person attendees wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to the moment that the Presiding Officer calls for public comment on non-agenda items. Remote attendees must raise their hand in the videoconference application when the Presiding Officer calls for non-agenda speakers. The first five raised hands on the videoconference application will be selected to speak and the first five cards drawn at the meeting will be selected to speak. The number of in-person and remote speakers selected may be adjusted by the Presiding Officer if fewer than five speakers from either format are identified.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- 1. Appointment of Emergency Standby Officers**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of newly nominated standby officers for the Mayor and City Council to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 70,833-N.S.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on July 22, 2025**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids that will be or planned to be issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.
Financial Implications: Various Funds - \$6,810,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

3. Reallocation of FY 2025 Youth Resiliency Funding

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or designee to reallocate Youth Equity Partnership (YEP) funds awarded through the FY 2025 - 2028 community agency contracting process to the Berkeley Public Schools Fund, Contract #32500058, and amend the Schools Fund's existing contract as follows:

1. Remove the Black Girls United (BGU) program from the contract (at the contractor's request). 2. Reallocate \$20,000 of the BGU funding to the Longfellow Identity Affirming Programs (LIAP) for FY 2026 through FY 2028, increasing their total annual allocation from \$25,300 to \$45,300. 3. Return the remaining \$27,817 initially awarded to BGU, annually, to the General Fund for FY 2026 - 2028.

Financial Implications: See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

4. Revenue Grant Agreements: Funding Support from Alameda County to Conduct Public Health Services

From: City Manager

Recommendation: Adopt three Resolutions authorizing the City Manager or designee to submit grant agreements to Alameda County, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following three revenue agreements:

1. Berkeley High School and Berkeley Technology Academy Health Center Programs in the projected amount of \$187,926 for Fiscal Year 2026.

2. School Linked Health Services Program (Measure A Funding) in the projected amount of \$200,011 for Fiscal Year 2026.

3. Tobacco Prevention Program in the projected amount of \$82,600 for Fiscal Year 2026.

Financial Implications: See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

5. **Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Services**

From: City Manager

Recommendation: Adopt three Resolutions authorizing the City Manager or designee to submit grant agreements to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following three revenue agreements:

1. Maternal, Child and Adolescent Health (MCAH) Program, in the projected amount of \$377,000 for Fiscal Year 2026. See match information in Fiscal Impacts section below.

2. Tobacco Trust Fund: There is no match required, and this contract is expected to be for \$600,000 for Fiscal Year 2026 through Fiscal Year 2027.

3. Women, Infant, Children Program There is no match required, and this contract is expected to be for \$2,557,619 for Federal Fiscal Year 2026 through Federal Fiscal Year 2028.

Financial Implications: See report

Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

6. **Supplemental Military Leave Compensation Policy**

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 63,646–N.S. to the City’s Supplemental Military Leave Compensation Policy to be retroactively effective from July 1, 2025, going forward in order to provide supplemental wages for employees called to involuntary active military service.

Financial Implications: See report

Contact: Janelle Rodrigues, Human Resources, (510) 981-6800

7. **Appointment of Ian Hunt to the Mental Health Commission**

From: Mental Health Commission

Recommendation: Adopt a Resolution approving the recommendation for appointment of Ian Hunt to the Mental Health Commission. Mr. Hunt will represent the Special Interest Category (consumer), beginning his 3-year term on July 23, 2025, ending on July 22, 2028.

Financial Implications: See report

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Consent Calendar

8. Police Accountability Board Report: Fair and Impartial Policing Implementation
(Reviewed by the Public Safety Committee) (Item contains supplemental material)
From: Police Accountability Board

Recommendation: Approve the following recommendations and instruct the Berkeley Police Department (BPD) and Police Accountability Board (PAB) to proceed with their implementation:

Recommendations to the Berkeley Police Department: 1. Three-prong approach. a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted. b. Primary Collision Factors: This prong should specify the mode of the party at fault. c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report. d. Community Caretaking: This prong needs more specificity, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety-related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated. e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment and an understanding of the approach's impact on reducing racial disparities in traffic stops. 2. Evidence-based definition for stops of criminal suspects: a. Establish an evidence-based definition for stops of criminal suspects. b. Explain how precision-based policing, feedback loops, and accountability measures referenced in BPD FIP implementation updates relate to this recommendation and addresses the directive to establish an evidence-based definition for stopping criminal suspects. 3. Enhanced implicit bias training: Per the Council's directive, ensure that BPD personnel receive intensive annual training dedicated to implicit bias. 4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings within the confines of officer confidentiality. 5. Written consent searches: Future reporting to the council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, compared to consent search numbers before implementation. 6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of searches and arrests of people on probation and parole and the racial disparities in them.

Consent Calendar

7. Profiling by proxy: Future BPD updates should specify what instructions dispatchers are given on profiling by proxy, and any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service. 8. Business cards: Ensure that business cards are distributed as mandated by the Council directive. 9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

Recommendations to the Police Accountability Board:

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendaized for discussion at a future PAB meeting, including the appropriateness of, and ability of the PAB to oversee departmental training. 2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB accelerating CIT activity. This will be discussed in future PAB meetings.

Recommendations to the Berkeley City Council:

1. Establish metrics to assess the success of implementing FIP directives. Currently, the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives. 2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented. 3. Require BPD to report biannually on: a. Traffic stops by each prong of their 3-prong framework and by race within each prong. b. Stop, search, and arrest data by probation/parole status and race. c. Calls for service by the race of the reporter and reportee.

Policy Committee Recommendation: To send item to City Council with a qualified positive recommendation highlighting the refined actions agreed upon by PAB and BPD as captured in their joint letter, and to close the Fair and Impartial Policing (FIP) Task Force referral from the February 23, 2021 City Council meeting, with the understanding that the specific recommendations in that referral have been completed, although work on fair and impartial policing will continue.

Financial Implications: See report

Contact: Hansel Aguilar, Commission Secretary, (510) 981-4950

Council Consent Items

9. **Berkeley Green New Deal: Workforce Development** (*Reviewed by the Land Use, Housing, & Economic Development Committee*)
From: Councilmember Taplin (Author), Councilmember Lunaparra (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), Councilmember Tregub (Co-Sponsor)
Recommendation: Refer to the City Manager a feasibility analysis and request for recommendations for possible models to either establish a green workforce development board within the City of Berkeley or strengthen the alignment between City of Berkeley and community partner programs and the Alameda County Workforce development board to create pathways to gainful employment in green industries and accelerate the transition to a fossil-free local economy.
Policy Committee Recommendation: To send the item to the City Council with a qualified positive recommendation that Council adopt the item and that the item be revised to include a referral to the budget process, clarify and make explicit that the full-time employee (“FTE”) is either an in-house City of Berkeley employee or is a privately funded employee not on the City’s payroll, and include a privately funded alternative to a full-time City employee when creating the budget referral.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
10. **Resolution in Support of California Senate Bill 81 (Arreguín) Health and Care Facilities: Information Sharing to Amend Sections 56.05 and 56.10 of the Civil Code, and to Add Chapter 1.5 to Division 2 of the Health and Safety Code, Relating to Health and Care Facilities**
From: Councilmember Tregub (Author), Mayor Ishii (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember Lunaparra (Co-Sponsor)
Recommendation: Adopt a Resolution in support of California State Senate (SB) Bill 81 (Arreguín), Healthcare Provider Entities: Information Sharing amend Sections 56.05 and 56.10 of the Civil Code, and to add Chapter 1.5 (commencing with Section 1249) to Division 2 of the Health and Safety Code, relating to health and care facilities, and declaring the urgency thereof, to take effect immediately; and distribute copies to the California Governor Gavin Newsom, Senator Jesse Arreguín, Assemblymember Buffy Wicks, California Senate President pro Tempore Mike McGuire, and California Assembly Speaker Robert Rivas to advocate for its passage. SB 81 would mandate healthcare facilities to develop protocols for monitoring and receiving visitors, as well as designating certain areas as nonpublic in order to maintain a secure environment aligned with the facility’s mission and commitment to patient care. Additionally, the bill would prohibit immigration enforcement agents from entering nonpublic areas of a facility without a valid judicial warrant or court order. It would also protect patient information by barring the disclosure of a person’s current or past immigration status or place of birth for purposes related to immigration enforcement.
Financial Implications: Staff time.
Contact: Igor Tregub, Councilmember, District 4, (510) 981-7140

Action Calendar

The public may comment on each item listed on the agenda for action. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again during the Action Calendar public comment period on the item

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking on an individual agenda item, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

The Presiding Officer may open and close an additional comment period for Action items on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters), at the start of the Action Calendar. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by first the appellant and then the applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking during a public hearing, each speaker may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

When applicable, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

11. Memorandum of Understanding (MOU) Compendium: Agreements with Other Law Enforcement Agencies and Private Organizations

From: City Manager

Recommendation:

Conduct a public hearing, and upon conclusion, adopt a Resolution:

1. Approving the attached Compendium reflecting the current operational agreements between the Berkeley Police Department and other law enforcement agencies and private organizations.
2. Accepting the attached Suspicious Activity Report (SAR).
3. Accepting the attached Mutual Aid requests and responses report as submitted in accordance with existing City Council directives.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900

Action Calendar – New Business

- 12. 2024 Annual Military Equipment Report (AB 481)**
From: City Manager
Recommendation: Adopt a Resolution approving the 2024 Annual Military Equipment Report.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
- 13. Surveillance Technology Ordinance Submission for Berkeley City Jail Surveillance System**
From: City Manager
Recommendation: Adopt a Resolution: 1. Accepting the attached Surveillance Acquisition Report for the Berkeley City Jail Surveillance System, pursuant to Berkeley Municipal Code (B.M.C.) Chapter 2.99. 2. Accepting the attached Surveillance Use Policy: Use of Internal Video Surveillance System (BPD Policy 1306)
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
- 14. Surveillance Technology Ordinance Submission for External Fixed Surveillance Cameras (Flock Safety Condor Video Cameras)**
From: City Manager
Recommendation: Adopt a Resolution: 1. Accepting the attached Surveillance Acquisition Report for the Flock Safety Condor video cameras, pursuant to Berkeley Municipal Code (B.M.C.) Chapter 2.99.
2. Re-affirming the associated Berkeley Police Department (BPD) Use Policies (BPD Policy 351: External Fixed Video Surveillance Cameras and BPD Policy 1304: Surveillance Use Policy—External Fixed Video Surveillance Cameras), which were previously approved by Council on June 13, 2023.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900

Information Reports

- 15. Reimagining Public Safety Status Update**
From: City Manager
Contact: Carianna Arredondo, City Manager's Office, (510) 981-7000
- 16. Restaurant Inspection Audit Status Report**
From: City Manager
Contact: Scott Gilman, Health, Housing, and Community Services, (510) 981-5400

Information Reports

17. **Landmark Preservation Ordinance Notice of Decision: 2009 Tenth Street/#LMSAP2025-0003**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
18. **Landmark Preservation Ordinance Notice of Decision: 2035 Francisco Street/#LMIN2024-0003**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
19. **City Auditor Fiscal Year 2026 Audit Plan**
From: Auditor
Contact: Jenny Wong, Auditor, (510) 981-6750

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

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Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street, and through the City's online records portal: <https://records.cityofberkeley.info/>.

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and may be accessed at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901
Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,
North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

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Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900 or by email at clerk@berkeleyca.gov.

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Mental Health Commission

CONSENT CALENDAR  
July 22, 2025

To: Honorable Mayor and Members of the City Council  
From: Mental Health Commission  
Submitted by: Ajay Krishnan, Chairperson, Mental Health Commission  
Subject: Appointment of Ian Hunt to the Mental Health Commission

RECOMMENDATION

Adopt a resolution approving the recommendation for appointment of Ian Hunt to the Mental Health Commission. Mr. Hunt will represent the Special Interest Category (consumer), beginning a 3-year term on July 23, 2025, ending on July 22, 2028.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Mental Health Commission is authorized to be composed of thirteen members. However, there are presently three vacancies on the Commission. The Mental Health Commission is actively seeking candidates with the ability to fulfill the state law duties for Commissioners, including reviewing and evaluating the community's needs, services, facilities and special problems.

Approval of the recommended action will fill a vacancy and allow the Commission to move one step closer to having a full complement of commissioners to review and evaluate the community's mental health needs, resources and programs.

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. Ian Hunt meets the category of special interest, Consumer. The special interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute at least fifty percent, or seven, of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership.

The Mental Health Commission recommends Ian Hunt as a representative of the special interest appointment on the Mental Health Commission for the city of Berkeley for a three-year term. Ian Hunt is a former recipient of critical mental

health services and has been a resident of Berkeley since 2019. He has been involved in housing services, substance abuse and harm reduction support.

Mr. Hunt states that drug abuse resulting in homelessness is an important mental health issue in Berkeley and providing accessible service can make a difference. He can provide insight and knowledge to the commission by sharing his unique personal lived experience.

The Mental Health Commission passed the following motions at the April 30, 2025, Special meeting:

**Interview and vote for new applicant – Ian Hunt**

**M/S/C (Gu, Turner) Motion to accept Ian Hunt as a special interest, consumer applicant to send to city council**

**PASSED**

**Ayes:** Gu, Opton, Sol, Teague, Turner; **Noes:** None; **Abstentions:** None; **Absent:** Jones, Krishnan, Tregub, Prichett

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

Approval of the recommended action will allow the Mental Health Commission to move one step closer to having a full complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED

None

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Jamie Works-Wright, Commission Secretary, HHCS, 510-981-7721

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

APPOINTMENT OF IAN HUNT TO THE MENTAL HEALTH COMMISSION

WHEREAS, membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (*or designee*), seven special public interest appointments, and five public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, Ian Hunt has been involved in receiving services in the City of Berkeley for mental health needs and supporting community members; and

WHEREAS, The Mental Health Commission at its April 30, 2025, Special meeting recommended the appointment of Ian Hunt.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council appoints Ian Hunt as a representative of the Special Interest category, (consumer) to complete his first term ending July 22, 2028.



**From:** Chief Jen Louis, Berkeley Police Department

**Co-signed by:** Chair Josh Cayetano, Police Accountability Board

**Date:** May 5, 2025

**To:** Berkeley City Council Public Safety Policy Committee

**Subject:** Fair & Impartial Policing (FIP) — Final Status and Recommendation

The work of Mayor Arreguin’s Fair and Impartial Policing (FIP) Task Force represents a significant commitment by the City of Berkeley to foster greater trust, equity, and accountability in policing within our community. In 2021, following the foundational work of FIP Task Force, the Berkeley City Council approved a comprehensive package encompassing 14 key recommendations designed to achieve these goals. We are pleased to report that over the past four years the Berkeley Police Department (BPD) has implemented the council-approved FIP recommendations. This process involved regular quarterly updates from BPD and concluded with a thorough review by the Police Accountability Board (PAB). Furthermore, all related datasets now appear on the Transparency Hub, giving the PAB, Council, and the community continuous access to data for effective oversight.

## Qualified Positive Recommendation

BPD and PAB jointly **request the Public Safety Policy Committee make a qualified positive recommendation** of the PAB’s item for the following policy areas already incorporated into day-to-day operations:

| <u>PAB Recommendation</u>                                         | <u>Refined Action</u>                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Three-prong approach</b>                                    | Maintain the current traffic safety approach, which has led to a measurable decline in equipment-based stops and improved equity in stop outcomes across demographic groups                                                                                                                                                     |
| <b>2. Evidence-based stops</b>                                    | Require evidence-based stops that meet reasonable-suspicion standards and rely on precision-policing data.                                                                                                                                                                                                                      |
| <b>3. Enhanced implicit bias training</b>                         | Continue to prioritize ABLE, KIND and CIT training for departmental personnel.                                                                                                                                                                                                                                                  |
| <b>4. Early Intervention System (EIS)</b>                         | Finish deploying the Benchmark Analytics Early Intervention System within the calendar year and prioritize revising BPD Policy 1041, Early Warning System.                                                                                                                                                                      |
| <b>8. Business cards</b>                                          | Continue issuing business cards that list commendation and complaint options.                                                                                                                                                                                                                                                   |
| <b>9. Resources on police-civilian encounters</b>                 | Continue to post links to ACLU guidance on police-civilian interactions through existing city webpages.                                                                                                                                                                                                                         |
| <i>(To council)</i><br><b>3. Require BPD to report biannually</b> | Include in BPD’s Annual Report a data-driven analysis of traffic enforcement, including moving and equipment violations. This analysis will support departmental reporting on collision data and serve as a measure of effectiveness, in line with BPD’s commitment to ensuring our enforcement efforts are fair and impartial. |

## Additional Points

- **Transparency is permanent.** Stop and search metrics refresh daily online via the Department's Transparency Hub without staff intervention, providing timely transparency. As such, additional written updates through this process are no longer necessary.
- **Enforcement focus:** Guided by Fair and Impartial Policing principles and data analysis, BPD's enforcement efforts increasingly prioritize actions directly addressing public safety needs. The PAB's charter-defined oversight responsibilities play a key role in ensuring this focus remains consistent and equitable.
- **Collaboration continues.** BPD and PAB maintain regular communication and operate within the collaborative framework established by the City Charter. Either party may initiate dialogue on emerging or ongoing issues. With the conclusion of the FIP implementation reporting, no additional standing reporting cycle is proposed at this time; however, routine collaboration between the parties will continue as part of standard practice.

## Closing the FIP Task-Force Item

The core principles of fair and impartial policing have been fundamentally integrated into the Department's ongoing policies, training, and operational practices. These practices reflect a sustained, department-wide commitment to equity and accountability. Given this progress, and in recognition of the collaborative work already achieved, we jointly recommend that the PSPC make a qualified positive recommendation on the PAB-endorsed items, issue negative recommendations on the remaining proposals, and advise the City Council to formally close the FIP item as a concluded policy initiative.

Thank you for the opportunity to streamline this material for Council review and consideration.

Respectfully

  
Chief Jennifer Louis  
Berkeley Police Department

  
Joshua Cayetano, Chair  
Police Accountability Board



# Berkeley Police Department Memorandum



From: Chief Jen Louis

Date: 2/18/2025

To: Berkeley City Council Public Safety Policy Committee

Subject: Berkeley Police Department Response to the Police Accountability Board's 2024 Fair and Impartial Policing Implementation Report

On February 23, 2021, City Council approved recommendations submitted by then-Mayor Arreguin's Fair and Impartial Policing taskforce. Since that decision, the department began reporting quarterly to Council, offering detailed updates as recommendations advanced from initial planning to completion. Today, we provide substantial, near real-time data on our FIP efforts through the Transparency Hub and deliver a comprehensive account in our annual report. The Department is proud to have fully implemented the fourteens recommendations assigned by Council. Our commitment to transparent, fair, and impartial public safety remains unwavering.

This correspondence serves as a formal response to the Public Safety Policy Committee regarding the PAB's 2024 FIP Implementation Report. Please note that we submitted a direct response to both the Director of Police Accountability (DPA) and PAB when we first received the report in April 2024. We appreciate the opportunity to clarify our progress and address specific recommendations as we continue our work to ensure that policing in Berkeley remains fair, equitable, and effective.

Below is a detailed response organized by the categories of recommendations:

## **Recommendations to the Berkeley Police Department**

### *Three-Prong Approach to Traffic Safety*

#### **PAB Recommendation:**

- Adopt a definition of low-level traffic infractions consistent with SB 50.
- Specify the mode of the party at fault within the Primary Collision Factors prong.
- Define which unsafe driving calls merit a police response based on the fact that 13% of community calls result in a citation or arrest.
- Provide more concrete guidelines for the Community Caretaking prong, rooted in local data about severe collisions—or eliminate it if it remains too vague.
- Include data in future updates showing whether this approach reduces low-level stops and narrows racial disparities.

#### **BPD Response:**

Since implementing our Three-Pronged Traffic Enforcement model, we have decreased equipment violation stops by 21% between 2022 and 2023 and reduced disparities in all discretionary vehicle stops. Notably, the percentage of discretionary equipment violation stops involving Black individuals has declined from 29.49% in 2021 to 20.93% in 2023. While we remain open to future adjustments, we believe that our data-driven approach merits continued evaluation over time as we collect further evidence on its impact.



## Berkeley Police Department Memorandum



### *Evidence-Based Definition for Stops of Criminal Suspects*

#### **PAB Recommendation:**

- Establish an evidence-based definition for stops of criminal suspects and explain how precision-based policing, feedback loops, and accountability measures support this goal.

#### **BPD Response:**

Our department has long maintained that stops occur only when there is reasonable suspicion that a crime has been committed—a standard that is essential to protecting constitutional rights and maintaining public trust. We utilize precision-based policing by directing resources to high-need areas identified via crime trend analysis, coupled with robust feedback loops and regular reviews. This continuous, evidence-driven process ensures that our stops of criminal suspects, as well as traffic stops under our three-prong approach, adhere to the highest legal and ethical standards.

### *Enhanced Implicit Bias Training*

#### **PAB Recommendation:**

- Ensure that BPD personnel receive intensive annual training dedicated to implicit bias.

#### **BPD Response:**

BPD continues to exceed the Council's directives through our comprehensive "KIND" training program, which integrates principles of Constitutional, Humane, Impartial, Neighborhood and Community Oriented, and DEI-Centered responses into all facets of officer training—from tactics and de-escalation to communication. Our policies also mandate strict accountability for any biased conduct. We remain committed to fostering a work environment that minimizes bias and upholds public trust.

### *Early Intervention System (EIS)*

#### **PAB Recommendation:**

- Focus EIS audits on officers with notable racial disparity indicators, assign a PAB observer, and ensure transparent audit findings.

#### **BPD Response:**

BPD is actively collaborating with both the PAB and the Berkeley Police Association on the procurement and implementation of a state-of-the-art Early Intervention System developed by Benchmark Analytics. In February 2025, the department finalized a contract with Benchmark and began implementation. The system will continuously monitor 91 officer/incident variables—including incident context, sequence of events, behavioral patterns, and peer comparisons—to provide a nuanced assessment of officer performance. We look forward to refining our practices in consultation with PAB experts as this system is integrated.



## Berkeley Police Department Memorandum



### *Written Consent Searches*

#### **PAB Recommendation:**

- Include in future FIP updates the number of consent searches and their effects on racial disparities.

#### **BPD Response:**

This recommendation has been fulfilled. Our current reporting on the Transparency Hub's dashboards and open data portal as well as in our Annual Report includes data on consent searches. Academic standards favor yield rate ratios as a more appropriate measure for evaluating biased decision-making. Accordingly, we do not plan to expand our reporting on this item further.

### *Warrantless Searches of People on Supervised Release*

#### **PAB Recommendation:**

- Report on changes in search and arrest rates for individuals on supervised release under Policy 311.6, including any racial disparities.

#### **BPD Response:**

This recommendation is already fulfilled. Data on parole/probation searches is tracked and publicly available as part of our RIPA stop data that we publish and update daily on the Transparency Hub. No additional reporting is planned on this matter.

### *Profiling by Proxy*

#### **PAB Recommendation:**

- Provide details on dispatcher guidance regarding profiling by proxy and evidence that these protocols have curtailed racial bias in responses.

#### **BPD Response:**

Our existing protocols as documented in the Communications Center Operations Manual and Policies 401 and 1105.5 address profiling by proxy. Given that it is generally impossible to discern the race of a 911 caller in most scenarios, the overall departmental training efforts related to implicit bias and other KIND training, we do not anticipate expanding training or protocols on this topic.

### *Business Cards*

#### **PAB Recommendation:**

- Ensure that business cards are distributed as mandated by the Council directive.

#### **BPD Response:**

This recommendation has been fulfilled. Business cards containing information on how to submit a complaint and other relevant resources are in active circulation.



## Berkeley Police Department Memorandum



### [RAHEEM.org](https://raheem.org)

#### **PAB Recommendation:**

- Make resources on police-civilian encounters publicly available on the department's website, directly the public to a platform such as RAHEEM.org.

#### **BPD Response:**

The Department completed this recommendation early in the implementation process, providing a direct link on our City of Berkeley webpage [Make a Commendation or Complaint | City of Berkeley](#) to the American Civil Liberties Union (ACLU) page [Know Your Rights | Stopped by Police | ACLU](#)

The decision was intentional, to link to an organization that is internationally recognized, that has been in existence since the 1920's, and is made up of "more than 1.1 million members, 500 staff attorneys, thousands of volunteer attorneys, and offices throughout the nation, the ACLU of today continues to fight government abuse and to vigorously defend individual freedoms including speech and religion, a woman's right to choose, the right to due process, citizens' rights to privacy and much more."

While we appreciate the continued suggestion of RAHEEM.org, that organization has been discredited as a fraudulent site (as noted in a number of New York Times articles, with the first appearing on August 25, 2024, as well as a November 2025 Washington Post article on the DC attorney general's office lawsuit for fraud).

Information on submitting complaints is printed on our business cards and is also prominently posted on the city's website at multiple locations.

### **Additional Considerations**

We would like to reiterate that BPD has fulfilled all 14 FIP recommendations that were assigned to the department. These reforms have involved significant policy changes, resulting in fewer stops, balanced search yields, and ongoing updates on our Transparency Hub. Although the PAB report restates several recommendations, we note that many proposed measures—such as additional data collection (e.g., the race of 911 callers) and direct oversight of training—exceed the PAB's stated Charter direction or rely on data that is not feasibly collectible.

Our reforms rest on robust data collection and continuous evaluation and ensure that our practices maintain the highest legal and ethical standards. Our training needs are continuously driven by legal mandates, timely legal updates, data analysis, audits, and early intervention efforts. These mechanisms ensure that we are providing training exactly where it is needed. Currently, our assessments show that our existing training adequately addresses these standards and no additional training measures regarding stay-away orders are warranted at this time. For instance, nearly every officer has completed a 40-hour Crisis Intervention Training course, and our Annual Report already provides evidence-based metrics on implicit bias and racial disparities.

Furthermore, while the report acknowledges external factors driving racial disparities, it continues to hold BPD fully accountable for outcomes influenced by broader social issues. We believe a collaborative approach that recognizes both department-level initiatives (such as our new Early Intervention System and rigorous evidence-based analyses of officer behavior) and the larger social context is necessary to achieve lasting change.



## Berkeley Police Department Memorandum



### Conclusion

The Berkeley Police Department remains fully committed to fair and impartial policing. We value our ongoing collaboration with the Police Accountability Board and the Public Safety Policy Committee. Our reforms—ranging from the Three-Pronged Traffic Enforcement model to comprehensive KIND training and the upcoming Early Intervention System—demonstrate our dedication to continuous improvement and community trust.

Thank you for the opportunity to provide this follow-up response. We look forward to continued dialogue and collaboration to ensure that Berkeley's policing reflects our shared commitment to justice and equity.

Cc:

Paul Buddenhagen, City Manager

Hansel Aguilar, Director of Police Accountability

Josh Cayetano, Police Accountability Board Chair

Mark Numainville, City Clerk



CONSENT CALENDAR

July 22, 2025

To: Honorable Mayor and Members of the City Council

From: Police Accountability Board

Submitted by: Hansel A. Aguilar, Director of Police Accountability

Subject: Police Accountability Board Report: Fair and Impartial Policing Implementation

**RECOMMENDATION**

Approve the following recommendations and instruct the Berkeley Police Department (BPD) and Police Accountability Board (PAB) to proceed with their implementation:

*Recommendations to the Berkeley Police Department*

1. Three-prong approach.
  - a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.
  - b. Primary Collision Factors: This prong should specify the mode of the party at fault.
  - c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.
  - d. Community Caretaking: This prong needs more specificity, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety-related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.
  - e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong

- approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment and an understanding of the approach’s impact on reducing racial disparities in traffic stops.
2. Evidence-based definition for stops of criminal suspects:
    - a. Establish an evidence-based definition for stops of criminal suspects.
    - b. Explain how precision-based policing, feedback loops, and accountability measures referenced in BPD FIP implementation updates relate to this recommendation and addresses the directive to establish an evidence-based definition for stopping criminal suspects.
  3. Enhanced implicit bias training: Per the Council's directive, ensure that BPD personnel receive intensive annual training dedicated to implicit bias.
  4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department’s EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings within the confines of officer confidentiality.
  5. Written consent searches: Future reporting to the council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, compared to consent search numbers before implementation.
  6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of searches and arrests of people on probation and parole and the racial disparities in them.
  7. Profiling by proxy: Future BPD updates should specify what instructions dispatchers are given on profiling by proxy, and any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.
  8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.
  9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

### *Recommendations to the Police Accountability Board*

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendaized for discussion at a future PAB meeting, including the appropriateness of, and ability of the PAB to oversee departmental training.
2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB accelerating CIT activity. This will be discussed in future PAB meetings.

*Recommendations to the Berkeley City Council*

1. Establish metrics to assess the success of implementing FIP directives. Currently, the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.
2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.
3. Require BPD to report biannually on:
  - a. Traffic stops by each prong of their 3-prong framework and by race within each prong.
  - b. Stop, search, and arrest data by probation/parole status and race.
  - c. Calls for service by the race of the reporter and reportee.

**POLICY COMMITTEE RECOMMENDATION**

On May 8, 2025, the Public Safety Policy Committee adopted the following action: M/S/C (Blackaby/Kesarwani) to send item to City Council with a qualified positive recommendation highlighting the refined actions agreed upon by PAB and BPD as captured in their joint letter, and to close the Fair and Impartial Policing (FIP) Task Force referral from the February 23, 2021 City Council meeting, with the understanding that the specific recommendations in that referral have been completed, although work on fair and impartial policing will continue.

**Vote:** All Ayes.

**SUMMARY**

This report formally assesses the Berkeley Police Department's (BPD) progress in implementing the Fair and Impartial Policing (FIP) directives adopted by the Berkeley City Council in February 2021. The Mayor's Working Group developed these directives on Fair and Impartial Policing following two years of consultations with experts and BPD representatives. The directives were established in response to findings in the 2018 Center for Policing Equity (CPE) report, which identified significant racial disparities in BPD's stops, arrests, and searches, particularly affecting Black and Latino/a individuals.

The report includes an analysis of BPD's efforts to implement the FIP policies, focusing on whether these efforts have successfully reduced racial disparities in policing practices. It acknowledges the BPD's progress in certain areas, such as a slight reduction in racial disparities in vehicle stops. Still, it highlights concern regarding the increase in disparities in pedestrian stops and the ongoing pronounced disparities in arrests and searches.

The PAB initially submitted this report to the City Council for presentation at the October 15, 2024 Regular Meeting. During the PAB meeting on September 25, 2024, the PAB

voted to request the withdrawal of the item<sup>1</sup>, a request that was granted by the Agenda and Rules Committee on September 30, 2024.<sup>2</sup> Notable findings of this report include, but are not limited to:

- The BPD has completed the implementation of some FIP Council directives, establishing implementation programs for others, and appears not to have begun implementing some directives.
- Racial disparities in vehicle stops by the BPD have decreased slightly since the CPE report but remain high.
- Racial disparities in pedestrian stops have substantially increased.
- Racial disparities in arrests and searches remain pronounced.
- Consent searches have decreased, but racial disparities in consent searches remain high.
- The percentage of stops for equipment and other non-safety-related infractions declined from 24.8% of all traffic stops in 2022 to 19% in 2023.
- A full Early Intervention and Risk Management System is in the very early stages.
- Enhanced implicit bias training has not yet begun.

Recommendations include, but are not limited to:

- The BPD's quarterly reports on the implementation of FIP should focus on policy modifications and outcomes, specifically whether and how those policy reforms have impacted racial disparities.
- The three-pronged approach to traffic enforcement should be reviewed and further oriented towards reducing low-level, non-safety-related stops.
- As per the Council's FIP directive, annual enhanced implicit bias training should be institutionalized.

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<sup>1</sup> The motion carried with 6 ayes in favor, 0 noes, and 2 PAB members absent. Police Accountability Board Regular Meeting Minutes for September 25, 2024: [link]

<sup>2</sup> Berkeley City Council Agenda and Rules Committee Special Meeting Minutes for September 30, 2024: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/09-30%20Minutes%20-%20Agenda%20Committee.pdf>

- A full Early Intervention and Risk Management System should be adopted as soon as possible. In the meantime, random audits of officers should be replaced with targeted audits of "outliers."
- Full accountability must be ensured for officers whose speech or behavior demonstrates racial animus or other bias and "damages the mission" of the Berkeley Police Department.

### **FISCAL IMPACTS OF RECOMMENDATION**

Implementing the PAB's recommendations will incur costs related to staff time, technology requirements, and maintenance of such technology.

### **CURRENT SITUATION AND ITS EFFECTS**

On February 23, 2021, the Berkeley City Council unanimously approved a set of policy recommendations submitted by the Mayor's Working Group on Fair and Impartial Policing (FIP). As part of this decision, the Police Review Commission (PRC) and its successor, the Police Accountability Board (PAB), were tasked with monitoring and evaluating the Berkeley Police Department's (BPD) implementation of FIP directives. These directives require the BPD to provide quarterly updates to the City Council on the progress of their implementation. To comply with the Council Directive, the Police Accountability Board established a subcommittee on August 4, 2021, to monitor the progress of these reports.

### **BACKGROUND**

The purpose of the PAB is to promote public trust through independent, objective civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and offer a means for prompt, impartial, and fair investigations of complaints brought by members of the public against sworn employees of the Berkeley Police Department.

### **ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

There are no identifiable environmental effects or opportunities associated with this report.

### **RATIONALE FOR RECOMMENDATION**

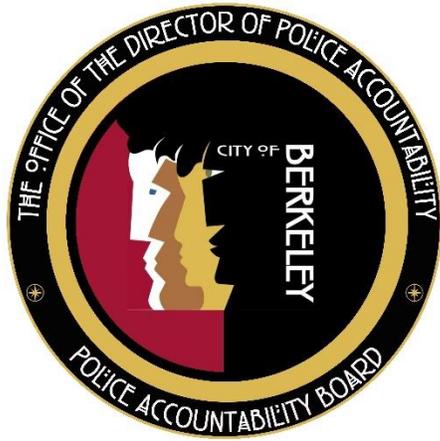
The PAB presents these recommendations to the BPD, the PAB, and the City Council, aiming to enhance the progress made in implementing the FIP recommendations, ensure that all directives are fully addressed, and set the expectation that future BPD updates include an analysis of racial disparity outcomes.

**CONTACT PERSON**

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Attachments:

1: Police Accountability Board Report: Fair and Impartial Policing Implementation



2024

# Police Accountability Board Report: Fair and Impartial Policing Implementation



Approved\* by the Police Accountability Board on  
April 24, 2024

\*(6 Aye Votes and 1 Nay Vote)

Meeting Link:

<https://tinyurl.com/PAB-FIP-Report-Approval>  
Page 38

## Table of Contents

|                                                                                                                       |    |
|-----------------------------------------------------------------------------------------------------------------------|----|
| Introduction.....                                                                                                     | 3  |
| Fair and Impartial Policing Statistical Profile.....                                                                  | 6  |
| Policy and Practices Directive and Reforms.....                                                                       | 10 |
| Reducing stops for low-level infractions and focusing on safety in traffic stops. ....                                | 10 |
| Clear, evidence-based definition of stops of criminal suspects. ....                                                  | 14 |
| Only use race and ethnicity as determining factors together with other clear criteria. ....                           | 15 |
| Enhanced Implicit Bias Training .....                                                                                 | 15 |
| Early Intervention System (EIS) .....                                                                                 | 16 |
| Written consent search forms.....                                                                                     | 17 |
| Warrantless searches of people on supervised release status.....                                                      | 18 |
| Profiling by proxy .....                                                                                              | 19 |
| Resources on police-civilian encounters.....                                                                          | 20 |
| Fire racist officers identified through social media and other media screens.....                                     | 20 |
| Require regular analysis of BPD stop, search, and use of force data .....                                             | 20 |
| Make resources on police-civilian encounters publicly available such as through RAHEEM.org .....                      | 21 |
| Conclusions and Recommendations.....                                                                                  | 21 |
| Recommendations to the Berkeley Police Department .....                                                               | 21 |
| Recommendations to the Police Accountability Board .....                                                              | 23 |
| Recommendations to the Berkeley City Council.....                                                                     | 24 |
| Appendix.....                                                                                                         | 25 |
| Appendix 1. Berkeley Police Department 2024 Annual Report “Tests for Bias” .....                                      | 25 |
| Appendix 2. PAB Data Workbook .....                                                                                   | 27 |
| Attachment List .....                                                                                                 | 28 |
| Attachment 1: Mayor’s Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021 ..... | 29 |
| Attachment 2: Working Group Recommendations Passed by Council. February 23, 2021 .....                                | 43 |
| Attachment 3: Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation .....                    | 49 |
| Attachment 4: BPD Three-Pronged Approach to Traffic Enforcement .....                                                 | 58 |
| Attachment 5: Berkeley Police Department Memorandum Titled: “PD Response to PAB FIP Implementation Report” .....      | 60 |

## List of Figures

|                                                                                             |    |
|---------------------------------------------------------------------------------------------|----|
| Figure 1 Likelihood of stops for Black/African Americans Compared to White Individuals..... | 7  |
| Figure 2 Percent of Arrest by Race/Ethnicity (April 1, 2021 to October 31, 2023) .....      | 9  |
| Figure 3 Percent of Searches by Race/Ethnicity (April 1, 2021 - October 31, 2023) .....     | 10 |
| Figure 4 Consent Searches by Race/Ethnicity.....                                            | 18 |

## List of Tables

|                                                                                                  |    |
|--------------------------------------------------------------------------------------------------|----|
| Table 1 Number of Stops of Non-Berkeley Residents vs. Berkeley Residents by Race/Ethnicity. .... | 8  |
| Table 2 Number of Arrest by Race/Ethnicity for Reporting Period. ....                            | 9  |
| Table 3 Percentage of Stops for Equipment Violations and Other Low-Level Infractions .....       | 14 |

## Introduction

On February 23, 2021, the Berkeley City Council (City Council or Council) unanimously passed the package of policy recommendations that the Mayor's Working Group on Fair and Impartial Policing (FIP) forwarded to City Council after two years of meetings with experts and Berkeley Police Department (BPD) representatives (See Attachments 1 and 2). As part of that package, the Police Review Commission (PRC) and its successor the Police Accountability Board (PAB) were assigned responsibility for "monitoring and assessing" BPD implementation of the FIP directives. The directives included a requirement for quarterly updates from the BPD to City Council on implementation progress. A chart summarizing the BPD updates from June 2021 to October 2023 is provided in Attachment 3.

The goal of the Mayor's Fair and Impartial Working Group was to discuss ways to address racial disparities in BPD stops, arrests, and searches, as presented to the Berkeley community in the 2018 Center for Policing Equity (CPE) report<sup>1</sup> commissioned by the Council. That report found that, given the city's population demographics, Black motorists were 6.5 times more likely to be stopped by Berkeley police than White motorists and that Black pedestrians were 4.5 times more likely to be stopped than White pedestrians.

The PAB recognizes the ongoing efforts taken by the BPD to implement the Fair and Impartial Policing mandates, as represented in the quarterly updates from Chief Louis. This PAB report, submitted pursuant to the PAB's directive to monitor FIP implementation, is an independent assessment of progress to date. The focus of this assessment is not only on BPD changes in written policy, but also on whether progress has been made in reducing racial disparities in BPD stops, arrests, and searches.

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<sup>1</sup> Center for Policing Equity. *The Science of Justice: Berkeley Police Department, National Justice Database City Report*. May 2018. <https://berkeleyca.gov/sites/default/files/documents/Berkeley-CPE-Report-May-2018.pdf>

Before proceeding, it is important to note that a finding of racial disparities does not, by that fact alone, indicate racial bias among individual police officers or the institution. Disparity is not synonymous with bias or discrimination. A measurement of racial disparity simply indicates an inequality or disproportion among or between various races on a particular variable (such as police stops), whatever the source of that inequality. Bias, on the other hand, can be defined as individual or institutional prejudice against a particular group, which may lead to disparities. This report focuses on racial disparities, as did the Mayor's Working Group on Fair and Impartial Policing and City Council's directives. Several factors may account for such disparities. These factors include, but are not limited to, socio-economic inequalities associated with race; cultural factors; institutional decision making; and, finally, individual officer bias. These factors may act independently of each other or in interaction with each other, amplifying their potential impact. It is not our goal to untangle the complex web of factors responsible for those disparities, nor is it within the scope of our work--or our ability, given data and resource limitations--to do so. Instead, the goal is to establish policies and practices that have the potential to reduce disparities and curtail the impact of any potential bias.

Key findings include, but are not limited to:

- The BPD has completed implementation of some FIP Council directives, is in the process of establishing implementation programs for other FIP directives, and appears not to have begun implementation of others.
- Racial disparities in vehicle stops by the BPD have decreased slightly since the CPE report, but remain high
- Racial disparities in pedestrian stops have substantially increased
- Racial disparities in arrests and searches continue to be pronounced
- The number of consent searches has decreased, but racial disparities in consent searches remain high

- The percentage of stops for equipment and other non-safety related infractions declined from 24.8% of all traffic stops in 2022 to 19% in 2023
- A full Early Intervention and Risk Management System is in very early stages
- Enhanced implicit bias training has not begun

Recommendations include, but are not limited to:

- The BPD quarterly reports on implementation of FIP should focus not only on policy modifications, but on outcomes, specifically the issue of whether and how those policy reforms have impacted racial disparities
- The three-pronged approach to traffic enforcement should be reviewed and further oriented towards reducing low-level, non-safety related stops
- Annual enhanced implicit bias training should be institutionalized, as per the Council's FIP directive
- A full Early Intervention and Risk Management System should be adopted as soon as possible. In the meantime, random audits of officers should be replaced by targeted audits of "outliers"
- Full accountability must be ensured for officers whose speech or behavior demonstrates racial animus or other bias and "damage[s] the mission... of the Berkeley Police Department"

Our report begins with recent statistics on stops, arrests, and searches. As we will see, a pattern of racial disparities remains since the CPE issued its report in 2018. While the racial disparity in vehicle stops has fallen slightly, racial disparities in pedestrian stops has increased substantially. The fact of racial disparities is not an abstract or academic issue. Racial disparities in policing have a serious impact on the lives of many Black and Latino/a people.

The report then includes a discussion of the status of BPD's implementation efforts, as well as questions that emerge from Chief Louis's quarterly updates<sup>2</sup>. We conclude with recommendations for the BPD, the PAB, and the Council, with the goal of more effectively addressing racial disparities.

Related to the issue of the meaning of disparities, the BPD presented their Annual Report to City Council on March 12, 2024. As part of that report, they included "tests for bias" in traffic stops, searches, and use of force. We have examined the analyses presented in that report and note several fundamental challenges to their conclusion that BPD traffic stops, searches, and use of force are "race-neutral." See Appendix 1 for a brief discussion of the PAB's concerns with the BPD analysis.

## Fair and Impartial Policing Statistical Profile

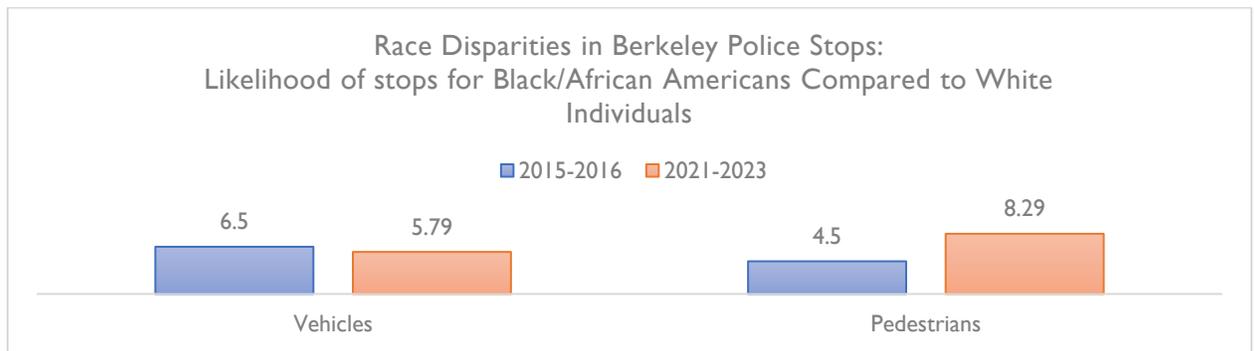
The BPD data that were derived from the Department's Transparency Hub and analyzed by the ODPA and the PAB reveal little progress in reducing racial disparities in stops since the CPE report was released in 2018. That report showed that for the period 2012-2016, Black motorists were 6.5 times more likely to be stopped than White motorists based on Berkeley demographics, and Black pedestrians in 2015-2016 were 4.5 more likely to be stopped than White pedestrians.

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<sup>2</sup> In addition to direction to the Berkeley Police Department to implement reforms, the February 2021 City Council action included referral of some FIP recommendations to the public safety reimagining process, and others to be "taken up by the PAB". This report does not address recommendations that were referred to the reimagining process. The report substantively addresses one of the three recommendations referred to the PAB (annual implicit bias training).

Berkeley Police Department statistics show that from April 1, 2021 to October 31, 2023<sup>3</sup>, of the 13,620 stops of bicyclists, motorists and pedestrians, 45.73% were White individuals, 44.77% were Black individuals, and 20.81% were Latino/a individuals.<sup>4</sup> Based on Berkeley population figures<sup>5</sup>, Black motorists were 5.8 times more likely to be stopped by Berkeley police than White motorists. The racial disparity has worsened for pedestrian stops, with Black pedestrians now 8.3 times more likely to be stopped than White pedestrians.<sup>6</sup>

Figure 1 Likelihood of stops for Black/African Americans Compared to White Individuals



<sup>3</sup> The April 1, 2021 date was chosen in consideration of the fact that the FIP directives were issued by Council on February 23, 2021. The end date of October 31, 2023 was used because we initiated this analysis in December 2023 and used the data then available. October 3, 2023 was the date of the last full quarterly update from the BPD. Unless otherwise noted, the data in this report covers the period from April 1, 2021 to October 31, 2023.

<sup>4</sup> Occasionally, small differences will appear in the data presented here and those in the BPD Transparency Hub. These differences, which are minor and do not affect the percentages or ratios reported, are due to periodic data updates or modifications made in the BPD Transparency Hub. All the analyses reported are derived from data in our “Data Notebook” which is available in Appendix 2.

<sup>5</sup> Population data sources from U.S. Census Bureau, American Community Survey (ACS) 1-Year Estimates Data Profiles, Table DP05 (2022):

[https://data.census.gov/table/ACSDP5Y2022.DP05?g=040XX00US06\\_160XX00US0606000&tid=ACSDP5Y2022.DP05](https://data.census.gov/table/ACSDP5Y2022.DP05?g=040XX00US06_160XX00US0606000&tid=ACSDP5Y2022.DP05)

<sup>6</sup> In order to calculate the greater likelihood of Black motorists or pedestrians being stopped than White individuals, we divided the number of stops of each race/ethnicity by their numbers in the Berkeley population.

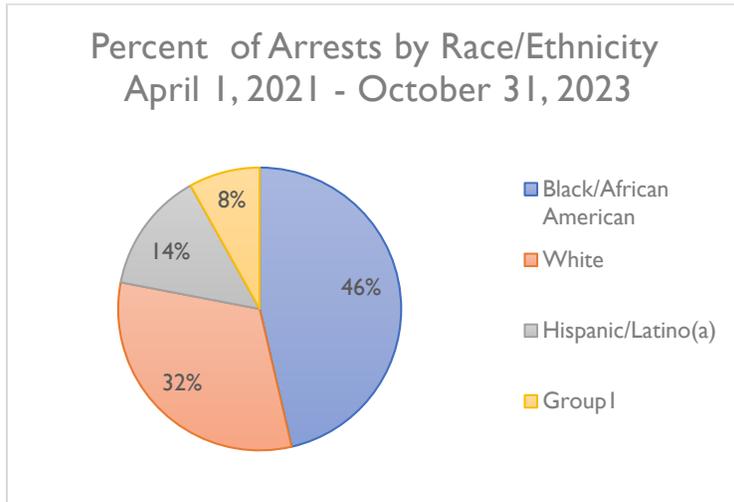
Looking at overall stop data for Berkeley residents only, a significant racial disparity persists. Black people residing in Berkeley were 6.55 times as likely to be stopped as their White counterparts. The Table below shows the absolute number of bicycle, pedestrian and vehicle stops, by race, for residents and non-residents of Berkeley.

*Table 1 Number of Stops of Non-Berkeley Residents vs. Berkeley Residents by Race/Ethnicity.*

| Race/Ethnicity     | Stops of Non-Berkeley Residents, 2021-2023 | Stops of Berkeley Residents, 2021-2023 |
|--------------------|--------------------------------------------|----------------------------------------|
| Black              | 1615                                       | 2814                                   |
| Hispanic/Latino(a) | 1212                                       | 955                                    |
| White              | 1626                                       | 3112                                   |
| Other              | 1109                                       | 1177                                   |
| <b>Total</b>       | 5562                                       | 8058                                   |

With respect to arrests, of 2,202 arrests in this period, Black people were 50.47 percent of the total, White people 34.45 percent, and Latino/as 15.08 percent. This means that, based on population figures, Black people were 10.4 times as likely to be arrested as White people in Berkeley, and Latinos were twice as likely. Looking at these data a different way, Black people were 6.47 times more likely to be arrested than their population would suggest, White people were .62 times less likely, and Latino/as 1.25 times more likely to arrested.

Figure 2 Percent of Arrest by Race/Ethnicity (April 1, 2021 to October 31, 2023)



The Table below shows the absolute number of arrests by race.

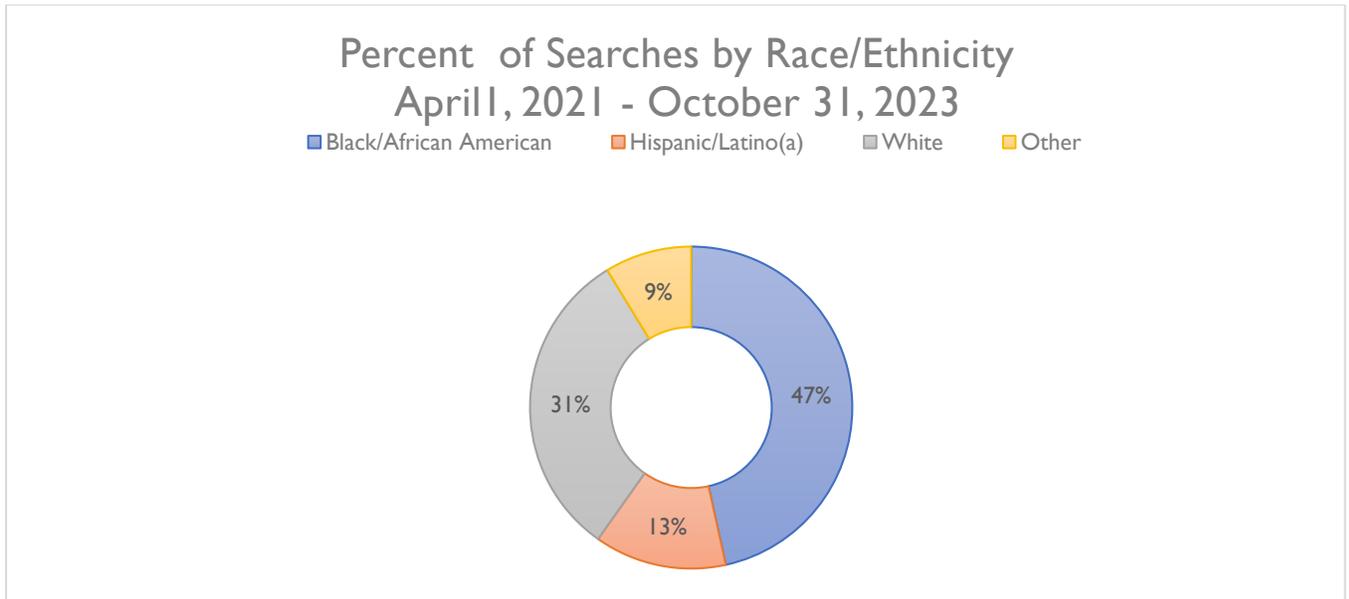
Table 2 Number of Arrest by Race/Ethnicity for Reporting Period.

| Race/Ethnicity     | Number of Arrests |
|--------------------|-------------------|
| Black              | 1021              |
| Hispanic/Latino(a) | 305               |
| White              | 697               |
| Other              | 179               |
| <b>Grand Total</b> | <b>2202</b>       |

With regard to searches, of the 2,421 searches conducted by the BPD during the period of April 1, 2021 to October 31, 2023, Black individuals were 46.55 percent of the total, White individuals were 31.47 percent, and Latino/as were 13.26 percent. This indicates that Black individuals were 10.5 times more likely to be searched compared to White individuals, while Latino individuals were 1.9

times more likely.<sup>7</sup> Alternatively, Black individuals were 5.97 times more likely to be searched than expected based on their population representation, White individuals were 0.57 times less likely, and Latino/as were 1.10 times more likely.

Figure 3 Percent of Searches by Race/Ethnicity (April 1, 2021 - October 31, 2023)



## Policy and Practices Directive and Reforms

Reducing stops for low-level infractions and focusing on safety in traffic stops.

The FIP recommendation regarding traffic stops was to “prioritize safety in traffic stops” and “discontinue stops for minor offenses.” The FIP Working Group saw this as a way to reduce racial disparities and eliminate pretextual traffic stops. The motion approved by the City Council was to “Implement a new evidence-based traffic enforcement model that emphasizes safety as the primary reason for traffic stops, rather than merely addressing minor offenses.” Neither the Mayor’s Working Group nor the Council provided a clear definition of “minor

<sup>7</sup> Similar to our calculations for stops and arrests, to determine the greater likelihood of Black and Latino/a individuals than White individuals to be searched, we divided the number of searches of Black, Latino/a and White individuals by their respective numbers in the population.

offenses.” The PAB recommends that the BPD adopt the definition utilized in Senate Bill 50, as outlined in the footnote below.<sup>8</sup>

The BPD is using a 3-pronged approach to traffic safety (“Primary Collision Factors”; “Community Reports”; and “Community Caretaking”) to fulfill the Council directive (See Attachment 4 for BPD Special Order 1106.2). Quarterly BPD updates report that implementation of this recommendation is complete.

The first prong of BPD’s three-pronged approach, known as “Primary Collision Factors” or PCF, is generally excellent and data-driven at the local level. This prong consists of factors that commonly lead to fatal or severe collisions in Berkeley, including unsafe speed, disregarding pedestrian right-of-way at crosswalks, failure to yield for turns, red light violations, and stop sign violations.

One important update to this prong would be to specify not only the violation but also the mode of the party at fault (e.g., stop sign violations by drivers are a common cause of fatal and severe collisions in Berkeley, but stop sign violations by bicyclists are not, and the PCF categories should reflect this). It is expected that most, if not all, stops should occur in response to these well-documented safety issues, following the Council’s directive.

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<sup>8</sup> In 2023, a Bill was introduced in the California Legislature, SB50 (“An Act to Amend Sections 21 and 21100 of, and add Section 2804.5, to the Vehicle Code”), that stipulated that “notwithstanding any other law, a peace officer shall not stop or detain the operator of a motor vehicle or bicycle for a low-level infraction...”. The Bill, which was tabled after a third reading and may be re-submitted this year, defined a “low-level infraction” as “a violation related to the registration of a vehicle or vehicle equipment,” as specified; “a violation related to the positioning or number of license plates when the rear license plate is clearly displayed...”; “a violation related to vehicle lighting equipment not illuminating, if the violation is limited to a single brake light, headlight, rear license plate, or running light or a single bulb in a larger light of the same,” as specified; “a violation related to vehicle bumper equipment,” as specified; “a violation related to bicycle equipment or operation,” as specified.

The second prong (“Community Reports”) consists of “responding to calls from community members” and includes such things as “possible DUI driver (i.e., car reportedly swerving)”; “driver fallen asleep at red light”; “a variety of unsafe driving incidents”; “crime with get-away vehicle description.” While some of these community calls no doubt require an immediate response, the category is broad and opens the door to potential profiling by proxy. At a minimum, under the category of “a variety of unsafe driving incidents,” policies should be put in place that specify which calls for service will result in law enforcement action.

The City Auditor’s data analysis<sup>9</sup> shows that only 13% of calls from community members resulted in a citation or arrest, compared to 42% of officer-initiated stops. To effectively reduce the potential for profiling by proxy, analysis of this 13% should be conducted to determine what types of community calls are most likely to yield a law enforcement response crucial to public safety. The PAB recommends that this prong then be substantially reformulated based on the data analysis of which types of calls for service result in enforcement actions and which are more likely to open the door to profiling by proxy.

The third prong, “Community Caretaking,” is the least specific and consists of three examples: “seatbelt violations”; “distracted driving (hands-free law)”; and “DUI”. As described by the BPD, these are not primary collision factors according to the California Highway Patrol because they are not the proximate cause of a collision. Because this prong is open-ended and consists only of several examples, it allows for maximum discretion with no real parameters.

The PAB recommends more specificity in this prong and that its components be based on Berkeley data rather than national statistics, as BPD did for Prong 1 (Primary Collision Factors, or PCFs). Specifically, the analysis should

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<sup>9</sup> Data Analysis of the City of Berkeley’s Police Response, 07/02/2021  
<https://berkeleyca.gov/sites/default/files/2022-01/Data-Analysis-Berkeley-Police-Response.pdf>

examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.

In addition to further clarification and specification of factors and policies related to prongs two and three, future BPD updates to Council should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses in a manner that supports an overall assessment, as well as an understanding of the impact of the approach on reducing racial disparities.

The PAB analysis of vehicle stops reveals that little progress has been made on reducing racial disparities. Given this finding, careful scrutiny of the three-pronged approach needs to be undertaken, with future BPD updates analyzing disparity outcomes and focusing on their reduction, as appropriate.

Our analysis of BPD raw data on traffic stops<sup>10</sup> in 2022 (when the three-pronged approach was established) and the first three quarters of 2023 reveals that the number of traffic violation stops increased from 2883 in 2022 to 3297 in the first three quarters of 2023. The percentage of stops for equipment and other such low-level infractions declined from 24.8% in 2022 to 19% in 2023. While the percentage of low-level stops thus declined, their numbers are still relatively high

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<sup>10</sup> For this calculation, we included all vehicle stops for 2022 and for the first three quarters of 2023. The BPD data include the primary reason for each stop. From these raw data we were able to count all stops for low-level equipment violations or other non-safety related violations, for example misplaced registration tags, failure to dim beams, faulty window installation, etc. The BPD data included a few categories—such as those relating to improper parking, trespassing, bicycle helmet infractions, littering, and vehicle theft—that were not appropriate to include in these counts of traffic violations. We excluded those few categories (n=79 for 2022; n=70 for 2023) from our calculations.

despite the three-pronged approach and the directive that such stops be minimized.

Table 3 Percentage of Stops for Equipment Violations and Other Low-Level Infractions

| Year        | Traffic Stops | % of Stops for Equipment violations and other low-level infractions |
|-------------|---------------|---------------------------------------------------------------------|
| <b>2022</b> | 2883          | 24.8%                                                               |
| <b>2023</b> | 3297          | 19%                                                                 |

### Clear, evidence-based definition of stops of criminal suspects.

The FIP Working Group recommended “us[ing] a clear, evidence-based definition for stops of criminal suspects.” This was not meant to be primarily about traffic stops but all stops of criminal suspects, including motorists, cyclists and pedestrians. Following this recommendation, Council directed the BPD to amend policies “reaffirming and clarifying that the Berkeley Police Department will use a clear, evidence-based definition for stops of criminal suspects.” The Department’s quarterly updates state that the BPD “is establishing a precision based policing model that considers data and public safety. This model aims to reduce the number of stops that studies have shown had minimal impact on public safety.”

The PAB appreciates the BPD June 2023 and October 2023 update statement that “ensuring that we implement approaches that identify and work to reduce racial disparities will be a cornerstone to our evidence-based approaches.” However, without more specifics about the department’s “precision-based policing model” and “a feedback loop with information flowing both ways”, it is difficult to assess whether these additions have the potential to reduce racial disparities. More specificity in this context is particularly critical as the data presented in this report indicate that racial disparities remain high.

The BPD June and October 2023 updates also state that this “feedback loop ... creates an accountability measure.” Does this mean there is

accountability for racial disparities? If so, what does it consist of? The next BPD update should include greater specificity regarding precision-based policing, feedback loops, and accountability measures. Further, and significantly, none of the BPD updates have included a definition of what constitutes legitimate stops for criminal suspects, evidence-based or otherwise. Although the BPD indicated that this recommendation was implemented as of September 2022, a definition is still outstanding.

### Only use race and ethnicity as determining factors together with other clear criteria.

BPD updates indicate that this recommendation has been completed because formal policies, state law, and the Constitution prohibit using race as the defining factor in making stops, arrests, and searches. The PAB is concerned that the BPD suggests no change is needed; the question is not whether BPD policies or state or federal law allow the use of race as a defining factor—clearly, they do not. The question is how to prevent discretionary actions in the field from inadvertently introducing race as the determining factor. Most important, how are race and ethnicity used as determining factors “together with other clear criteria”? Future updates should include more specificity on this important question of how race and ethnicity may be used with other factors. Examples may be useful here.

### Enhanced Implicit Bias Training

The FIP directives passed by Council “require enhanced annual implicit bias training for police.” The BPD updates state that there has been “ongoing training in topics such as implicit bias, racial profiling...”. The PAB has been informed by the BPD that “The topic of bias is covered as a subtopic throughout various trainings” such as de-escalation and tactical communication. This likely falls short of the enhanced annual implicit bias training that was called for in the Council directive. Full compliance with the Council directive requires that the BPD install

annual intense implicit bias training, not the less intensive approach to implicit bias as a subtopic to other materials as currently practiced.

### Early Intervention System (EIS)<sup>11</sup>

An effective EIS was a central component of the FIP recommendations, and the focus—as with the FIP program as a whole—was on racial disparities. As the Working Group stated in its presentation to Council in February 2021, an effective Early Intervention System would “involve identifying officer outliers in stops, searches, and use of force and their outcomes and examining the reasons for racial disparities.” Racial disparities take a back seat in the BPD quarterly updates, including in its description of an amended EIS program. Beyond this important omission, BPD updates have been inconsistent across quarterly reports with regard to how this directive has been implemented (See Attachment 3). After relatively minor tweaking, the BPD reported that the EIS directive had been completed.

Additionally, recent updates report that periodic audits of several randomly chosen officers have been added to the EIS process. While audits of a few randomly chosen officers may occasionally be useful, the intent of the FIP was to focus on “outliers”, a neutral term of art that refers to officers whose performance on certain indicators is outside the BPD average. As the focus of the FIP was on racial disparities, in the case of EIS it is important to focus on those units or officers for whom stops are disproportionately numerous and/or racial disparities most pronounced. The allegations of racism, disdain for the unhoused, and implicit

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<sup>11</sup> The PAB acknowledges the Council's allocation of funding for designing and implementing a comprehensive Early Intervention and Risk Management System (EIRMS). However, the \$100,000 appropriation for the evaluation, design *and* implementation of an EIRMS is unlikely to be sufficient. Therefore, the budget for the EIRMS should be augmented to support not only its design but its near-term implementation.

arrest quotas in the Downtown Bike Force have drawn attention to the importance of such a directed focus when doing EIS audits.

In April 2023, City Council referred \$100,000 to the June 2023 budget to hire a consultant for the design and help with implementing a new Early Intervention and Risk Management System. It will take some time before that project is complete. In the interim, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. In addition, a designated PAB Member should serve as an EIS observer. With regard to the latter, the PAB is pleased that observation by a PAB Member has recently been agreed to by the Chief.

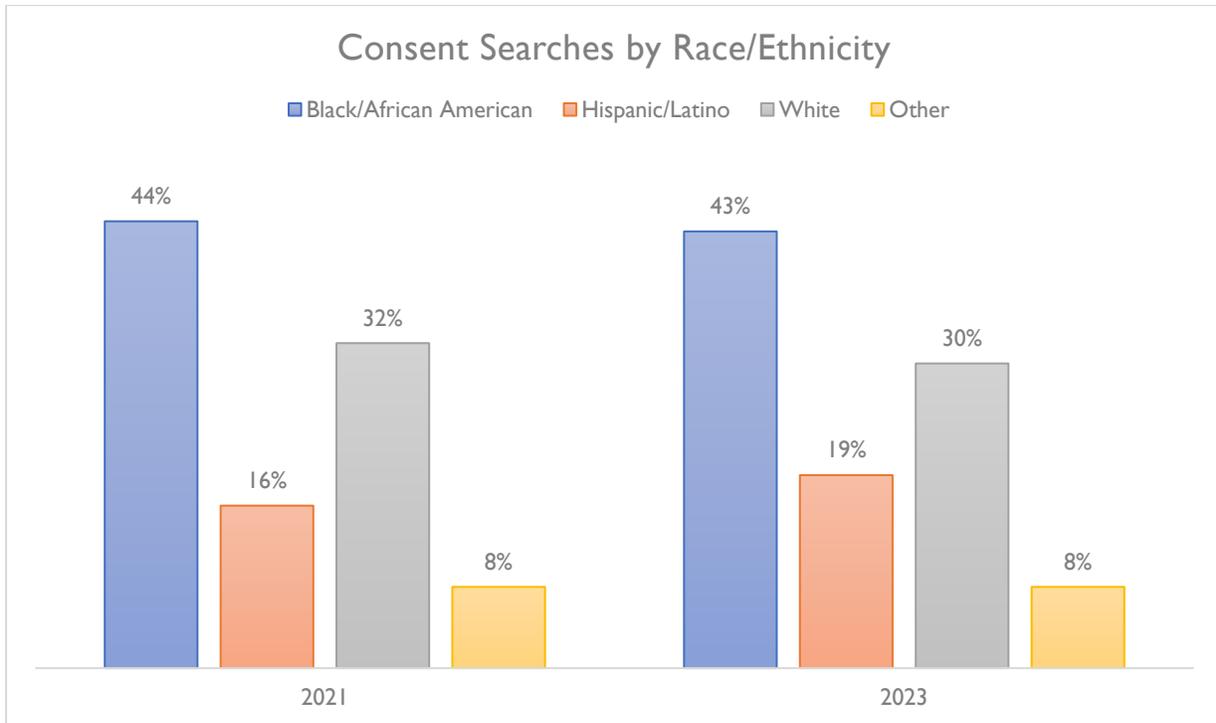
#### Written consent search forms

The PAB is pleased that this has been implemented (Policy 311.3). An understanding of the implementation process and its effect would be improved by the inclusion of data in the quarterly BPD reports. Dr. Frank Baumgartner and his team (2018) found that in North Carolina, consent searches declined by 75% in cities that required written permission.

PAB analysis of BPD data reveals that the number of consent searches decreased from 188 in 2021, to 123 in 2022, and 69 through the first three quarters of 2023. While the number of consent searches has gone down since the introduction of written consent forms, racial disparities in these discretionary searches remain high. In 2021, 44% of consent searches were of Black individuals, 32% were of White individuals, and 16% were of Latinos. Two years later, the respective percentages were 43%, 30%, and 19%. In other words, while the absolute number of people of color undergoing consent searches has decreased with the

implementation of written consent forms, the racial disparities in these discretionary searches have not.<sup>12</sup>

Figure 4 Consent Searches by Race/Ethnicity



### Warrantless searches of people on supervised release status

BPD Policy 311.6, as adopted with agreement between the PRC and the BPD and incorporated into the FIP directives, limited warrantless searches of people on supervised release status unless there was reasonable suspicion that they had committed, were committing, or were about to commit a crime. This policy was modified by City Council on July 26, 2022, to make a distinction between people on supervised release for violent crimes (who would be subject

<sup>12</sup> These racial disparities in consent searches are roughly comparable to the disparities in all searches. As we saw above, for the period 2021 through the first three quarters of 2023, there were 2507 searches, with 47% of these searches Black people, 32% White people and 13% Latinos.

Source: [https://berkeleyca.gov/sites/default/files/documents/2023-04-11\\_Item\\_25\\_Referral\\_100%2C000\\_to\\_the\\_June%2C\\_2023.pdf](https://berkeleyca.gov/sites/default/files/documents/2023-04-11_Item_25_Referral_100%2C000_to_the_June%2C_2023.pdf)

to warrantless searches) as opposed to non-violent crimes (for whom reasonable suspicion would be required for a search).

The Department under Chief Greenwood had considered the violent/non-violent distinction a challenging one to make in practice and recommended the “reasonable suspicion” standard for all searches of people on supervised release. Have officers found it difficult to implement the “violent”/“non-violent” distinction as Chief Greenwood had suggested? What is the impact of this policy revision on numbers of, and racial disparities in, arrests and searches of people on probation and parole? Future BPD updates should continue to address what, if any, impact this 2022 change in policy has had on racial disparities.

Since introduction of the 311.6 policy change in 2020, BPD data no longer included “probation or parole search” as a category. This made sense since those searches were no longer permissible (absent reasonable suspicion). However, since the modification in 2022, probation and parole searches (and other supervised release searches) were allowed if the individual was on probation or parole for a violent offense. Therefore, BPD data should once again include these searches in their data.

### Profiling by proxy

According to Chief Louis’s June 2023 update, the Communications Manual “has been amended to address handling cases involving profiling by proxy.” Further, dispatchers “are instructed to be cognizant and screen for profiling by proxy calls.” More specifics need to be provided. Exactly what does the “instruction” consist of? What has the effect been on racial disparities in departmental response to calls for service? As detailed in the City Auditor’s report cited above, law-enforcement actions are lower in stops initiated by the public than in officer-initiated stops. This suggests that more targeted dispatcher instructions and call-screening for profiling by proxy may be necessary.

### Resources on police-civilian encounters.

The PAB is pleased that the business card directive has been fulfilled. That provision was to ensure that business cards with information on how to commend police officers or file misconduct complaints were distributed upon each officer/civilian encounter. However, the body-worn camera footage that the PAB has received in conjunction with individual misconduct complaints does not seem to show any distribution of business cards as directed by Council.

### Fire racist officers identified through social media and other media screens

BPD Policy 1029 (“Employee Speech, Expression, and Social Networking”) stipulates that employees of the BPD whose speech or expression “tends to compromise or damage the mission, function, or reputation...of the Berkeley Police Department” will be held accountable. Two issues arise here: 1) The FIP recommendation included media scans to ensure consistency with this policy, yet this proactive approach does not seem to have been implemented; 2) The FIP recommendation was that “racist officers identified through social media...” shall be fired. The current Policy 1029 is not specific and requires only “accountability”. Thus, it is not clear if this FIP directive has been implemented. One way to move forward on this directive would be to be more specific on what exactly “accountability” means in this context and what preliminary steps would be taken prior to an officer’s termination.

### Require regular analysis of BPD stop, search, and use of force data

As noted in the BPD quarterly reports, a Transparency Hub was developed that provides raw data through an Open Data Portal. While this allows members of the public who have the time and ability to analyze the data, the BPD’s Data Analyst should provide more detailed analysis of these data with a focus on racial disparities, as we have done in this report.

Make resources on police-civilian encounters publicly available such as through RAHEEM.org

This Council directive is mentioned in the BPD quarterly updates, but no information is provided regarding its implementation status.

## Conclusions and Recommendations

Racial disparities in stops, arrest, and searches remain high, and there is little public accountability for the overall results of the FIP effort due to a lack of statistical reporting or outcome analysis in BPD quarterly updates. While some policy changes have been implemented by the BPD, modification of these changes is needed in some areas. Other FIP recommendations have not been implemented.

The PAB offers the following recommendations for action by BPD, the PAB, and City Council with the goals of improving upon steps that have already been taken, ensuring that no directives remain unfulfilled, and establishing an expectation for future BPD updates to include analysis of racial disparity outcomes.

### Recommendations to the Berkeley Police Department

1. Three-prong approach.
  - a. Definition of Low-Level Traffic Infractions: A definition consistent with SB 50 should be adopted.
  - b. Primary Collision Factors: This prong should specify the mode of the party at fault.
  - c. Community Reports: Under the category of "a variety of unsafe driving incidents," policies should be put in place that specify which calls for service will result in law enforcement action. That specification should be derived from an analysis of the 13% of calls from community members that resulted in a citation or arrest, as per the City Auditor's July 2021 report.

- d. Community Caretaking: More specificity is needed in this prong, and its components should be based on Berkeley data rather than national statistics, as is done for Prong 1 (Primary Collision Factors). Specifically, the analysis should examine which other factors (non-PCFs) are highly associated with severe and fatal collisions in Berkeley. The open-ended quality of this prong may contribute to more non-safety related stops than is called for in the Council directive. If more specificity is not possible or feasible, this prong should be eliminated.
  - e. Reporting: Future BPD updates on FIP implementation should include statistical information enabling an analysis of the impact of the three-prong approach on reducing or eliminating stops for low-level offenses—a primary focus of the Council directive—in a manner that supports an overall assessment as well as an understanding of the impact of the approach on reducing racial disparities in traffic stops.
2. Evidence-based definition for stops of criminal suspects.
    - a. Establish an evidence-based definition for stops of criminal suspects.
    - b. Explain how the precision-based policing, feedback loops, and accountability measures, referenced in BPD FIP implementation updates in relation to this recommendation, address the directive to establish an evidence-based definition for stops of criminal suspects.
  3. Enhanced implicit bias training: Ensure that intensive annual training dedicated to the topic of implicit bias is delivered to BPD personnel per the Council's directive.
  4. EIS: Pending the deployment of a new Early Intervention and Risk Management system, EIS audits should be focused on officers who are outliers on the variables stipulated in the Department's EIS, with a particular focus on racial disparities in stops, arrests, and searches. A designated PAB Member should serve as an observer in this process, as has been informally

agreed to. Future audit reports should include the scope of what was reviewed and a clear statement of findings, within the confines of officer confidentiality.

5. Written consent searches: Future reporting to council should include the number of consent searches conducted per reporting period and their effect on racial disparities in searches, with a comparison to consent search numbers before implementation.
6. Warrantless searches of people on supervised release: Future FIP updates should identify the impact of the new BPD Policy 311.6 on the numbers of, and racial disparities in, searches and arrests of people on probation and parole.
7. Profiling by proxy: Future BPD updates should specify what instruction dispatchers are given on the topic of profiling by proxy, as well as any impact the instruction and corresponding Communications Manual amendments have had on racial disparities in departmental response to calls for service.
8. Business cards: Ensure that business cards are distributed as mandated by the Council directive.
9. Make resources on police-civilian encounters publicly available, such as through RAHEEM.org.

### Recommendations to the Police Accountability Board

1. Scenario-based training: The 2021 Council specifically referred to the PAB oversight of the implementation of a scenario-based training component in the existing officer training required by the California Penal Code. This topic will be agendized for discussion at a future PAB meeting, including the appropriateness of, and ability of, the PAB to oversee departmental training.

2. Crisis Intervention Team (CIT): The 2021 Council item refers to the PAB the acceleration of CIT activity. This will be taken up for discussion in future PAB meetings.

### Recommendations to the Berkeley City Council

1. Establish metrics to assess the success of the implementation of FIP directives. Currently the BPD appears to be focused entirely on policy, and on tests of bias, as evidenced in its recently published Annual Report. The PAB has focused instead on outcomes, addressing the key question of whether racial disparities have decreased in any of the areas subject to FIP directives.
2. Eliminate reporting requirements for recommendations that the PAB ascertains have been fully implemented.
3. Require BPD to report biannually on:
  - a. Traffic stops by each prong of their 3-prong framework and by race within each prong.
  - b. Stop, search, and arrest data by probation/parole status and race.
  - c. Calls for service by the race of the reporter and reportee.

Ensure that employees of the BPD whose speech or behavior is inconsistent with fair and impartial policing be held accountable.

## Appendix

### Appendix 1. Berkeley Police Department 2024 Annual Report “Tests for Bias”

The PAB has several concerns about the adequacy of the three tests conducted for stops and searches (use of force is not part of the FIP focus): “At-fault collision demographics”; “yield rate analysis”; and, the “veil of darkness”.

1. The **at-fault collision test** is the most problematic of these analyses. This BPD test purports to compare the parties at fault in collisions, by race, to the rate of police stops by race. Because they find that the proportion of stops for each race is approximately the same as the proportion of each race at fault in collisions, they conclude that police stops are “race-neutral”. In other words, while not citing disparity statistics, the BPD implies that the racial disparity in stops is the result of Black motorists' more dangerous driving.

There are numerous problems with that analysis, including the following:

- In the interest of focusing on “discretionary stops,” which as they note are most likely to involve potential bias, the BPD only includes in their analysis stops that were officer-initiated. Curiously, however, it omits the most discretionary stops of all—those based on equipment violations, registration or license plate infractions and other such low-level offenses that make up 19% of all vehicle stops.
  - The “at-fault collision” side of this equation is also problematic. Only those collisions for which the police were called to the scene or were nearby when the accident happened, and/or for which a written police report was filed, are included in the analysis. Personal experience suggests that many if not most collisions are not reported to the police.
2. The BPD's **yield rate analysis** cites the 2024 RIPA Annual Report that shows there were no statistically significant differences in rates of discovery of contraband in searches of Black people and White people in Berkeley. This is an important RIPA finding. It must be qualified, however, by the RIPA Board's advice on interpreting the finding. As the RIPA Board notes, when search rates are higher and discovery

rates lower for Black people than for white people, it can be concluded that racial bias was involved in the searches. However, “[w]hen these statistics do not move in opposite directions, it is more difficult to determine whether disparate treatment is present.” (RIPA 2024 Annual Report; Appendix B.3, p. 46).

3. The **veil of darkness** test is an industry-wide standard for testing racial bias. It assumes that if racial bias exists in vehicle stops, people of color would be more likely to be stopped during the day than at night when it is presumably less possible to discern motorists’ race. The BPD analysis compares vehicle stops at the “inter-twilight” period around 6:30 pm during daylight savings time (when it is light) and standard time (when it is dark). The BPD finding is that the stop rates by race are comparable in the light and in the dark, and that “this is what we would expect to see if those stops were being made based on race-neutral factors.” This is quite different from the finding of Stanford researchers who analyzed 95 million traffic stops across the United States using the veil of darkness test and found statistically significant racial disparities<sup>13</sup>. The BPD finding for Berkeley is a positive one, but we need more details here. It is possible that stops occurring in the inter-twilight period in Berkeley in one year would not be sufficient in number to draw statistically valid inferences. Finally, while the veil of darkness is an industry-standard, several cautions must be applied. As numerous scientists have explained, and the BPD report acknowledges, both street lighting and car profiling may skew results.

In sum, we cannot confidently conclude from these BPD tests for bias that it is not a factor in racial disparities in BPD vehicle stops and searches. More rigorous studies would be required to untangle the web of socio-economic, cultural, institutional, and individual factors—and their interactions—that produce these racial disparities.

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<sup>13</sup> <https://www.nature.com/articles/s41562-020-0858-1>

## Appendix 2. PAB Data Workbook

To access a copy of the Data Workbook, please use the following link:

[https://berkeleyca.gov/sites/default/files/documents/PAB%20Data%20Workbook\\_2024%20FIP%20Implementation%20Report%20.xlsx](https://berkeleyca.gov/sites/default/files/documents/PAB%20Data%20Workbook_2024%20FIP%20Implementation%20Report%20.xlsx)

## Attachment List

1. [Mayor's Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021.](#)
2. [Working Group Recommendations Passed by Council. February 23, 2021](#)
3. Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation
4. [BPD Three-Pronged Approach to Traffic Enforcement](#)
5. Berkeley Police Department Memorandum Titled: "PD Response to PAB FIP Implementation Report"

Attachment 1: Mayor's Working Group on Fair and Impartial Policing. Proposal to City Council. February 23, 2021

## **The Mayor's Working Group on Fair and Impartial Policing Policy Proposals**

Developing and implementing reforms that will effectively reduce existing racial disparities requires changes at several levels. The following recommendations include setting new policy, updating institutional structures, and mandating individual accountability. Their implementation and ongoing effectiveness require supportive leadership, transparency and police accountability.

**Executive Summary.** Mayor's Working Group on Fair and Impartial Policing (hereafter, "the working group") focused on reducing racial disparities in stops and searches and improving community relationships damaged by the racially disparate practices in stops and searches.

This report advances the following recommendations for BPD practices:

- Focus on public safety and eliminate stops for low-level offenses not directly impacting public safety.
- Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria.
- Institute annual implicit bias training and scenario-based training for California Penal Code 13519.4, prohibiting racial or identity profiling.
- Establish a truly effective Early Intervention System and risk management process to ensure department accountability and identify officers who are outliers in stops, searches, dispositions, and outcomes.
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole.
- Require written consent for consent searches.
- Include evaluations of cultural competence in hiring and promotion, and fire officers who have expressed racist attitudes and/or are identified as members of racist groups.

The report also advances these recommendations for the Berkeley City Council and/or the City of Berkeley:

- Hire a consultant to create a plan for monitoring and reporting on the implementation of these recommendations.
- Ensure the creation of a Specialized Care Unit with crisis-response field workers, as included in the recent contract for a community-process to establish an SCU.
- Ensure a robust community engagement process, including annual surveys and community forums
- Require quarterly analysis of stop, search, and use of force data by City Auditor and/or the PRC.
- Adopt and carry out the compliance and accountability system outlined in this document.

## Proposed Actions

Table 1 provides a proposed action for each recommendation in the body and appendices of this draft report.

| Action                                                                                                                                           | Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Direct the City Manager to implement key recommendations, with at minimum, quarterly progress reports to the PAB and/or the Working Group</p> | <ul style="list-style-type: none"> <li>• <a href="#">Focus traffic stops on safety</a></li> <li>• <a href="#">Use a clear, evidence-based definition for stops of criminal suspects</a></li> <li>• <a href="#">Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria</a></li> <li>• <a href="#">Eliminate stops for low-level offenses</a></li> <li>• <a href="#">Implement an Early Intervention System (EIS) and a risk-management structure</a></li> <li>• <a href="#">Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group</a></li> <li>• <a href="#">Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole</a></li> <li>• <a href="#">Require written consent for all consent searches</a></li> <li>• <a href="#">Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)</a></li> <li>• <a href="#">Fire racist police officers identified through social media and other media screens</a></li> <li>• <a href="#">Address Profiling by Proxy (Council develop &amp; pass CAREN policy)</a></li> <li>• <a href="#">Require regular analysis of BPD stop, search, and use of force data</a></li> <li>• <a href="#">Make resources on police-civilian encounters more publicly available such as RAHEEM.org</a></li> <li>• <a href="#">Adopt Compliance and Accountability Mechanisms</a> <ul style="list-style-type: none"> <li>a. Hire consultant to develop implementation plan</li> </ul> </li> <li>• <a href="#">For any individual detained, BPD officers shall provide a business card with info on a website similar to RAHEEM and info on complain process with PAB</a></li> </ul> |
| <p>Refer to be included in the process to reimagine public safety</p>                                                                            | <ul style="list-style-type: none"> <li>• <a href="#">The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes a basic report card and quarterly neighborhood check-ins</a></li> <li>• <a href="#">Conduct a baseline community survey.</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Refer to the Police Accountability Board</p>                                                                                                  | <ul style="list-style-type: none"> <li>• <a href="#">Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4</a></li> <li>• <a href="#">Require enhanced annual implicit bias training for police</a></li> <li>• <a href="#">Accelerate Crisis Intervention Team (CIT) activity</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>Follow-up with PAB and/or Fair and Impartial Working Group</p>                                                                                | <ul style="list-style-type: none"> <li>• <a href="#">Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data</a></li> <li>• <a href="#">Conduct a regular community survey and annual community forums on Police and Public Safety</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Recommendations already underway</p>                                                                                                          | <ul style="list-style-type: none"> <li>• <a href="#">Fund and implement a specialized care unit for mental health crises</a></li> <li>• <a href="#">Conduct a Capacity Study of police calls and responses and use of officer time outside of case work</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>Outstanding - No Action Recommended</p>                                                                                                       | <ul style="list-style-type: none"> <li>• <a href="#">Include community member participation and feedback in the hiring process</a></li> <li>• <a href="#">Include the following for Performance Appraisal Reports</a></li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## **Reducing Disparities in Vehicle, Pedestrian, and Bicycle Stops & Searches:**

### **1. Focus traffic stops on safety**

According to Dr. Frank Baumgartner's 2018 book, *Suspect Citizens*, "Safety stops are those aimed at enforcing the rules of the road to decrease the likelihood of an accident" (pg. 191). The types of stops falling into this traffic safety category may include:

- Excessive speeding<sup>1</sup>
- Running a stop sign or stop light
- Unsafe movement
- Driving while intoxicated

### **2. Use a clear, evidence-based definition for stops of criminal suspects**

Dr. Baumgartner's analysis<sup>2</sup> reveals that "investigatory stops" (stops that use a minor infraction as a pretext for investigating rather than to prevent or reduce dangerous behavior pgs. 53-55) allow for the most officer discretion and open the possibility of implicit bias or "reliance on cultural heuristics" (pg. 191). Based on analyses of more than 9 million stops, Baumgartner's team found that 47% were investigatory and that they added substantially to the racial disparity statistics. Thus, investigatory stops and stops of criminal suspects shall be restricted to those made because the person and/or vehicle fits a description in relation to a specific crime.<sup>34</sup>

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%,<sup>5</sup> with no corresponding increase in crime (Captain Chris Bolton presentation, 7/15/2020).

### **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.<sup>6,7</sup>**

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

<sup>1</sup> <https://www.idrivesafely.com/dmv/california/laws/traffic-tickets-and-violations/>, <https://www.martenslawfirm.com/blog/2015/november/what-is-excessive-speeding/>

<sup>2</sup> *Suspect Citizens*, pp. 190-192

<sup>3</sup> Eberhardt, J. L. (2016). *Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif.* Stanford University

<sup>4</sup> This definition was created by Dr. Jennifer Eberhardt in collaboration with the Oakland Police Department.

<sup>5</sup> This is the percentage of African American stops within all discretionary non-intel led stops made by Police Area 2 officers fell from 76% in September 2017 to 31% in September 2018

<sup>6</sup> Southern Poverty Law Center, 10 Best Practices for Writing Policies Against Racial Profiling

<sup>7</sup> CA Penal Code

satisfactory as bases for reasonable suspicion under the law, and amount to racial profiling.

**4. Eliminate stops for low-level offenses**

According to the presentation to the Working Group by Captain Bolton of the OPD, Oakland significantly reduced stops for these low-level, non-public safety related offenses, resulting in a reduction in the number of African Americans being stopped and a reduced stop-disparity rate, with no effect on crime rates (homicides and injury shootings went down during the same period). There is often overlap between “investigatory stops” and “stops for low-level offenses,” as the latter may be used as a pretext for investigation. The types of stops falling into these categories may include:

- Equipment violations
- Not wearing a seat belt
- Improper use of high beams
- Violating a regulation (e.g. expired license tags)
- Stop purposes recorded as “other”

**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. They may address a broad range of concerns, but in this document, we only consider their use with regard to racial disparities. Elements of this process include the following steps:

- a. Evaluate and assess stop incidents for legality and enforcement yield.
- b. Analyze data to determine whether racial disparities are generalized across the force or are concentrated in a smaller subset of outlier officers or squads/groups of officers. To the extent that the problem is generalized across the department, supervisors as well as line officers should be re-trained and monitored, and department recruitment, training, and structure should be reviewed. In addition, department policy should be examined for their impacts.
- c. Where disparities are concentrated in an individual or a group of officers, with no race-neutral legitimate evidence for this behavior in specific cases, initiate an investigation to determine the cause for the disparity. Evaluate whether there are identifiable causes contributing to racially disparate stop rates and high or low rates of resulting enforcement actions exhibited by outlying officers. Determine and address any trends and patterns among officers with disparate stop rates. In the risk management process, the responsible personnel in the chain of

command reviews and discusses the available information about the subject officer and the officer's current behavior.

- d. Absent a satisfactory explanation for racially disparate behavior, monitor the officer.. Options for the supervisor in these cases include reviewing additional body-worn camera footage, supervisor ride-alongs, and other forms of monitoring. Further escalation to intervention, if necessary, may include a higher form of supervision, with even closer oversight. If performance fails to improve, command should consider other options including breaking up departmental units, transfer of officers to other responsibilities, etc. The goal of this process is to achieve trust and better community relations between the department as a whole and all the people in Berkeley. Formal discipline is always a last resort unless there are violations of Department General Orders, in which case this becomes an IAB matter.
- e. Identify officers who may have problems affecting their ability to make appropriate judgments, and monitor and reduce time pressures, stress and fatigue on officers.
- f. An outside observer from the PRC shall sit in on the risk management and/or EIS program. Reports from these meetings, or other accurate statistical summary, can be given to the commission without identifying any officers' names.
- g. Report the results of this data analysis quarterly.

**6. Immediately release the following data to the Working Group:**

- a. All data given to the Center for Policing Equity (CPE) - This data includes:
  - i. Calls for Service (January 1, 2012 - December 2016)
  - ii. Use of Force Data (January 1, 2012 - December 31, 2016)
  - iii. Crime Report Data (January 1, 2012 - December 31, 2016)
- b. STOP DATA - this data shall include information on "call type," similar to the data used by the Center for Policing Equity. The timeframe would be January 1, 2012 to present.
- c. USE OF FORCE DATA - This data was used in the analysis presented in the CPE report. Along with the CPE data, it would be helpful to have more recent Use of Force data. The timeframe would be January 1, 2012 to present.
- d. DEIDENTIFIED STOP & ARREST DATA - To determine if there are any problematic patterns among certain officers, or perhaps pairs of officers, data that we can be attached to anonymized individuals. The timeframe for this data would be January 1, 2012 to present.
- e. ADDITIONAL ARREST DATA - Currently, the Open Data Portal posts arrest data from January 1, 2015. The timeframe for this data would be January 1, 2012 to present day.
- f. ADDITIONAL CALLS FOR SERVICE - Currently, Calls for Service data are posted for the last 180 days. The timeframe for this data would be January 1, 2012 to present.

**7. Limit warrantless searches of individuals on supervised release status, including probation, Post Release Community Supervision (PRCS), and parole, absent evidence of imminent danger**

California is one of a handful of states that allow high-discretion, suspicionless searches of probationers and parolees. The following was passed by the Police Review Commission on 9/23/2020 and the Working Group endorses this approach:

*“In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion. However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person’s probation or parole status.*

*The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime.”*

**8. Require written consent for all consent searches**

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.* The Working Group recommends that the BPD adopt the written consent form used in North Carolina, a copy of which can be found [here](#).

**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.<sup>8</sup>
- b) Contact information for filing a complaint with the PRC or its successor, the Police Accountability Board.

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<sup>8</sup> <https://www.raheem.ai/en/>

#### 10. Address Profiling by Proxy<sup>9</sup>

Police should not be dispatched to calls that are motivated by caller bias or malintent, e.g., a claim that someone is suspicious with no corroborating reason.<sup>10</sup> These types of calls harm police-community relationships and undermine the authority of the police. To protect against profiling by proxy the police department shall:

- a. work with PRC and other appropriate agencies to formulate a policy that defines and remedies profiling by proxy.
- b. enhance Dispatcher training to evaluate calls and add implicit bias training for 911 Dispatch.

An article on profiling by proxy by the Vera Institute of Justice recommends including 911 Dispatch in implicit bias training as a method for reducing issues with profiling by proxy. Anti-bias training will also help Dispatchers become aware of their own biases. For example, when they receive calls about behavior the complainant may dislike but is not illegal—e.g., “too many” black teenagers in the public park.<sup>11</sup>

#### Hiring & Evaluation

The successful hiring and evaluation of police officers is an important part of creating a healthy and high-functioning police department. The types of people the department hires, and the effective evaluation of police officers are important in determining police department culture. Researchers on policing have repeatedly found that organizational culture is the single most important determinant of officer behavior.<sup>12</sup> Human Resource Management research supports including the evaluation for cultural competency as important in improving agencies. The key components for a high degree of cultural competency are: awareness, attitude, knowledge, skills.

#### 11. Fire racist police officers identified through social media and other media screens

A third-party agency, hired by the City of Berkeley, or agency outside the police department should screen police officers and potential new hires’ social media accounts for racist or violent comments, affiliations to racist groups whether public or private, including private groups expressing racist or violent rhetoric.

- a. BPD shall immediately fire all identified officers who have engaged in racist or violent actions or commentary online.
- b. A social media screen of officer online conduct shall be done annually.

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<sup>9</sup> Profiling by proxy may occur “when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people” (retrieved from The Vera Institute of Justice).

<sup>10</sup> Captain Bolton of the Oakland Police Department made improvements on profiling by proxy using an approach that educated citizens on focusing on criminal behavior instead of suspicion when calling police.

<sup>11</sup> “Avoiding ‘profiling by proxy,’” Vera Institute of Justice, March 13, 2015, <https://www.vera.org/blog/police-perspectives/avoiding-profiling-by-proxy>

<sup>12</sup> [Organizational Culture and Police Misconduct](#)

## Recommendations for Council

**Community Engagement and Feedback** - When the City of Berkeley pledged to consider reducing funding for the police department by 50%, it also committed itself to shifting to new and alternative methods of community safety. To effectively understand and implement new and alternative safety practices and services, the City of Berkeley must look to its residents for ongoing insight and feedback. The City must collect and utilize regular community feedback to inform the city on community investment priorities including police department policies and practices and future direction. To that end:

### **12. Address Profiling by Proxy<sup>13</sup>**

To protect against profiling by proxy City Council should:

- a. Introduce profiling by proxy legislation similar to [CAREN Act](#) in SF, which would hold residents accountable for using police in a biased manner.
- b. Issue a quarterly review of data from 911 Dispatch, for the PRC or City Auditor to help understand the extent of calls from community members presenting 'biased' suspicions."

### **13. Require regular analysis of BPD stop, search, and use of force data**

The City Auditor and/or PRC shall update the [analysis](#) of BPD data completed by the [Center for Policing Equity](#) and the PRC and publish the results on the BPD website every quarter. This report shall include stop, search, and use of force analysis. —

## Ensuring Timely and Effective Implementation:

Since the fall of 2017, the police department has received 37 separate policy or legislative directives to address the racially disparate treatment of City of Berkeley residents. Those directives are the result of extensive and on-going racial disparities in police department stops, searches, and use of force. As of the drafting of this report, at least 30 of those directives remain outstanding with **no plan** for implementation.

We respectfully recognize that the role of the Mayor's Working Group on Fair and Impartial Policing is to advise the Berkeley City Council and staff. We recognize that we are not in a position to make final decisions; rather, our role is to offer advice and recommendations to the Council. The Mayor's Working Group is committed to ensuring that the policy recommendations outlined in this proposal are not added to the long list of unaccomplished directives. Therefore, we have included an accountability system with our policy proposal. This accountability system

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<sup>13</sup> When an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against—e.g., ethnic and religious minorities, youth, homeless people; retrieved from The Vera Institute of Justice

will ensure that the changes necessary to establish fair and impartial policing and rebuild public trust occur.

**Compliance and Accountability Mechanisms:**

- A. Working in partnership with the Mayor's Working Group on Fair and Impartial Policing and within six months from approval of the proposal (extended for good cause), the City Manager hires an experienced consultant to help draft an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the working group's policy proposal.
  - i. If a consultant is not hired within six months from approval of the proposal, the Council should move to item "E" below.
  - ii. If a consultant is not hired within six months (extended for good cause), the working group should remain formally organized by the Mayor until a consultant is hired and a plan is approved.
- B. The Working Group, Police Chief, and the consultant will create an implementation plan that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- C. The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
- D. The City Manager and the Berkeley Police Chief should do everything within their power to implement the items outlined in the plan and timeline set forth and approved by City Council.
- E. The City Council should set the implementation of this plan as a priority in the annual evaluation of the city manager.
- F. If the City Manager does not ensure that the Police Department implements the plan in accordance with the timeline, the City Manager should be held accountable.
  - i. In the event of a new Berkeley Police Department Chief: the Mayor's Working Group, on Fair and Impartial Policing, the new Police Chief and the City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.
  - ii. In the event of a new City Manager: the Working Group, the Berkeley Police Chief, and the new City Manager shall meet and agree upon an updated timeline to monitor, assess, and report on the implementation of the items outlined in the plan approved by City Council.

If these recommendations are adopted and implemented promptly, we expect that the disparate stop data can show significant improvement in the near future. We expect the City Manager and the Police Chief to implement these programs with enthusiasm and dedication, as they reflect the constitutional imperative of equal protection under the law.



## Appendix A: Additional Recommendations

*The following recommendations are also supported by the working group, which suggests referring them to the reimagining process and/or follow-up with the Police Accountability Board and the Fair and Impartial working group. See table 1 for recommended actions.*

### **14. Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4**

- a. The training must include specific, relevant examples of prohibited actions and how to conduct law enforcement activities in an unbiased manner.<sup>14</sup>
- b. MILO and VIRTRA are two such scenario-based training programs<sup>15</sup>
- c. An independent observer shall review the training and report back to the PRC or its successor on the quality of the training.

### **15. Require enhanced annual implicit bias training for police**

There is scant scientific evidence that implicit bias training works to change implicit biases over the long-term. However, agency-wide, enhanced, and well-executed training that occurs on a regular basis could have a positive effect on the cultural environment of the police department and on expectations for behavior. Regular, required implicit bias training provides an expression of institutional support for fairness, which is important in improving relationships across groups<sup>16</sup>and improving agency culture.

- a. Officers should receive intensive anti-racism and implicit bias training as part of their core instruction in the first 90 days of employment, and an annual 'refresher' course.
- b. An independent observer shall attend the training and report back to the PRC on the quality of the training.

### **16. Accelerate Crisis Intervention Team (CIT) activity**

- a) Require 40 hours of CIT training in the first year of employment.
- b) Collect data on CIT calls to allow BPD to make informed decisions about staffing and deployment so that a CIT officer is available for all shifts in all districts to respond to every CIT call.
- c) Develop a CIT reporting system so that each deployment of a CIT officer is well documented. CIT officers should submit narrative reports of their interactions with persons in crisis so the appropriateness of the response can be evaluated in an after-action analysis.
- d) Implement an assessment program to evaluate the efficacy of the CIT program as a whole and the performance of individual CIT officers. A portion of a CIT officer's performance review should address skill and effectiveness in CIT situations.

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<sup>14</sup> CA Penal Code

<sup>15</sup> MILO in an Oakland setting

<sup>16</sup> Allport, G. W., Clark, K., & Pettigrew, T. (1954). The nature of prejudice.

**17. The City of Berkeley should conduct annual community forums on Police and Public Safety:**

- a. Identifying community-based leaders and impacted individuals for control of the envisioning process.
- b. Placing the process under the Office of the Mayor, not the City Manager. Upon establishment of the Police Accountability Board, place the process under the auspices of the Police Accountability Board.
- c. Including the creation of community-based measures of safety as part of the first round of the envisioning process.<sup>17</sup>
- d. Once community-based measures of safety are created, including these measures in the annual community survey (see item 17) and publishing the data as per item 17b.

**18. The City of Berkeley should conduct an annual community survey.**

Sample surveys include the [Milwaukee survey](#) and the [Dallas survey](#).

- a. Data collected should be shared publicly via the City of Berkeley website or an online community dashboard.

**19. The City should create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized and includes:**

- a. A basic "Report Card," in collaboration with the PRC or its successor the Police Accountability Board, based on community feedback for each reform. This will enable the Department to take the 'community's temperature' on how the implementation of the reforms are being perceived by the public.
- b. Quarterly neighborhood 'check ins' for relationship building .

**20. Conduct a Capacity Study**

- a. Release data including but not limited to 911 dispatch calls, BPD stops and interventions, written reports, and body-worn camera footage to the City Auditor and/or PRC for analysis.<sup>18</sup>
- b. Conduct an audit on officer down time to determine the percentage of police time spent outside of responding to calls for service and how police officers spend this time. Share this information with the City Auditor and/or PRC for analysis for use in the capacity study.
- c. Conduct an audit of police overtime to determine the factors that contribute to the use of overtime .

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<sup>17</sup> This process should follow or be modeled after the [Everyday Peace Indicators](#) process

<sup>18</sup> This study could be time-limited and would not have to be a comprehensive analysis of internal data; a random sample done correctly would suffice to determine how best to restructure the response to a variety of problematic situations.

- d. Identify what percentage of calls for service require a unique police response and what percentage of calls could be better served by an alternative response with the goal to focus police response on issues that can best be responded to by police officers.
- e. These data can also assist in identifying calls suspected of profiling by proxy.

**21. Fund and implement a specialized care unit for mental health crises**

Fully fund and implement the specialized care unit as swiftly as possible in order to remove mental health and homeless encounters from the responsibility of BPD. Research has found that individuals with mental illness are at a higher risk of police stops, use of force,<sup>19</sup> and a fatal police encounter.<sup>20</sup> These disparities increase for Black and Latinx individuals. Specialized mental health crisis units are a safer option for those experiencing a mental health crisis than a police response and a more cost-effective use of public resources.<sup>21</sup> The Council's July 14, 2020 decision to create a Specialized Care Unit will better serve people in Berkeley experiencing a mental health crisis. The Working Group supports transitioning away from police as first responders to 911 calls related to mental health and towards trained, unarmed mental health first responders.

The Berkeley Community Safety Coalition in collaboration with Councilmember Bartlett are developing a proposal related to a pilot program transitioning away from sworn police as first responders to professional mental health first responders. The Working Group supports this effort.

**22. Make resources on police-civilian encounters more publicly available, including:**

- a. A website similar to RAHEEM that collects information on police-civilian encounters.<sup>22</sup>
- b. Contact information for filing a complaint with the PRC or its successor.

**23. Evaluate the impact of these proposals on racial disparities in stops and searches, using regular updates to stop and search data**

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<sup>19</sup> [Mental Illness, Police Use of Force, and Citizen Injury](#)

<sup>20</sup> [Deaths of people with mental illness during interactions with law enforcement](#)

<sup>21</sup> [CAHOOTS Media Guide, 2020](#)

<sup>22</sup> <https://www.raheem.ai/en/>

Attachment 2: Working Group Recommendations Passed by Council. February 23, 2021

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

**Tuesday, February 23, 2021**

**4:00 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.*

*Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81676274736>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **816 7627 4736**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*To submit an e-mail comment during the meeting to be read aloud during public comment, email [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

**Roll Call:** 4:06 p.m.

**Present:** Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani

Councilmember Kesarwani present at 4:13 p.m.

**Action:** M/S/C (Arreguin/Wengraf) to adopt a special rule for this meeting to limit public comment to one minute per speaker, with the option to yield time up to a total of four minutes.

**Vote:** Ayes – Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent - Kesarwani

## Action Calendar – New Business

1. **Report and Recommendations From Mayor’s Fair and Impartial Policing Working Group**  
**From: Mayor Arreguin (Author), Councilmember Harrison (Author)**  
**Recommendation:**
  1. Accept and acknowledge the report from the Fair and Impartial Working Group (Attachment 1).
  2. Direct the City Manager to implement the following recommendations summarized below and detailed in full in Attachment 1, with at minimum, quarterly progress updates to the Police Accountability Board (PAB) and/or the Working Group.
    - Focus traffic stops on safety
    - Use a clear, evidence-based definition for stops of criminal suspects
    - Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
    - Eliminate stops for low-level offenses
    - Implement an Early Intervention System (EIS) and a risk-management structure
    - Immediately release stop, arrest, calls for service and use of force data from 2012 to present to the Working Group
    - Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole
    - Require written consent for all consent searches
    - Address Profiling by Proxy (PAB Policy Development, Dispatcher Training)
    - Fire racist police officers identified through social media and other media screens
    - Address Profiling by Proxy (Council develop & pass CAREN policy)
    - Require regular analysis of BPD stop, search, and use of force data
    - Make resources on police-civilian encounters more publicly available such as RAHEEM.org
    - Adopt Compliance and Accountability Mechanisms; -Hire consultant to develop implementation plan
    - 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
  3. Refer the following recommendations summarized below and detailed in full in Attachment 1 to be included in the process to reimagine public safety:

## Action Calendar – New Business

-Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins

-Conduct a baseline community survey

4. Refer the following recommendations summarized below and detailed in full in Attachment 1 to the Police Review Commission, to be taken up by the Police Accountability Board when it is established

-Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4

-Require enhanced annual implicit bias training for police

-Accelerate Crisis Intervention Team (CIT) activity

5. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway:

-Fund and implement a specialized care unit for mental health crises

-Conduct a Capacity Study of police calls and responses and use of officer time outside of case work

6. Refer \$50,000 to the FY 2022 budget process for a consultant to develop an implementation plan as described in Attachment 1 and other minor costs the Department may confer

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, (510) 981-7100

**Action:** 40 speakers. M/S/C (Arreguin/Harrison) to:

1. Accept and acknowledge the report from the Mayor's Fair and Impartial Policing Working Group;
2. Acknowledge and appreciate the work already completed or underway by the City Manager's Office and Police Department to implement policing reforms including:
  - Adoption and implementation of Policy 401, Fair and Impartial Policing
  - Public reporting of stop data on the BPD Open Data Portal
  - Initiation of the Center for Policing Equity study
  - Implementation of the Body Worn Camera Program
  - Early adoption of Racial and Identity Profiling Act (RIPA) data collection and reporting
  - Updates to the Use of Force Policy, Policy 300
  - Development and passage of Measure II to create a new Police Accountability Board
  - Launching of the Public Safety Reimagining process
3. Refer to the City Manager to implement the following recommendations summarized below, with quarterly progress updates to the City Council and Police Review Commission/Police Accountability Board (when established):
 

**Implement a new evidence-based Traffic Enforcement Model**

  - Focusing the basis for traffic stops on safety and not low-level offenses;
  - Reaffirming and clarifying that the Berkeley Police Department will use a clear, evidence-based definition for stops of criminal suspects;
  - Reaffirming and clarifying that the Berkeley Police Department will use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria
  - Minimize or de-emphasize as a lowest priority stops for low-level offenses.

## Action Calendar – New Business

### Implement Procedural Justice Reforms

- Refer amendments to existing BPD policy and the creation of an Early Intervention System (EIS) related to traffic, bike and pedestrian stops;
- Adopt a policy to require written consent for all vehicle and residence searches and update the consent search form in alignment with best practice and community feedback;
- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole;
- Address Profiling by Proxy (PAB Policy Development, Dispatcher Training);
- Fire racist police officers identified through social media and other media screens;
- Require regular analysis of BPD stop, search, and use of force data;
- Make resources on police-civilian encounters publicly available such as through RAHEEM.org;
- For any individual detained, BPD officers shall provide a business card with info on the commendation and complaint process with PAB and Berkeley Police Department.

Request that the City Manager report back at a Council Work Session in three months with budget estimates for implementation (to be considered along with the FY 22 budget process), information on legal and operational considerations, and a short-term action plan of recommendations which can be implemented without the hiring of a consultant, and those that will require the assistance of a consultant and additional resources.

### Compliance and Accountability Mechanisms

- The City Manager will create an implementation plan with the assistance of a consultant that includes a timeline to monitor, assess, and report on the implementation of the items outlined in the Working Group's policy proposal. Long-term monitoring and assessments will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
  - The implementation plan will be presented to the Berkeley City Council for approval. Once the plan is approved by the City Council, the consultant's work is finished. Long-term monitoring and assessment will be the responsibility of the police oversight body (the PRC or its successor the Police Accountability Board).
4. Refer the following recommendations summarized below to the Reimagine Public Safety process:
    - Create a formalized feedback system to gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the Police Review Commission or its successor and includes a basic report card and quarterly neighborhood check-ins
    - Conduct a baseline community survey.
  5. Refer the following training recommendations summarized below to the Police Review Commission, to be taken up by the Police Accountability Board when it is established, and consider the resources required to implement this expanded training:
    - Include a scenario-based training component in the existing officer training required by California Penal Code 13519.4
    - Require enhanced annual implicit bias training for police
    - Accelerate Crisis Intervention Team (CIT) activity

## Action Calendar – New Business

- Refer to the PRC/PAB to consider a departmental policy on requiring written consent for person searches and report back in 6 months.
- 6. Acknowledge and reaffirm the following recommendations summarized below and detailed in full in Attachment 1 that are already underway and have been completed:
  - BPD released stop, arrest, calls for service and use of force data from 2012 to present to the Working Group;
  - Fund and implement a specialized care unit for mental health crises;
  - Conduct a Capacity Study of police calls and responses and use of officer time outside of case work.
- 7. Refer \$50,000 to the FY 2022 budget process for a consultant to assist the City Manager/Police Department in the implementation of these recommendations and other minor costs the Department may confer; and also refer to the FY 2022 budget process a line item for police training for the new evidence-based stop program (costs to be determined by BPD).

**Vote:** All Ayes.

## Adjournment

**Action:** M/S/C (Robinson/Taplin) to adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 7:07 p.m.

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### Item #1: Report and Recommendations From Mayor's Fair and Impartial Policing Working Group

1. Elizabeth Ferguson

## Supplemental Communications and Reports 3

### Item #1: Report and Recommendations From Mayor's Fair and Impartial Policing Working Group

2. Material, submitted by Mayor Arreguin
3. Presentation, submitted by the Police Department
4. Janice Schroeder
5. Thomas Luce
6. Ben Gerhardstein, on behalf of Walk Bike Berkeley
7. Diana Bohn
8. Sivan Orr
9. Ali Lafferty

Attachment 3: Summary of BPD Quarterly Updates on Fair and Impartial Policing Implementation

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

| FIP Recommendation                                                                                                                   | June 2021                                                                                                                                                                                                                                                                                                                                                                                                                                   | Oct 2021                                                                                                                                                                                                                                                    | Feb 2022                                                                                                                                                                                                                                                                                                          | June 2022                                                                                                                                                                                                                                            | September 2022                                                                                                                                                               | March 2023       | June 2023                                                                                                    | October 2023     |
|--------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------------------------------------------------------------------|------------------|
| Implement a new evidence-based traffic enforcement model: minimize or de-emphasize as a lowest priority stops for low-level offenses | A working group (wg) has been established consisting of employees working in every division of BPD and a representative of the BPA leadership. The wg is tasked with identifying what low-level offenses are applicable while balancing the necessity of traffic safety and the Berkely Vision Zero initiative. The wg will present recommended policy language as well as analysis of risk or unintended outcomes no later than Fall 2021. | Officers have been directed to focus less attention on equipment violations and are expected to make investigative stops related to criminal intelligence information. The wg has been working to identify traffic offenses that most impact public safety. | Officers have been provided data regarding primary collision factors and have been directed to enforce those violations. The wg created a three-prong approach that focuses on primary collision factors, community member reports, and community caretaking. Implementation in progress. Training has commenced. | Implementation complete <sup>1</sup> . Officers have been provided data regarding primary collision factors and have been directed to enforce those violations. BPD has implemented and conducted departmental training on the three-prong approach. | Implementation complete. Training on the three-pronged approach has concluded. The Department will continue to review data on traffic offenses that affect community safety. | Same as previous | In addition, this has been formalized as a departmental directive in a Special Order on traffic enforcement. | Same as previous |
| Use a clear, evidence-based definition for stops                                                                                     | BPD is establishing a precision based policing model that considers                                                                                                                                                                                                                                                                                                                                                                         | BPD continues to develop and deploy data-                                                                                                                                                                                                                   | BPD is establishing a precision-based policing model                                                                                                                                                                                                                                                              | BPD is establishing a precision-based policing model                                                                                                                                                                                                 | Implementation complete. BPD is establishing a precision-based                                                                                                               | Same as previous | Same as previous                                                                                             | Same as previous |

<sup>1</sup> Reflects BDP-reported status update.

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

|                             |                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |  |  |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
| <p>of criminal suspects</p> | <p>data and public safety. Data driven tools that enable close to real-time dashboard tracking of calls for service have been provided to Community Service Bureau and Patrol Watch Commandeers. The goal is to have data-driven approaches to violence prevention programs in real time crime and call analysis for patrol deployment strategies.</p> | <p>driven tools to enhance precision-based policing model. Interviewing for two data analysts and continuing to build data dashboard.</p> | <p>that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. Exploring feasibility of a system that employs a feedback loop to provide information back to the Community Services Bureau to support accountability. Filled one of two data analyst positions.</p> | <p>that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. Exploring feasibility of a system that employs a feedback loop.</p> | <p>policing model that considers data and public safety. Data driven tools that enable real-time dashboard tracking (close to real time) have been provided to Patrol Watch Commanders. During this reporting period feedback loop implemented. System provides tracking of calls for service with the goal of call analysis for patrol deployment strategies and allows officers in the field to communicate to the Community Service Bureau.</p> |  |  |  |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

|                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                |                                                                                                                              |                                                                                                                                |                                                                                                                                        |                         |                         |                         |
|--------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------|-------------------------|
| <p>Use race and ethnicity as determining factors in stops only when paired with clear, evidence-based criteria</p> | <p><b>Implementation complete.</b> Existing law prohibits racial profiling. Policy 401 (Fair and Impartial) explicitly states that officers shall not consider race, ethnicity, national origin, gender....in establishing reasonable suspicion or probable cause...the above policies were reviewed in light of taskforce recommendations and found to affirm and clarify officer responsibility in stops.</p> | <p>Same as previous</p>                                                                                                                        | <p>Same as previous</p>                                                                                                      | <p>Same as previous</p>                                                                                                        | <p>Same as previous</p>                                                                                                                | <p>Same as previous</p> | <p>Same as previous</p> | <p>Same as previous</p> |
| <p>Implement an Early Intervention System (EIS) and a risk-management structure</p>                                | <p>Working on amendments to EWS to include data around traffic, bike, and pedestrian stops.</p>                                                                                                                                                                                                                                                                                                                 | <p>Amendments are being made to specifically identify additional activity that should be considered when applying the EWS policy. Language</p> | <p><b>Implementation complete.</b> Updated policy finalized reflecting amendments to include monitoring of stop data for</p> | <p><b>Implementation complete.</b> Random quarterly audits of officers' stop data, complaints, and use of force, and other</p> | <p><b>Implementation complete.</b> The City Council referred \$100,000 to the June 2023 Budget Process to enter into a contract to</p> | <p>Same as previous</p> | <p>Same as previous</p> | <p>Same as previous</p> |

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing  
 Recommendation Implementation Updates per BPD

|                                                                               |                                                                                                                                                                                                                 |                                                                                                                                                                                   |                                                                                                                                                                                                                                                   |                                                                                                                   |                                                                                                           |                         |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-------------------------|
| <p>BPD to provide regular analysis of stop, search, and use of force data</p> | <p>BPD is in the process of expanding the call for service dataset to include all call types and eliminate 180-day time range. BPD has started working with a vendor to update the public facing open data.</p> | <p>added to include data around traffic, bicycle and pedestrian stops. The new policy is being reviewed by the police union.</p>                                                  | <p>individual officers. The Audits and Inspections Sergeant will also conduct separate and random quarterly audits of officer's stop data, complaints, and use of force incidents and other factors and will share these audits with the PAB.</p> | <p>factors, the results of which will be reported to the Chief of Police.</p>                                     | <p>design and assist with implementing a comprehensive Early Intervention and Risk Management System.</p> | <p>Same as previous</p> |
|                                                                               |                                                                                                                                                                                                                 | <p>In the process of eliminating the 180-day time range that currently exists. In the process of expanding the call for service data set. Expected completion is summer 2022.</p> | <p><b>Implementation complete.</b> Open Data Portal and Transparency Hub effectuate this recommendation.</p>                                                                                                                                      | <p><b>Implementation complete.</b> The department will regularly analyze stop, search, and use of force data.</p> | <p>Same as previous</p>                                                                                   | <p>Same as previous</p> |

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing  
 Recommendation Implementation Updates per BPD

|                                                                                                                                        |                                                                                                               |                                                                                                                                          |                                                                                                                                                                     |                  |                  |                  |                  |
|----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|------------------|------------------|
| Require written consent for all consent searches                                                                                       | Policy to require written consent for all vehicle and residence searching using updated form near completion. | Revised consent form has been created. Implementation in progress. New search and seizure policy being reviewed by union.                | Implementation complete.                                                                                                                                            | Same as previous | Same as previous | Same as previous | Same as previous |
| Limit warrantless searches of individuals on supervised release status such as PRCS, probation, or parole, absent reasonable suspicion |                                                                                                               | Implementation complete. Policy 311 updated to limit searches on individuals who are on supervised release, absent reasonable suspicion. | Implementation complete. However, in July 2022, City Council approved a revised Policy 311 to allow for searches of those on supervised release for violent crimes. | Same as previous | Same as previous | Same as previous | Same as previous |
| Address profiling by proxy                                                                                                             |                                                                                                               | Implementation complete. Comms Center Operation Manual amended to address.                                                               | Same as previous                                                                                                                                                    | Same as previous | Same as previous | Same as previous | Same as previous |
| Fire racist police officers identified through social media and other media screens                                                    | The FIP taskforce identified additional methods for                                                           | Implementation complete. Existing policy implements this recommendation                                                                  | Same as previous                                                                                                                                                    | Same as previous | Same as previous | Same as previous | Same as previous |



Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing  
 Recommendation Implementation Updates per BPD

|                                                   |                                                                      |           |                                                                                             |                                                                         |                         |                                                                                                                                                                                                                                                                                                        |                                                 |                         |
|---------------------------------------------------|----------------------------------------------------------------------|-----------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|-------------------------|
|                                                   |                                                                      |           | <p>One data analyst will be tasked with ongoing analysis of police calls and responses.</p> | <p>process via the Council's direction on Reimagining public safety</p> |                         | <p>ations were provided to the BPD and findings were referred to the Reimagine Public Safety Task Force. BPD has implemented the recommendations and an assessment of overall staffing levels as well as patrol beat specific analysis will be conducted as part of the sworn staffing assessment.</p> | <p>Citygate is expected in the near future.</p> | <p>of August.</p>       |
| <p>Fund and implement a specialized care unit</p> | <p>XX (PAB has not tracked implementation status of this effort)</p> | <p>XX</p> | <p>XX</p>                                                                                   | <p>XX</p>                                                               | <p>XX</p>               | <p>XX</p>                                                                                                                                                                                                                                                                                              | <p>XX</p>                                       | <p>XX</p>               |
| <p>Create a formalized feedback system to</p>     |                                                                      |           | <p>Implementation in progress. Baseline survey</p>                                          | <p>Initial implementation complete. BPD</p>                             | <p>Same as previous</p> | <p>Same as previous</p>                                                                                                                                                                                                                                                                                | <p>Initial implementation complete. To</p>      | <p>Same as previous</p> |

Appendix 3

Summary of Berkeley Police Department Quarterly Reports: Fair & Impartial Policing Recommendation Implementation Updates per BPD

|                                                                                                                                                                                                                                                                                  |  |  |                                                                          |                                                                                      |  |                                                                                                                                               |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>gauge community response to ongoing reforms and ensure this constructive input system is institutionalized with the police review commission or its successor and includes a basic report card and quarterly neighborhood check-ins; conduct a baseline community survey.</p> |  |  | <p>completed as part of Reimagining Public Safety Taskforce process.</p> | <p>will be seeking ongoing community input and feedback via the Transparency Hub</p> |  | <p>support feedback systems, the BPD will be seeking ongoing community input and feedback around reform efforts via the Transparency Hub.</p> |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------|--|

Attachment 4: BPD Three-Pronged Approach to Traffic Enforcement



**Police Transparency**

[Stop Data](#)
[Calls for Service](#)
[Use of Force](#)
[Crime Data](#)
[Community Engagement](#)
[Current Trends](#)
[Traffic Safety](#)
[Open Data Portal](#)



## Our Three-Prong Approach to Traffic Safety

The BPD has reprioritized traffic safety efforts around a three-prong approach that focuses on primary collision factors (PCF), community concerns submitted to the BPD, and our role as community caretakers. Community caretaking functions consider safety violations that aren't always noted as the primary collision factor but can be a significant contributing factor in serious collisions. The BPD collects a range of data related to traffic safety to include calls for service, collision data, and qualitative survey data. The analyses are then used to guide enforcement, education, and prevention strategies.

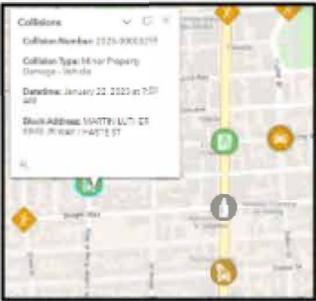
### Prong # 1 - Primary Collision Factors

(Berkeley specific data)

Vehicle code violations resulting in severe and fatal collisions in Berkeley.

- Unsafe speed
- Pedestrian right-of-way at crosswalks
- Failure to yield for turns
- Red light violations
- Stop sign violations

For additional information on the city's Vision Zero efforts please check out their page on the right!



Use the Dashboard below to explore Berkeley collision data.



**Vision Zero**

Berkeley's Vision Zero strategy aims to eliminate all traffic fatalities and severe injuries while increasing saf...

[Explore](#)

### Prong # 2 – Community Reports

Responding to calls from community members.

- Possible DUI driver (car reportedly swerving)
- Driver that's fallen asleep at a red light
- A variety of unsafe driving incidents occurring
- CRIME involving vehicle
  - Hit and Run
  - Crime with get-away vehicle description

To submit a traffic safety concern, please fill out the form on the right!



Use the Dashboard below to explore traffic-related Calls for Service (orange lines) and community concerns (orange flag).



**Submit a Traffic Concern**

Let the Berkeley Police Department Traffic Bureau know about your traffic safety concerns in the community

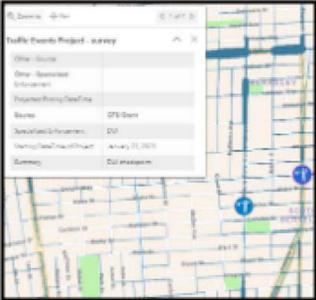
[Take Survey](#)

### Prong #3 – Community Caretaking

Examples of violations that are safety concerns but not necessarily PCFs

- Distracted Driving (hands free law)
- DUI Investigation
- Seatbelt Violations

For additional information on our traffic stop data, please visit our Stop Data page on the right!



Use the Dashboard below to explore our traffic enforcement efforts (blue lines) in relation to calls/concerns/collisions.



**Stop Data**

An ArcGIS Hub page used by Law Enforcement agencies to help illustrate to the general public the enforcement...

[Explore](#)

Attachment 5: Berkeley Police Department Memorandum Titled: "PD Response to PAB FIP Implementation Report"



## Berkeley Police Department Memorandum



From: Chief Jennifer Louis

Date: 4/15/2024

To: The Police Accountability Board and the Office of the Director of Police Accountability

Subject: PD Response to PAB FIP Implementation Report

We sincerely thank you for sharing the draft of your Fair and Impartial Policing Implementation Report and for being open to accepting our comments and feedback. The Berkeley Police Department commends the Police Accountability Board for your analysis and efforts to enhance policing standards in our community. Your work plays a vital role in promoting fairness, equity, and impartiality in policing.

BPD is fully committed to collaborating with the PAB as we share the goals of ensuring justice and safety for every community member. We value your partnership as we implement effective reforms and strive for continuous improvement.

Regarding the specific recommendations:

- BPD appreciates the guidance to focus on outcomes, not just policies. We commit to including measures of our impact on racial disparities, such as steps taken to mitigate officer bias, in our quarterly FIP reports. While acknowledging external factors, we will emphasize areas where BPD can drive meaningful change.
- Since implementing our Three-Pronged Traffic Enforcement model, we've decreased equipment violation stops by 21% from 2022-2023 and reduced disparities in all discretionary vehicle stops. The data shows that the percentage of all discretionary equipment violation stops involving Black individuals has decreased from 29.49% in 2021 to 20.93% in 2023, indicating progress in addressing the overrepresentation of Black people in these stops. We are open to further adjustments but believe our current approach needs more time to demonstrate its full impact.
- BPD will continue to exceed the Council's directives for implicit bias training through our comprehensive KIND program, which embeds these principles into trainings on tactics, de-escalation, and communication. This holistic approach reinforces recognizing and mitigating bias across all aspects of our work.
- BPD is actively collaborating with the PAB and the Berkeley Police Association to enhance and refine our Early Intervention System. We are working to ensure our approach reflects best practices and balances the goals of fairness and effectiveness in identifying areas for improvement. The system's design will be informed by comprehensive analysis and guidance from these subject matter experts.
- Our policies mandate strict accountability for any biased conduct by officers. BPD is fully committed to enforcing these standards to maintain the highest levels of integrity and public trust.

Regarding the collision analysis, we want to clarify that it aims to provide a relevant baseline of the demographics of Berkeley drivers, especially those driving dangerously, to enable a fair assessment of officers' decision-making. The data reflects operational realities, not an attribution of driving behaviors



## Berkeley Police Department Memorandum



to any racial group. We acknowledge the omission of equipment violations and commit to expanding our analysis to examine these stops in future reports.

We suggest the FIP subcommittee develop a theory of change linking each recommendation to specific factors contributing to disparities (e.g., socioeconomic inequities, institutional practices, individual bias). This will allow us to better assess if reforms are addressing the intended aspects of the disparities.

We also recommend clarifying that the disparity figures compare stop demographics to city demographics, not necessarily differential treatment for identical behaviors, to accurately capture the complex factors shaping police interactions beyond just department policies.

Regarding implementation progress, BPD has engaged on every recommendation, completing all but one. The outstanding recommendation, 'Conduct a capacity study of police calls and responses and use of officer time outside of case work,' is expected to be completed by June, pending the results of an upcoming report from Citygate Associates. Our 2023 annual report reflects this progress and commitment. Beyond the completion of the final recommendation, the department will continue efforts related to fair and impartial policing and will continue to assess and review the efficacy of our efforts.

In conclusion, the Berkeley Police Department reaffirms our unwavering dedication to fair and impartial policing. We deeply value the PAB's crucial role in achieving our shared goals and welcome your continued feedback. BPD is committed to learning, improving, and engaging in open dialogue as we work together to promote equity and justice.

Thank you again for the opportunity to provide input. We look forward to our continued partnership to ensure Berkeley's policing lives up to our city's values.



CONSENT CALENDAR  
July 22, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Lunaparra (co-sponsor),  
Councilmember Bartlett (co-sponsor), Councilmember Tregub (co-sponsor)

Subject: Berkeley Green New Deal: Workforce Development

### RECOMMENDATION

Refer to the City Manager a feasibility analysis and request for recommendations for possible models to either establish a green workforce development board within the City of Berkeley or strengthen the alignment between City of Berkeley and community partner programs and the Alameda County Workforce development board to create pathways to gainful employment in green industries and accelerate the transition to a fossil-free local economy.

### POLICY COMMITTEE RECOMMENDATION

On June 10<sup>th</sup>, 2025 the Land Use, Housing, & Economic Development Committee adopted the following action: M/S/C (Tregub/Lunaparra) to send the item to the City Council with a qualified positive recommendation that Council adopt the item and that the item be revised to include a referral to the budget process, clarify and make explicit that the full-time employee ("FTE") is either an in-house City of Berkeley employee or is a privately funded employee not on the City's payroll, and include a privately funded alternative to a full-time City employee when creating the budget referral.

Vote: All Ayes.

### FINANCIAL IMPLICATIONS

Staff time TBD, est. \$125,000 for 1 FTE Senior Planner. Planning staff estimates that capacity for additional Specific Area Plan work to be available in Fiscal Year 2025 at the earliest. Currently, San Pablo Avenue Specific Area Plan work is supported by grant funding from the Metropolitan Transportation Commission's Priority Development Area (PDA) program. Other grant funding opportunities, such as the Priority Conservation Area (PCA) and Priority Production Area (PPA) programs<sup>1</sup>, or the California Strategic Growth Council's Transformative Climate Communities<sup>2</sup> program, may also be available in future grant cycles.

<sup>1</sup> Metropolitan Transportation Commission: Land Use Programs. <https://mtc.ca.gov/planning/land-use>

<sup>2</sup> California Strategic Growth Council: Transformative Climate Communities.  
<https://sgc.ca.gov/programs/tcc/>

CURRENT SITUATION AND ITS EFFECTS

Since the passage of SB 1000 (2016), California Government Code Section 65302(h) requires an Environmental Justice Element and/or related Elements in municipal General Plans to:

*(A) Identify objectives and policies to reduce the unique or compounded health risks in disadvantaged communities by means that include, but are not limited to, the reduction of pollution exposure, including the improvement of air quality, and the promotion of public facilities, food access, safe and sanitary homes, and physical activity.*

*(B) Identify objectives and policies to promote civic engagement in the public decision making process.*

*(C) Identify objectives and policies that prioritize improvements and programs that address the needs of disadvantaged communities. (See Attachment 6)*

The City of Berkeley has incorporated Environmental Justice policies in its plans, most recently in its 2023 Housing Element Update. However, many area plans such as the most recent update to the West Berkeley Plan<sup>3</sup>, adopted in 2011<sup>4</sup>, predate SB1000 requirements.

This contributes to a growing need to update area planning with recent accomplishments including: a renewed Development Agreement with Bayer<sup>5</sup> (formerly Miles Corp) in 2021, which funded a West Berkeley Fund for community infrastructure and resilience; removal of minimum parking requirement; expansion of Research and Development (R&D)<sup>6</sup> uses to Manufacturing zones, including development of a

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<sup>3</sup> City of Berkeley. (1993, Dec. 14.) Resolution 57,301-N.S. Adopting the Certification of Environmental Impact Report for the West Berkeley Plan...The West Berkeley Plan as an Area Plan and as an Amendment to the City of Berkeley Master Plan. [https://berkeleyca.gov/sites/default/files/2022-03/12\\_14\\_1993%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2057301%3B%20West%20Berkeley%20Area%20Plan%3B.pdf](https://berkeleyca.gov/sites/default/files/2022-03/12_14_1993%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2057301%3B%20West%20Berkeley%20Area%20Plan%3B.pdf)

<sup>4</sup> [https://berkeleyca.gov/sites/default/files/2022-03/3\\_22\\_2011%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2065210%3B%20%3B%20West%20Berkeley%20Project%20Amending%20the%20West%20Berkeley%20Plan%20and%2C%20by%20Reference%2C%20the%20General%20Plan.pdf](https://berkeleyca.gov/sites/default/files/2022-03/3_22_2011%3B%20CLK%20-%20Resolution%3B%20City%20Council%3B%2065210%3B%20%3B%20West%20Berkeley%20Project%20Amending%20the%20West%20Berkeley%20Plan%20and%2C%20by%20Reference%2C%20the%20General%20Plan.pdf)

<sup>5</sup> City of Berkeley. (2021). Bayer Healthcare LLC – Amended and Restated Development Agreement. <https://newspack-berkeleyside-cityside.s3.amazonaws.com/wp-content/uploads/2021/12/2021-11-30-Item-24-Bayer-Healthcare-LLC-%E2%80%93-Amended-and-Restated-Development-Agreement-1.pdf>

<sup>6</sup> Robinson, R. & Chen, A. (2022). Referral: Keep Innovation in Berkeley. <https://berkeleyca.gov/sites/default/files/documents/2022-09-13%20Item%2030%20Referral%20Keep%20Innovation%20in%20Berkeley.pdf>

Manufacturing - Research & Development (M-RD)<sup>7</sup> zone; development of a San Pablo Avenue Specific Area Plan.<sup>8</sup> While no single policy change will be a silver bullet, these and future efforts must inevitably also mitigate the impacts of anthropogenic climate change such as rising groundwater<sup>9</sup>; and the overall increasing risk of flooding, fires, and other natural disasters due to anthropogenic climate change.<sup>10</sup>

The increasing local demand for services and environmental mitigations, in tandem with historic investments in green energy and advanced manufacturing through the Inflation Reduction Act and the CHIPS and Science Act, present a major opportunity for the local community to reap the rewards of these challenges through workforce development. These targeted investments are intended to reduce consumer price inflation and eliminate lifecycle carbon emissions by rebuilding the material inputs of goods and services in the economy from lower-cost and renewable energy sources.<sup>11</sup> However, advanced manufacturing sectors are also facing acute workforce shortages in strategically significant goods such as semiconductors and lithium-ion batteries, with significant federal initiatives underway to address them.<sup>12</sup>

In partnership with the UC Berkeley College of Environmental Design, UC Chancellor's Office, and McGee Avenue Baptist Church, the District 2 Council Office supported field research and stakeholder outreach in the local community to determine top priorities for a Just Transition, and echoing President Biden's position on tackling climate change ("jobs, jobs, jobs"), most responses focused on the need for gainful employment and income support. These are related but distinct goals: while cash transfer programs such as a basic income may be necessary to address short-term needs, education and career development also can provide a sense of community belonging and self-actualization independent of monetary compensation. Accordingly, workforce development has been central to the City Council's reparative justice efforts, including

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<sup>7</sup> City of Berkeley Planning Commission Presentation (2023, Feb. 1).

[https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2023\\_02\\_01\\_Item%2012\\_Gilman%20Gateway%20Rezone\\_Presentation.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2023_02_01_Item%2012_Gilman%20Gateway%20Rezone_Presentation.pdf)

<sup>8</sup> City of Berkeley: San Pablo Avenue Specific Plan. <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/san-pablo-avenue-specific>

<sup>9</sup> kristina hill, Daniella Hirschfeld, Caroline Stanhope Lindquist, et al. Rising coastal groundwater as a result of sea-level rise will influence contaminated coastal sites and underground infrastructure. ESS Open Archive. May 25, 2023. DOI: [10.22541/essoar.168500245.55690018/v1](https://doi.org/10.22541/essoar.168500245.55690018/v1)

<sup>10</sup> City of Berkeley: January 2023 Disaster Preparedness Notice. <https://berkeleyca.gov/community-recreation/news/rains-and-winds-continue-stay-alert-and-safe-while-still-reporting>

<sup>11</sup> Glass, A. & Walter, K. (2022). How Biden's American-Style Industrial Policy Will Create Quality Jobs. Center for American Progress. Retrieved 16 May, 2024 from <https://www.americanprogress.org/article/how-bidens-american-style-industrial-policy-will-create-quality-jobs/>

<sup>12</sup> Department of Energy. (2022, March 18). Press Release: <https://www.energy.gov/articles/doe-announces-5-million-launch-lithium-battery-workforce-initiative>

support for Career Technical Education in the Bayer Development Agreement (see footnote 4) and a referral to study municipal support for reentry employment.<sup>13</sup>

While the City of Oakland<sup>14</sup> and the City of Richmond<sup>15</sup> both have municipal Workforce Development Boards that allocate federal Workforce Innovation and Opportunity Act (WIOA) grants and offer America's Job Centers of California (AJCC) services, Berkeley residents can only rely on the Alameda County Workforce Development Board for these services. The above Workforce Development Boards, along with the Contra Costa County Workforce Development Board, have jointly adopted a 2021-2024 Regional Plan under East Bay Regional Planning Unit as EastbayWorks.<sup>16</sup> Research in a forthcoming paper from Cuiffo & Sarkodie (2024) finds that this has resulted in a significant gap in workforce development outlays per capita.

Berkeley investing local funds into workforce development to bridge this gap would have significant reparative justice benefits, as the EastbayWorks 2021-2024 Regional Plan identifies low-income communities at risk of displacement concentrated in West Berkeley, and at least 25% of Alameda County's largest employers located in the City of Berkeley.

Research for an Environmental Justice Element would thus naturally overlap with implementation of Just Transition principles vis a vis workforce development.

Establishing an Environmental Justice Element in the General Plan pursuant to California Government Code Section 65302(h) is a Strategic Plan Priority Project, advancing our goal to: be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

## BACKGROUND

### **Just Transition Principles**

On December 14, 2021, the Berkeley City Council adopted Resolution No. 70,171–N.S. “Resolution Committing the City of Berkeley to a Just Transition from Fossil Fuels and the Creation of a West Berkeley and South Berkeley Green New Deal” as revised (see Attachments 1 and 2). A Just Transition framework for West Berkeley Plan

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<sup>13</sup> <https://berkeleyca.gov/sites/default/files/documents/2022-12-06%20Item%2006%20Office%20of%20Racial%20Equity.pdf>

<sup>14</sup> <https://www.oaklandca.gov/topics/2021-24-local-plan>

<sup>15</sup> <https://www.ci.richmond.ca.us/DocumentCenter/View/57308/RWDB-PY-2021-24-Local-Plan-FINAL?bidId=>

<sup>16</sup> <https://www.eastbayworks.com/wp-content/uploads/2021/03/EBRPU-Regional-Plan-03-11-21.pdf>

Amendments should be developed such that civil engagement and centering the needs of disadvantaged communities comprise an interrelated process.

The District 2 Council Office has convened several meetings of a West Berkeley Green New Deal Ad Hoc Working Group, whose work is still ongoing. The Ad Hoc Working Group expressed consensus that heavily impacted and disadvantaged communities that should be centered in a Just Transition include, at a minimum: **seniors; unhoused residents; low-income households; disabled or mobility-impaired residents; Black, Indigenous, and People of Color (BIPOC); and LGBTQIA+ residents.**

The transition away from fossil fuels must ensure that the most vulnerable in our society are protected from both the turbulence of restructuring our entire economy and the effects of global warming that the community is already facing. The core premise is: "Transition is inevitable. Justice is not."<sup>17</sup> The environmental justice movement calls this approach to the climate crisis a "Just Transition."

Transition is inevitable. In macroeconomic terms, any government actively working to change the composition of household consumer demand (e.g. rapid industrialization amid World Wars, a green transition, etc.) will face significant distributional problems from shocks to energy and raw material costs, which manifest in price levels and/or rationing. We are already confronting such shocks locally and globally. As recent inflationary episodes and supply shocks following the COVID-19 pandemic and the 2022 Russian invasion of Ukraine have demonstrated, reliance on the fossil fuel economy increasingly undermines price stability.<sup>18</sup> Just Transition principles are partially intended to proactively mitigate both the threat of wage deflation for households depending on labor income from fossil fuel industries, and the inflationary pressures of unprecedented supply shocks. In a complementary framework, the Green New Deal<sup>19</sup> proposed by Democratic lawmakers<sup>20</sup>, some aspects of which have been passed in the Inflation Reduction Act of 2022, was designed to increase domestic high-road

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<sup>17</sup> Climate Justice Alliance. (2018). Just Transition Principles. *Climate Justice Alliance*. [https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hirez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hirez.pdf)

<sup>18</sup> Weber, Isabella M.; Jauregui, Jesus Lara; Teixeira, Lucas; and Nassif Pires, Luiza, "Inflation in Times of Overlapping Emergencies: Systemically Significant Prices from an Input-output Perspective" (2022). *Economics Department Working Paper Series*. 340. <https://doi.org/10.7275/0c5b-6a92>

<sup>19</sup> Carlock, G. & Mangan, E. (2018). A Green New Deal. *Data for Progress*. [https://www.filesforprogress.org/pdfs/Green\\_New\\_Deal.pdf](https://www.filesforprogress.org/pdfs/Green_New_Deal.pdf)

<sup>20</sup> House Resolution 109. (2019). <https://www.congress.gov/116/bills/hres109/BILLS-116hres109ih.pdf>

employment<sup>21</sup> and capacity in green energy industries to manage this transition equitably.

A Just Transition is possible. While fossil fuel supply chains must end, other resilient supply chains must replace our community's changing needs. Renewable energy and electricity transmission will have to grow to meet increasing demands for vehicle and building electrification to replace petroleum and natural gas; batteries, solar panels, and wind farms must replace oil rigs and coal mines. Californians will have to shift at least 25% of their automobile trips to other modes of transportation while converting the rest to electric vehicles<sup>22</sup>, aided by more energy-efficient housing, public transit, and e-bike access. All of this will be made possible in part by Berkeley's growing innovation ecosystem of high-wage STEM employment in green energy technology and life sciences. To illustrate, over one third of employees in Alameda County's growing life sciences sector had no college degree<sup>23</sup>. The federal government is also increasing public sector fiscal capacity for clean energy development through direct pay provisions for municipal and nonprofit entities in the Inflation Reduction Act of 2022.<sup>24</sup>

Just Transition policies are already being enacted globally. For example, in Poland, a 75% decline in coal mining jobs was coupled by a mining social package and special privileges for mining communities. Canada's efforts to phase out coal-powered electricity have been accompanied by a national stakeholder task force that has traveled the country to hear from Canadians on how to justly shepherd the transition. Egypt's fuel price increases were paired with minimum wage boosts, food stipends, and progressive taxation.<sup>25</sup>

The Climate Justice Alliance, a climate organization at the forefront of the fight for a Just Transition, lays out the following Just Transition principles:

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<sup>21</sup> Williams, M., et al. (2022). The Inflation Reduction Act Provides Pathways to High-Quality Jobs. *Center for American Progress*. <https://www.americanprogress.org/article/the-inflation-reduction-act-provides-pathways-to-high-quality-jobs/>

<sup>22</sup> [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

<sup>23</sup> City of Berkeley Staff Report: Business Support Zoning Amendment Referrals – Research and Development. (2021, June 20). pp. 13-56. <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2021-10-06%20PC%20Agenda%20Packet.pdf>

<sup>24</sup> Lala, C. (2023). Direct pay: an uncapped promise of the Inflation Reduction Act. *Center for Public Enterprise*. Retrieved from <https://static1.squarespace.com/static/622cca56a2f5926affd807c6/t/64257e7047150f31bf02e7cf/1680178800773/Direct+Pay+101+-+Center+for+Public+Enterprise.pdf>

<sup>25</sup> Gass, P. (2019). In Search of Just Transition: Examples From Around the World. *International Institute for Sustainable Development*. <https://www.iisd.org/articles/just-transition-examples>

**A Just Transition moves us toward Buen Vivir**

Buen Vivir means that we can live well without living better at the expense of others. Workers, community residents, women and Indigenous Peoples around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter. We must have just relationships with each other and with the natural world, of which we are a part. The rights of peoples, communities and nature must supersede the rights of the individual.

**A Just Transition creates Meaningful Work**

A Just Transition centers on the development of human potential, creating opportunities for people to learn, grow, and develop to their full capacities and interests. We are all born leaders, and a regenerative economy supports and nurtures that leadership. In the process, we are transforming ourselves, each other, our communities, and our society as a whole. Meaningful work is life-affirming.

**A Just Transition upholds Self Determination**

All peoples have the right to participate in decisions that impact their lives. This requires democratic governance in our communities, including our workplaces. Communities must have the power to shape their economies, as producers, as consumers, and in our relationships with each other. Not only do we have the right to self determination, but self determination is one of our greatest tools to realize the world we need. The people who are most affected by the extractive economy — the frontline workers and the fenceline communities — have the resilience and expertise to be in the leadership of crafting solutions.

**A Just Transition equitably redistributes Resources and Power**

We must work to build new systems that are good for all people, and not just a few. Just Transition must actively work against and transform current and historic social inequities based on race, class, gender, immigrant status and other forms of oppression. Just Transition fights to reclaim capital and resources for the regeneration of geographies and sectors of the economy where these inequities are most pervasive.

**A Just Transition requires Regenerative Ecological Economics**

Just Transition must advance ecological resilience, reduce resource consumption, restore biodiversity and traditional ways of life, and undermine

extractive economies, including capitalism, that erode the ecological basis of our collective well-being. This requires a re-localization and democratization of primary production and consumption by building up local food systems, local clean energy, and small scale production that are sustainable economically and ecologically. This also means producing to live well without living better at the expense of others.

### **A Just Transition retains Culture and Tradition**

Capitalism has forced many communities to sacrifice culture and tradition for economic survival. It has also defaced and destroyed land held as sacred. Just Transition must create inclusionary spaces for all traditions and cultures, recognizing them as integral to a healthy and vibrant economy. It should also make reparations for land that has been stolen and/or destroyed by capitalism, colonialism, patriarchy, genocide and slavery.

### **A Just Transition embodies Local, Regional, National and International Solidarity**

A Just Transition must be liberatory and transformative. The impacts of the extractive economy knows no borders. We recognize the interconnectedness of our communities as well as our issues. Therefore, our solutions call for local, regional, national and global solidarity that confronts imperialism and militarism.

### **A Just Transition builds What We Need Now**

We must build the world we need now. This may begin at a local small scale, and must expand to begin to displace extractive practices. We must build and flex the muscles needed to meet our communities' needs.<sup>26</sup>

With these frameworks, staff and commissioners can study robust and flexible development standards in the General Plan

## **Transportation Demand Management**

The West Berkeley Plan as originally adopted in 1993 was prescient in calling for a “reduction of single occupant automobile trips.” The Plan envisioned several mitigations for increased traffic congestion, including implementation of Transportation Demand Management (TDM) plans “to encourage carpooling and vanpooling, walking and

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<sup>26</sup> Climate Justice Alliance. (2018). Just Transition Principles. *Climate Justice Alliance*. [https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA\\_JustTransition\\_Principles\\_final\\_hi-rez.pdf](https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf)

bicycle use, the use of transit, flexible scheduling of work hours, and other methods to reduce travel demand[.]”

However, the Transportation impact mitigations in the Plan are still codified under Level Of Service (LOS) standards, i.e. delay in vehicle throughput. As of 2020, state law requires transportation impacts to be assessed under a Vehicle Miles Traveled (VMT) standard for environmental review, measuring the total volume of traffic. Reducing VMT is of critical importance for Berkeley and the state of California’s climate goals, as the California Air Resources Board has illustrated in a 2018 report: “Even if the share of new car sales that are ZEVs [zero-emission vehicles] grows nearly 10-fold from today, California would still need to reduce VMT per capita 25 percent to achieve the necessary reductions for 2030.”<sup>27</sup> Any amendments to the West Berkeley Plan’s Transportation mitigations would have to incorporate the goal of absolute VMT reduction to be consistent with state environmental standards.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

In 2006, Berkeley voters approved Measure G, committing to reduce the entire community’s greenhouse gas emissions by 80% below 2000 levels by 2050. The City Council approved Berkeley’s first Climate Action Plan in 2009.<sup>28</sup>

The California Air Resources Board released an updated Scoping Plan<sup>29</sup> in 2022. Following this plan, the state of California’s goals by 2045 are:

- *Cut greenhouse gas emissions by 85% below 1990 levels*
- *71% reduction in smog-forming air pollution*
- *Reduce fossil fuel consumption (liquid petroleum) to less than one-tenth of what we use today – a 94% reduction in demand.*
- *Create 4 million new jobs.*
- *Save Californians \$200 billion in health costs due to pollution in 2045.*

All planning efforts must achieve and exceed these thresholds in order to advance Environmental Justice.

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<sup>27</sup> California Air Resources Board: 2018 Progress Report. [https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report\\_SB150\\_112618\\_02\\_Report.pdf](https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf)

<sup>28</sup> City of Berkeley: Climate Action Plan. <https://berkeleyca.gov/sites/default/files/2022-01/Berkeley-Climate-Action-Plan.pdf>

<sup>29</sup> California Air Resources Board: 2022 Scoping Plan. <https://ww2.arb.ca.gov/news/california-releases-final-2022-climate-scoping-plan-proposal>

CONTACT PERSON

Councilmember Taplin      Council District 2      510-981-7120

Attachments:

- 1: 2021-12-14 Annotated Agenda - Berkeley City Council Meeting
- 2: 2021-12-14 Item 35 Commit the City of Berkeley to a Just Transition (Supp. 2)
- 3: Fact Sheet: The Weight of Cities - United Nations International Resources Panel
- 4: Senate Bill 1000 (2016)
- 5: Workforce Development Recommendations to Advance Berkeley's Green New Deal Policy by Yaa Freemah Sarkodie and Kathryn Cuiff



Igor Tregub, Councilmember, District 4

Adena Ishii, Mayor

Mark Humbert, Councilmember, District 8

Cecilia Lunaparra, Councilmember, District 7

CONSENT CALENDAR

July 22, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Igor Tregub (Author), Mayor Ishii (Co-Sponsor), Councilmember Humbert (Co-Sponsor), and Councilmember Lunaparra (Co-Sponsor)

Subject: Resolution in Support of California Senate Bill 81 (Arreguín) Health and Care Facilities: Information Sharing to Amend Sections 56.05 and 56.10 of the Civil Code, and to Add Chapter 1.5 to Division 2 of the Health and Safety Code, Relating to Health and Care Facilities

RECOMMENDATION

Adopt a resolution in support of California State Senate (SB) Bill 81 (Arreguín), Healthcare Provider Entities: Information Sharing amend Sections 56.05 and 56.10 of the Civil Code, and to add Chapter 1.5 (commencing with Section 1249) to Division 2 of the Health and Safety Code, relating to health and care facilities, and declaring the urgency thereof, to take effect immediately; and distribute copies to the California Governor Gavin Newsom, Senator Jesse Arreguín, Assemblymember Buffy Wicks, California Senate President pro Tempore Mike McGuire, and California Assembly Speaker Robert Rivas to advocate for its passage.

SB 81 would mandate healthcare facilities to develop protocols for monitoring and receiving visitors, as well as designating certain areas as nonpublic in order to maintain a secure environment aligned with the facility's mission and commitment to patient care. Additionally, the bill would prohibit immigration enforcement agents from entering nonpublic areas of a facility without a valid judicial warrant or court order. It would also protect patient information by barring the disclosure of a person's current or past immigration status or place of birth for purposes related to immigration enforcement.<sup>1</sup>

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202520260SB81](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB81)

## CURRENT SITUATION AND ITS EFFECTS

In January of 2025, the City of Berkeley reaffirmed its status as a Sanctuary City, which outlines that “no department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information on the status of individuals in the City of Berkeley unless required by federal law.”<sup>2</sup>

Similarly, the California Values Act (SB 54) ensures that no state and local resources are used to assist federal immigration enforcement and that schools, hospitals, and courthouses are safe spaces for everyone.

SB 54 required the Attorney General to prepare and publish guidance promoting safe and secure healthcare access for all in the state of California. This guidance is to provide the administrators of healthcare provider entities with policies for collecting patient and family health information, while preventing unnecessary collection and maintenance of information on the immigration status of patients and their families.

SB 81 would require health and care facilities to restrict access for immigration enforcement to its nonpublic areas without a valid judicial warrant or court order and prohibit such facilities from disclosing current and previous immigration status or birthplace as part of a patient’s medical information for the purposes of immigration enforcement by amending Sections 56.05 and 56.10 of the Civil Code, and to add Chapter 1.5 (commencing with Section 1249) to Division 2 of the Health and Safety Code, Relating to Health and Care Facilities.

## FISCAL IMPACTS OF RECOMMENDATION

Limited staff time associated with communicating the city’s position to the above-referenced recipients.

## ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

## CONTACT PERSON

Councilmember Igor Tregub, Council District 4  
510-981-7140, [ltregub@berkeleyca.gov](mailto:ltregub@berkeleyca.gov)

Amy Johnson, Legislative Aide, Council District 4  
[amjohnson@berkeleyca.gov](mailto:amjohnson@berkeleyca.gov)

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<sup>2</sup> <https://berkeleyca.gov/sites/default/files/documents/2025-01-21%20Item%2027%20Reaffirming%20Berkeley%20as%20a%20Sanctuary%20City.pdf>

Attachments:

1. Resolution
2. Fact Sheet

**RESOLUTION NO. ##,###N.S.**

**RESOLUTION IN SUPPORT OF CALIFORNIA SENATE BILL 81 (ARREGUÍN)  
CALIFORNIA FAIR ELECTIONS ACT OF 2026 TO AMEND SECTIONS 85300 AND  
85320 OF THE GOVERNMENT CODE, RELATING TO THE POLITICAL REFORM  
ACT OF 1974**

**WHEREAS**, Senate Bill 81 (Arreguín) would require health and care facilities to restrict access for immigration enforcement to its nonpublic areas without a valid judicial warrant or court order and prohibit such facilities from disclosing current and previous immigration status or birthplace as part of a patient's medical information for the purposes of immigration enforcement; and

**WHEREAS**, Senate Bill 81 is co-sponsored by the Service Employees International Union (SEIU), California Immigrant Policy Center, Latino Coalition for a Healthy California, and California Nurses Association, and supported by a broad coalition of labor unions, immigrant rights organizations, not-for-profit community health centers, civic engagement non-profits, civil rights advocates, healthcare policy advocates, organizations for ethnic equity, and youth health commissions, who recognize it as a critical step in protecting the civil rights of immigrants; and

**WHEREAS**, current law does not strictly prohibit health and care entities from sharing patient birthplace and immigration status information with immigration enforcement, leaving immigrants and their families vulnerable when accessing care that is essential to life; and

**WHEREAS**, Senate Bill 81 seeks to explicitly prohibit patient birthplace and immigration status information from being shared by healthcare entities to immigration enforcement and restrict access for immigration enforcement to its nonpublic areas without a valid judicial warrant or court order; and

**WHEREAS**, immigrants and their families have been targeted by the current federal administration, increasing the immigrants' dire need for support and protection; and

**WHEREAS**, the passage of Senate Bill 81 would help strengthen California's commitment as a Sanctuary State, ensuring that information regarding immigration status is only shared with due process; and

**WHEREAS**, the City of Berkeley was the first city in the nation to declare Sanctuary City Status and reaffirmed this commitment in January of 2025; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Berkeley City Council hereby declares its support for California State Senate Bill 81; and

**BE IT FURTHER RESOLVED**, that the Berkeley City Council directs the City Manager to distribute copies to the California Governor Gavin Newsom, Senator Jesse Arreguin, Assemblymember Buffy Wicks, California Senate President pro Tempore Mike McGuire, and California Assembly Speaker Robert Rivas to advocate for its passage.





BERKELEY CITY AUDITOR

INFORMATION CALENDAR

July 22, 2025

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor *zw*

Subject: City Auditor Fiscal Year 2026 Audit Plan

INTRODUCTION

The Berkeley City Charter requires the City Auditor to provide the City Council with a planned audit schedule by the beginning of each fiscal year (FY) and to notify the Council when audits are added. In deciding what to audit, our office considers suggestions from the City Manager, staff, the City Council, the Rent Stabilization Board, commissioners, and other community members. We examine risks that might prevent the City from reaching its goals, including strategic, financial, regulatory, operational, and reputational risks.

CURRENT SITUATION AND ITS EFFECTS

As required by the City Charter, we are notifying the Council of our annual audit plan. The following plan assumes being fully staffed to conduct these audits.

For FY 2026, we have identified areas we aim to address in the upcoming year:

- Homelessness (audit to be released in July)
- Contracts (audit in progress)
- Rent Stabilization Board
- Fiscal condition
- Follow-up on prior audit recommendations
- Short-term projects
- Whistleblower Program

BACKGROUND

The mission of the Berkeley City Auditor is to promote transparency and accountability in Berkeley government. This is achieved through independent evaluations of City programs and activities. The FY 2026 Audit Plan reflects our office's commitment to continuous improvement by enhancing the overall impact of the Berkeley City Auditor's Office on behalf of Berkeley residents, businesses, and visitors.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This report is not associated with identifiable environmental effects or opportunities.

POSSIBLE FUTURE ACTION

Our future audit recommendations will address the risks that could prevent the City from providing efficient, effective, and equitable service delivery. We will be asking the Council to accept those

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 E-Mail: [auditor@berkeleyca.gov](mailto:auditor@berkeleyca.gov) Website: <https://berkeleyca.gov/your-government/city-audits>

recommendations and request that the City Manager report on their actions to implement them. We may also make recommendations requiring Council action.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Audit work can lead to new or enhanced revenue, cost recovery, and increased efficiency, with economic impact well beyond the audit costs. Long-range financial benefits of our audits include significant improvements to internal controls and service delivery.

Ensuring timely implementation of audit recommendations could result in additional savings and risk reduction, including fraud risk. Reducing fraud risk more than protects money; it builds trust in government. Maintaining a strong audit function and fiscal management will reduce future costs and enhance public trust.

CONTACT PERSON

Jenny Wong, City Auditor, 510-981-6750

Attachment:

1. Audit Plan Fiscal Year 2026

# Audit Plan Fiscal Year 2026

## Inside

Letter from the Auditor

Planned Engagements

Plan Description

Audit Selection Process

Auditor's Authority



BERKELEY CITY AUDITOR

# Letter from the Auditor



As the Berkeley City Auditor, I am pleased to present to you the audit plan for fiscal year (FY) 2026. This plan outlines the key areas of focus for the City Auditor's Office, including ongoing work, new initiatives, and the allocation of resources to ensure transparency, accountability, and effective governance. In light of the City's fiscal challenges, my office will continue to work to ensure City dollars are spent responsibly and in accordance with Berkeley values.

Our office conducts performance audits of city functions, where we evaluate city programs to determine their effectiveness and compliance with local laws and regulations. Our goal with each audit is to ensure that the City is using taxpayer dollars efficiently and equitably to deliver high-quality services. We aim to initiate the engagements identified in the audit plan during the fiscal year. Our capacity to initiate and complete projects this fiscal year will depend on available resources.

At the beginning of fiscal year 2025, my office released an award-winning restaurant inspections audit, which has already led the department inspecting all high and very high risk facilities that were not inspected in 2023. We also conducted substantive follow-up on our past audits to ensure the City appropriately implemented recommendations and addressed the identified risks. In addition to our regular audit follow-up process, we also completed a follow-up report on the leases audit our office released in 2009. To address the continued risks, we re-opened 8 recommendations including developing a complete central inventory of licenses and leases. We also continued the implementation of our new Whistleblower program, launching the program internally and educating staff on how to identify and report concerns.

Building upon these accomplishments, we have developed the FY 2026 audit plan to address areas of concern and further strengthen the governance and fiscal responsibility of the City of Berkeley during this budget deficit. In FY 2026, we will continue our ongoing audit of contracts and release an audit of homelessness. We also plan to initiate new audits related to the Rent Stabilization Board and the City's fiscal condition, depending on staff capacity.

We will continue to perform follow-up work on audit recommendations to determine if the City has properly implemented them. I will also continue to devote office resources to completing the launch of the Whistleblower Program.

I am dedicated to our office's mission of promoting transparency and accountability in Berkeley government. During this uncertain time, I look forward to working with City leadership, staff and the public to provide transparent, rigorous analysis to inform the tough decisions ahead on the issues that matter most to Berkeley residents.

Respectfully,

A handwritten signature in cursive script that reads "Jenny Wong".

JENNY WONG  
City Auditor

# Planned Engagements FY 2026

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## Rent Stabilization Board

The Auditor’s Office will conduct an audit examining the Rent Stabilization Board’s finances or operations.

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## Fiscal Condition

The Auditor’s Office will assess the City’s financial health. This analysis may examine the City’s overall financial condition or focus on specific funds, departments, or program areas, depending on identified risks and priorities.

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## Follow-Up

The Auditor’s Office will continue to track and follow up on all audit recommendations to determine if they are properly implemented. We will continue to publish an online public [dashboard](#) to increase transparency and accountability of the implementation status of open audit recommendations.<sup>1</sup> See page 4 for more details.

This process may lead to follow-up audits in areas where risks identified in the original audit have not been mitigated.

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## Short-Term Projects

In order to be responsive to the needs of the City and the public, we may engage in short-term projects to provide timely and relevant information and analysis to the City and community.

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## Ongoing Engagements

The Auditor’s Office will continue our audit of contracts and release our audit of homelessness.

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## Whistleblower Program Implementation and Anti-Fraud Focus

The Auditor’s Office is continuing implementation of the Whistleblower Program, which provides a confidential way for employees and members of the public to report fraud, waste, or abuse by City departments, employees, or contractors. Over the past year, we developed policies and procedures, launched the program internally, and began educating staff on how to identify and report concerns. This fiscal year, we will open the program to the public, expand outreach, and continue to promote a culture of integrity and accountability. See page 5 for more details.

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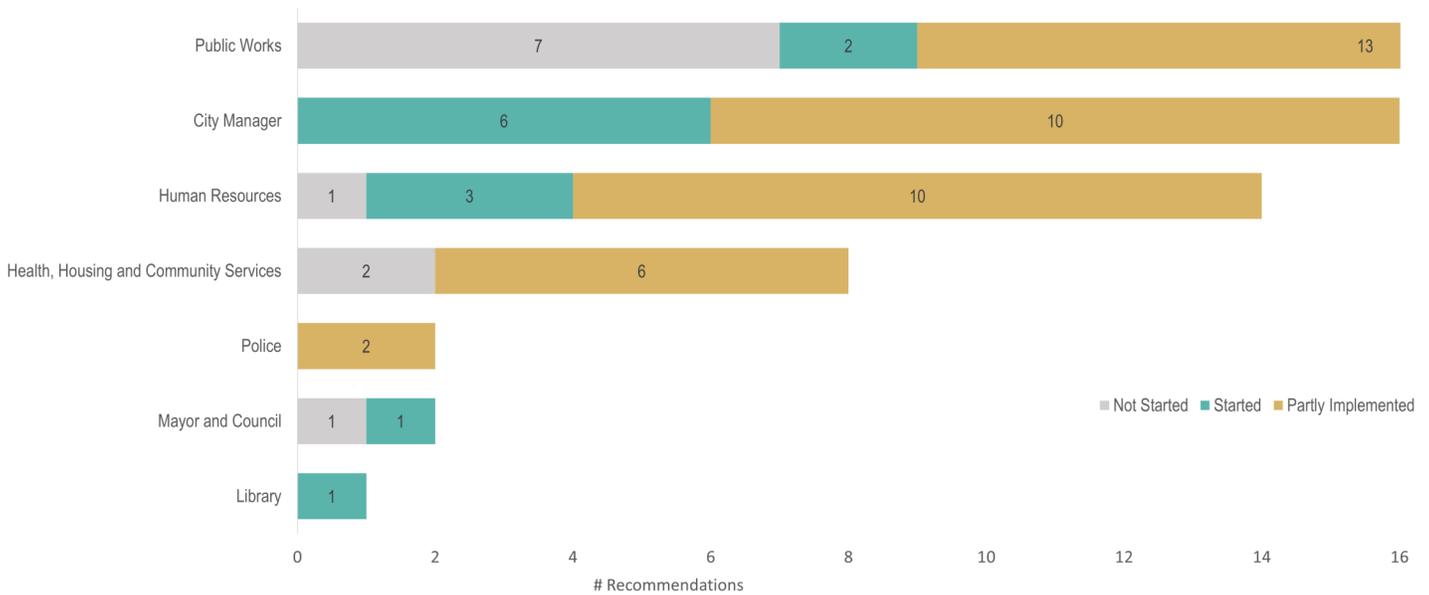
<sup>1</sup> City Auditor’s Recommendation Dashboard—[bit.ly/AuditRecDashboard](https://bit.ly/AuditRecDashboard)

# Follow-Up

In fiscal year 2026, the Auditor’s Office will follow up on 65 open recommendations from 9 audits. We will use the following statuses to report on the implementation of audit recommendations:

- **Implemented:** auditee has addressed the audit risk by completely implementing the recommendation.
- **Partly implemented:** auditee has implemented 50 percent or more of the recommendation.
- **Started:** the auditee has started to address the recommendation but has not reached the 50 percent threshold.
- **Not started:** auditee has not yet taken action to implement the recommendation.
- **Dropped:** the auditee has accepted the risk to the City that the recommendation is meant to address and is unable or unwilling to implement the recommendation. Additionally, all open recommendations will be reported as dropped if they are not implemented within five years of audit issuance.

**As of July 1st, 2025, there are 65 open recommendations from 9 audits across 5 departments as well as the Library, and Mayor and Council.**



Note: The graph only shows open recommendations our office is still following up on. Implemented and dropped recommendations are considered closed. The status for all recommendations is on our [dashboard](#).

Source: Berkeley City Auditor

# Whistleblower Program

The Whistleblower Program will include a confidential hotline for reporting fraud, waste, and abuse in city government 24/7, 365 days of the year. The hotline is currently available to all city employees, contractors, and vendors. Once sufficient staff resources are in place, the program will expand to accept reports from the broader Berkeley community. To protect whistleblowers, city policy protects city employees from retaliatory acts.

## Authority and Independence

State legislation encourages cities to specifically focus on fraud, waste, and/or misuse of city resources through whistleblower programs led by city auditors. In 2009, California Government Code Section 53087.6 enabled local government auditors to establish whistleblower programs and to provide whistleblower protections. Local auditors are authorized under Section 53087.6 to create whistleblower programs with the approval of their respective legislative bodies, and have discretion in how to operate their programs. In June 2024, City Council adopted Ordinance No. 7,922 formally establishing the City Auditor’s authority to receive and investigate whistleblower reports.

The Berkeley City Auditor maintains a level of structural independence well-suited for a whistleblower program, as they are elected by the public and do not report to the City Manager or Council. The City Auditor is well-positioned due to their role in providing objective information on the operations of government programs and helping ensure full accountability to the public.

## Implementation Plan

|                                                          | Phase 1                                                                                                       | Phase 2                                                                         | Phase 3                                                                                                        | Phase 4                                                                                                               | Phase 5                                                                                                                                                            |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Activity                                                 | Resources                                                                                                     | Reporting Mechanism                                                             | Response Mechanism                                                                                             | Education and Awareness                                                                                               | Program Launch                                                                                                                                                     |
|                                                          | Hire Whistleblower Program Manager                                                                            | Determine appropriate methods and platforms for whistleblower reporting         | Design a process for responding to and referring complaints                                                    | Develop written procedures and educational material                                                                   | Receive and respond to complaints according to established procedures                                                                                              |
| Outcome                                                  | Determine funding needed for remaining steps of the implementation plan and ongoing operations                | Design intake forms and procedures                                              | Obtain necessary access rights to data systems for investigations                                              | Disseminate educational materials                                                                                     | Develop mechanisms for ongoing assessments of program effectiveness including the development of metrics to benchmark across time or against similar organizations |
|                                                          | Resources                                                                                                     | Reporting Mechanism                                                             | Response Mechanism                                                                                             | Education and Awareness                                                                                               | Program Launch                                                                                                                                                     |
| Staff and funding secured to successfully manage program | Multiple channels for employees and outside parties to report complaints 24 hours a day, 365 days of the year | Ability to prioritize, investigate, refer, and follow up on complaints received | Potential whistleblowers understand how the program works, why it is important, and how they will be supported | A more accountable Berkeley government through the prevention and investigation of suspected fraud, waste, and abuse. |                                                                                                                                                                    |

# Plan Description

The mission of the Berkeley City Auditor is to promote transparency and accountability in Berkeley government. This is achieved through independent evaluations of city programs and activities. The Fiscal Year 2026 Audit Plan reflects the office's steadfast commitment to continuous improvement by enhancing the overall impact of the Berkeley City Auditor's Office on behalf of Berkeley residents, businesses, and visitors.

## Auditing Under the City Charter

The Charter provides that the Auditor shall have the authority to conduct:

- Performance and financial audits or special studies of all phases of the City of Berkeley government in accordance with government auditing standards;
- Financial, compliance, efficiency and economy, and program results auditing; and
- Examinations of payrolls, bills, and other claims and demands made against the City.

The FY 2026 Audit Plan ensures broad audit coverage throughout the City while also addressing specific performance, financial, contractual, and system risks. Audit resources are limited, thus prohibiting one hundred percent coverage each year. This significant limiting factor is inherent in the concept of using risk assessment to help prioritize audits. According to the City Charter, the ultimate decision to perform any audit shall be at the sole discretion of the Auditor. Our approach to scheduling audits is flexible and subject to change throughout the year based on newly identified risks.

## Audit Follow-Up Program

Audit follow-up activities are conducted for every audit to assess whether city personnel implemented the agreed-upon audit recommendations. The Auditor's Office issues follow-up audit reports to City Council on the status of our recommendations. We also maintain a public [dashboard](#) with the status of audit recommendations. Our office measures the audit recommendation implementation rate as an indicator of the degree to which the City is using information provided by our audit reports to mitigate identified risks and to enhance efficiency, effectiveness, and equity of operations. Our expectation is that the City should take no more than two years to implement our audit recommendations, unless specified.

## Focus on Integrity, Independence, Impact, and Equity

The concepts of integrity, independence, impact, and equity are core tenets of operations within the Berkeley City Auditor's Office. Although the Auditor operates independently from other city entities, Auditor Wong and staff meet regularly with the Mayor, City Council, city personnel, neighborhood groups, and civic leaders to solicit input regarding risks. The objective of this strategy is to improve services and stewardship of city resources, with a focus on ensuring equitable access and outcomes for the Berkeley community.

# Audit Selection Process

Developing an annual Audit Plan is an iterative process, conducted by assembling ideas from a variety of internal and external stakeholders, examining a broad range of City programs and activities, and assessing risk factors together with additional considerations. This approach results in a diverse list of departments, programs, and activities that are examined to determine whether they are operating efficiently, effectively, and in accordance with the law and other requirements.

In developing a list of potential audits, ideas come from a variety of sources:

- Input from the community, elected officials, department staff, and City management;
- Assessment of operations and controls in previous audit reports;
- Assessment of citywide risks;
- Consideration of current local events, financial conditions, capital improvement projects, and public policy issues; and
- Consideration of risks identified in other government audits that could emerge in Berkeley.

Our office identifies and prioritizes potential audits and other assessments using a risk-based approach that examines a variety of factors that may expose the City to fraud, misuse of funds, waste, liability, or reputational harm. The following risk factors are used to determine the audits included in the audit plan:

- Perception of risk from management, City Council, the community, and audit staff;
- Economic factors such as financial impact, volume of transactions, number of personnel, and revenue generated;
- Changes in organization, management, key personnel, and information systems; and
- Time since last audit.

After the plan is finalized, new information may come to light; events, initiatives, priorities, and risks within the City may change. The flexible nature of the Audit Plan as a living document provides the ability to change course when it is in the best interest of the City.

# Auditor's Authority

The Berkeley City Auditor's Office provides independent oversight of city operations. Audits, conducted by the Office, provide the City Manager, City Council, and the public with objective, timely, and accurate information about city program performance. By providing this information and making recommendations for improvement, the Office helps to hold government accountable in its stewardship of public resources. Berkeley City Charter, Section 61, establishes this independence and provides for the Auditor's general authority and duties. The Charter also establishes the duty to present a planned audit schedule to City Council at the beginning of each fiscal year.

Several key components serve as the cornerstone for Berkeley's auditing framework. These elements provide the Auditor with the independence that results in the office's ability to conduct high-impact audits.

**Elected Auditor** — The City of Berkeley has an elected Auditor who is independent from all other elected officials and City management.

**Comprehensive Access** — The City Charter and Municipal Code authorize the Auditor to have unrestricted access to all officials, employees, records, and reports maintained by the City, and to all external entities, records, and personnel related to contracted business interactions with the City.

**Audit Response Requirements** — City Municipal Code requires that City management formally respond to all audit findings and recommendations, establishing the Auditor's ability to work in conjunction with audited departments while maintaining independence.

**Recommendation Follow-up Requirements** — City Municipal Code establishes the Auditor's authority to follow-up on audit recommendations as practical to determine if the City Manager is implementing corrective action, and request periodic reports on the status of audit recommendations from city management. The Auditor determines the adequacy, effectiveness, and timeliness of management's actions to correct reported issues and recommendations.

**Adherence to Professional Auditing Standards** — As a requirement in the City Charter, the Auditor's Office conducts all audits in accordance with Generally Accepted Government Auditing Standards produced by the United States Government Accountability Office.



BERKELEY CITY AUDITOR

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| Upcoming Worksessions and Special Meetings |                                                                                                                                                                                                                                                                   |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                            |                                                                                                                                                                                                                                                                   |
| July 22 (4pm)                              | Office of the Director of Police Accountability/Police Accountability Board Annual Report Presentation                                                                                                                                                            |
| July 23 (Wed-6pm)                          | Land Use Appeal Hearings: <ul style="list-style-type: none"> <li>• Landmarks Preservation Commission: 2138 Kittredge Street</li> <li>• Landmarks Preservation Commission: 2425 Durant Avenue</li> <li>• Zoning Adjustments Board: 2655 Shattuck Avenue</li> </ul> |
| July 29 (4pm)                              | Comprehensive Summary of Homeless Response (City Manager and City Auditor)                                                                                                                                                                                        |
| Sept 30 (4pm)                              | Council Referral: Social Housing                                                                                                                                                                                                                                  |
| Oct 28 (4pm)                               | Ashby BART East Lot RFP                                                                                                                                                                                                                                           |
| Nov 4 (4pm)                                | San Pablo Avenue Specific Plan                                                                                                                                                                                                                                    |

| Unscheduled Presentations and Special Meetings                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Evacuation Study and Response Times</li> <li>2. Presentation on City's Unfunded Liabilities</li> <li>3. Presentation on City's Deferred Infrastructure Needs</li> </ol> |

| Future Information Reports                                                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Reimagining Public Safety Update</li> <li>2. Affordable Housing Fee Feasibility Study</li> <li>3. Berkeley Fire Department Annual Report</li> </ol> |

|  |                                                                                                          |
|--|----------------------------------------------------------------------------------------------------------|
|  | <b>City Council Referrals to the Agenda &amp; Rules Committee and Unfinished Business for Scheduling</b> |
|  | None                                                                                                     |

| CITY CLERK DEPARTMENT                                                                           |                      |                       |                   |
|-------------------------------------------------------------------------------------------------|----------------------|-----------------------|-------------------|
| WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br>BEFORE THE CITY COUNCIL                     |                      |                       |                   |
| Address                                                                                         | Board/<br>Commission | Appeal Period<br>Ends | Public<br>Hearing |
| <b>NOD – Notices of Decision</b>                                                                |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
| <b>Public Hearings Scheduled</b>                                                                |                      |                       |                   |
| 2138 Kittredge Street (Landmark designation for The Fitzpatrick House and Pepper Tree Tea Room) | LPC                  |                       | 7/23/2025         |
| 2655 Shattuck Avenue (mixed-use residential building)                                           | ZAB                  |                       | 7/23/2025         |
| 2425 Durant Avenue - Laura Tull Property (landmark designation)                                 | LPC                  |                       | 7/23/2025         |
|                                                                                                 |                      |                       |                   |
| <b>Remanded to ZAB or LPC</b>                                                                   |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
| <b>Notes</b>                                                                                    |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |
|                                                                                                 |                      |                       |                   |

7/3/2025





No Material  
Available for  
this Item

There is no material for this item.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
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