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Cheryl Davila
Councilmember
District 2

<u>ACTION CALENDAR</u>
November 10, 2020
(Continued from September 15, 2020)

To: Honorable Mayor and Members of the City Council

From: Councilmember Cheryl Davila

Subject: Vote of No Confidence in the Police Chief

<u>RECOMMENDATION</u>
Adopt a resolution taking a Vote of No Confidence in the Police Chief.

<u>BACKGROUND</u>
On June 9, 2020, Berkeley Police Chief Andrew Greenwood made comments to the Berkeley City Council advocating for shooting protestors of police violence, saying, "We can shoot people", when asked about an alternative to tear gas.

During this time of national recognition of the reckoning of police violence and racial justice, the Chief's comments were not merely a gaffe but an inexcusable declaration of police violence and the violation of the most basic rights guaranteed in the United States Constitution, which he is sworn to protect.

Berkeley is considered one of the most progressive cities in the country and should be leading the nation in police transformation. We must be working to find ways to respond to harms in our communities that do not put marginalized groups in constant danger. Chief Greenwood's comments directly contradict this objective.

A Center for Policing Equity report in 2018 demonstrated the disparate treatment to African American and people of color. Unfortunately, during the pandemic, disparities have only increased. Analysis of the Berkeley Police Department's Open Data Portal shows that disparities between the number of Black and White civilians the department stops *doubled during the COVID-19 pandemic.*

According to the police department's data conducted by independent analysis report "Racial Disparities in Berkeley Policing Update on Pandemic Period, March 15 to June 2020" released on June 19, 2020, the following conclusions can be drawn from the data representing the first 13 weeks of the pandemic shutdown, from March 15 through June 12:

1. Predictably, the number of police stops for all racial groups is down due to the stay-home order. The total number of stops, 608, is about a fourth of an average 13-week quarter in 2008.

2. *The disparity between stops of African American and White civilians has skyrocketed*, as is evident from the raw numbers: African American stops are exactly 50% of total 608 stops at **304,** with White stops at **143** for 23.52% of all stops. This compares to percentages of 3,083 and 2,706, or 28% and 32% respectively in the year 2018.

3. Taking into account the *low number of African Americans* residing in Berkeley, the *disparities come into sharp relief.* African American stops are about 42.7 per 1,000 of their population, where White stops are about 2.9 per 1,000, a disparity of **14.5 to 1.** This compares to a disparity of 7.6 to 1 in 2018, meaning that **the racial disparity in stops has almost doubled** between 2018 and the pandemic period.

The citations per stop are down by about two-thirds compared to that of 2018. While that might sound like good news, that is not necessarily the case. A reduced rate of writing citations likely means that civilians of all races are being stopped without the required reasonable suspicion of criminal activity. What's more, **the citation rate for African American civilian stops is 7.57% and for Whites, 15.38%, a disparity of over two to one.** That disparity indicates that only half as many African American stops as White stops are conducted with valid suspicion of a criminal act. The citation rate of 7.5% for African Americans raises questions about why the other 92.5% were stopped.

The BPD did not report the stop data for a period of August 2019 through early June 2020 with the excuse that "For a period we had someone who was part of the processing of the data, and that position was eliminated due to staffing shortages." Competent leadership should ensure a prioritized process should always have repeatability, and an automation built into it. That means the system will not fall due to the departure of an individual.

BPD continues to demonstrate disparate treatment of people of color, Chief Greenwood's comments and actions are cause for a Vote of No Confidence. The community is demanding change. For example, at the July 14, 2020 City Council meeting with over three hundred attendees, the majority stating they had no confidence in the Chief of Police as well as demanding defunding the police. Now is the time to step up and listen to the demands of our beloved community.

FINANCIAL IMPLICATIONS
To be determined, there could be cost savings and efficiencies in policies, procedures, processes, by eliminating the disparate treatment of African Americans and People of Color in our community.

ENVIRONMENTAL SUSTAINABILITY
Protecting our communities during this climate and health crisis is an act of environmental sustainability.

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ATTACHMENTS:
1. Resolution
2. Racial Disparities in Berkeley Policing Update on Pandemic Period, March 15 to June 2020

REFERENCES:
Article: Marchers in Berkeley demand resignation of police chief
https://www.berkeleyside.com/2020/06/13/marchers-in-berkeley-demand-resignation-of-police-chief

Center for Policing Equity Report on the Berkeley Police Department (05/09/18)
https://www.cityofberkeley.info/uploadedFiles/Police_Review_Commission/Commissions/2018/Berkeley%20Report%20-%20May%202018.pdf

City Auditor's Office Dispatcher Audit (04/25/19): http://bit.ly/2DvbCpv
https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Dispatch%20Workload_Fiscal%20Year%202018.pdf

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA, TAKING A VOTE OF NO CONFIDENCE IN THE POLICE CHIEF

WHEREAS, On June 9, 2020, Berkeley Police Chief Andrew Greenwood made comments to the Berkeley City Council advocating for shooting protestors of police violence, saying, "We can shoot people", when asked about an alternative to tear gas; and

WHEREAS, During this time of national recognition of the reckoning of police violence and racial justice, the Chief's comments were not merely a gaffe but an inexcusable declaration of police violence and the violation of the most basic rights guaranteed in the United States Constitution, which he is sworn to protect; and

WHEREAS, Berkeley is considered one of the most progressive cities in the country and should be leading the nation in police transformation. We must be working to find ways to respond to harms in our communities that do not put marginalized groups in constant danger. Chief Greenwood's comments directly contradict this objective; and

WHEREAS, A Center for Policing Equity report in 2018 demonstrated the disparate treatment to African American and people of color. Unfortunately, during the pandemic, disparities have only increased. Analysis of the Berkeley Police Department's Open Data Portal shows that disparities between the number of Black and White civilians the department stops *doubled during the COVID-19 pandemic; and*

WHEREAS, According to the police department's data conducted by independent analysis titled "Racial Disparities in Berkeley Policing Update on Pandemic Period, March 15 to June 2020" released on June 19, 2020, the following conclusions can be drawn from the data representing the first 13 weeks of the pandemic shutdown, from March 15 through June 12:

4. Predictably, the number of police stops for all racial groups is down due to the stay-home order. The total number of stops, 608, is about a fourth of an average 13-week quarter in 2008.

5. *The disparity between stops of African American and White civilians has skyrocketed*, as is evident from the raw numbers: African American stops are exactly 50% of total 608 stops at **304,** with White stops at **143** for 23.52% of all stops. This compares to percentages of 3,083 and 2,706, or 28% and 32% respectively in the year 2018.

6. Taking into account the *low number of African Americans* residing in Berkeley, the *disparities come into sharp relief*. African American stops are about 42.7 per 1,000 of their population, where White stops are about 2.9 per 1,000, a disparity of **14.5 to 1.** This compares to a disparity of 7.6 to 1 in 2018, meaning that **the racial disparity in stops has almost doubled** between 2018 and the pandemic period.

WHEREAS, The citations per stop are down by about two-thirds compared to that of 2018. While that might sound like good news, that is not necessarily the case. A reduced rate of

writing citations likely means that civilians of all races are being stopped without the required reasonable suspicion of criminal activity. What's more, **the citation rate for African American civilian stops is 7.57% and for Whites, 15.38%, a disparity of over two to one.** That disparity indicates that only half as many African American stops as White stops are conducted with valid suspicion of a criminal act. The citation rate of 7.5% for African Americans raises questions about why the other 92.5% were stopped; and

WHEREAS, The BPD did not report the stop data for a period of August 2019 through early June 2020 with the excuse that "For a period we had someone who was part of the processing of the data, and that position was eliminated due to staffing shortages." Competent leadership should ensure a prioritized process should always have repeatability, and an automation built into it. That means the system will not fall due to the departure of an individual; and

WHEREAS, BPD continues to demonstrate disparate treatment of people of color, Chief Greenwood's comments and actions are cause for a Vote of No Confidence. The community is demanding change. For example, at the July 14, 2020 City Council meeting with over three hundred attendees, the majority stating they had no confidence in the Chief of Police as well as demanding defunding the police. Now is the time to step up and listen to the demands of our beloved community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley hereby take a Vote of No Confidence in the Police Chief.

Racial Disparities in Berkeley Policing
Update on Pandemic Period, March 15 to June 12, 2020
George Lippman
June 19, 2020

As of June 12, the BPD resumed publication of demographic stop data to the online open portal, after a break since July 31, 2019. See:
https://data.cityofberkeley.info/Public-Safety/Berkeley-PD-Stop-Data-NEW-/4tbf-3yt8

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An overall risk in this pandemic is that the social and legal emergency undermines democratic norms such as transparency, civilian oversight, and adherence to constitutional principle and established process. The doubling of the already high disparity of Black and White stop rates is an indicator that equal treatment under the law (Fourteenth Amendment) has been shelved in practice.

Suspension of oversight bodies such as the PRC and the Fair and Impartial Policing Working Group--and proposals to permanently defund city commissions--and the failure to publish the required stop data, all while residents are not allowed to freely travel outdoors in the city, are also troubling; they bar the community from utilizing the "disinfectant effects of sunshine."

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In the attached spreadsheet, see the first tab, or sheet ("BPD Raw Data-_3-16 to 6-12-20") for the full listing of police encounters in that period. At the bottom of this tab please find a chart summarizing the calculations on numbers and percentages of stops, and numbers, percentages, and racial disparities in enforcement outcomes (citations and arrests). Contact me directly for calculations used to quantify disparities in stops based on the population by race in Berkeley.

Ethnicity	Stopped	% of total	Cited	% of stops resulting in citation	Arrest	% of stops resulting in arrest
Asian	29	4.77%	6	20.69%	0	0.00%
Black	304	**50.00%**	23	**7.57%**	8	**2.63%**
Hispanic/Latino	88	14.47%	9	10.23%	4	4.55%
White	143	**23.52%**	22	**15.38%**	7	**4.90%**
Bad data	1	0.16%	0	0.00%	0	0.00%
Other	43	7.07%	11	25.58%	0	0.00%
TOTALS:	608	100.00%	71	11.68%	19	3.13%

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For context on the citation rate disparities, I refer to my presentation to the Mayor's Fair and Impartial Policing Working Group from January 2020, "Key things to understand about the BPD stop data." That presentation refers to data from the year 2012-2018.

> The citation rate discrepancies are stable over the years studied. They are critical because they show the chances of civilians of different ethnic groups to be stopped by police in Berkeley with no ensuing need for enforcement action. The citation rate metric removes the need for consideration of residency. It also removes any need for consideration of the demographics of crime. Those who argue for allowing police officers to put more weight on a civilian's race in their decision to stop them, contend that people of color commit crime at higher rates than White people. But this disparity in post-stop enforcement shows that Black people are twice more likely than Whites to be stopped where there either was no reasonable suspicion, or that suspicion was unfounded.

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These numbers are not the end of the discussion, but the beginning. Particularly the stop and the citation rate disparities require us to delve deeper. The City government should investigate how the decision to make a stop is made. Are the disparate stops being made by a subset of the street officers or across the board? Do stops that are officer-initiated versus dispatched result in different levels of disparity? Are there certain officers who make proportionately more stops of African Americans and Latinos than other officers do? How can those outlier officers be identified?

Answers to these questions will give the Working Group and the department the tools to ensure that policing is conducted fairly and impartially.

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In conclusion, the data described above compel the Working Group to develop an action plan that will achieve the following goals:

- Identify officers that are outliers in their practice of stopping, searching, and citation-writing, and appropriately train and manage them.
- We cannot make poorly performing officers take the entire responsibility for the disparities. We have to also look at who their commanders are, what direction the officers are getting from those commanders, and what action these commanders are taking to address the performance of these officers.
- Adopt programs such as precision-based policing and intelligence-led stops to heavily reduce stops, particularly of African Americans and Latinos.
- Reduce racial disparities in citation rates as defined in this paper as close to zero as possible.
- Ensure that all use of force is reported.