

OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

POLICE ACCOUNTABILITY BOARD REGULAR MEETING

**Wednesday, November 10, 2021
7:00 P.M.**

Board Members:

ISMAIL RAMSEY, CHAIR
MICHAEL CHANG, VICE-CHAIR
KITTY CALAVITA

REGINA HARRIS
JULIE LEFTWICH
DEBORAH LEVINE

NATHAN MIZELL
JOHN MOORE III
CHERYL OWENS

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, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting of the City of Berkeley Police Accountability Board will be conducted exclusively through teleconference and Zoom videoconference and there will not be a physical meeting location available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82237902987>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial 1 669 900 6833 and enter Meeting ID 822 3790 2987. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

AGENDA

1. **CALL TO ORDER & ROLL CALL** (5 minutes)
2. **APPROVAL OF AGENDA** (5 minutes)
3. **PUBLIC COMMENT** (TBD)

(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time.)

The Police Accountability Board and Office of the Director of Police Accountability (ODPA) were created to provide independent civilian oversight of the Berkeley Police Department. They review and make recommendations on police department policies, and investigate complaints made by members of the public against police officers. For more information, contact the ODPA.

1947 Center Street, 5th Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info

4. **APPROVAL OF MINUTES** (3 minutes)
Regular meeting of October 27, 2021.
(To be delivered.)
5. **CHAIR'S REPORT** (5 minutes)
Report from Board member Chang on public service video about hate crimes reporting.
Update from Board member Mizell on Reimagining Public Safety Task Force.
6. **DIRECTOR OF POLICE ACCOUNTABILITY'S REPORT** (5 minutes)
Status of complaints; other items.
7. **CHIEF OF POLICE'S REPORT** (10 minutes)
Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.
8. **SUBCOMMITTEE REPORTS (discussion and action)** (10 minutes)
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
 - a. Fair & Impartial Policing Implementation – met Nov. 4.
 - b. Director Search – meeting being scheduled.
 - c. Regulations – met Nov. 2; next meeting Nov. 9 at 5:30 p.m.
9. **OLD BUSINESS (discussion and action)**
 - a. Follow-up on whether the City Attorney's Office has determined it can meet in closed session with the PAB regarding the confidential memos on: 1) the obligation to meet and confer over provisions of the Interim Regulations for handling complaints against sworn officers; and 2) lawful changes to the hearing process to correct imbalances. (5 minutes)
 - b. Further report on City Attorney conflict-of-interest issues. (10 minutes)
 - c. Policy complaint – Determine how to proceed on policy Complaint #7. (10 minutes)
 - d. Revision of Policy 425, Body Worn Cameras, to broaden access by PAB and ODP. (15 minutes) (See policy in Oct. 27, 2021 packet, p. 15.)
10. **NEW BUSINESS (discussion and action)**
 - a. Proposal for Board members to fulfill training requirements in part by reading materials on recommended list. (10 minutes)
From: Board member Calavita

b. Update from Interim Chief Louis regarding the October 15 incident involving a gun on the Berkeley High campus. (10 minutes)
From: Board member Chang

c. Training: Quasi-judicial obligations of the Police Accountability Board (45 minutes.)

11. PUBLIC COMMENT (TBD)

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

Closed Session

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

12. CONSIDER RECOMMENDATION FOR ADMINISTRATIVE CLOSURE OF COMPLAINT #3 (continued from Oct. 27, 2021 meeting)

13. CONSIDER RECOMMENDATION FOR ADMINISTRATIVE CLOSURE OF COMPLAINT #9

14. CONSIDER FINDINGS AND RECOMMENDATIONS OF INTERIM DIRECTOR IN COMPLAINT #4 AND DECIDE WHETHER A HEARING IS NEEDED


End of Closed Session

15. ANNOUNCEMENT OF CLOSED SESSION ACTION (1 minute)

16. ADJOURNMENT (1 minute)

Communications Disclaimer

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

 Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

Contact the Director of Police Accountability (Board Secretary) at dpa@cityofberkeley.info

**POLICE ACCOUNTABILITY BOARD (PAB)
REGULAR MEETING ATTACHMENTS
NOVEMBER 10, 2021**

<u>MINUTES</u>	
October 27, 2021 Regular Meeting Draft Minutes (To be delivered.)	
<u>AGENDA-RELATED</u>	
Item 8. – Police Accountability Board Subcommittee list updated 10-21-21.	Page 7
Item 9.d. – DPA Policy Complaint #7	Page 9
Item 10.a. – Proposed reading in furtherance of meeting PAB training requirement.	Page 11
Item 10.c. – Flowchart and timeline: Investigations of complaints filed with the Office of the Director of Police Accountability.	Page 13
Item 10.c. – Flowchart and timeline: Complainant files with BPD and contests finding to DPA.	Page 17
<u>COMMUNICATIONS</u>	
10-29-21 Letter from the PAB Chair to the Interim Police Chief re: Fair & Impartial Policing Implementation.	Page 21
Public Safety Policy Committee – Nov. 1 minutes.	Page 23
Proposed Action Calendar Item from Councilmember Terry Taplin, re Budget referral: Automated license plate readers for community safety improvement.	Page 25
PowerPoint presentation on ALPRs from Councilmember Taplin.	Page 33
Automated License Plate Readers (ALPR), A Community Report from the Network of Berkeley Organizations.	Page 53
PowerPoint: 10-19-21 BPD Annual Update 2020-2021.	Page 69
10-22-21 Memo to the Mayor and Councilmembers, from the City Manager, re Additional Use of Force and Stop Data as requested.	Page 105

9-22-21 Memo to the Mayor and Councilmembers, from the City Manager, re Recovery Officer.	Page 113
10-31-21 Berkeleyside article: A new look at Berkeley's 1970s battles over policing, marijuana, apartheid.	Page 115
Reimagining Public Safety-Community meetings announcement.	Page 121
Reimagining Public Safety in Berkeley – Draft Final Report by NICJR. (Appendices not included.)	-
Police Accountability Board Standing Rules approved Oct. 27, 2021. (Pending City Council Approval.)	-

**POLICE ACCOUNTABILITY BOARD
SUBCOMMITTEES LIST
10-21-21**

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21	Calavita Chang Leftwich Owens <u>Public:</u> Kitt Saginor	Chang	Lt. Dan Montgomery
Director Search Formed 8-4-21	Levine Mizell Moore <u>Public:</u> Rivka Polatnick Marc Staton		
Fair & Impartial Policing Implementation Formed 8-4-21	Calavita Moore Owens Ramsey <u>Public:</u> George Lippman Elliot Halpern Jamie Crook	Calavita	Sgt. Peter Lee

POLICE REPORT AND ARREST
STATEMENT LIST
12/1/77

1. Name: [Illegible]
2. Address: [Illegible]
3. Date of Birth: [Illegible]
4. Sex: [Illegible]
5. Race: [Illegible]
6. Height: [Illegible]
7. Weight: [Illegible]
8. Hair Color: [Illegible]
9. Eye Color: [Illegible]
10. Occupation: [Illegible]
11. Education: [Illegible]
12. Marital Status: [Illegible]
13. Social Security Number: [Illegible]
14. Driver's License Number: [Illegible]
15. Vehicle Make/Model: [Illegible]
16. Vehicle Color: [Illegible]
17. Vehicle Year: [Illegible]
18. Vehicle License Number: [Illegible]
19. Vehicle Registration State: [Illegible]
20. Vehicle VIN: [Illegible]

21. Date of Arrest: [Illegible]
22. Time of Arrest: [Illegible]
23. Location of Arrest: [Illegible]
24. Name of Arresting Officer: [Illegible]
25. Name of Stationing Officer: [Illegible]
26. Name of Investigating Officer: [Illegible]
27. Name of Supervising Officer: [Illegible]
28. Name of Detainer Officer: [Illegible]
29. Name of Transporting Officer: [Illegible]
30. Name of Receiving Officer: [Illegible]



POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

1947 Center Street, 5th Floor, Berkeley, CA 94704

Web: www.cityofberkeley.info/dpa

E-mail: dpa@cityofberkeley.info

Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received:

9-13-21

DPA Case # 7

1

Name of Complainant: Farooqi Nalla M.
Last First Middle

Mailing Address: 32 Turkshead Ct Redwood City CA 94065
Street City State Zip

Primary Phone: () _____ Alt Phone: () _____

E-mail address: _____

Occupation: Substitute Teacher Gender: F Age: 39

Ethnicity: Asian Black/African-American Caucasian
 Latino/Hispanic Multiethnic: _____ Other:

2

Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.

309.3 - Officer Response to Call - "Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call."

309.4 - Communication Responsibilities - "[When] available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed, the dispatcher shall... (a)(c)(d)"

309.5 - Supervisory Responsibilities - "the Watch Commander or the field supervisor shall verify the following... (c) Affected outside jurisdictions are being notified as practical"

311.3 - Searches - Exceptions to warrant requirement: "Legitimate community caretaking interests", "Exigent circumstances"

The policy of the police responding to non-violent mental health calls for service.

3

Location of Incident (if applicable) 2315 College Avenue, Unit 407-A-1, Berkeley, CA

Date & Time of Incident (if applicable) December 4, 2020

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

See attachment.

#3 - Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

Nadeem's class member at UC Berkeley Haas School of Business messaged me that Nadeem didn't show up for an important class. It was uncharacteristic of Nadeem to miss any class, let alone an important presentation, so I was immediately concerned. Another classmate who lived in Berkeley called the Berkeley PD to do a welfare check at 2315 College Avenue. I called the officer, and the officer said that they went but no one answered the door. I told them I would be on my way from Redwood City, and I asked if they could meet me there.

When I arrived between 11am to 12pm, the officers were no longer there. I called the officer again. The officer told me that they could not "ping" Nadeem's phone inside his room, so they left and did not enter. I began banging on the door trying to get a response, believing my brother had to be in the room. The manager wouldn't open the door without the police present. I told the police my brother had bipolar schizophrenia, and I was concerned that he may be having an episode. In the past, he has had episodes and he usually calls for help, but I was even more concerned because he didn't call this time. The officer asked me if Nadeem had a weapon, and I said he did not. He did not own a gun or any knives. I continued to ask them to come and to open the door because I could hear something in the room, like the sound of running water. I told the officer I heard something.

The officer on the phone told me the sergeant said they had already gone and thus could not go back. The officer told me that maybe if I "asked the building manager nicely, she would open the door for me." I felt that was very condescending. In the end, the Berkeley PD didn't come. I waited for hours. I waited until almost 4pm, and finally the building manager realized Nadeem was a student and called UC PD to respond. I did not know that was an option. The UC PD responded rapidly and within minutes they were on the scene. The UC PD asked me why I wanted to enter the room so badly. I told him that my brother had bipolar schizophrenia, that I was not able to reach him, that I was concerned he was having an episode and needed help. The UC PD officer opened the door immediately, and rushed in to search for my brother.

The UC PD found my Nadeem. UC PD officers called Berkeley PD, the fire department, and medical for an emergency response. But by that time, it was too late. Nadeem was dead.

The coroner could establish no time of death. This leaves us wondering whether when we first responded, if the Berkeley PD had just opened the door, could they have saved my brother? Because of Berkeley PD lack of compassionate and proactive response, we now will never know.

Why not open the door when they first arrived? This was clearly a situation with legitimate community caretaking interests at stake as described under BPD Policy 311.3 (Searches). I was there to care for my brother, and was relying on the Berkeley PD for help. And they let me down.

From Board member Calavita

Proposed reading in furtherance of meeting PAB training requirement (could be augmented)

1. The Public Safety Officers Procedural Bill of Rights Act (also known as Peace Officer Bill of Rights); California Govt Code sections 3300-3313.
2. The Pocket Guide to the Public Safety Officers Procedural Bill of Rights Act, put out by UC Berkeley California Public Employee Relations. Also includes summaries of pertinent legal cases.
3. The California Constitution (relevant sections)
4. "Civilian Oversight of Law Enforcement: Report on State of the Field and Effective Oversight Practices," Community Oriented Policing Services, U.S. Department of Justice.
5. "The Evolution and Growth of Civilian Oversight: Key Principles and Practices for Effectiveness and Sustainability," Community Oriented Policing Services, U.S. Department of Justice.
6. Erwin Chemerinsky, "SCOTUS Hands down a Rare Civil Rights Victory on Qualified Immunity," ABA Journal (Feb 1, 2021). (relevant to the category of "Constitutional rights and civil liberties")
7. "An Alternative to Policing that Police Can Get Behind," Atlantic Magazine
8. "Police Unions," C. Fisk & S. Richardson, George Washington Law Review.

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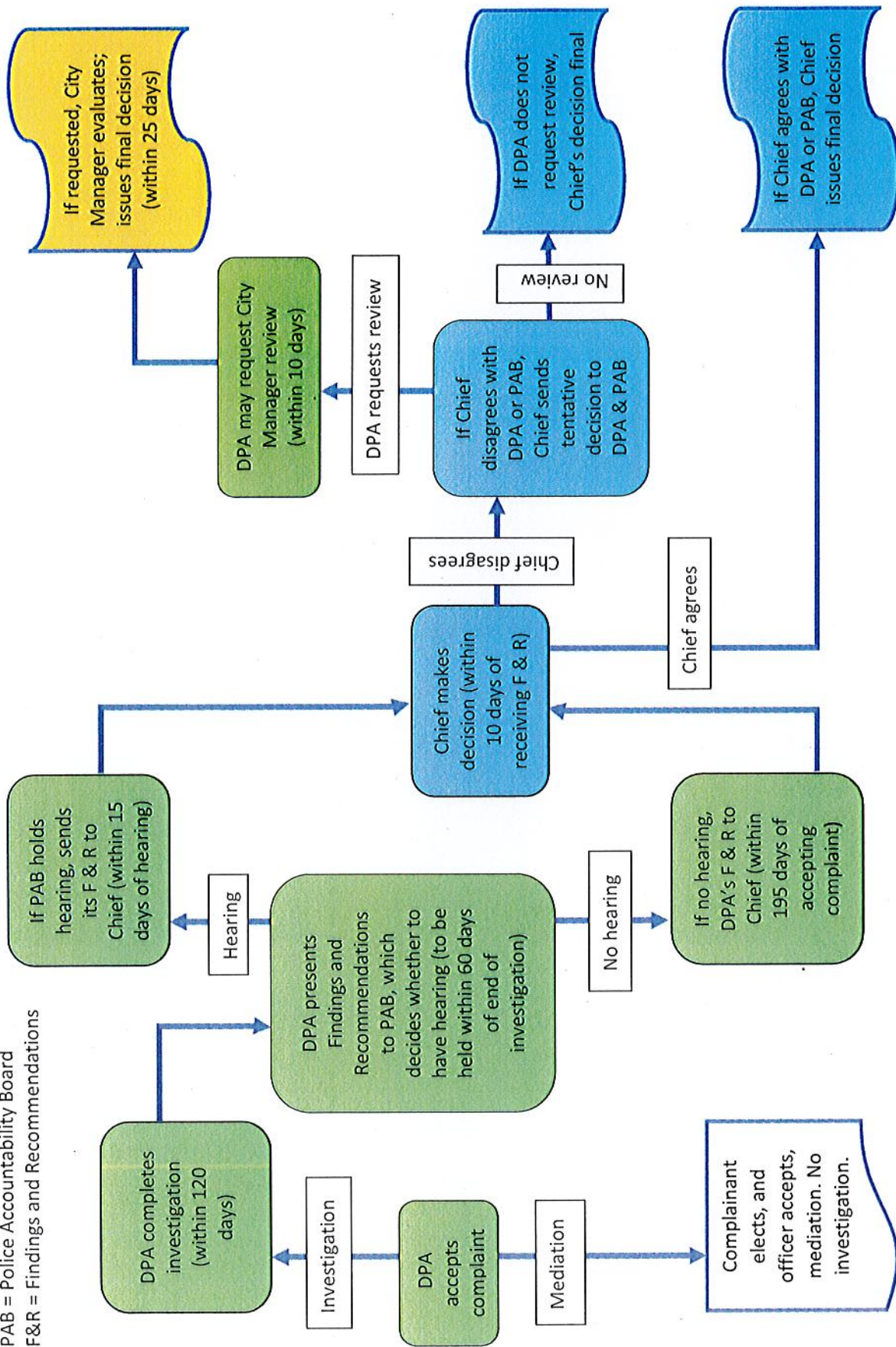
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Flowchart – Investigation of complaints filed with Director of Police Accountability (DPA) under Charter Section 125(18)

PAB = Police Accountability Board
 F&R = Findings and Recommendations





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Investigation and Discipline Timelines for Complaints filed with the Director of Police Accountability

DPA completes its investigation Within 120 days of complaint filing/discovery

DPA submits and presents investigative findings & disciplinary recommendations [F&R] to PAB; PAB decides whether to hold hearing Within 60 days (includes holding hearing, if warranted)

IF NO HEARING

DPA sends F&R to Chief Within 195 days of complaint filing/discovery

If Chief agrees with DPA, Chief issues final decision Within 10 days of receiving DPA F&R

same as above

If Chief disagrees with DPA, Chief issues tentative decision to the PAB and DPA

- DPA may request Chief to submit decision Within 10 days of receipt of tentative decision

to CM for final decision

- CM issues final decision to PAB, DPA, and Chief

- If no contest from DPA to CM, Chief issues final decision Within 25 days of DPA request

IF HEARING

PAB may affirm or modify/reject DPA's F&R Within 60 days of completion of investigation

- If PAB agrees with DPA, DPA submits F&R to Chief Within 15 days of hearing

same as above

- If PAB modifies/rejects DPA findings, PAB issues explanation to Chief

If Chief agrees with PAB or DPA, Chief issues final decision Within 10 days of receiving DPA or PAB F&R

same as above

If Chief disagrees with PAB or DPA, Chief issues tentative decision to the PAB and DPA

- DPA may request Chief to submit decision to CM for final decision Within 10 days of receipt of tentative decision

- CM makes and issues final decision to PAB, DPA, and Chief

- If no contest from DPA to CM, Chief issues final decision Within 25 days of DPA request

240-day deadline for investigations and notification of discipline from complaint filing/discovery

1. The first question is how to represent the question of whether the subject is a philosopher.

2. The second question is how to represent the question of whether the subject is a philosopher.

3. The third question is how to represent the question of whether the subject is a philosopher.

4. The fourth question is how to represent the question of whether the subject is a philosopher.

5. The fifth question is how to represent the question of whether the subject is a philosopher.

6. The sixth question is how to represent the question of whether the subject is a philosopher.

7. The seventh question is how to represent the question of whether the subject is a philosopher.

8. The eighth question is how to represent the question of whether the subject is a philosopher.

9. The ninth question is how to represent the question of whether the subject is a philosopher.

10. The tenth question is how to represent the question of whether the subject is a philosopher.

11. The eleventh question is how to represent the question of whether the subject is a philosopher.

12. The twelfth question is how to represent the question of whether the subject is a philosopher.

13. The thirteenth question is how to represent the question of whether the subject is a philosopher.

14. The fourteenth question is how to represent the question of whether the subject is a philosopher.

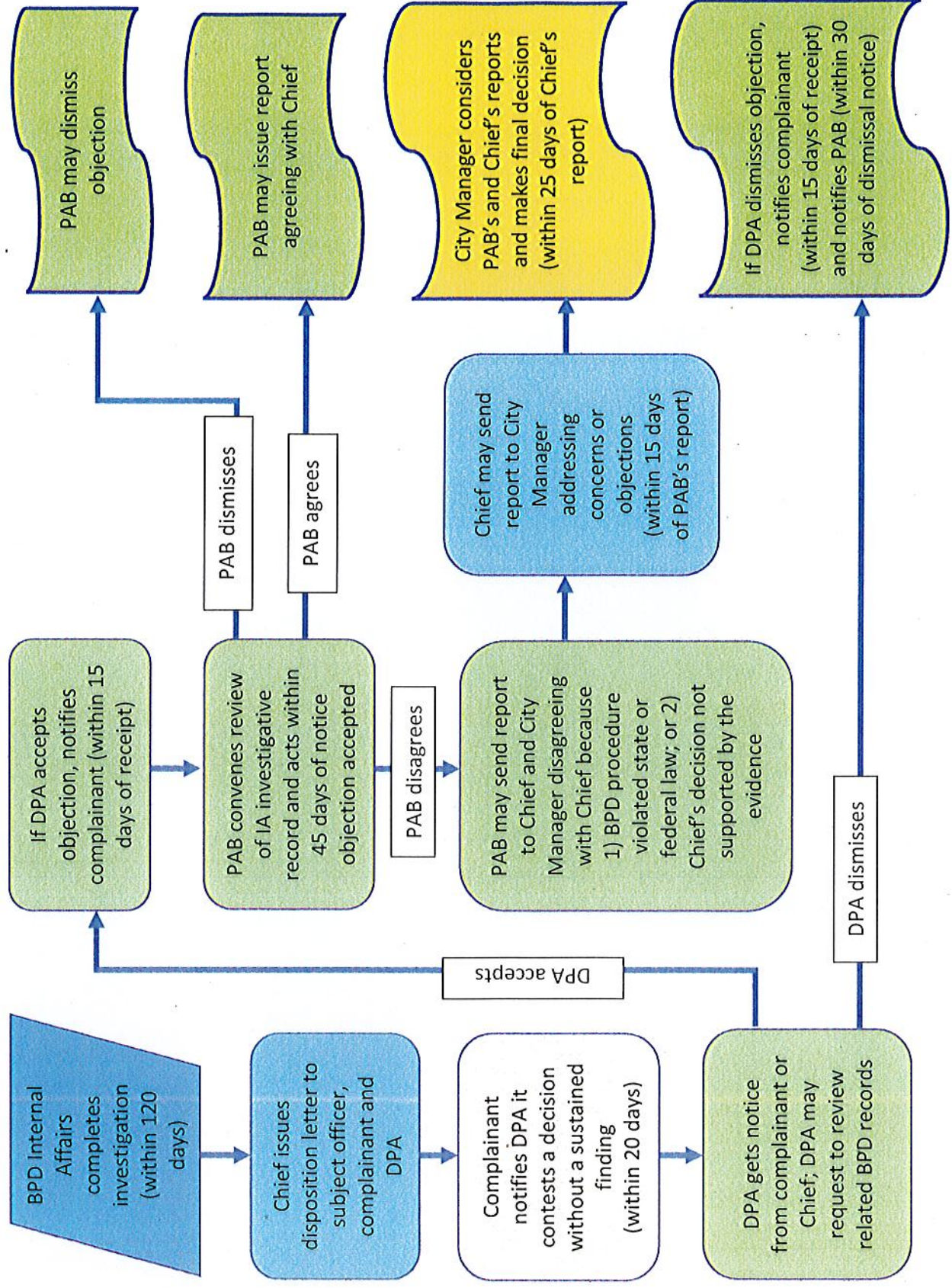
15. The fifteenth question is how to represent the question of whether the subject is a philosopher.

16. The sixteenth question is how to represent the question of whether the subject is a philosopher.

17. The seventeenth question is how to represent the question of whether the subject is a philosopher.

18. The eighteenth question is how to represent the question of whether the subject is a philosopher.

Flowchart – Complainant files with Berkeley Police Department and contests decision without a sustained finding to Director of Police Accountability (DPA) (Charter Sec. 125(19))
 PAB = Police Accountability Board



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A row of three rectangular blocks of handwritten text, possibly representing three separate entries or items.

Two rectangular blocks of handwritten text, possibly representing two separate entries or items.

Investigation and Discipline Timelines for External Complaints filed with the Berkeley Police Department

BPD Internal Affairs completes its investigation	Within 120 days of complaint filing/discovery
Chief issues disposition letter to subject officer, complainant, and DPA	Upon completion of investigation
Complainant may contest Chief's decision to DPA on cases with no sustained finding	Within 20 days of Chief's disposition notice

DPA receives notice of complainant objection from complainant or Chief; DPA may request to review all related BPD records

IF DPA DISMISSES OBJECTION

DPA notifies complainant that objection is dismissed; and DPA notifies PAB of dismissal

Within 15 days of receiving objection
Within 30 days of dismissal notice to complainant

IF DPA ACCEPTS OBJECTION

DPA notifies complainant that objection accepted and PAB will convene to conduct a review based on the IA investigative record.

Following review, PAB may:

- dismiss objection; or
 - issue report *agreeing* with Chief; or
 - issue report *disagreeing* with Chief because BPD procedure violated state or federal law or Chief's decision is unsupported by the evidence, and send to City Manager and Chief
 - Chief may issue report to City Manager addressing concerns/objections
 - City Manager considers reports from PAB and Chief and makes final determination with written explanation to DPA, PAB, and Chief
- | | |
|---|--|
| Within 45 days of DPA notice to complainant accepting objection | Within 15 days of receiving objection |
| same as above | same as above |
| same as above | same as above |
| Within 15 days of receiving PAB report | Within 15 days of receiving PAB report |
| Within 25 days of Chief's report | Within 25 days of Chief's report |

240-day deadline for investigations and notification of discipline from complaint filing/discovery

1. The first step in the process of identifying a problem is to define the problem clearly and precisely.

2. The second step is to gather information about the problem. This involves identifying the causes of the problem and the resources available to solve it.

3. The third step is to generate possible solutions. This involves brainstorming ideas and evaluating them based on their feasibility and effectiveness.

4. The fourth step is to select the best solution. This involves comparing the different solutions and choosing the one that is most likely to succeed.

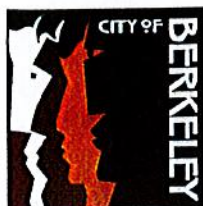
5. The fifth step is to implement the solution. This involves putting the chosen solution into action and monitoring its progress.

6. The sixth step is to evaluate the results. This involves assessing the effectiveness of the solution and making adjustments as needed.

7. The seventh step is to communicate the results. This involves sharing the findings of the problem-solving process with others.

8. The eighth step is to reflect on the process. This involves thinking about what was learned from the experience and how it can be applied to future problems.

9. The ninth step is to document the process. This involves writing a report or journal entry about the problem-solving process.



POLICE ACCOUNTABILITY BOARD

VIA EMAIL ONLY TO JLOUIS@CITYOFBERKELEY.INFO

October 29, 2021

Interim Police Chief Jennifer Louis
City of Berkeley
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704

Re: Fair & Impartial Policing Implementation

Dear Interim Chief Louis,

Police Accountability Board Members followed closely your October 19, 2021 report to City Council, which included a brief overview of the BPD's progress in implementing the directives from City Council on Fair and Impartial Policing (FIP).

As you know, the City Council, in passing the FIP recommendations on February 23, 2021, established that the Police Accountability Board (PAB) would be responsible for the "long-term monitoring and assessment" of the FIP implementation. The PAB sincerely hopes that this will be a collaborative effort, with the Department and the PAB and its Implementation Subcommittee—chaired by Board Member Calavita—engaging in productive dialogue that moves implementation forward in a transparent and efficient way.

To that end, the PAB invites you to a PAB meeting to provide us with a detailed update on implementation progress. We would especially appreciate a focus on the following:

- The Early Intervention System (EIS), including specifics on the policy language, how it will be operationalized, and expected completion date
- Revised search consent forms, including draft language and expected completion date
- Business cards to be distributed after each officer/civilian encounter, including (for now) stickers with information about filing a complaint with the PAB and/or making an officer commendation

The PAB is eager to collaborate with the BPD on all FIP items. The EIS seems especially central to our mutual concerns for policing that is fair and impartial. Board Members have expressed a strong desire to be involved upfront as the new EIS system and policy language is developed. With the transition to Lexipol policy language and on other issues, it is enormously useful to collaborate as things develop as opposed to waiting until a final product is in place. We sincerely hope to develop collegial

1947 Center Street, 5th Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info

approaches. A first step in that direction is to have a full progress report and subsequently a series of meetings with you or your delegates and the Board and its Subcommittee.

While we understand that it is unrealistic to set hard and fast timelines, we would hope that through collaboration, the EIS might be up and running early in the new year. The search consent forms and business cards (which I informally understand have already been developed) would seem more straightforward.

For now, then, two requests. First, we ask that you attend a PAB meeting to give us a detailed report on FIP implementation progress. Related, we ask that you share with the PAB and its Subcommittee any early policy drafts for the EIS. We are looking forward to fruitful collaboration on all fronts.

The members of the Police Accountability Board voted unanimously at its October 27, 2021 meeting to send this letter to you.

Sincerely,



Izzy Ramsey
Chairperson, Police Accountability Board

cc: Police Accountability Board Members

Public Safety Policy Committee - Nov. 1 Minutes

Committee Action Items



- 4. Budget referral: Automated license plate readers for community safety improvement** *(Item Contains Revised Material)*
From: Councilmember Taplin (Author), Councilmember Droste (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Referred: August 30, 2021
Due: January 30, 2022
Recommendation: That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:
Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and strategic intersections in areas impacted by violent crime, traffic violations including bicycle and pedestrian safety infractions, illegal dumping, drug offenses, and other criminal activity; and refer to the budget process cost of ALPRs.
Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance enabling the use of ALPRs in fixed locations and mobile trailers by the Berkeley Police Department, while restricting data storage to standards in City of Vallejo Police Department Policy 426; and study feasibility of data access standards for some ALPRs to those set forth in Senate Bill 210 (Wiener, 2021).
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: 9 speakers. Discussion held. Revised material submitted by the author. M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 & 2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.
Vote: All Ayes

Committee Action Items

5. **Restoration of Red Light Camera Program**

From: Councilmember Taplin (Author)

Referred: October 12, 2021

Due: March 14, 2022

Recommendation: Refer the City Manager to pursue the reestablishment of the City's Red Light Camera Program and enter into any third party contracts necessary to reinstall red light cameras at the following locations:

University Avenue and Shattuck Avenue, University Avenue and Sixth Street, Martin Luther King Jr. Way and Adeline Street, San Pablo Avenue and Ashby Avenue, San Pablo Avenue and University Avenue, San Pablo Avenue and Dwight Avenue, Sacramento Street and Ashby Avenue, Sacramento Street and University Avenue, Sacramento Street and Dwight Avenue, Sacramento Street and Alcatraz Avenue. Additional intersections to be determined by the Transportation Division of the Public Works Department and the Berkeley Police Department.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: The item was continued to the next meeting.

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

- None

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Bartlett/Wengraf) to adjourn the meeting.

Vote: All Ayes

Adjourned at 12:43 p.m.

I hereby certify that this is a true and correct record of Public Safety Policy Committee meeting held on November 1, 2021.

Michael MacDonald, Assistant 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@cityofberkeley.info.

Submitted to Public Safety Policy Committee
Nov. 1, 2021 meeting



BERKELEY CITY COUNCILMEMBER

TERRY TAPLÍN
DISTRICT 2

Action CALENDAR

DATE: September 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Vice Mayor Droste (co-sponsor), Councilmember Wengraf (co-sponsor)

Subject: Budget referral: Automated license plate readers for community safety improvement

RECOMMENDATION

That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:

- Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; **and refer to the budget process cost of ALPRs.**
- Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs of policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions responsei

CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department's 2019/2020 Crime Report, Berkeley has seen marked increases in aggravated assault, homicides, auto theft and larceny over the past two

years.¹ While the overall crime rate remained relatively flat, specific categories of property crimes increased sharply—especially vehicle thefts, which increased by 66% in 2020. Homicides decreased to zero in 2021, but reports of gunfire and auto theft increased.

Currently, the police department's Parking Enforcement Bureau uses Automated License Plate Readers (ALPRs)⁴ for time zone parking and scofflaw enforcement, replacing the practice of physically "chalking" car tires, but ALPR technology has not been implemented in the city for other law enforcement purposes. According to the City Manager's 2020 Surveillance Technology Report, there were an average of 12,059 successful license plate "reads" per day in the month of September, 2020. From October 2019 to October 2020, there were 44,068 "hits" detecting a positive violation, roughly 25% (11,017) of which resulted in enforcement by citation issuance.⁵

Pursuant to Berkeley Municipal Code Chapter 2.99 Section 2.99.070, the City Manager's office is required to report on surveillance technology on an annual basis.

BACKGROUND

According to a 2018 study⁶ by the Center for Policing Equity, Black people comprise only 8% of Berkeley's population, but a disproportionate 46% of people subject to police uses of force. In light of this evidence, and in the wake of the national outcry over the death of George Floyd, the City Council adopted a resolution⁷ on July 14, 2020 directing the City Manager in part to "identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments."

Some research has found that ALPRs contribute to marginal improvements in public safety outcomes with respect to vehicle thefts and traffic safety. The use of LPR technology has increased significantly in law enforcement agencies across the US in the past decade, but outcomes have been inconsistently tracked, which limits available research.⁸ One qualitative

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/Documents/2020-10-13_Presentations_Item_19_Pres_Police_pdf.aspx

⁴

⁵ https://www.cityofberkeley.info/Clerk/City_Council/2020/11_Nov/Documents/2020-11-10_Item_19_Resolution_Accepting_the_Surveillance.aspx

⁶ Buchanan, K.S., Pouget, E., Goff, P.A. (2018). The Science of Justice: Berkeley Police Department. Center for Policing Equity. Retrieved from <https://www.berkeleyside.org/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

⁷ https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-14_Item_18d_Transform_Community_Safety_pdf.aspx

⁸ Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). The rapid diffusion of license plate readers in US law enforcement agencies. *Policing: An International Journal*, (42)3, pp. 376-393. <https://doi.org/10.1108/PIJPSM-04-2018-0054>

case study found that criminal investigators adapted LPR technology to a broader range of investigative work, such as rapid responses and corroborating suspect alibis.⁹

An analysis of a randomized control trial in the City of Vallejo found that ALPRs attached to police vehicles enabled a 140% increase in detection of stolen vehicles, while arrests were more efficient with stationary ALPRs in fixed locations.¹⁰ A study on LPR technology in Mesa, AZ found that LPRs resulted in an eightfold increase in the number of plates scanned, more positive scans, arrests and recovery of stolen vehicles, and a reduction in calls for drug offenses. However, the study did not find a statistically significant reduction in vehicle thefts in hot spots compared to manual checks, possibly because the presence of law enforcement officers performing manual checks had a more preventative effect.¹¹ Another study of the Charlotte-Mecklenburg Police Department found that “LPR use may have contributed to modest improvements in case closures for auto theft and robbery”—the former in the long term, and the latter both short- and long term.¹²

According to recent analysis by the National Highway Traffic Safety Administration, one law enforcement agency found that drivers with suspended, revoked, or restricted licenses were 2.2 times more likely to be involved in serious or fatal crashes than other drivers, and that identifying these drivers with ALPRs “could affect traffic safety positively by targeting violator vehicles that are more prone to crash risk.”¹³ A quasi-experimental survey of data from Buffalo, NY found a reduction in violent crime and traffic accidents associated with roadblocks using LPRs.¹⁴

RATIONALE FOR RECOMMENDATION

Reimagining public safety necessitates significant improvements in public safety outcomes, including practical solutions to traffic safety and property crime. California law currently preempts municipalities from transferring traffic enforcement to civilian duties or automated speed cameras.

⁹ James J. Willis, Christopher Koper & Cynthia Lum (2018). The Adaptation of License-plate Readers for Investigative Purposes: Police Technology and Innovation Re-invention, *Justice Quarterly*, 35:4, 614-638, DOI: 10.1080/07418825.2017.1329936

¹⁰ Potts, J. (2018). Research in brief: assessing the effectiveness of automatic license plate readers. *POLICE CHIEF*. Retrieved from <http://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

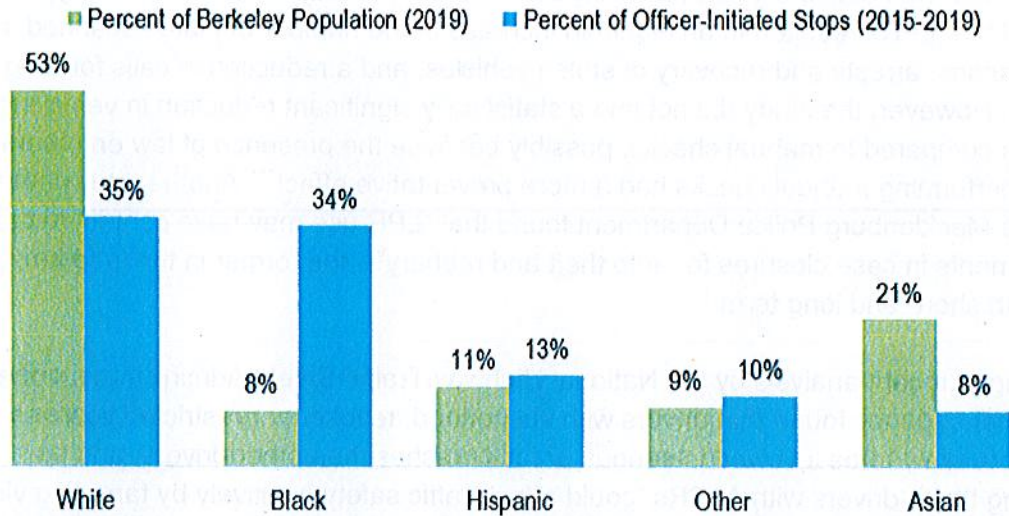
¹¹ Taylor, B., Koper, C. S., & Woods, D. J. (2012). Combatting auto theft in Arizona: A randomized experiment with license plate recognition technology. *Criminal Justice Review*, 37, 24-50.

¹² Koper, C. S., & Lum, C. (2019). The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations. *Police Quarterly*, 22(3), 305–329. <https://doi.org/10.1177/1098611119828039>

¹³ Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D. (2021). State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes. Retrieved from https://rosap.ntl.bts.gov/view/dot/55586/dot_55586_DS1.pdf

¹⁴ Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. *Secur J* 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>

While auto thefts in Berkeley increased by 64% from 2019 to 2020, and increased 54% year-over-year in the first half of 2021¹⁵, a 2021 City Auditor analysis¹⁶ of the Berkeley Police Department found that Officer-Initiated Stops disproportionately target Black and Latino drivers relative to their share of the city's population.



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor's analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

ALPRs therefore present an opportunity to reduce property crimes and improve traffic safety while also reducing civilian encounters with police officers conducting ad hoc traffic enforcement, which the 2021 audit found to have a significant racial bias against Black and Latino drivers. ALPRs could make enforcement more fair, impartial, and effective. In 2015, the Berkeley Police Department used ALPR technology on a mobile trailer to investigate five attempted kidnappings by Willard Middle School.¹⁷

However, ALPR data storage gives rise to several privacy concerns. In *Carpenter v. United States*, the U.S. Supreme Court ruled that accessing location data tracking an individual's movements from their cell phone constitutes a search under the Fourth Amendment and requires a search warrant.¹⁸ While ALPR scans are subject to reasonableness standards for

¹⁵ https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx

¹⁶ Berkeley City Auditor. (2021, Apr. 22). Data Analysis of the City of Berkeley's Police Response. Retrieved from https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf

¹⁷ Raguso, E. (2015, Oct. 30). Berkeley police use license plate reader in kidnapping attempt investigations. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2015/10/30/berkeley-police-use-license-plate-reader-in-kidnapping-attempt-investigation>

¹⁸ *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

searches under Fourth Amendment jurisprudence, state courts have found that ALPR alerts are sufficient to establish a reasonable suspicion, though there are situations that require further intervention to establish reasonableness or avoid error.¹⁹

In *Neal v. Fairfax County Police Department*, the Virginia Supreme Court ruled that GPS data and images associated with license plate numbers were private personal information (PPI), but license plate numbers themselves stored in ALPR databases were not.²⁰ The California Supreme Court has also underscored such a distinction between “bulk data collection” of license plate numbers that did not “produce records of investigations” for particular crimes.²¹ By contrast, U.S. Supreme Court Justice Sotomayor argued in *United States v. Jones* that government agencies collecting “private aspects of identity” could be “susceptible to abuse.”²² This calls into question the so-called third party doctrine of the Fourth Amendment—the longstanding precedent that individuals may be reasonably considered to waive their right to privacy and assume any information provided to third parties may eventually be accessed by the government—given the vast array of information government agencies can now access through surveillance technology. To carefully balance privacy and policing efficacy under this new paradigm, Newell (2013) recommends strictly limiting data retention for non-“hit” scans, and maintaining anonymized ALPR data subject to public disclosure laws.²³

California Vehicle Code Section 2413(b) restricts the California Highway Patrol (CHP)'s retention LPR data for 60 days unless it is being used as evidence in a felony investigation. Subsection (c) restricts the distribution of this data strictly to law enforcement agencies or officers and “only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.”

In 2015, Senate Bill 34 imposed additional security and privacy requirements on the use of ALPR data.²⁴ Unfortunately, a State Auditor report in 2020 surveying four local law enforcement agencies in California found that ALPR policies were out of compliance with SB34, retained images for far longer than needed or allowed, and had no processes in place to safeguard local compliance. For example, the State Auditor “did not find evidence that the agencies had always determined whether an entity receiving shared images had a right and a need to access the images or even that the entity was a public agency.”²⁵

¹⁹ Fash, L. (2018). Automated License Plate Readers: The Difficult Balance of Solving Crime and Protecting Individual Privacy. *Md. L. Rev. Endnotes*, 78, 63.

²⁰ *Neal v. Fairfax County Police Dept.*, 812 S.E.2d 444, 295 Va. 334 (2018).

²¹ *Am. Civil Liberties Union Found. of S. Cal. v. Super. Ct. of L.A. Cty.*, 400 P.3d 432 (Cal. 2017).

²² *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring);

²³ Newell, B. C. (2013). Local law enforcement jumps on the big data bandwagon: Automated license plate recognition systems, information privacy, and access to government information. *Me. L. Rev.*, 66, 397.

²⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34

²⁵ Howle, E.M. (2020). Automated License Plate Readers: To Better Protect Individuals' Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects. *Auditor of the State of California*. Retrieved from <https://www.auditor.ca.gov/reports/2019-118/index.html>

In 2018, a lawsuit by the American Civil Liberties Union of Northern California revealed that Immigration and Customs Enforcement (ICE) had purchased access to private databases containing ALPR data with 5 billion individual data points for civil immigration enforcement, and had obtained ALPR data from over 80 local law enforcement agencies.²⁶ However, in 2017, Senate Bill 54 greatly restricted the ability of California law enforcement agencies to share information with ICE.²⁷

Berkeley Parking Enforcement uses PCS Mobile ALPR units using Genentech ALPR technology regulated by BPD Administrative Order #001-2016, which limits storage of reads to 30 days and hits to 365 days. Images of reads are not stored on the server, and data may only be used for legitimate law enforcement purposes. Police Departments in the cities of Vallejo and Piedmont utilize the Flock Safety Operating System, which comes with a transparency portal listing permitted and prohibited uses, data storage, access provided to outside agencies, numbers of hits and scans, and other relevant metadata.²⁹³⁰

ALTERNATIVES CONSIDERED

1. Gun buyback programs have not demonstrated significant efficacy except in limited circumstances within more holistic community-based violence prevention programs.³¹
2. With the stalling of Assembly Bill 550³² in this year's legislative session, automated speeding cameras are not currently permitted in the state of California.
3. On October 27, 2020, the City Council referred to the Community Engagement Process for Reimagining Public Safety the creation of a Group Violence Intervention Program (GVI), or "Operation Ceasefire," that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence. Current staffing capacity in the City Manager's office is insufficient to develop such a program before the process is complete.

ENVIRONMENTAL IMPACTS

None.

²⁶ Talla, V. (2019). Documents Reveal ICE Using Driver Location Data From Local Police for Deportations. *ACLU Northern California*. Retrieved from <https://www.aclunc.org/blog/documents-reveal-ice-using-driver-location-data-local-police-deportations>

²⁷ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54

²⁹ <https://transparency.flocksafety.com/vallejo-ca-pd>

³⁰ <https://transparency.flocksafety.com/vallejo-ca-pd>

³¹ Makarios, M. D., & Pratt, T. C. (2012). The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis. *Crime & Delinquency*, 58(2), 222–244. <https://doi.org/10.1177/0011128708321321>.

³² https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB550

FISCAL IMPACTS

In 2017, an amendment to Contract No. 9977³³ from the City Manager's Office itemized a unit cost of \$78,363 for each ALPR system. Costs for this referral may be different because this contract was only for mobile ALPRs used for parking enforcement, not in fixed locations or mobile trailers.

CONTACT

Councilmember Terry Taplin, District 2, (510) 981-7120, ttaplin@cityofberkeley.info

ATTACHMENTS

1. City of Vallejo ALPR Policy
2. the City of Alameda,
3. City of Emeryville,
4. City of Hayward,
5. City of Oakland,
6. City of Piedmont,
7. City of Richmond,
8. City of San Leandro,
9. City of Vallejo,

³³https://ci.berkeley.ca.us/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_13_Contract_No_9977_Amendment.aspx

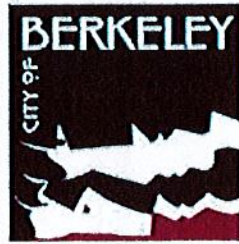
THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. UNIVERSITY AVENUE
CHICAGO, ILLINOIS 60637

RESEARCH REPORT NO. 1234

DATE: 1964
AUTHOR: J. D. JONES
TITLE: STUDY OF THE
PROPERTIES OF
SOLUBLE POLYMERS
IN AQUEOUS SOLUTIONS
AT VARIOUS TEMPERATURES

RESEARCH REPORT NO. 1234

Automated License Plate Readers (ALPRs)



BERKELEY CITY COUNCIL MEMBER

TERRY TAPLÍN
DISTRICT 2

Vision Zero and BerkDOT

Goal of Vision Zero: elimination of serious road injuries and fatalities by 2028 through engineering, education, and enforcement.

- *From 2010-2019, Black people were struck and killed by drivers at a 82 percent higher rate than White, non-Hispanic Americans. For American Indian and Alaska Native people, that disparity climbs to 221 percent (Smart Growth America: Dangerous by Design 2021)*
- Drivers with revoked licenses are 2.2 more likely to be involved in serious or fatal crashes (National Highway Traffic Safety Administration)
- Challenges: \$328 million in deferred road maintenance by 2023; Bike/Ped plan improvements are decades behind and largely unfunded; capital projects advances in the Downtown, Telegraph, and North Berkeley but lagging in South and West; Public Works vacancies.

Goal of BerkDOT: to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs, & infrastructure.

- State prohibition on Civilian Enforcement and fully automated enforcement. Civilians are not immune to bias.
- Capital improvement projects advancing in the Downtown, Telegraph, and North Berkeley. Lagging in West and South Berkeley
- New Department \$50 million.
- PW vacancies
- Use of technology to minimize bias and reduce needless stops.

Road safety is a city-wide issue & we have an equity imperative to address traffic crimes

This map shows the locations of 277 severe injury and fatality traffic crashes that occurred on Berkeley streets between 2010 and 2019.

Although only 37% of streets lie in the Equity Priority Area, 42% of severe and fatal collisions occur there.

Lower income residents and people of color are disproportionately impacted by the risk of traffic injuries and fatalities. The Equity Priority Area considers historic federal Home Owners' Loan Corporation "redlining" practices, racial/ethnic composition, property value, and cultural centers to guide the City of Berkeley in prioritizing infrastructure projects that remedy systemic inequity. A full description of the Equity Priority Area methodology can be found in the City of Berkeley Pedestrian Plan.

Note: due to limitations in SWITRS data, not all crashes can be mapped. This map presents a statistically significant representative sample of the locations of severe injury and fatal crashes in Berkeley from 2010-2019.



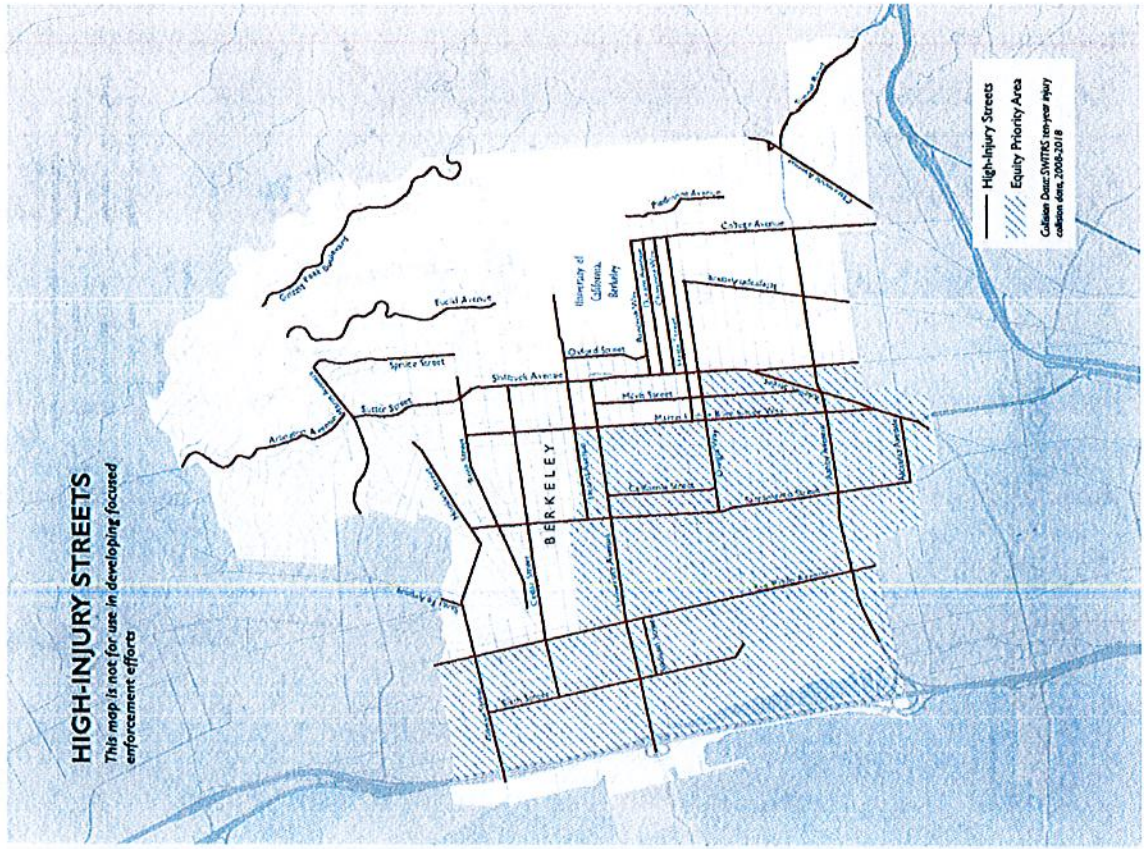
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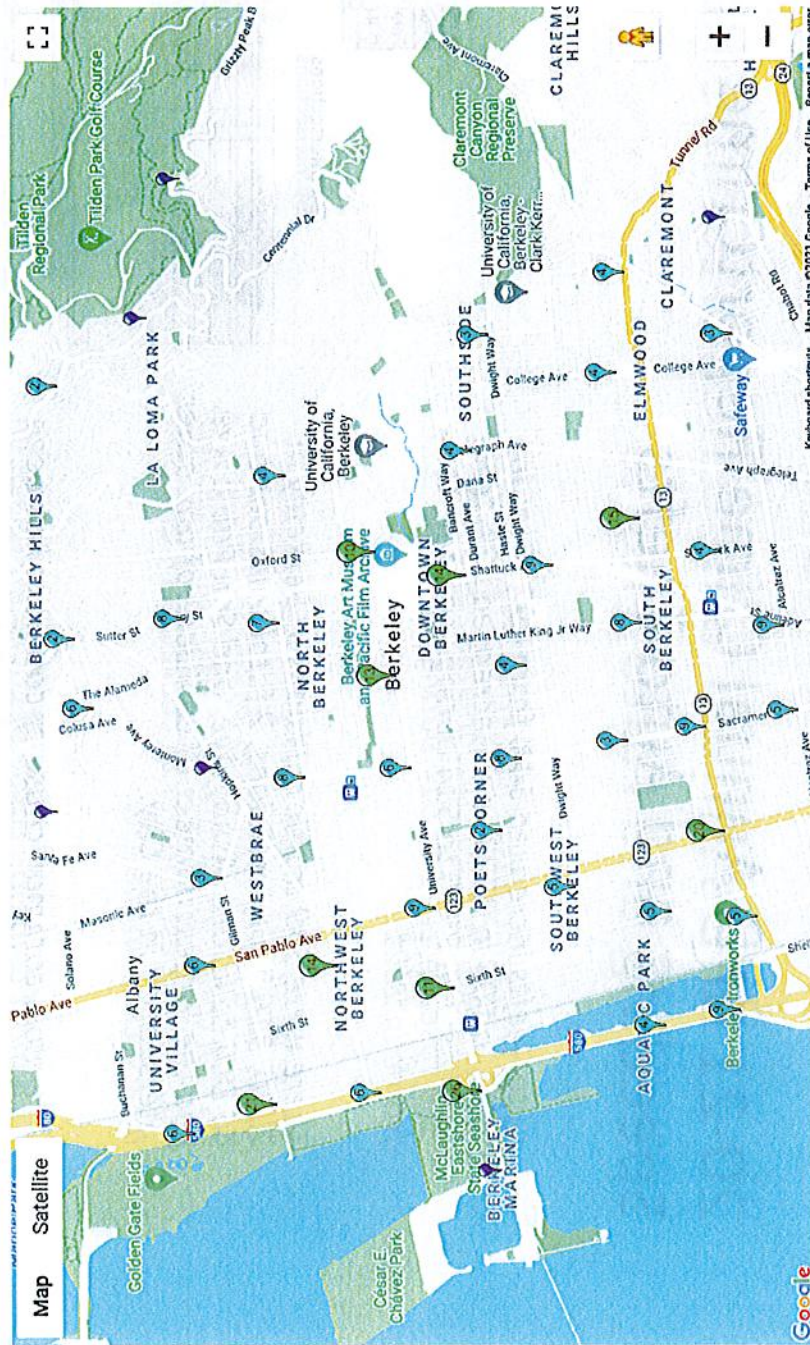
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Current situation and its effects: 2020 crashes



Crash Severity	Count	%
1 - Fatal	4	1.14%
2 - Injury (Severe)	36	10.26%
3 - Injury (Other Visible)	213	60.68%
4 - Injury (Complaint of Pain)	98	27.92%

Source: UC Berkeley Traffic Injury Mapping System (TIMS) & Statewide Integrated Traffic Record System (SWITRS)

20-21 BPD Annual Crime Report Crime Report: Collisions, Speeding and Auto Thefts

- Auto Thefts increased 64% from 492 cases in 2019 to 805 in 2020; and increased 52% from 339 cases in 2020 to 514 during the same time frame in 2021

- There were 589 traffic collisions in Berkeley in 2020, 316 injury collisions, 2 fatal collisions and 46 DUI collisions. Ashby Ave. and San Pablo Ave. had the largest number of collisions of any other intersection in the City.

- The most common cause of collisions has been unsafe speed followed by unsafe lane change, and right of way violations relating to failure to yield.

Traffic Collisions*

	2020	2021
Total Collisions	589	550
Injury Collisions	316	205
Fatal Collisions	2	5
DUI Collisions	46	38

Top Intersections

	2020	2021
Ashby Ave / San Pablo Ave	9	9
M.L.K. Hwy / Ashby Ave	6	6
Sacramento St / Ashby Ave	6	5
7th St / Ashby Ave	5	5
Ashby Ave / Shattuck Ave	5	5

Primary Causal Factors

	2020	2021
22800 VC (Speeding)	133	94
22107 VC (Unsafe lane change)	104	88
21800-21804 VC (Failure to yield)	82	52
22706 VC (Unsafe starting or backing)	46	38
21950 VC (Failure to yield to ped)	45	16

Bike Collisions

	2020	2021
Bike Collisions	67	69

Pedestrian Collisions

	2020	2021
Pedestrian Collisions	69	31

	2020	2021
22850 VC (Speeding)	14	19
21800-21804 VC (Failure to yield)	12	8
22377 VC (Unsafe lane change)	8	8

	2020	2021
21950 (a) VC (Failure to yield to ped)	45	16
21950 (b) VC (Pedestrian safety)	6	3
22107 VC (Unsafe lane change)	2	2

*2021 Data = January – October 1st



Crime Report: Use of Force

Old Policy

Berkeley Police Department takes pride in our ability to accomplish our work with minimal reliance on force through approaches that include de-escalation techniques, as well as an awareness of mental health crisis issues and appropriate responses. The department reinforces these skills and strategies through regular training.

A review of the Berkeley Police Department's use of force statistics reflects a minimal reliance on force. Data covering January 2017 through September 2021 shows the department responded to an average of 72,738 calls for service per year and averaged 2,804 arrests. Under the department's prior reporting standards, there was an average of 75 uses of force per year.

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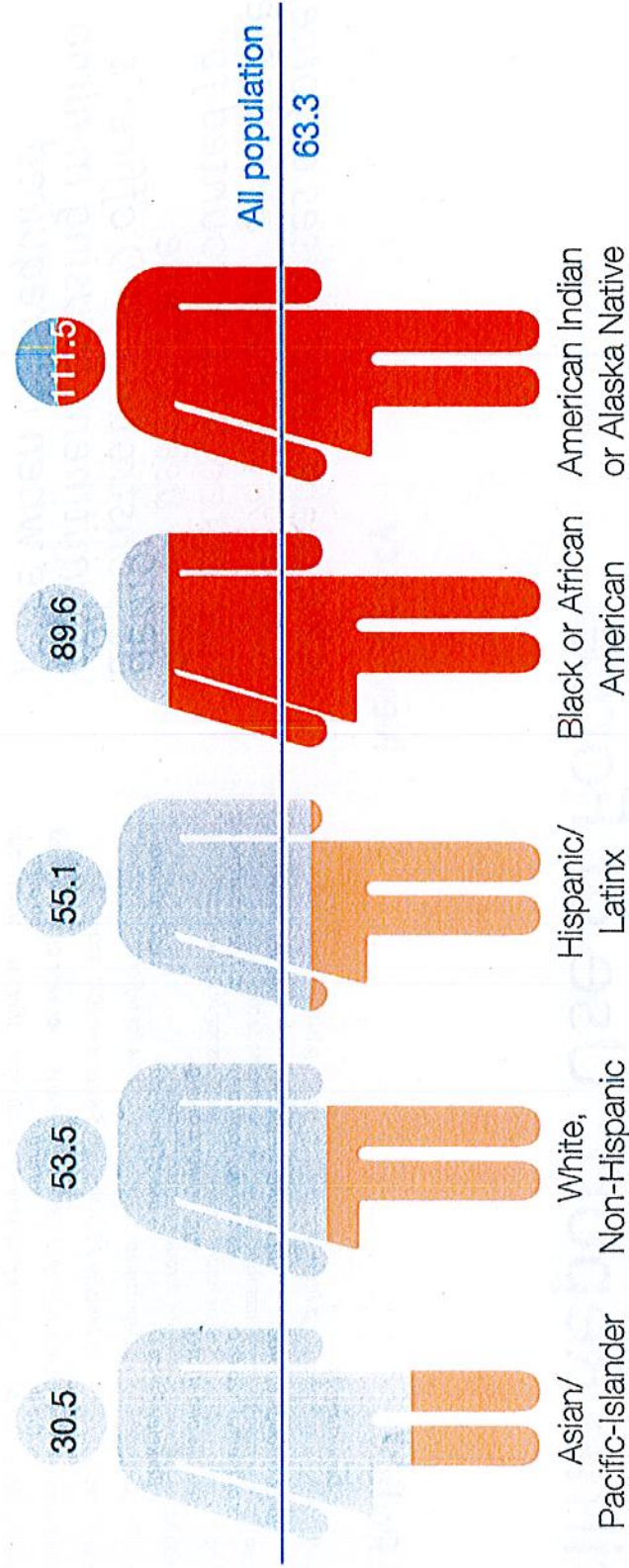
New policy

- 67% were Level 1 uses of force, and 28% were level two. These two categories accounted for 95% of uses of force, demonstrating BPD officer's commitment to using minimal force when it is required.

- Use of force during traffic stops : 3.23%

The burden is not shared equally

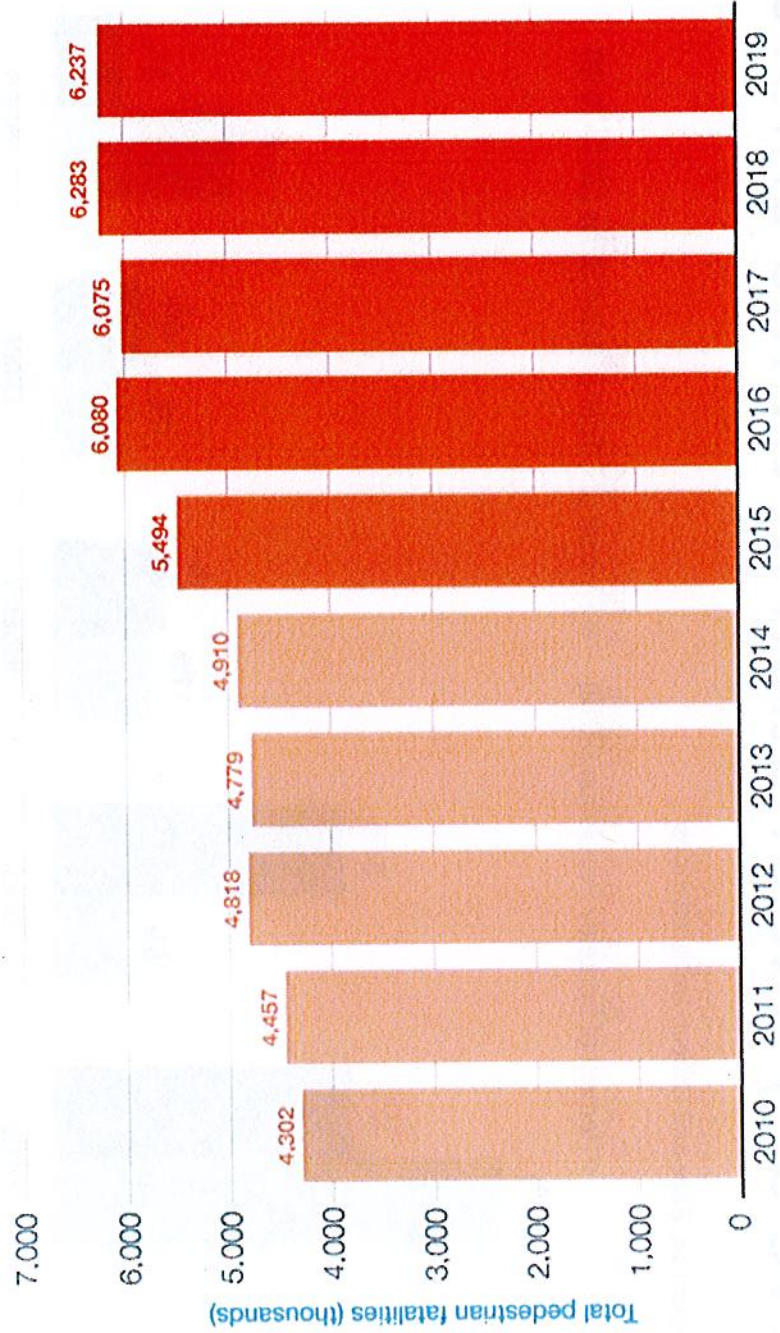
Relative pedestrian danger by race and ethnicity
(2010-2019)



[Smart Growth America: Dangerous By Design 2021](#)

45% increase in people struck and killed while walking

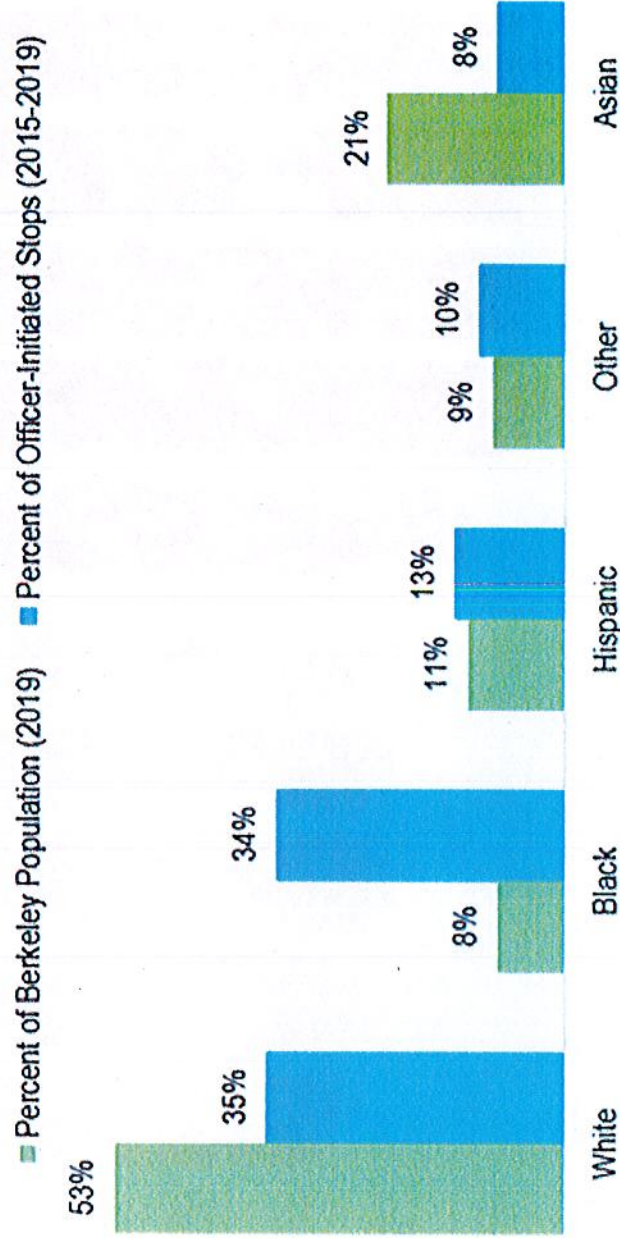
The last four years were the most deadly in three decades



[Smart Growth America: Dangerous By Design 2021](#)

Why have any automation in traffic enforcement?

Figure 14. Race and Officer-Initiated Stops



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor's analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

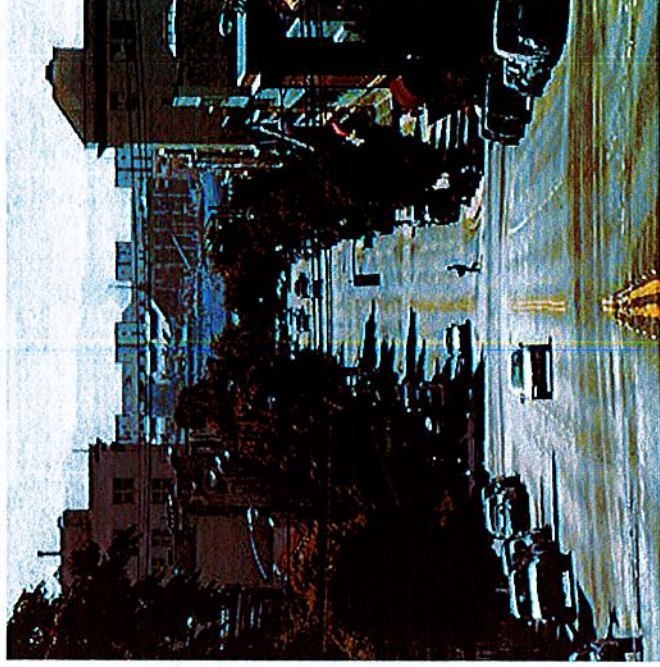
What are ALPRs and how do they work?

- ALPRs are high-speed cameras that can capture thousands of license plates per minute with time and location data
- Berkeley PD already uses mobile LPRs for parking enforcement
- Data is anonymized unless matched with hot-list number (e.g. stolen vehicle, open warrant)



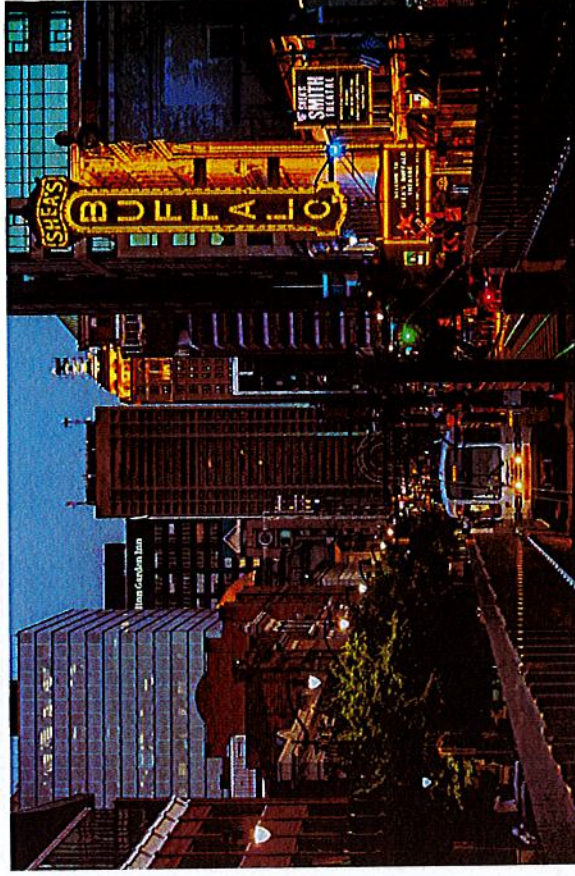
Case Study

- City of Vallejo: 140% increase in detection of stolen vehicles with mobile ALPRs, but follow-up and arrests more effective with stationary ALPRs ([Potts 2018](#))



Case Study

- City of Buffalo, NY: ALPRs used at hot spots with roadblocks in a two-month period resulted in “modest reduction” in violent crimes and “a 20% reduction in traffic accidents” ([Wheeler & Phillips 2018](#))



Local Governments with ALPR policies

- [Bay Area Rapid Transit](#)
- [City of Alameda](#)
- [City of Antioch](#)
- [City of Berkeley](#)
- [City of Brentwood](#)
- [City of Concord](#)
- [City of Daly City](#)
- [City of Dublin](#)
- [City of Emeryville](#)
- [City of Fremont](#)
- [City of Hayward](#)
- [City of Menlo Park](#)
- [City of Moraga](#)
- [City of Mountain View](#)
- [City of Newark](#)
- [City of Novato](#)
- [City of Oakland](#)
- [City of Pacifica](#)
- [City of Palo Alto](#)
- [City of Piedmont](#)
- [City of Pittsburgh](#)
- [City of Pleasant Hill](#)
- [City of Redwood City](#)
- [City of Richmond](#)
- [City of Sacramento](#)
- [City of San Bruno](#)
- [City of San Jose](#)
- [City of San Leandro](#)
- [City of San Pablo](#)
- [City of San Rafael](#)
- [City of San Ramon](#)
- [City of Vallejo](#)
- [City of Walnut Creek](#)
- [County of Alameda](#)

Tiburon

- After installation theft from vehicles dropped from 50 in 2007 to 14 in 2012. Number of cars stolen vehicles dropped from 11-2

[How Tiburon's License-Plate Readers Track Drivers--and Sometimes Track Down Criminals | KQED](#)

Fremont

Fremont

- *On June 17, 2014, the Police Department received approval from the Fremont City Council to allocate funds for a community-based video surveillance camera project in the City of Fremont. In March of 2016, the first camera was installed at the freeway on-ramp at Stevenson Blvd. and northbound 1880. To date, a total of 14 camera systems, which include Automated License Plate Readers (ALPR)*
- Majority of offenders who commit the most serious crimes in our City are not Fremont residents
- Initially fixed to cams at entrances/exits, then expanded to 14 locations City-wide, and in locations throughout City (14), and then added to mobile readers. Hits held one year

Hayward

Retention

- *ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law*
- *The Support Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.*
- *All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.*

Safeguards

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

Current ALPR Policy in Berkeley

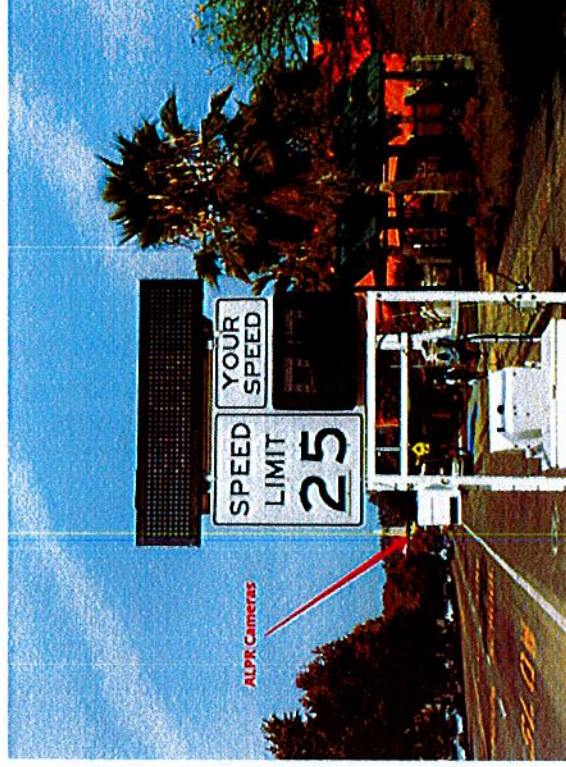
- **Admin Order #001-2016:**
 - Parking enforcement
 - Hits stored for 1yr max
 - Non-hit #s 30 days max
 - Access only for “legitimate LE purposes”
 - unless you can prove ownership & no 3rd-party privacy violation
- Vendor: PCS Mobile

CRIME



By Emilie Raguso,
Oct. 30, 2015, 9 a.m.

Berkeley police use license plate reader
in kidnapping attempt investigations



Vallejo PD Policy 426

- Officers must visually verify hit
- No personal use, no use at protest (1st Amend.)
- Flock Systems (vendor) retains non-hit scans for only 30 days
- Hot lists updated *at least* every 30 days
- Flock Systems maintains transparency portal →

Vallejo CA PD

Transparency Portal

Last Updated: Wed Oct 20 2021

Overview

Vallejo CA PD uses Flock Safety technology to capture objective evidence without compromising on individual privacy. Vallejo CA PD utilizes retroactive search to solve crimes after they've occurred. Additionally, Vallejo CA PD utilizes real time alerting of hotlist vehicles to capture wanted criminals. In an effort to ensure proper usage and guardrails are in place, they have made the below policies and usage statistics available to the public.

Policies



What's Detected

License Plates, Vehicles



What's Not Detected

Facial recognition, People, Gender, Race



Acceptable Use Policy

Data is used for law enforcement purposes only. Data is owned by Vallejo CA PD and is never sold to 3rd parties.



ALPR Privacy Principles

1. **License plate readers may be used by law enforcement agencies only to investigate hits and in other circumstances in which law enforcement agents reasonably believe that the plate data are relevant to an ongoing criminal investigation.**
1. **The government must not store data about innocent people for any lengthy period. Unless plate data has been flagged, retention periods should be measured in days or weeks, not months and certainly not years.**
1. **People should be able to find out if plate data of vehicles registered to them are contained in a law enforcement agency's database.**
4. **Law enforcement agencies should not share license plate reader data with third parties that do not follow proper retention and access principles. They should also be transparent regarding with whom they share license plate reader data.**
5. **Any entity that uses license plate readers should be required to report its usage publicly on at least an annual basis.**

[You Are Being Tracked | American Civil Liberties Union \(aclu.org\)](http://www.aclu.org)

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List of Network of Organizations: National Association for the Advancement of Colored People, SEIU 1021, McGee Spaulding Neighbors in Action, Berkeley Community Safety Coalition, Friends of Adeline, Wellstone Democratic Renewal Club, Latinos Unidos de Berkeley, Racism and Criminal Justice Reform, Berkley Progressive Alliance, Berkeley Citizens Action, Eastbay Communities for Action.

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Executive Summary

The Network of Community Organizations enters this civic conversation fully aware, compassionate and respectful of people's concerns about personal and public safety. We are participating in the effort to find effective solutions to the problems of increased shootings, the presence of guns, vehicle collisions and other ills which violate community safety.

This report informs the discussion of the current proposal before the Public Safety Committee of the Berkeley City Council. It is our goal in this report to provide factual information to decision-makers about effectiveness, privacy and other social implications of adopting this surveillance technology.

In Part II of this report, we investigate the effectiveness of ALPR systems for various types of public safety challenges, particularly traffic problems and vehicle thefts. We assess two studies on traffic, which focus on reckless driving and serious collisions, as mixed. A National Highway Transportation Safety Administration (NHTSA) study of six law enforcement agencies states, "Although ALPR system use, as a tool for law enforcement, has been rapidly spreading in the United States, not much is known about the actual effectiveness in relation to traffic safety." Their conclusion was that ALPR could have some indirect benefit. However, they characterize their evaluation as preliminary.

A second study of ALPR experience in Buffalo, NY also had uncertain results, which the study described as mixed and inconsistent, with moderately sized effects. The results also depended on a combination of ALPR technology with ongoing roadblocks, which have not been discussed in the Berkeley context.

We reviewed four studies of the effect of ALPRs on vehicle theft: one national study, and local surveys in Arizona, North Carolina, and Vallejo, CA. The Mesa, AZ outcome was described as a modest yield in arrests and vehicle recoveries, and did not reduce crime. Similarly, the Charlotte, NC results were deemed statistically insignificant. In Vallejo, where statistics have been touted as a high watermark of increased ability to detect stolen cars, our analysis reveals that it has been mistakenly inflated by a factor of three (the increase in this ability was not 140% but close to 45%).

We cannot offer a positive appraisal that ALPRs will be effective in improving public safety in Berkeley, because the use for which the technology will be put has not been defined, the number and the manner in which they will be deployed has not been explained, and metrics for determining success have not been developed. In addition, available field studies provide conflicting and sometimes discouraging results.

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In Part III, we review the literature on privacy considerations and the impact of ALPR on over-policing and racial profiling. We describe the tension between the public nature of license plates and the “mass vacuuming” of many millions of plates and other identifying data into huge government databases. The report points to real and concrete harm that has come to people of color and others, due to either erroneous results from faulty technology, or abuses of the data by police officers. Such incidents have occurred in close proximity to Berkeley, in jurisdictions with which the Berkeley police work closely and share confidential information.

We submit this report on ALPRs with the underlying concern that there has not yet been a study of the efficacy of ALPRs versus other solutions. This raises a serious question regarding the obligation of the City Council with respect to the use of public funds. Furthermore, as stated in the report, the studies on ALPRs (which do not present the technology as conclusively effective) are based on perceptions, personal assessments, alleged causal relationships that don’t account for other variables, and sparse data.

A little-discussed aspect of the social impact of ALPRs is the connection to the Reimagining and the Fair and Impartial policing reforms underway in Berkeley. The NHTSA study and others show that one use of ALPRs is to create pretexts to stop vehicles.

“One officer highlighted this approach by explaining, ‘It’s a tool that allows us to stop more vehicles. But Berkeley’s Fair and Impartial (F&I) Policing reforms, approved unanimously by the council in February 2021 require the BPD to reduce or eliminate pretextual stops”.

Our report states, “Stopping cars based on data from a hot list would be a reversal of the anti-profiling direction of the F&I reforms and would potentially result in increased stops of people of color, many of them for no cause, with all the attendant risks to those drivers that these investigative, pretextual stops entail.”

These problems are compounded by the shifting data retention timelines envisioned by ALPR proponents. The longer data is retained, the more the potential for its abuse grows. Data on civilians not suspected of legal violation has no business in the hands of the police.

While this report does not focus in depth on alternative solutions, we must raise the urgent concern that to interrupt the cycle of violence, preventive measures must be the priority. The ideas, programs, and even the money are out there to heal the dysfunction in our communities. Programs such as Cal

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VIP, CeaseFire, Voices Against Violence, gun buy-backs, and the appropriate deployment of existing police resources should be pursued to prevent more tragedies.

A decision on selection of ALPR technology as a crime reduction tool must be based on an evaluation of effectiveness against the backdrop of concerns about privacy, racial justice, alternative solutions, and technology cost.

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I. Introduction: Public Safety.

This report is written by a network of Berkeley community organizations concerned with public safety and its equitable application throughout our city. Our network of groups includes civil rights and civil liberties organizations, women's groups, neighborhood associations, public health experts, labor unions, legal and academic leaders.

We share the concerns expressed by elected officials and community members about the level of violence in the city of Berkeley, a level matched nationally after a year and a half of lockdown due to the pandemic. These are our friends, neighbors, and family members who are affected by crime and insecurity. In this light we urge Council to adopt measures that will actually be effective in safeguarding our city, prevent violence rather than just addressing it after the fact, and refrain from taking steps that will further divide our population.

We present this report to a city council that has devoted significant resources to imagining a new path to public safety, that is turning away from surveillance, over-policing, and racially disparate outcomes, and is strengthening civilian oversight and non-sworn professional crisis intervention where possible. We will present information for your consideration on two key points: ALPR effectiveness and privacy safeguards and other social implications.

II. Effectiveness.

For Council to determine whether to deploy ALPR technology for crime prevention or resolution requires a review of the tool's effectiveness for the required purpose, in conjunction with its privacy implications. We will begin this holistic analysis in this report.

Assessing the likely effectiveness of the ALPR proposal referred to the Council's Public Safety Committee is complicated because there are multiple law enforcement problems that have been suggested as rationales.

Prominent among these problems are:

1. shootings and gun discharges
2. violent crime
3. traffic violations
4. illegal dumping
5. drug offenses, and other criminal activity.

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We will first assess what is known about effectiveness regarding several of these issues.

Would ALPRs help address traffic problems?

The critical traffic problems relevant to public safety have been defined as reckless driving and collisions. Two studies have examined the effectiveness of ALPR for traffic management.

The first study was conducted in 2018 by the National Highway Traffic Safety Administration (NHTSA).¹ It included six case studies including a total of 23 interviewees. The study notes that “Although ALPR system use, as a tool for law enforcement, has been rapidly spreading in the United States, not much is known about the actual effectiveness in relation to traffic safety.” Though the focus of the study is on use of ALPRs in traffic safety, the study notes that “Traffic safety was an important but often secondary use of the technology.”

There was a widespread perception [among the law enforcement agencies surveyed] that ALPRs are a successful policing tool; however, this was not necessarily linked to benefits for traffic safety. Many interviewees indicated that they do not necessarily see ALPR as a tool for traffic safety; rather, it is a *tool that helps stop vehicles*, and when that happens, traffic safety can be improved.

ALPRs enable traffic stops of vehicles on hot lists, which in turn identify vehicles that are more prone to crash risk. According to one agency’s analysis, drivers with revoked, suspended, or restricted licenses are 2.2 times more likely to be involved in serious or fatal crashes than other drivers in the State.

The NHTSA effectiveness results are contradictory. One agency in the Midwest, which comprised a total of 16 ALPR units, reported the correlation between licenses and major collisions. That agency described as *preliminary* a finding that “using ALPR for identifying drivers with suspended, revoked, or cancelled licenses could affect traffic safety positively by targeting violator

¹ Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D., National Highway Traffic Safety Administration (2021). “State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purpose,” Retrieved from <https://rosap.nhtsa.gov/view/fullrecord.do?docId=1325586>

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vehicles that are more prone to crash risk.” No more information on this analysis is available.

The expectation that ALPR stops will reduce traffic accidents is an unproven deduction. This study makes it clear that it is very difficult to tease out the reasons for a decline in accidents, or even the proximate cause of traffic enforcements. Several survey respondents reported that their agencies do not track how many violations are a direct result of the ALPR unit.

There is a wide variety of standards used for the Hot Lists and which lists are used. Closer review would be necessary to determine whether Berkeley’s Hot Lists are set up to find drivers with invalid licenses, and then to confirm whether taking drivers with invalid licenses off the road reduces crash risk.² The development of the current Hot List strategy should be shared with Council and the Police Accountability Board.

A second study, from Buffalo, NY, again casts uncertainty on the utility of ALPR for traffic management.³ To quote the study’s conclusion:

The evaluation of the deterrent effect of Operation Strikeforce, using ALPR at micro place hot spots of crime in Buffalo, NY, has resulted in mixed findings. In the *best case scenario*, the results presented here indicate a deterrent effect of roadblocks on Part 1 Violent crimes (around 10 crimes over all locations and the two month period) and traffic accidents (around a 20% reduction).

These are both *moderately sized effects* for a one time only intervention, but the results are not robust when considering different statistical methods. Given the inconsistency of the findings, one can only state that the

² Overall the NHTSA study revealed significant challenges inherent in the ALPR technology. “Officers have struggled with the accuracy of the units, experiencing numerous misreads,” often due to bad weather. A false positive hit rate was so high that a number of officers questioned the effectiveness of ALPRs or even stopped using them. Regarding the study methodology, the researchers acknowledge that since they only spoke to agencies that currently use ALPRs (and not to any community members), a positive bias in favor of the technology existed in the study.

³ Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. Secur J 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>
<https://poseidon01.ssrn.com/delivery.php?ID=347005106102011000080116020115007000009034067081071060081068019000117076089067006073126035037037025005058020012067094123096028060073073001035004014105100125031005127081002001028092094113118095094064080090081080094011077106107065114084077080008078064103&EXT=pdf&INDEX=TRUE>

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results are promising when ALPRs are used in concert with checkpoints at crime hot spots. While crime appears to decrease, further studies will be needed to refine and generalize the effects this hot spots policing intervention will have.

In addition, the study authors state that “These effects may be misleading though, since crime in Buffalo has been decreasing over this time period.”

The relevance of this study to Berkeley is also limited, for a few reasons. It depends on a combination of roadblocks with ALPR technology. It is unknown if the local population in Berkeley would accept roadblocks on an ongoing basis, or if the police department has the capacity to take on that commitment. It is also unclear the extent to which the reduction in traffic accidents was traceable to the ALPRs or the roadblocks.

In summary, a review of available studies does not support an evaluation that the ALPR system will be effective in reducing reckless driving and collisions.

Would ALPRs help address vehicle thefts?

1. Vehicle thefts and traffic safety: This study employs a national, representative survey of U.S. law enforcement agencies with more than 100 officers. The study shows marginal improvements in public safety. Outcomes have been inconsistently tracked.⁴
2. Mesa, AZ: this 2012 study found increased arrests for stolen vehicles and stolen car recoveries. However, the authors characterize the amount of yield as “modest,” totaling five arrests and 14 vehicle recoveries in the course of approximately 96 shifts worked. It also found that:

⁴ “The rapid diffusion of license plate readers in US law enforcement agencies,” *Policing: An International Journal*, (42)3, Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). 376-393, <https://doi.org/10.1108/PIJPSM-04-2018-0054>.

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ALPR use did not reduce crime in the hot routes and zones, though note that the dosage of LPR intervention in each location was modest. However, the manual [non-LPR] license check operations produced short-term reductions in auto theft during Phase 1 of the experiment.⁵

Manual plate checking by a special auto theft unit (but not LPR scanning by the same unit) was associated with less auto theft 2 weeks after the intervention than the control group (regular non-specialized patrol without LPR)."

This finding could indicate that for the benefit to be longer term, specialization in auto theft is at least as important as LPR technology.

3. Charlotte-Mecklenburg, NC: This study in 2019 covered a fixed network of nearly 100 LPRs.⁶ The study shows modest improvements in case closures for auto theft (long-term) and robbery (short-term).

Case clearances for auto theft and robbery improved after the installation of the LPR network, particularly in places where LPRs were concentrated. However, these changes were not statistically significant in multivariate analyses, and patterns in the data suggest that other factors may have also contributed to higher clearances during the intervention period, particularly for auto theft cases.

4. Vallejo, CA: this internally run study by the Vallejo Police Department shows some potential, but the reporting is confused. There are two brief, high-level descriptions of this study available, one from an independent non-profit that assisted in the study (BetaGov), and a statement from the VPD. Unfortunately, the attention that this study has received is based on this erroneous report by a police lieutenant, published in Police Chief magazine:

Analysis of trial data found that police cars equipped with ALPR technology showed a 140 percent greater ability to detect stolen cars. However, further analysis showed the

⁵ *Criminal Justice Review* Volume: 37 Issue: 1 Dated: March 2012 Pages: 24-50, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/combating-vehicle-theft-arizona-randomized-experiment-license-plate>

⁶ "The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations," <https://doi.org/10.1177/1098611119828039>, <https://journals.sagepub.com/doi/abs/10.1177/1098611119828039>

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technology also identified many more lost or stolen plates—as many as four times more—many of which were duplicates that may have desensitized officers to legitimate hits.

In contrast to the PD report, the BetaGov statement shows the actual study data, which clarifies that the increase in detection of stolen cars was not 140% but only 45%.⁷ It is good to see even this increase, in one study of four police cars, but the outcome of this limited test is not definitive. There are other aspects of the data that need further study, including the apparent result that most “hits” were for stolen plates and not for stolen vehicles, and that 35% were “misreads.” Council should require more information before making policy decisions based on this study.⁸

To summarize our overall findings on effectiveness of ALPR, we cannot offer a positive appraisal that ALPRs will be effective in improving public safety in Berkeley, because the use for which the technology will be put has not been defined, the number and the manner in they will be deployed has not been explained, and metrics for determining success have not been developed. In addition, available field studies provide conflicting and sometimes discouraging results.

Again, a decision on selection of ALPR technology as a crime reduction tool must review an evaluation of effectiveness against the backdrop of concerns about privacy and cost. Those issues make up the balance of this report.

III. Privacy and other social implications.

Concerns about negative impacts of ALPR surveillance technology are generally described as privacy issues, but they draw in broader issues about constitutional restrictions on search and against racial profiling. In this section we will consider ALPR’s impact on issues of privacy, retention of data,

⁷ <https://www.betagov.org/completed-trials/Vallejo-ALPR-snapshot.pdf>. Since there were twice as many ALPR-equipped cars in the trial as there were “control” cars without ALPR, the study had to control for the difference. Multiplying the hits from the control group (156) by two gives an adjusted total of 312. The ALPR-enabled total of 454 hits is about 45% more than the adjusted control group of 312.

⁸ Council members should be aware that the VPD is known for a pattern of police brutality and killings of Black and Brown civilians, most notably the fatal shooting of unarmed Sean Monterrosa on June 2, 2020, and 18 others in the preceding decade. It is reasonable to question whether Berkeley should use Vallejo PD as a model for policing strategy. <https://www.newyorker.com/magazine/2020/11/23/how-a-deadly-police-force-ruled-a-city>

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Berkeley's decision to reduce discretionary police interactions, accidental or intentional misuse of the technology, and its effect on already fraught racial disparities in Berkeley policing.

A. Privacy.

The judicial record is unsettled on this topic. The current proposal before Council has an introduction to some of the case law. While license plate numbers are public, the practice of accumulating massive storehouses of this data, along with other identifying information, combined with additional automated systems, creates ethical and constitutional concerns.

There is a distinction between license plates being data with “no reasonable expectation of privacy” and the constitutional violation that is inherent in the mass vacuuming of data on everyone by the state. A big problem is that the government can take multiple snapshots of everyone's comings and goings and develop a full picture of one's life. This practice makes no pretense of even reasonable suspicion of criminal behavior, and overwhelmingly, there will be no suspicion.

Beyond the constitutional issue, there is a potential and at times real injury to people with no indication of legal violations. The ACLU describes the risk:

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The implementation of automatic license plate readers poses serious privacy and other civil liberties threats.

More and more cameras, longer retention periods, and widespread sharing allow law enforcement agents to assemble the individual puzzle pieces of where we have been over time into a single, high-resolution image of our lives.

The knowledge that one is subject to constant monitoring can chill the exercise of our cherished rights to free speech and association.

Databases of license plate reader information create opportunities for institutional abuse, such as using them to identify protest attendees merely because these individuals have exercised their First Amendment-protected right to free speech. If not properly secured, license plate reader databases open the door to abusive tracking, enabling anyone with access to pry into the lives of his boss, his ex-wife, or his romantic, political, or workplace rivals.⁹

The study “Data Driven 2: California” by the Electronic Frontier Foundation (EFF) paints a quantitative picture of the scale of vehicle surveillance in our state, in which just 63 reporting agencies tracked 840 million plate images a year, of which only 0.05% matched to problem cars on a hot list.¹⁰ The EFF report also discloses that:

In 2020, the California State Auditor issued a report that found that agencies were collecting large amounts of data without following state law and without addressing some of the most basic cybersecurity and civil liberties concerns when it comes to Californians' data.

⁹ “You Are Being Tracked,” ACLU, July 2013, <https://www.aclu.org/files/assets/071613-aclu-alpreport-opt-v05.pdf>

¹⁰ “Brentwood would have to add 200 full-time employees to collect as much data manually as they can with their ALPRs. If 200 human data recorders were positioned throughout a city, spying on civilians, it's unlikely people would stand for it.” Electronic Frontier Foundation (EFF), Dave Maass, April 22, 2021, <https://www.eff.org/deeplinks/2021/04/data-driven-2-california-drag-net-new-dataset-shows-scale-vehicle-surveillance>

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The Auditor’s report states that of four agencies surveyed, “None of the agencies have an ALPR usage and privacy policy that implements all the legally mandated—since 2016—requirements.”¹¹

ALPR systems may contain data beyond license plate images. For example, we found that Sacramento and Los Angeles are adding names, addresses, dates of birth, and criminal charges to their ALPR systems, which are then stored in those systems. Some of these data may be categorized as criminal justice information.

This Audit should serve as a caution to Berkeley to ensure compliance and oversight, and that the Surveillance Ordinance be strictly adhered to.

On October 14, 2021, Marin County residents filed suit against Sheriff Robert Doyle for illegally sharing ALPR data on millions of drivers with over 400 federal and out-of-state agencies, including ICE.¹² This lawsuit highlights the risk that Berkeley’s sensitive ALPR data, which under SB 34 may be shared with law enforcement only within California, may then be shared illegally and secretly with agencies outside the state for purposes contrary to our City’s values.

C. A history of abuse of ALPR technology by police.

Due to both machine and human error, and malicious, sometimes racist behavior, ALPRs have accumulated a record of serious abuses.

In August, police in Aurora, Colorado, stopped a Black family at gunpoint — including children ages six and eight — and forced them to lie face down on the parking lot pavement based on a department-operated ALPR machine error. Aurora police claimed the license plate of the family’s minivan matched the license plate of a motorcycle in Montana that was reported as stolen, a claim that hasn’t been verified.¹³

¹¹ “Automated License Plate Readers: To Better Protect Individuals’ Privacy Law Enforcement Must Increase Its Safeguards for the Data It Collects,” Auditor of the State of California, <https://www.auditor.ca.gov/reports/2019-118/summary.html>

¹²

https://www.aclunc.org/sites/default/files/Lagleva_v_Doyle_2021.10.14_Verified_Petition_and_Complaint.pdf

¹³ <https://onezero.medium.com/neighborhood-watch-has-a-new-tool-privately-owned-license-plate-readers-302f296abb27>

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Another EFF report on “Street Level Surveillance” details abuse of entire communities including Muslims in New York and Birmingham, low-income communities, and communities of color in Oakland, and the LGBTQ community in Washington DC. ¹⁴

C. Over-policing.

In evaluating effectiveness of ALPR technology for various public safety purposes in Section II above, we were reminded that police officers often pull over cars on a pretext so they could find a violation to charge the driver on. In the NHTSA study discussed above, for example:

Interviewees in [one police department] indicated that a frequent traffic safety application was finding people with suspended licenses by pulling over vehicles for revoked registrations.” In another case study, “officers identify and pull over vehicles with suspended plates as opportunities to investigate illegal activity, such as driving under the influence (DUI), drugs, etc. One officer highlighted this approach by explaining, ‘It’s a tool that allows us to stop more vehicles.’”

Berkeley’s Fair and Impartial (F&I) Policing reforms, approved unanimously by the council in February 2021, require the BPD to reduce or eliminate pretextual stops.

Dr. Baumgartner’s analysis 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....¹⁵

<https://gizmodo.com/cops-terrorize-black-family-but-blame-license-plate-readers-1844602731>

¹⁴ “In 2009, San Francisco police pulled over Denise Green, an African-American city worker, handcuffed her at gunpoint, forced her to her knees, and searched both her and her vehicle—all because her car was misidentified as stolen due to a license plate reader error.” <https://www.eff.org/pages/automated-license-plate-readers-alpr>

¹⁵ *Suspect Citizens*, Dr. Frank Baumgartner, 2018, pp. 190-192,

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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 [among others] “Violating a regulation” (e.g. expired license tags).

Hot Lists are generated by multiple law enforcement organizations on the local, state, and federal level. There is no apparent standard of what information they may contain. Finally, there is a significant amount of erroneous reporting in the Hot Lists.

Stopping cars based on data from a hot list would be a reversal of the anti-profiling direction of the F&I reforms and would potentially result in increased stops of people of color, many of them for no cause, with all the attendant risks to those drivers that these investigative, pretextual stops entail.

D. Data Retention.

The Auditor’s Report showed that long-term retention of non-criminal ALPR data raises privacy concerns, citing similar concerns of the ACLU and the International Association of Chiefs of Police. The ACLU stated that “increasing numbers of cameras, long data retention periods, and sharing of ALPR images among law enforcement agencies allow agencies to track individuals’ movements in detail.” California law authorizes the CHP to retain non-criminal ALPR data for not more than 60 days, the closest the state has to a retention guideline.¹⁶

The proposal before Council originally called for a very strong retention policy to require destruction of ALPR data lacking a hit against a Hot List within 24

¹⁶ “Existing law authorizes the Department of the California Highway Patrol to retain license plate data captured by license plate recognition (LPR) technology, also referred to as an automated license plate recognition (ALPR) system, for not more than 60 days unless the data is being used as evidence or for the investigation of felonies.” [SB 34 (2015)]
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34

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hours. There is precedent for such a strong policy; New Hampshire retains non-criminal data for only three minutes.¹⁷

The latest version of the Berkeley proposal, however, stipulates that ALPR policy restrict “data storage to standards in City of Vallejo Police Department Policy 426.” The VPD Policy section 426.4 refers both to “storing data for no longer than a year” and “purging data after 30 days.” Therefore, the retention limit projected for Berkeley is unclear.

Lengthy retention of non-criminal data will create a massive database of non-criminal data, particularly if numerous cameras are deployed. We urge that the City of Berkeley refrain from creating an obligation to preserve non-criminal data on non-suspects, and particularly to avoid creating a conflict with state law.

IV. Alternative Approaches

There is not space in this report to fully discuss alternative, preventive measures to foster public safety in place of the fraught ALPR system.

We would mention one alternative discussed in the paper “Dangerous by Design 2021,” which recommends a systemic approach.¹⁸ The study asserts that the reason the number of people struck and killed while walking has soared by 45% over the last decade is that “state and local transportation agencies”—or we might say the culture and social structure as a whole—“place a higher value on speed than they do on safety.” The study recommends enactment of the federal Complete Streets Act, which defines “Complete Street” to mean “a public road that provides safe and accessible options for multiple travel modes for people of all ages and abilities, including modes such as walking, cycling, transit, automobiles, and freight.”¹⁹ There is no reason that Berkeley cannot begin implementing such design changes at this time.

The City of Berkeley is experienced in traffic calming and given the reported crisis in reckless driving and serious collisions, such measures could be engineered on an urgent basis.

¹⁷ “VIII. Records of number plates read by each LPR shall not be recorded or transmitted anywhere and shall be purged from the system within 3 minutes of their capture in such a manner that they are destroyed and are not recoverable, unless an alarm resulted in an arrest, a citation, or protective custody, or identified a vehicle that was the subject of a missing person or wanted broadcast,”

<http://www.gencourt.state.nh.us/rsa/html/XXI/261/261-75-b.htm>

¹⁸ <https://smartgrowthamerica.org/dangerous-by-design/>

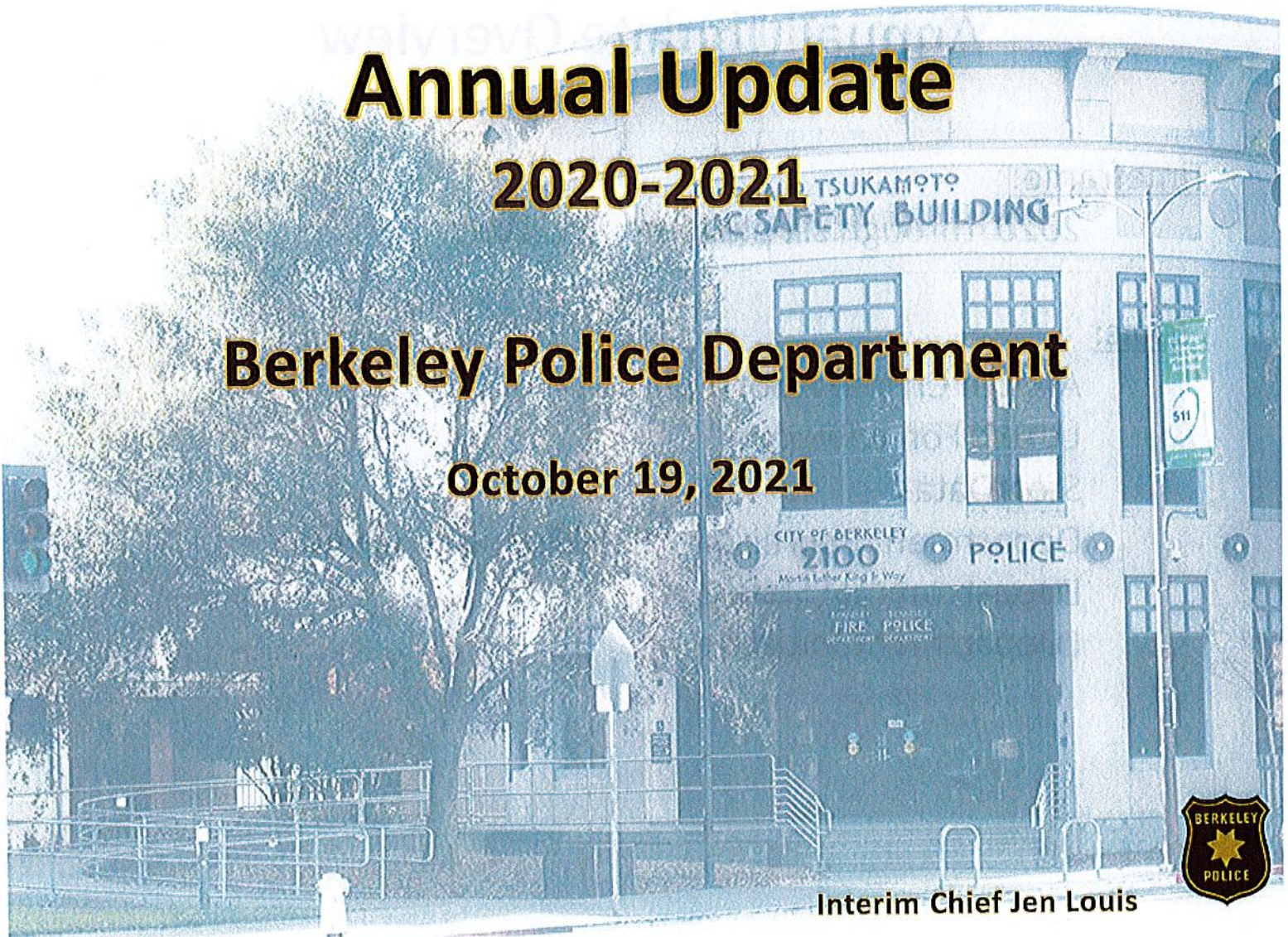
¹⁹ <https://www.congress.gov/bill/117th-congress/house-bill/1289/text>

Annual Update

2020-2021

Berkeley Police Department

October 19, 2021



Interim Chief Jen Louis

Annual Update Overview

Timeframe:

2020 through six plus months 2021.

Topics:

Annual Crime Report

Use of Force Report

Stop Data

Department Recruitment, Hiring, and Training

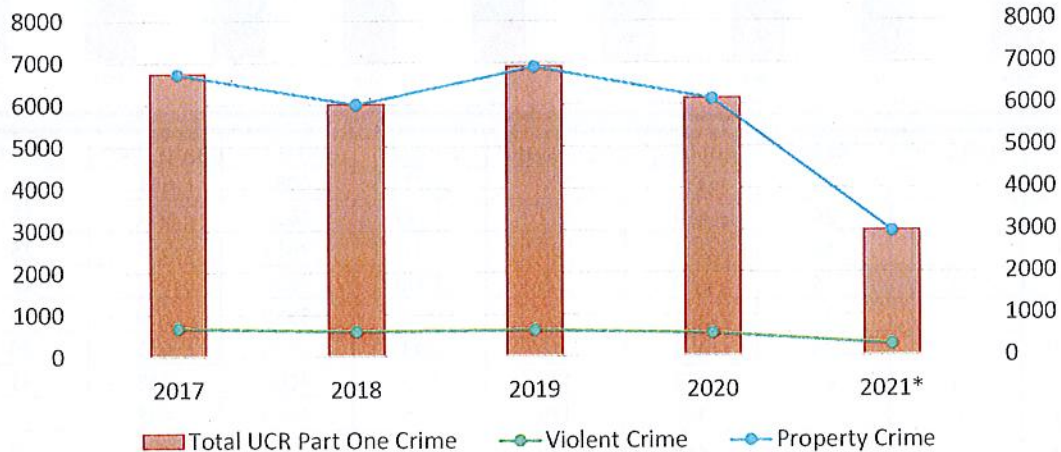
Departmental Staffing

Department Initiatives

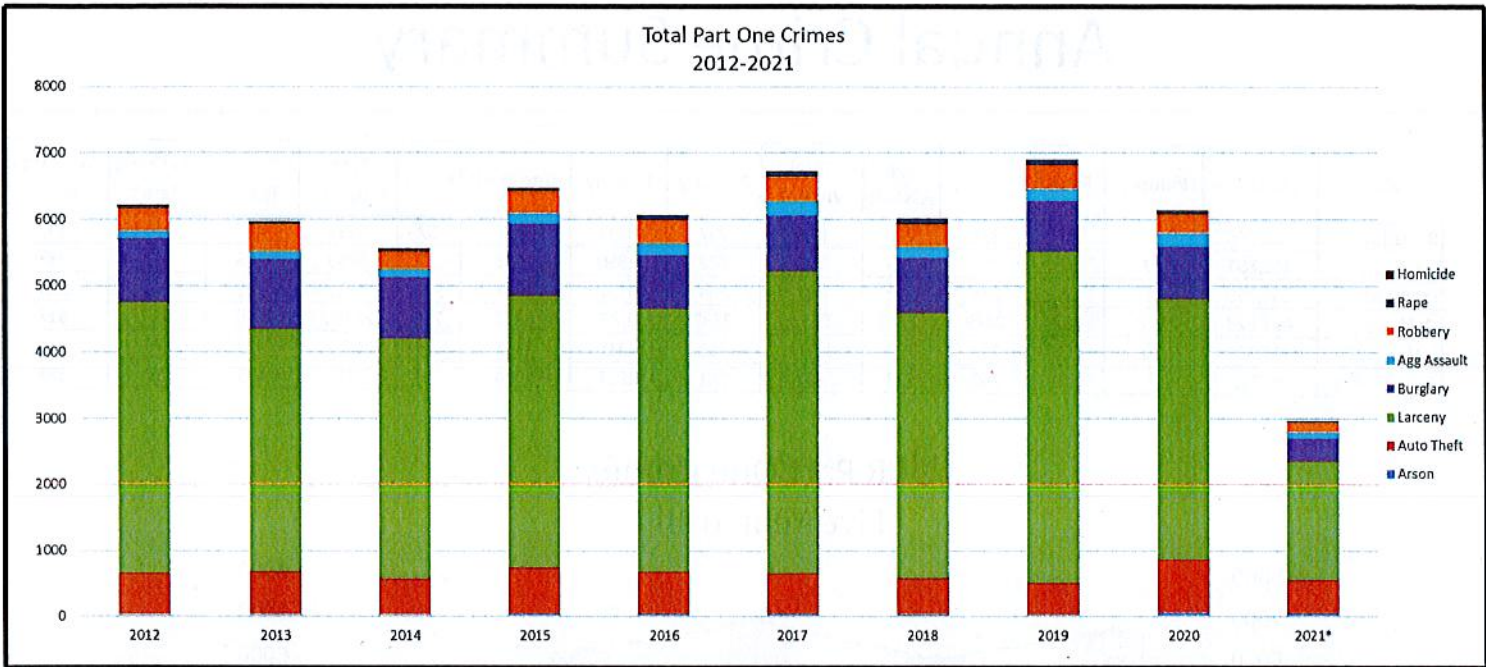
Annual Crime Summary

2020	Population	Homicide	Rape	Robbery	Agg Assault	Total Violent	Burglary	Larceny	Auto Theft	Arson	Total Property	Crime Rate*	Vio Crime Rate*	Prop Crime Rate*
Berkeley	122,346	5	47	274	210	536	797	3933	805	52	5535	496	44	452
Hayward	160,891	13	57	253	205	528	622	2850	1878	17	5350	365	33	333
Fremont	244,259	2	28	131	246	407	864	3797	1061	33	5722	251	17	234
Oakland	437,923	102	362	2479	2710	5653	2537	13,373	6712	236	22,622	646	129	517
Richmond	111,367	20	33	254	767	1,074	353	1815	1511	66	3679	427	96	330
San Leandro	89,239	7	22	260	173	462	381	1981	1054	10	3416	435	52	383

UCR Part One Crimes
Five Year Trend



Total Part One Crimes
2012-2021



	Homicide	Rape	Robbery	Agg Assault	Burglary	Larceny	Auto Theft	Arson
2012	5	39	335	108	971	4084	641	15
2013	4	26	410	122	1055	3658	664	16
2014	3	35	263	130	932	3615	555	15
2015	1	44	330	155	1090	4099	717	22
2016	2	54	361	185	805	3965	650	24
2017	1	83	364	218	843	4556	621	30
2018	1	65	353	167	829	4004	548	31
2019	0	74	369	175	771	4993	492	17
2020	5	47	274	210	797	3933	805	52
2021*	0	25	148	96	356	1789	514	42

* January – June 2021



Shootings

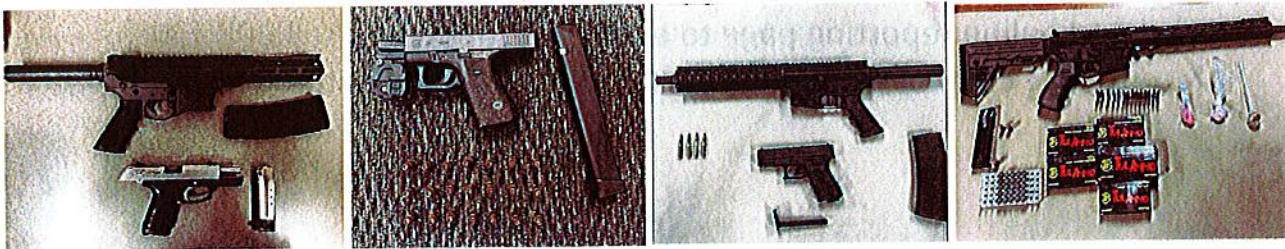
	Total	# Homicides	# Closed	# Charged
2018	20	0	11	6
2019	28	0	9	6
2020	40	4	20	15
2021*	38	0	13	11

2020 saw a 43% increase in shootings over 2019 and a 100% increase over 2018.

Firearms Recovery Data

	2019	2020	2021*
Patrol calls for service	33	36	36
Patrol proactive traffic stops	25	17	19
Detective Follow-up investigation	29	32	22
Ghost Guns recovered	8	6	22

* 2021 Jan-September



Hate Crimes

YEAR	RACE/ETHNICITY/ NATIONAL ORIGIN	RELIGION	SEXUAL ORIENTATION	GENDER	DISABILITY	TOTAL
2016	4	0	1	0	0	5
2017	17	3	6	0	0	26
2018	11	3	3	1	0	18
2019	5	1	2	0	0	8
2020	7	2	1	2	0	12
2021*	21	7	0	0	0	28

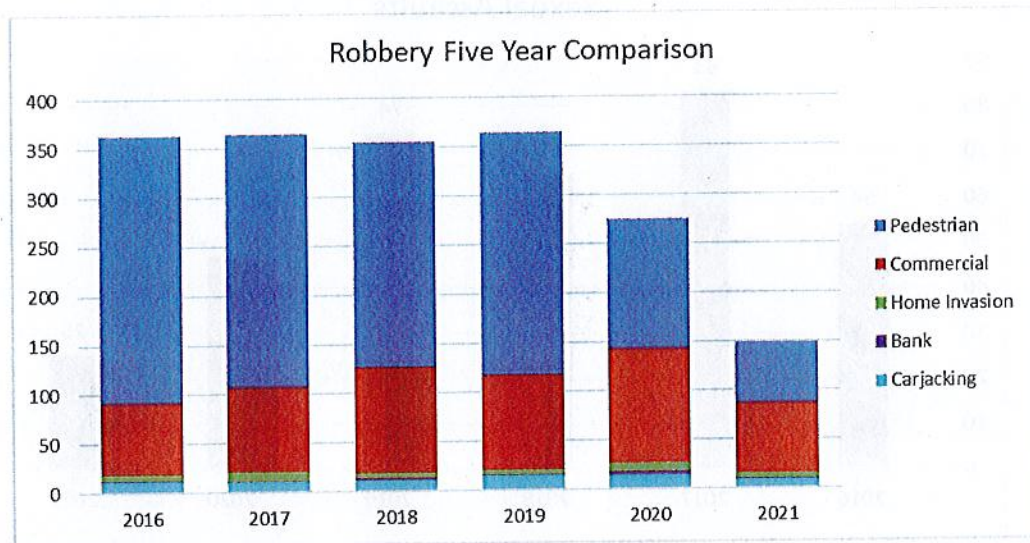
* 2021 Jan-September

On-going efforts in connection with the Mayor's Council item on Hate Crime Reporting and Response:

- Public facing mapping tool in development with IT. Estimated completion time is early in 2022.
- BPD is creating a public outreach video about what a hate crime is and how to report it to BPD.
- Updated online reporting page to encourage people to call BPD for face to face contact when they are a victim of a hate crime.



Robbery

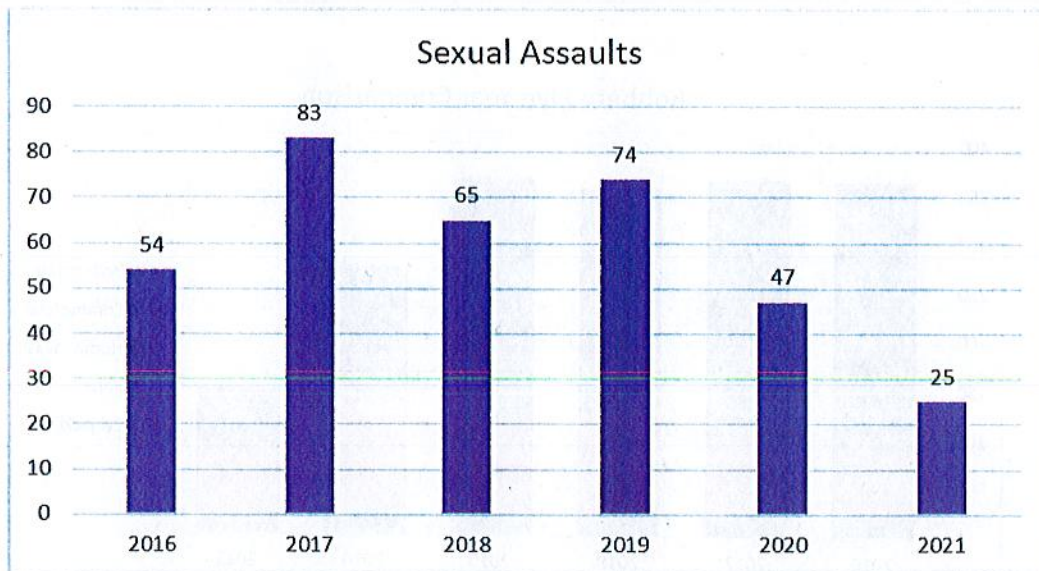


2021 = January - June

	Pedestrian	Commercial	Home Invasion	Bank	Carjacking
2016	271	73	6	1	11
2017	257	87	9	1	10
2018	229	108	5	3	10
2019	247	97	4	2	14
2020	131	117	8	5	13
2021	61	72	5	1	9



Sexual Assaults

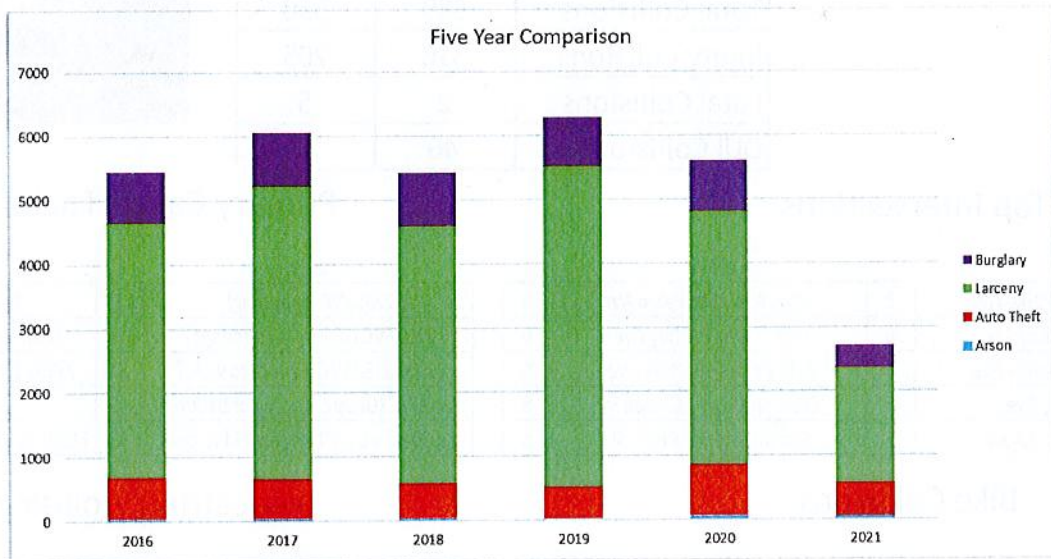


2021 = January - June

- 2020 had fewer reports of sexual assault as both UC Berkeley and BHS were not holding classes in person.
- During this time period, the Sex crimes unit applied for and received a \$312,000 grant from the State Department of Justice to do DNA work on evidence in cold sexual assault cases.



Property Crime



2021 = January - June

	Burglary	Larceny	Auto Theft	Arson
2016	805	3965	650	24
2017	843	4556	621	30
2018	829	4004	548	31
2019	771	4993	492	17
2020	797	3933	805	52
2021	356	1789	514	42

Auto Burglary

2017	2107
2018	1739
2019	2473
2020	1042
2021	375

Catalytic Converter Thefts

2019	150
2020	523
2021	309



Traffic Collisions



	2020	2021
Total Collisions	589	550
Injury Collisions	316	205
Fatal Collisions	2	5
DUI Collisions	46	38

Top Intersections

2020		2021	
Ashby Ave / San Pablo Ave	9	Ashby Ave / San Pablo Ave	9
MLK Jr Way / Ashby Ave	6	MLK Jr Way / Ashby Ave	6
Scaramento St / Ashby Ave	6	Ashby Ave / Shattuck Ave	5
7th St / Ashby Ave	5	Eastshore Hwy / Gilman St	5
Ashby Ave / Shattuck Ave	5	Sacramento St / Cedar St	5

Primary Causal Factors

2020		2021	
22350 VC (Speeding)	133	22350 VC (Speeding)	94
22107 VC (Unsafe lane change)	104	22107 VC (Unsafe lane change)	88
21800-21804 VC (Failure to yield)	82	21800-21804 VC (Failure to yield)	52
22106 VC (Unsafe starting or backing)	46	23152 VC (DUI)	38
21950 (a) VC (Failure to yield to ped)	45	21950 (a) VC (Failure to yield to ped)	16

Bike Collisions

2020		2021	
Bike Collisions	67	Bike Collisions	69

2020		2021	
22350 VC (Speeding)	14	22350 VC (Speeding)	19
21800-21804 VC (Failure to yield)	12	22450 VC (Stop at limit line)	8
22107 VC (Unsafe lane change)	8	21800-21804 VC (Failure to yield)	8

Pedestrian Collisions

2020		2021	
Pedestrian Collisions	69	Pedestrian Collisions	31

2020		2021	
21950 (a) VC (Failure to yield to ped)	45	21950 (a) VC (Failure to yield to ped)	16
21950 (b), 21954 VC (Pedestrian safety)	6	23152 VC (DUI)	3
22107 VC (Unsafe lane change)	2	22107 VC (Unsafe lane change)	2

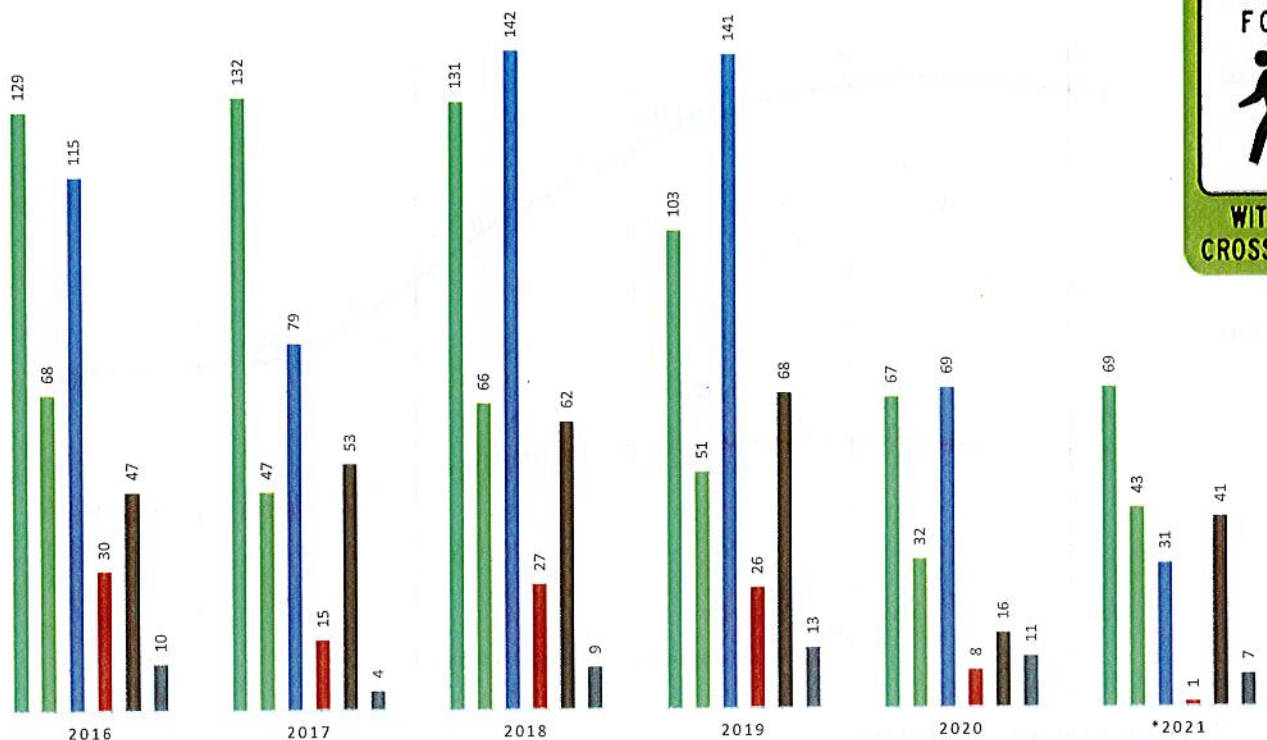
*2021 Data = January – October 1st



Traffic Collisions

Injury Collision Type

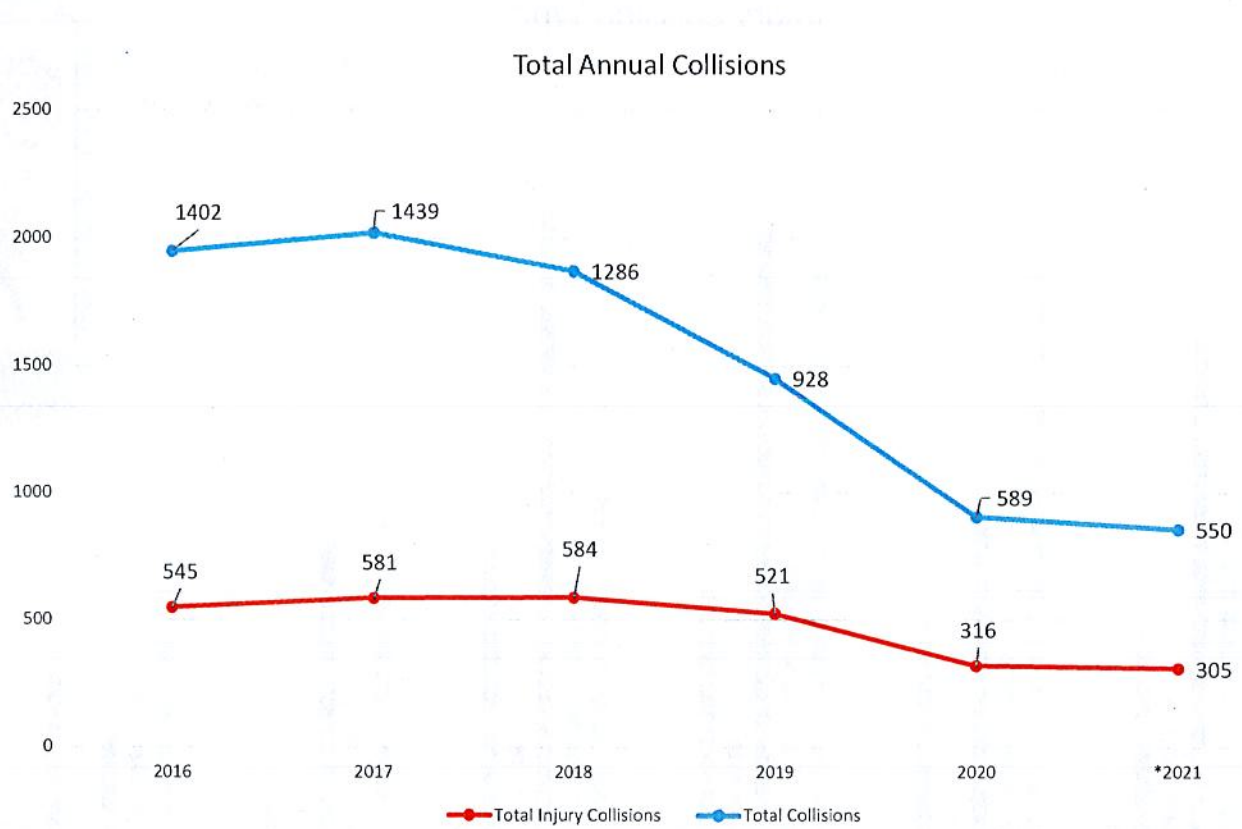
- Bicyclists Involved
- Bicyclists at Fault
- Pedestrians Involved
- Pedestrians at Fault
- Hit and Run with Injury
- DUI (Felony w/Injury)



*2021 Data = January – October 1st



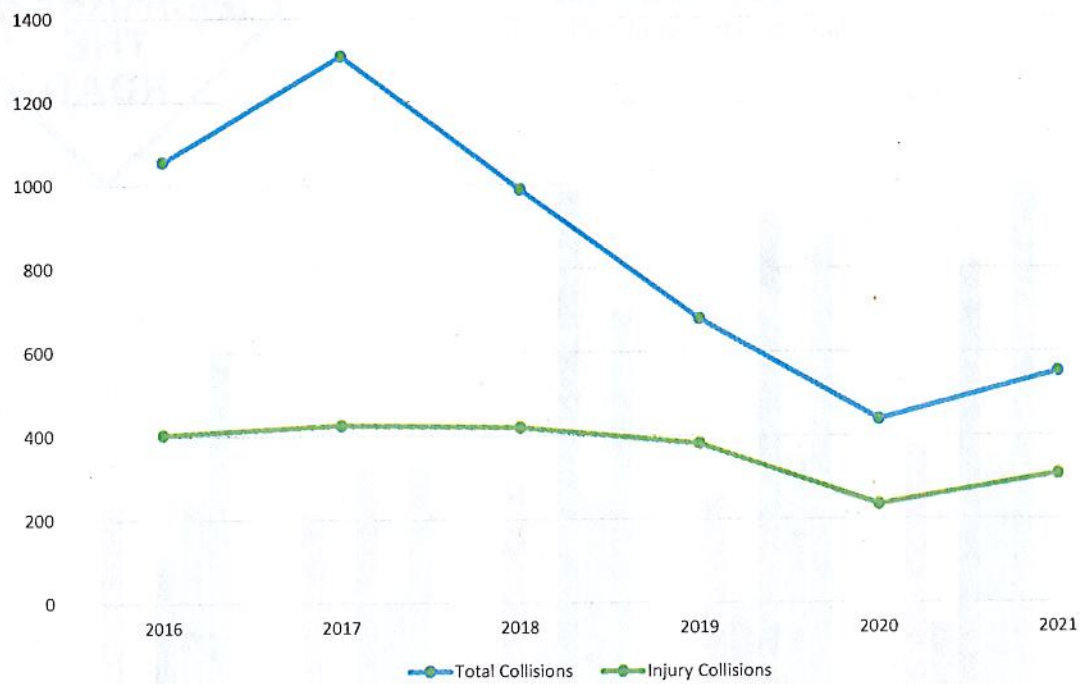
Traffic Collisions



*2021 Data = January – October 1st



Traffic Collisions

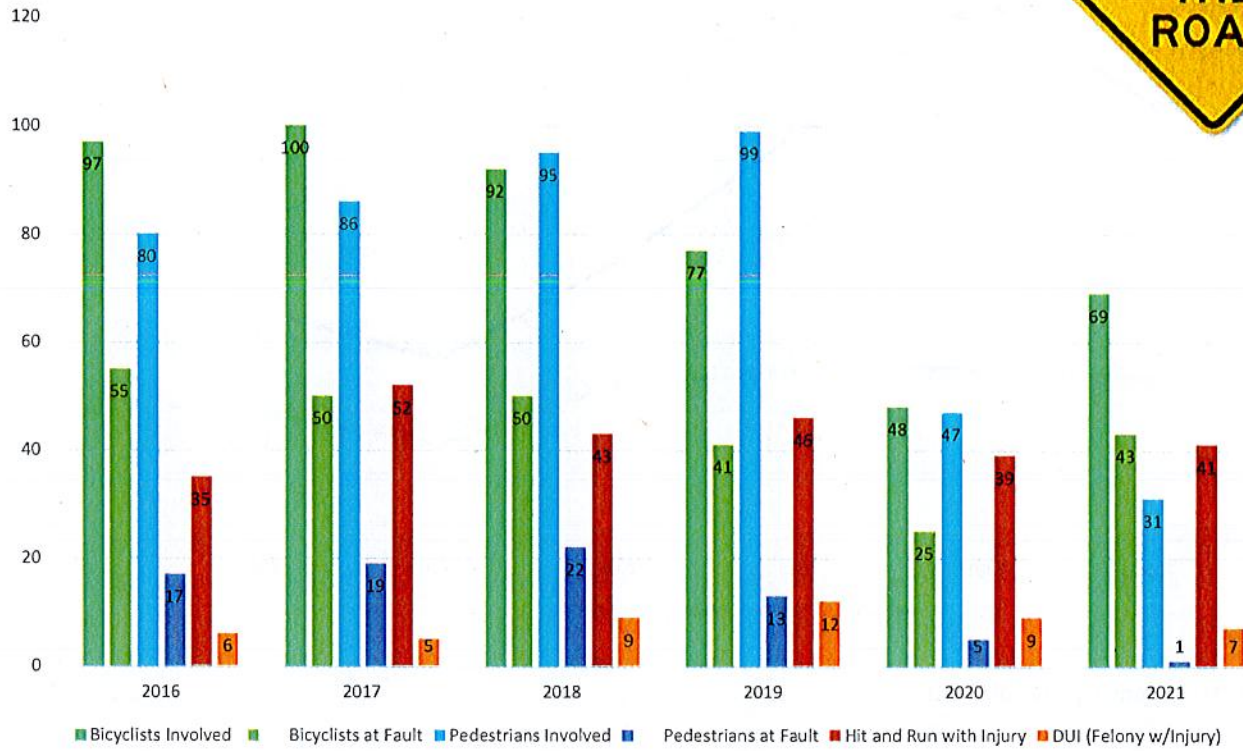


*2021 Data = January – October 1st



Traffic Collisions

Injury Collision Type
Jan 1st - Oct 1st of each year



Use of Force Report

Reporting Force

Old Standard: G.O. U-2

Force reporting not divided by levels.

Covered Complaint of pain, Injury, OC, Kinetic Weapons, Firearms

Current Standard: Policy 300 went into effect February 2021

Level 1 – Grab, control hold, leverage, body weight

Level 2 – Drawing or pointing a firearm to compel action, more than momentary discomfort

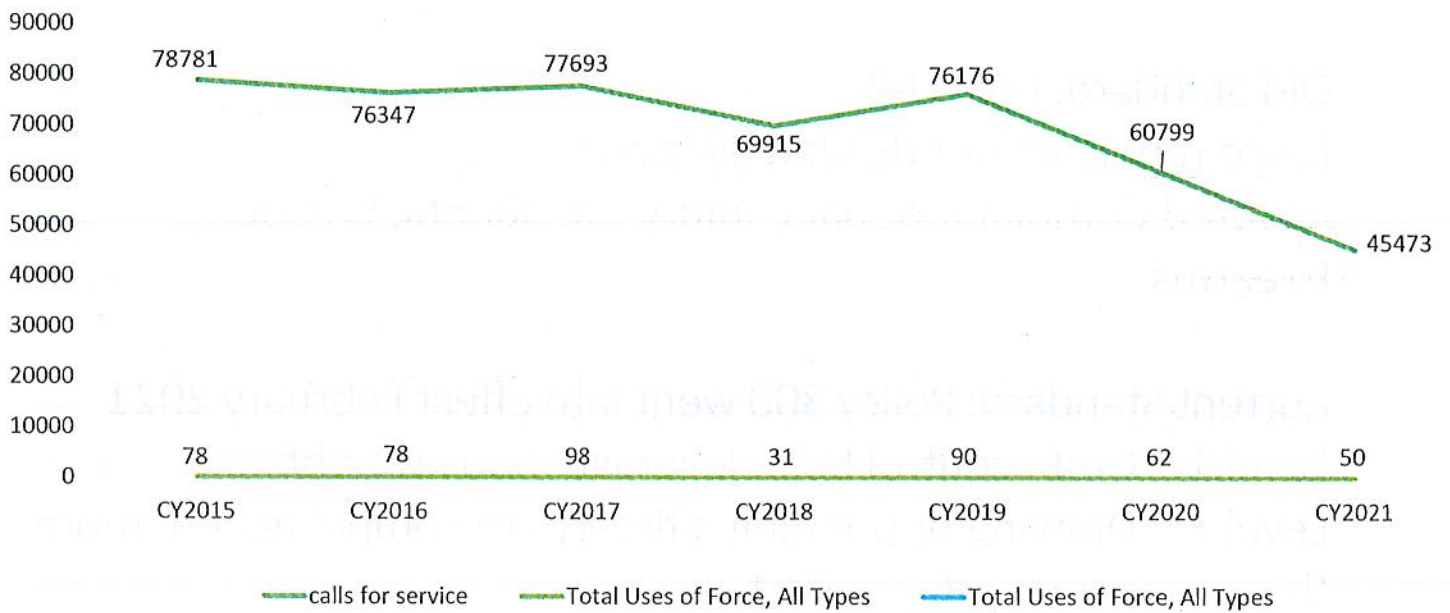
Level 3 – Level 2 without BWC, old standard

Level 4 – Use of firearm, in custody death



Use of Force Data

In Comparison to Calls For Service

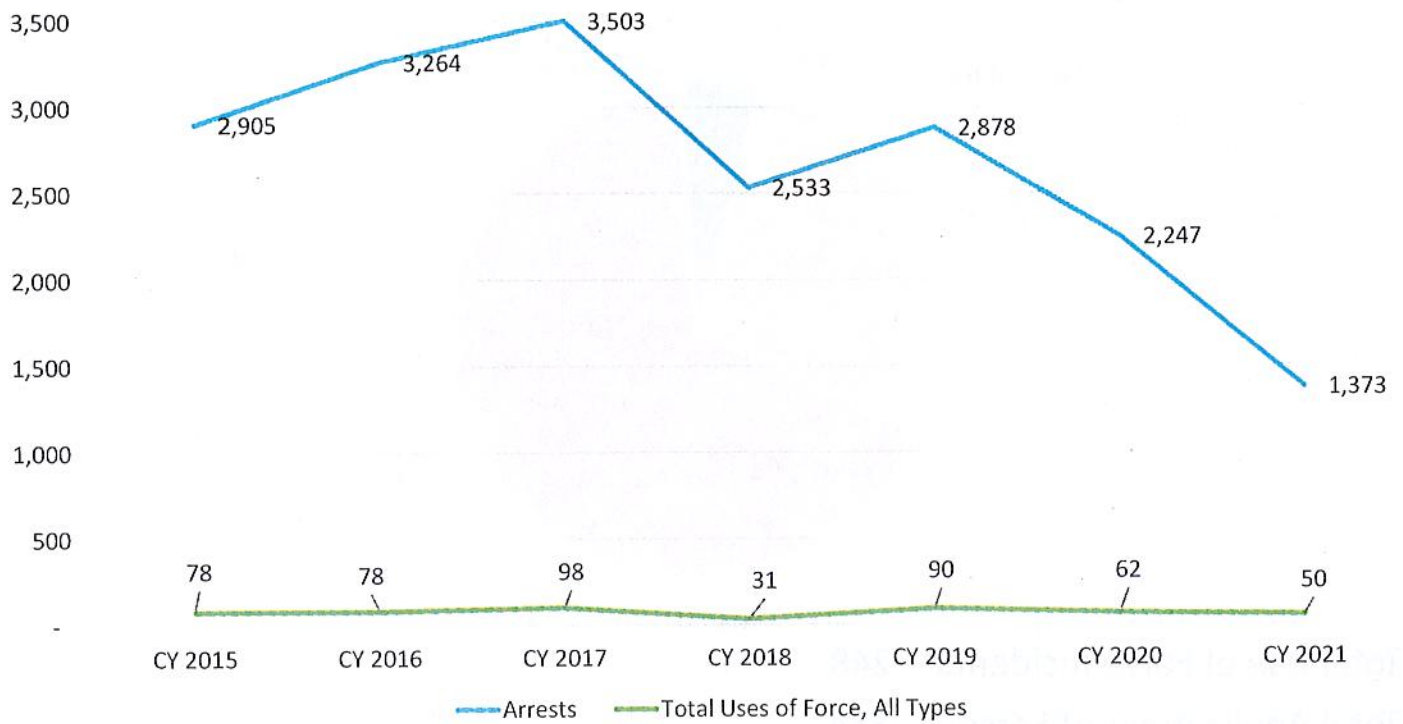


*Old Reporting Standards



Use of Force Data

In Comparison to Arrest

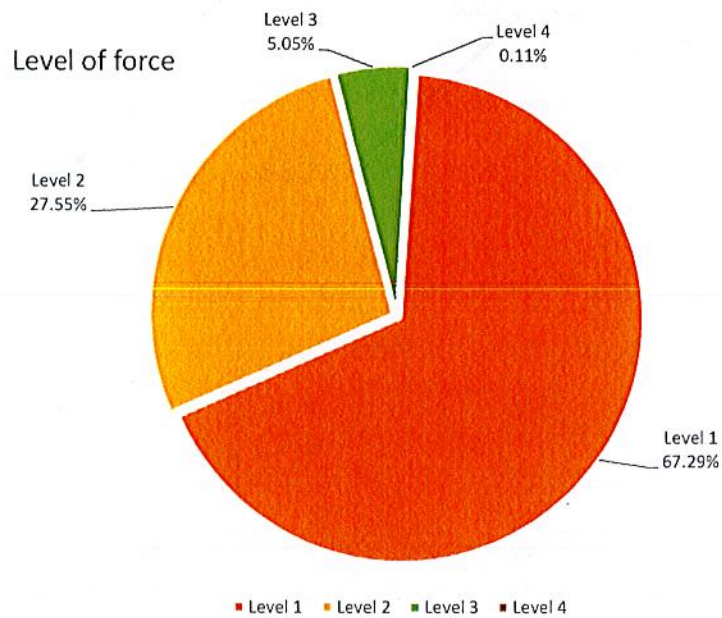


*Old Reporting Standards, 2021 data range is Feb-Sep 2021



Use of Force Data

Policy 300 from February – October 2021



Total Use of Force Incidents 248

Total Applications of Force: 854

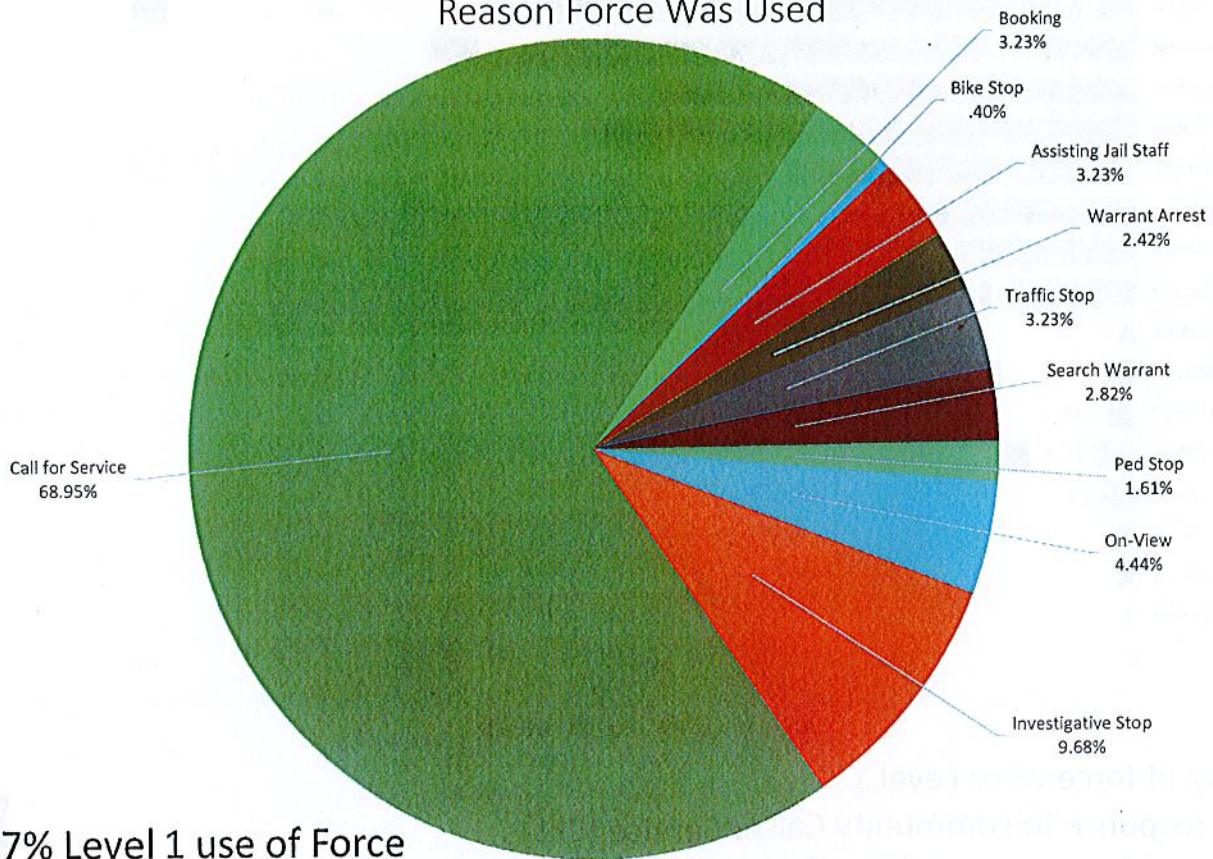
87% resulted in no injury or complaint of pain

67% Level 1; 95% Level 1 or Level 2



Use of Force Data

Reason Force Was Used



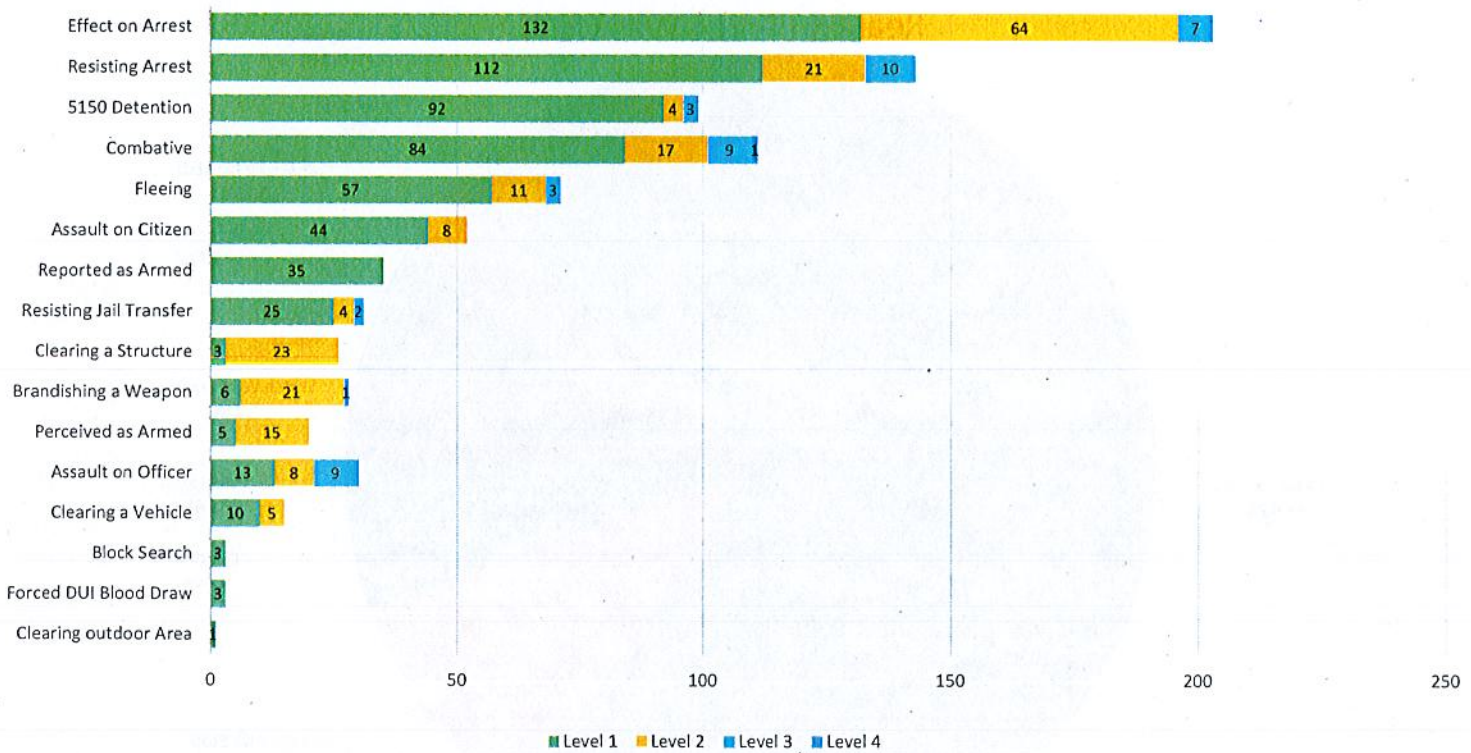
67% Level 1 use of Force

69% In response to community Call For Service (CFS)



Use of Force Data

Reason Force Was Used



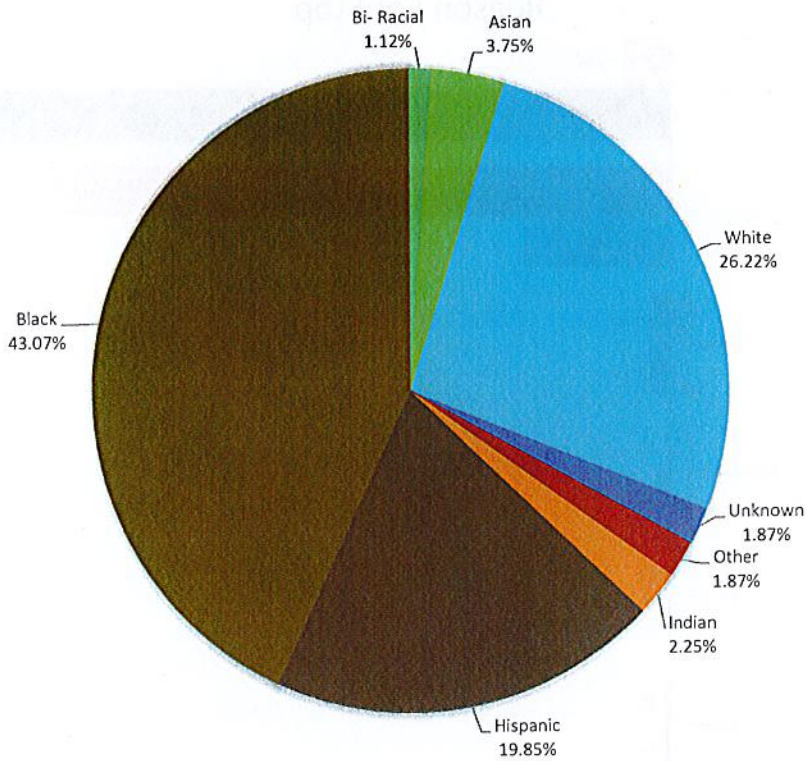
67% Use of force were Level 1

69% In response to community Call For Service (CFS)

26% Use of Force occurred to affect an arrest



Demographic Breakdown



67% Use of force were Level 1
69% In response to community Call For Service (CFS)
26% Use of Force occurred to affect an Arrest

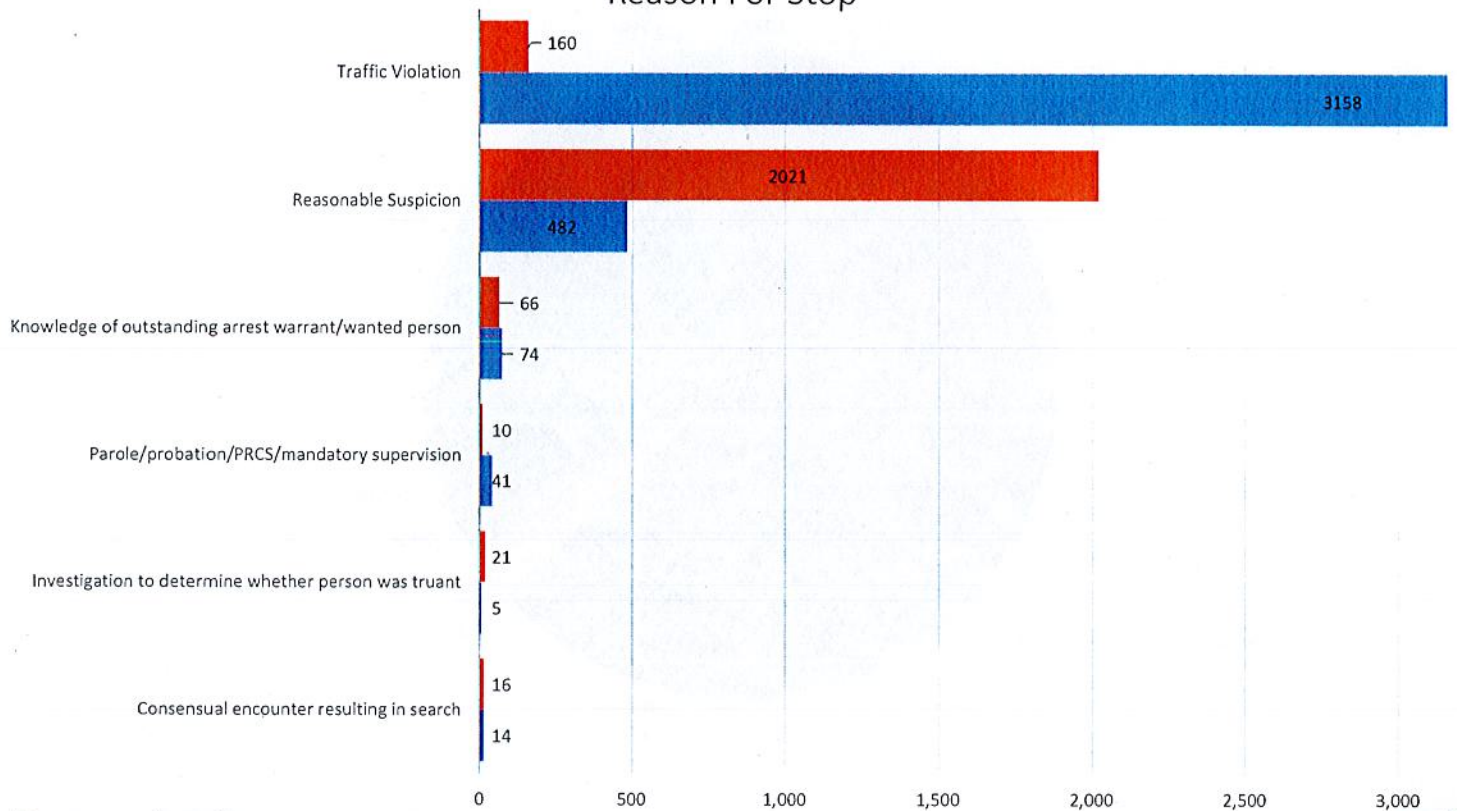
Black 43.07%
White 26.22%
Latinx 19.85%



Stop Data (RIPA)

October 2020 – September 2021

Reason For Stop



Reason for Stop

Blue – Self Initiated

Red – Call for service

Call for Service : 37.76%

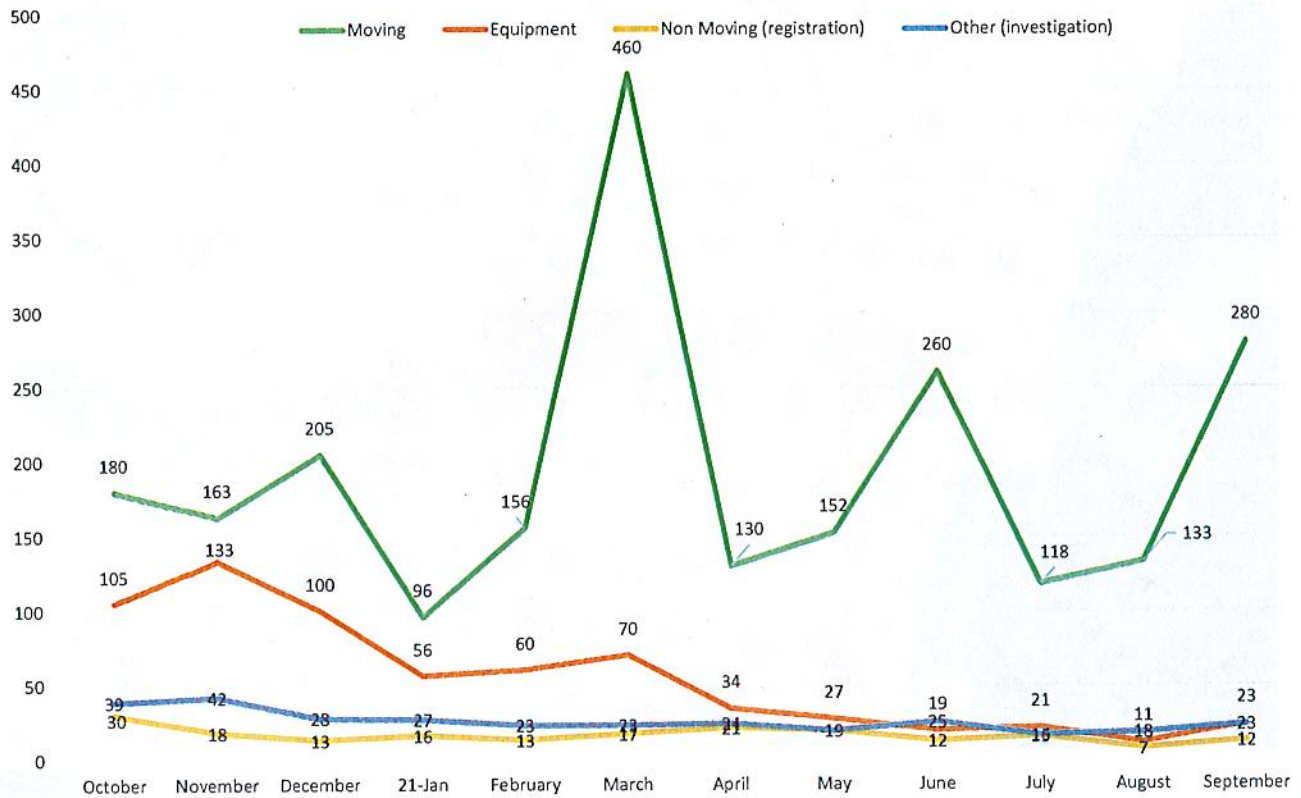
Self Initiated: 62.24%



Stop Data (RIPA)

October 2020 – September 2021

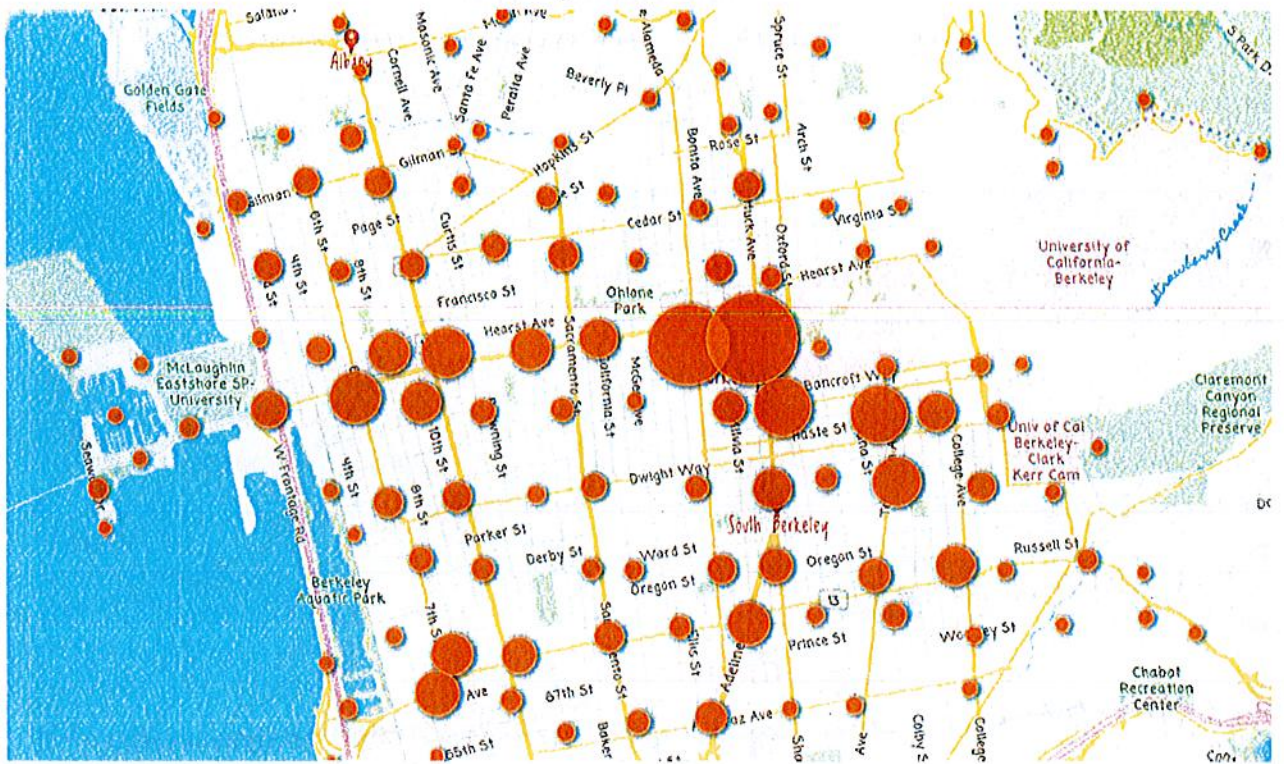
Traffic Violation Type



Stop Data (RIPA)

October 2020 – September 2021

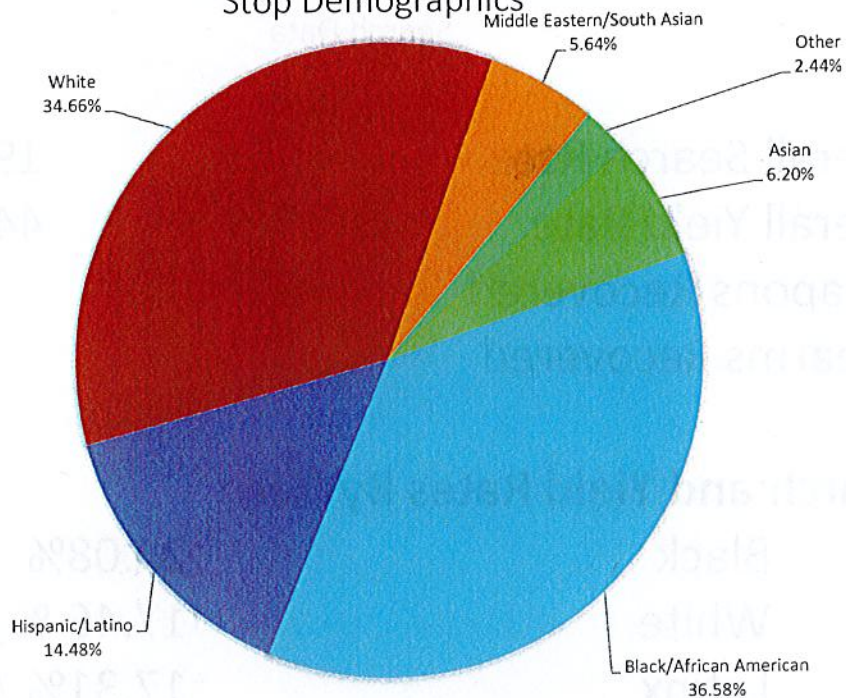
Stop Location



Stop Data (RIPA)

October 2020-September 2021

Stop Demographics



Demographic Breakdown:

- 36.58% Black
- 34.66% White
- 14.48% Latinx

Residential Breakdown:

- Berkeley Resident: 67%
- Non Berkeley Resident: 33%



Stop Data (RIPA)

October 2020 – September 2021
Search Data

Overall Search Rate	19.16%
Overall Yield Rate	44.23%
Weapons Recovered	135
Firearms Recovered	31

Search and Yield Rates By Race

Black	24.08% / 45.88%
White	17.46 % / 40.87%
Latinx	17.31% / 45.39%

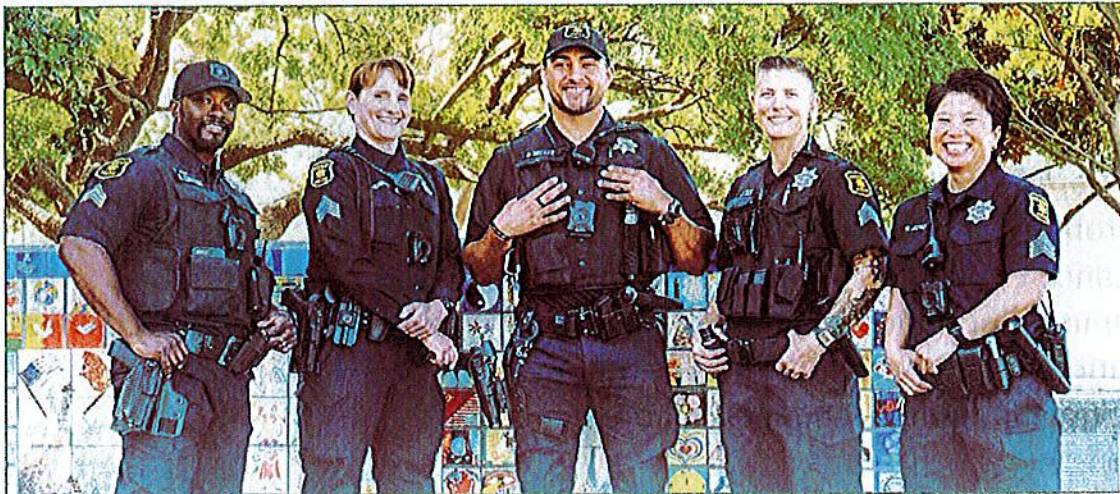


Department Personnel

Recruitment, Hiring, Training

Recruitment and Hiring

- Recruitment: Locally Focused utilizing Job Postings, On Campus Job Fairs, Special Events, Community and Presentations; Referrals; Social Media.
- Hiring: Application, Minimum Qualifications, Personal History Statement Written Exam, Physical Ability, Oral Boards, Pre-investigative Interview, Background Investigation, Voice Stress Analysis, Review and Recommendation, Chief's Interview, Medical / Psychological Exam



Department Personnel

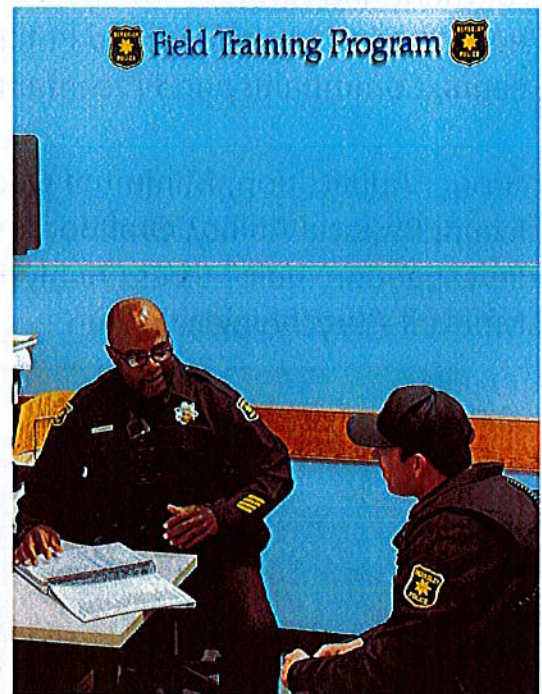
Recruitment, Hiring, Training

Field Training Program

18 Week Field Training Program: Daily Written Evaluations with constant supervision and training; Training to POST Solo Officer Status standards but also mentoring and developing towards BPD / CoB culture; Responsibilities increase with time; Progression is expected and intervention may occur early and frequently; 75-80% success rate

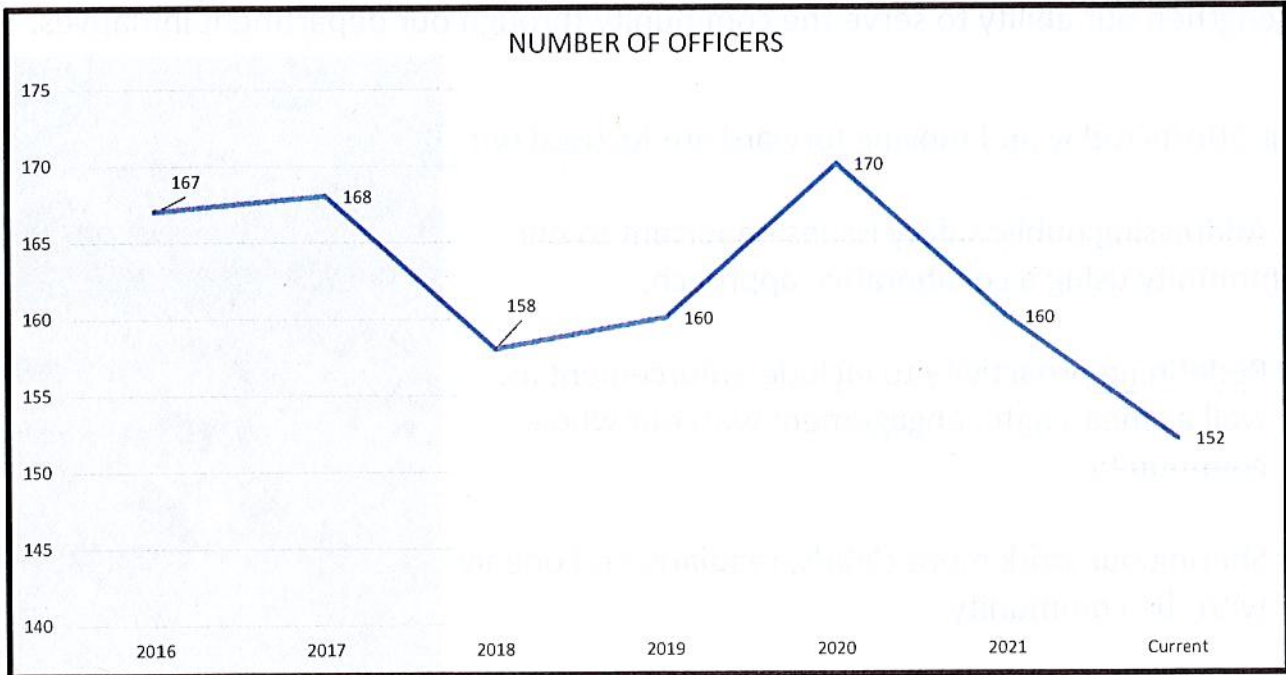
Probationary Period

2 Year Probationary Period: Frequent Performance Evaluations; Mentoring and Development Continues; Early Warning Intervention as appropriate; Officers not meeting organization standards will be released



Department Personnel

Staffing



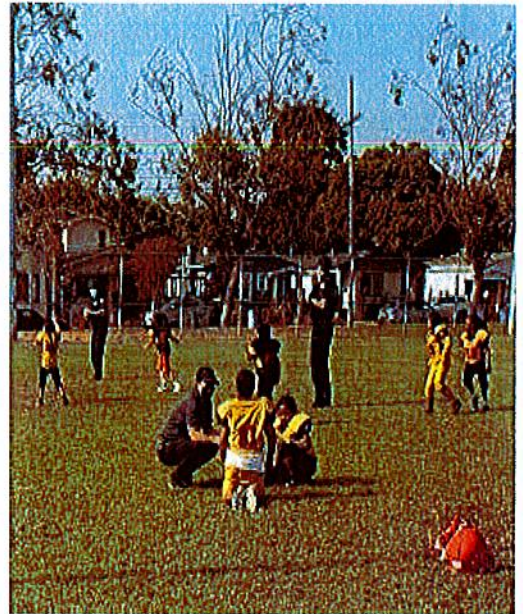
Department Initiatives

Our Mission: Safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect.

We accomplish our mission daily by our work in the community. We build and strengthen our ability to serve the community through our department initiatives.

Our efforts today and moving forward are focused on:

- ❖ Addressing public safety issues important to our community using a collaborative approach,
- ❖ Redefining proactivity to include enforcement as well as meaningful engagement with our whole community,
- ❖ Sharing our work more clearly, regularly and openly with the community



Department Initiatives

Recovery Officer - Pilot Study

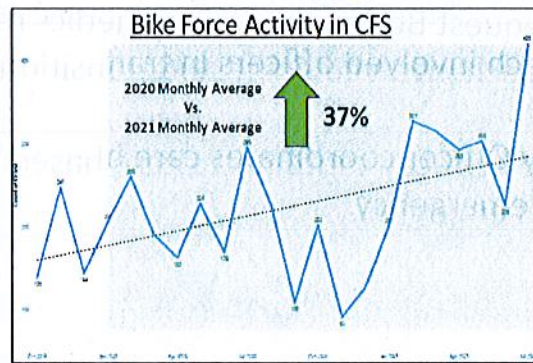
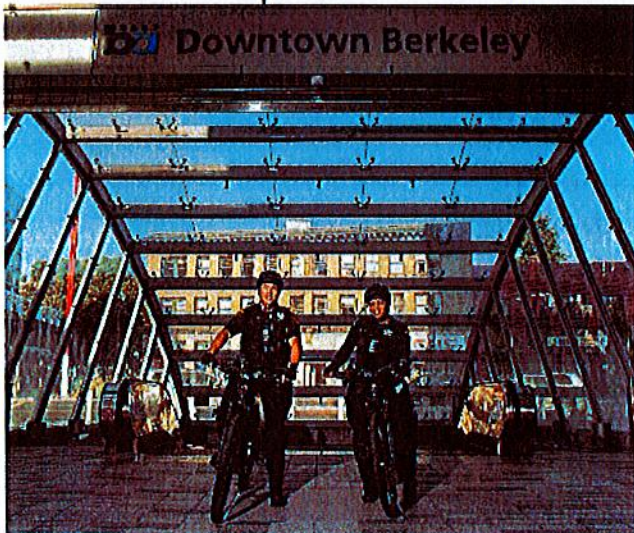
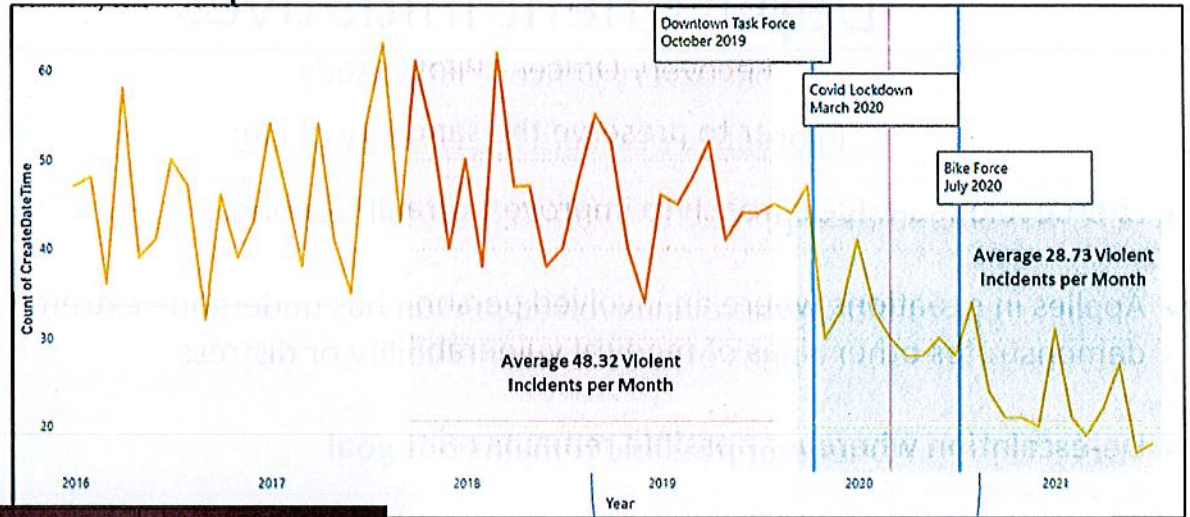
In order to preserve the sanctity of life:

- BPD developed this approach to improve overall response.
- Applies in situations where an involved person has undergone extreme exertion and/or demonstrates other signs of medical vulnerability or distress.
- **De-escalation wherever possible remains our goal**
- Recovery Officer tasks include:
 - closely observe condition of subject,
 - request Berkeley Fire Paramedics respond, and
 - coach involved officers in transitioning from custody to care.
- The Recovery Officer coordinates care based on increased risk before a person presents as a medical emergency.



Department Initiatives

Violent Calls for Service in Downtown Area
 Assault/Battery, Robbery, Weapon Brandishing

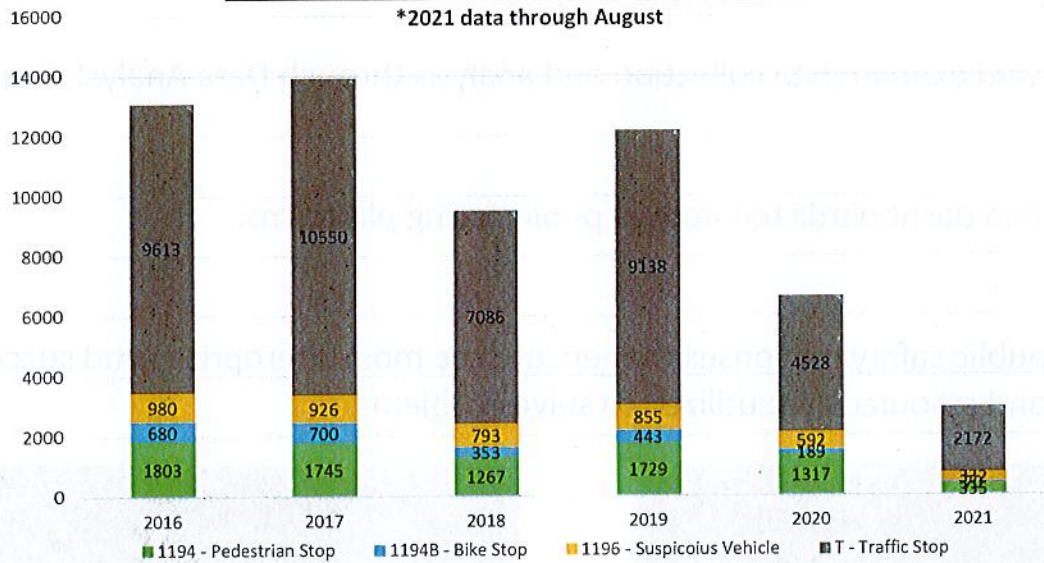


Department Initiatives

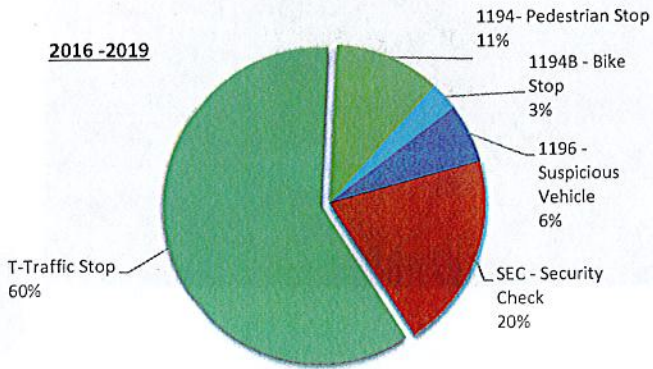
Repurposed and Focused Proactivity

Officer-Initiated Stops (Pedestrian, Bike, Vehicle)

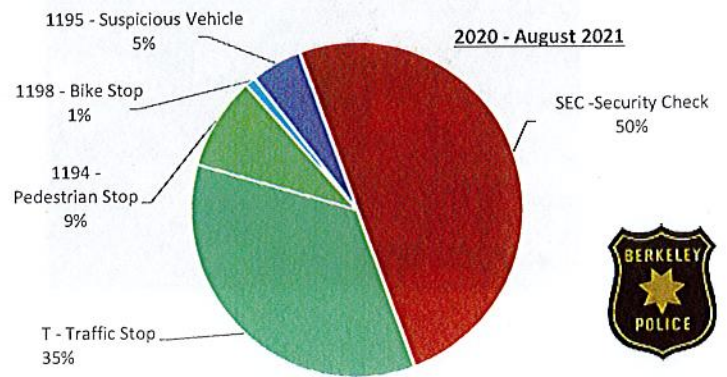
*2021 data through August



2016 - 2019



2020 - August 2021



Department Initiatives

Data Driven Problem Oriented Approaches

- ❖ Improve and expand data collection and analysis through Data Analyst Team.
- ❖ Launch data dashboards to improve public facing platforms.
- ❖ Employ public safety responses that ensure the most appropriate and successful options and resources are utilized to solve problems.



Fair and Impartial Policing

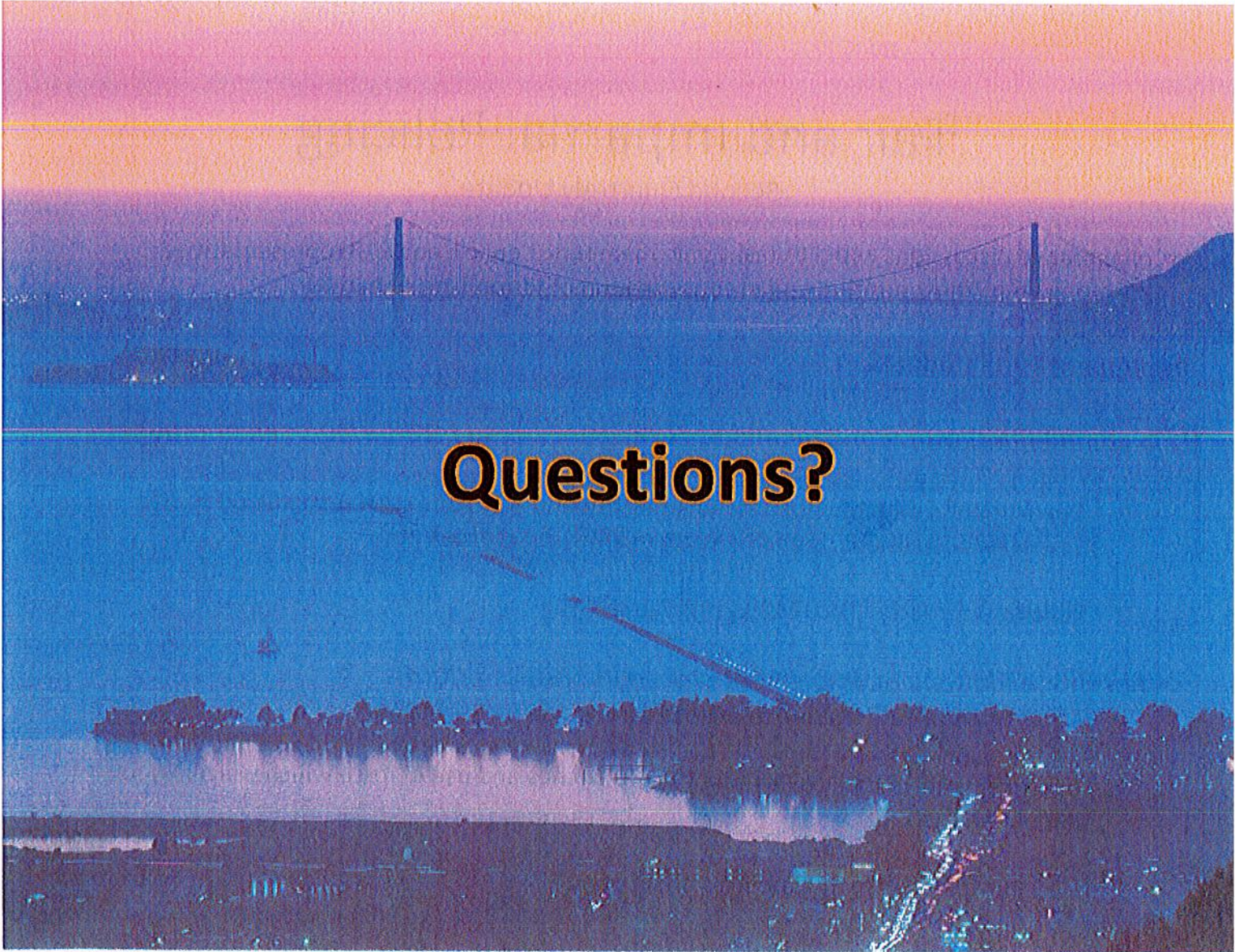
Second Quarterly Update

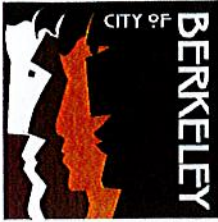
- ❖ Collaborative discussions with FIP Task Force members, Council and PAB representatives; partnering with Transportation and in consideration of Vision Zero Initiative.

Implementation updates:

- ❖ *Recommendations re: Implement a new evidence-based traffic enforcement model*
 - Departmental direction focused on enforcement of violations that are connected to severe/fatal collisions, based on regular review of collision data
 - Policing approaches focused on problem solving
- ❖ *Recommendations re: Implement procedural justice reforms*
 - Departmental data sharing to expand through data dashboards
 - Improvements in data collection of stops, searches and use of force which will allow for deeper analysis.
 - Updates to departmental policies are in progress.







Office of the City Manager

October 22, 2021

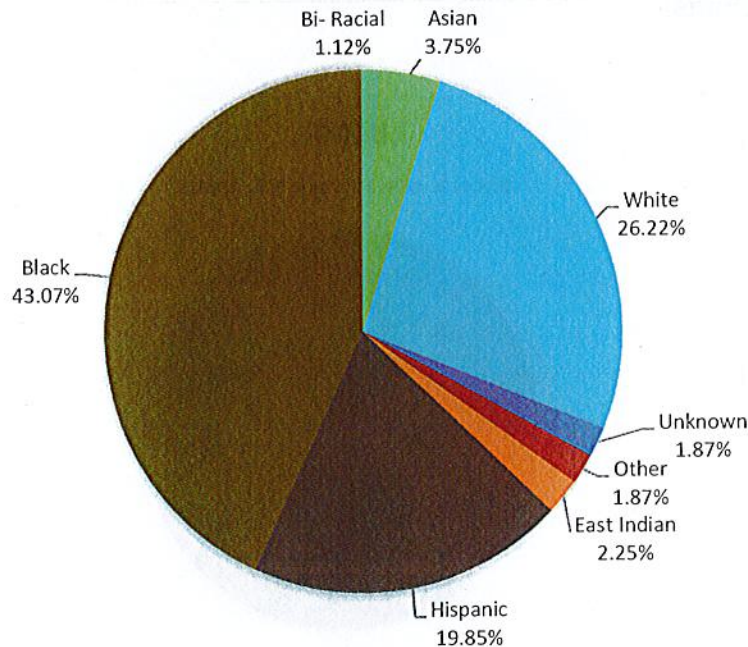
To: Honorable Mayor and Members of the City Council

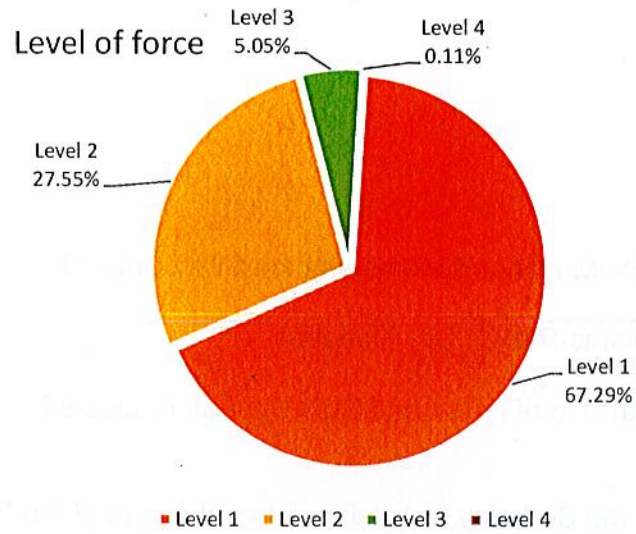
From: *Dee* Dee Williams-Ridley, City Manager

Re: Additional Use of Force and Stop Data as requested

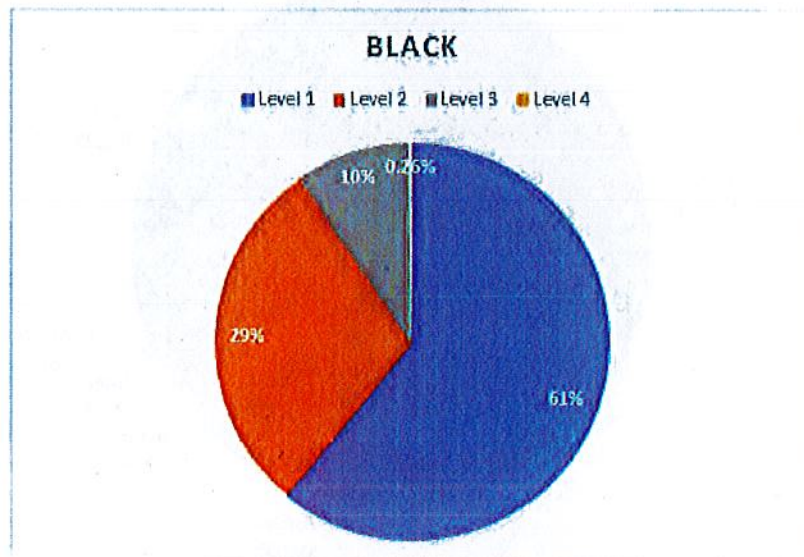
On October 19, 2021, the Berkeley Police Department provided the Mayor and City Council with an annual report on Use of Force. This report included the following charts which display the demographic breakdown for use of force as well as the overall levels of all force applied.

The date range for this data is February 2021 to October 2021.



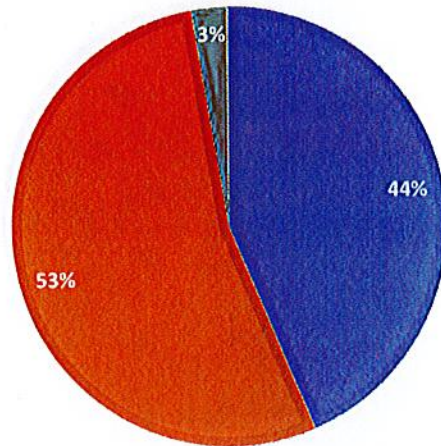


Council requested additional information on the level of force applied for each individual demographic. The following provides that information for the same date range as the previous two charts:



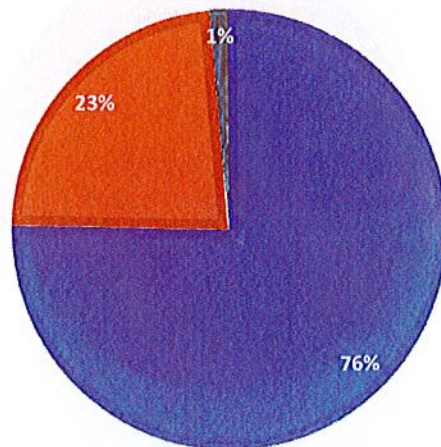
LATINX

■ Level 1 ■ Level 2 ■ Level 3



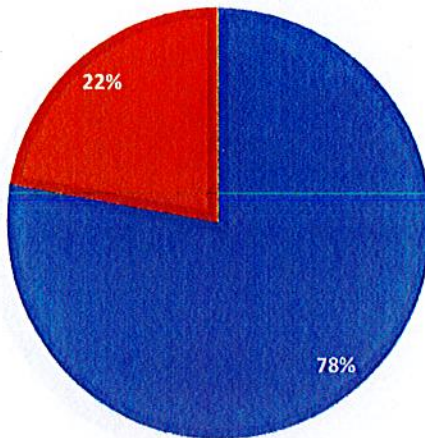
WHITE

■ Level 1 ■ Level 2 ■ Level 3



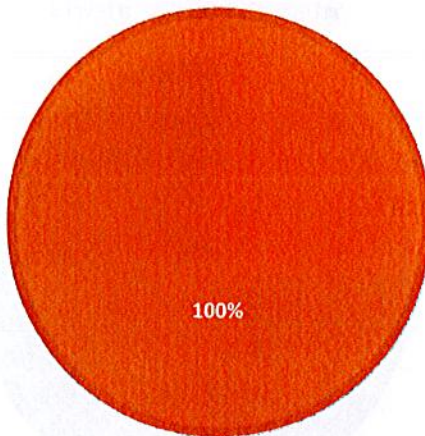
ASIAN

■ Level 1 ■ Level 2



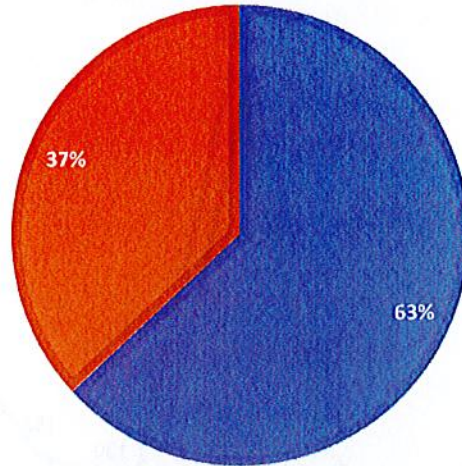
BIRACIAL

■ Level 2



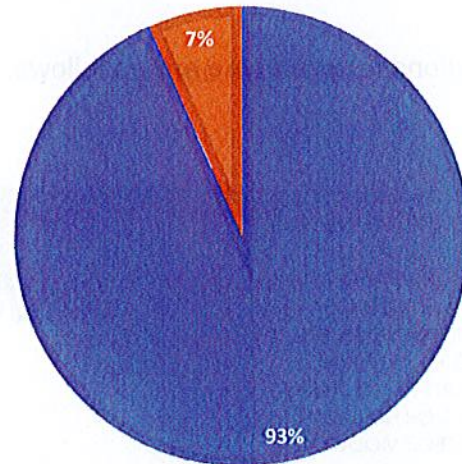
EAST INDIAN

■ Level 1 ■ Level 2

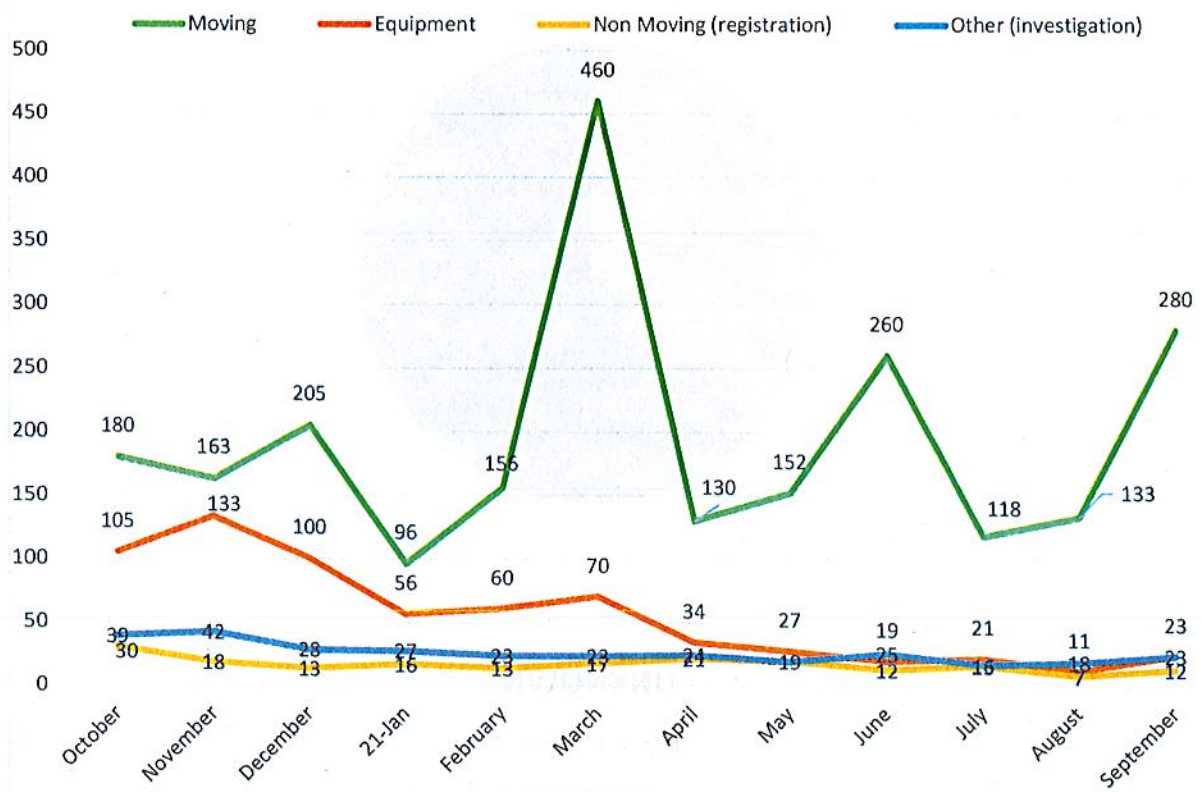


UNKNOWN

■ Level 1 ■ Level 2

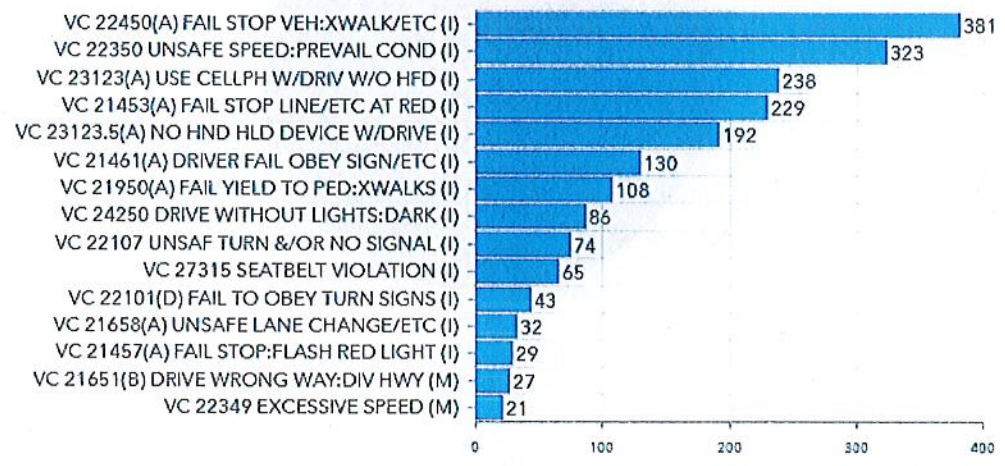


Council requested information of the top violation type for each of the below categories from the following chart which covers October 2020 through September 30, 2021:

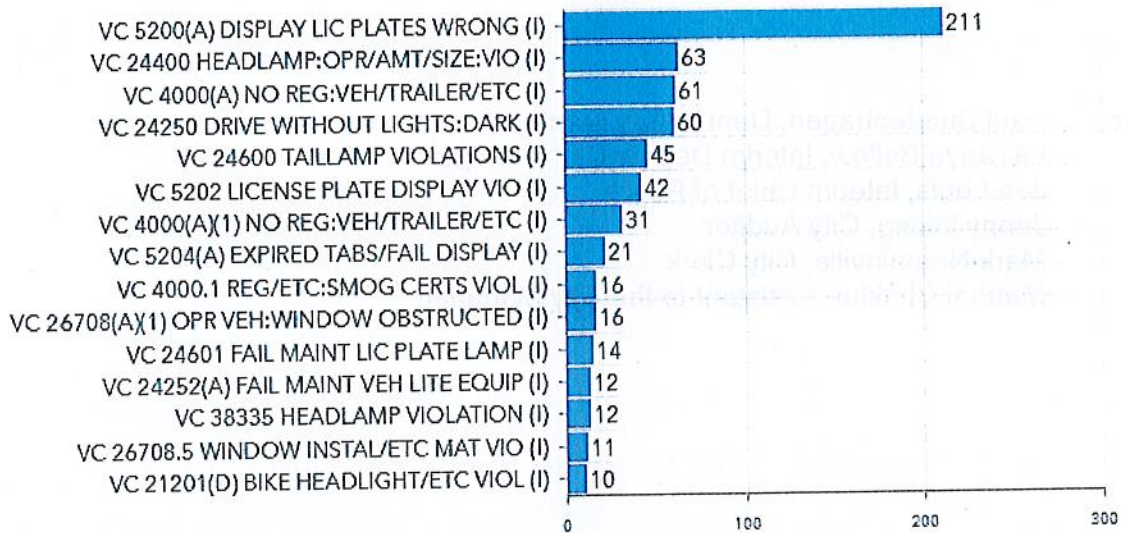


The breakdown of top violations for each type are as follows:

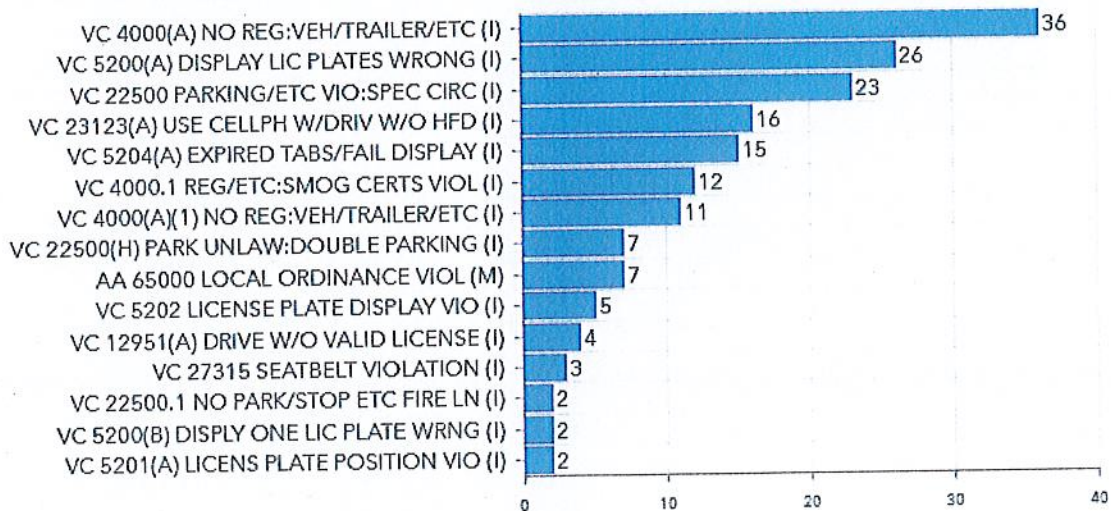
Moving violations



Equipment Violations:



Non-moving Violations:



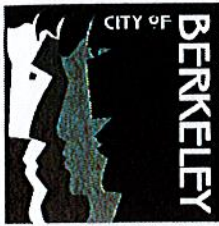
The final category labeled "Other" is a catch-all category for investigative stops. This stop can occur in a variety of instances such as a vehicle possibly involved in an in-progress crime, a car that is reported as suspicious, or a possible stolen vehicle.

Additionally, we did discover a data entry error in that Vehicle Code 23123(A) (use of cellphone while driving) had been entered in several instances as a moving violation, but should have been captured as a non-moving violation. That entry error will be corrected moving forward.

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October 22, 2021
Re: Use of Force / Stop Data

Please feel free to reach out if any of the above information is unclear or needs clarification.

cc: Paul Buddenhagen, Deputy City Manager
LaTanya Bellow, Interim Deputy City Manager
Jen Louis, Interim Chief of Police
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager



Office of the City Manager

September 22, 2021

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Re: Recovery Officer

In response to multiple high-profile in custody deaths, including the death of Mario Gonzalez in Alameda, our officers have been developing new ideas to improve their response to these challenging events. Central to these recommendations is a plan to reinforce the sanctity of life. This concept was generated from a memo by a field supervisor. It outlined several changes to current practice and was designed to improve the Berkeley Police Department's (BPD's) response to these incidents.

BPD began working on a plan to launch a pilot program to test and develop the concepts through use. BPD has been calling this new role "recovery officer" and the program has three basic objectives:

- Improve scene management related to relevant events.
- Evaluate and treat patients sooner.
- Decrease BFD response time to relevant events.

In 2020, the Berkeley Police department received training from the Berkeley Fire Department (BFD) on identifying and responding to cases of Excited Delirium following the Daniel Prude case in Rochester, New York. Additionally, according to BFD, for a patient experiencing a heart attack the chances of survival improve by 10% for every minute of improved response time. While these events are not entirely predictable, the sooner a person receives qualified care, the better the odds of survival. To that end, the recovery officer role is designed to improve scene management so that potential patients may be evaluated sooner by BFD in relevant events.

BPD worked with BFD to identify relevant events. In general, these are situations where a person has undergone extreme exertion and/or demonstrates other signs of vulnerability or distress. Currently, if a person has no visible or apparent injury, an

officer only requests BFD to treat a patient if they affirmatively say "yes" when asked if they need medical treatment. Consequently, officers only call BFD *after* becoming aware of an injury or medical crisis. This is the current industry standard response.

Moving forward, in events where risk is elevated, BPD wants to call BFD more often and get them on scene as soon as possible. This is an innovative type of cover role. In the same way an officer assumes a defined cover role on a car stop, BPD wants officers to assume the role of protecting the subject who may be experiencing medical distress. They also acknowledge the officers who have been involved directly with the subject might not be in the best position to transition to this role. The first officer on scene, not needed to secure the suspect, will assume the role of "recovery officer". This role includes requesting BFD, securing the scene for medical treatment, and coaching officers to transition from custody to coordinating an evaluation of the subject. By creating the role, they hope to encourage efforts designed to protect the sanctity of life, *before* the subject presents as a patient in distress.

BPD wants to emphasize that de-escalation wherever possible remains their goal. In those instances where de-escalation efforts fail, there will be a proactive plan to get the subject evaluation and care as soon as practical.

During the initial implementation, BPD training officers and BFD will test and evaluate the concept. BFD proposes studying several aspects with a focus on improving several measures of response time. The pilot should provide a learning and feedback loop that will allow them to refine the practice from real life cases.

BPD believes this will be a novel approach to one of the most difficult situations they face. At full implementation every officer will be trained and able to take on this role. As this becomes routine practice, the department could expect improvements in service delivery, coordination with BFD, and response times for other medical emergencies.

cc: Paul Buddenhagen, Deputy City Manager
LaTanya Bellow, Interim Deputy City Manager
Jenny Wong, City Auditor
Jennifer Louis, Interim Police Chief
Abe Roman, Interim Fire Chief
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager

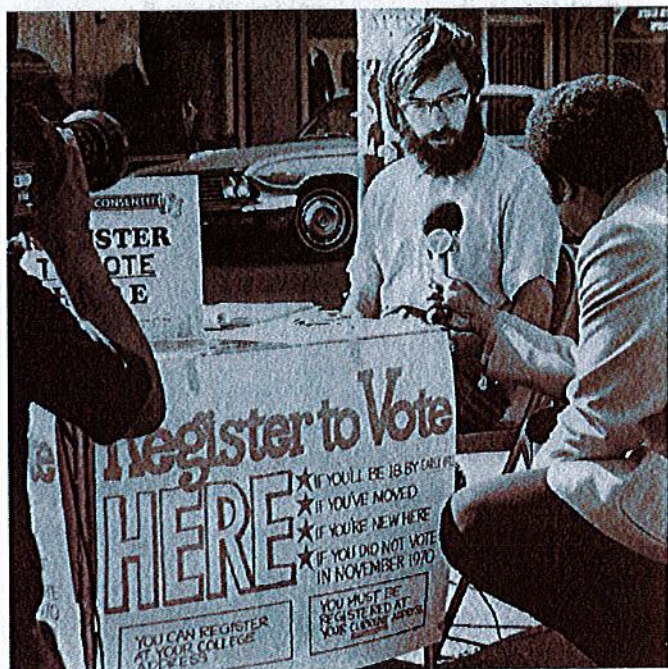
Berkeleyside

COMMUNITY

A new look at Berkeley's 1970s battles over policing, marijuana, apartheid

Activist and historian David Mundstock's political archive was recently donated to the Berkeley Historical Society. A sampling of papers, posters and more will be on display starting Nov. 6.

By Lincoln Cushing, Oct. 31, 2021, 6 a.m.



David Mundstock at a streetside voter registration table being interviewed by TV media in 1971. The historian's archives will be on display at the Berkeley Historical Society next month. Credit: Jim Yudelson

Love it or hate it, Berkeley is different from most other cities.

Earlier this month we were reminded that on Oct. 12, 1992 — 29 years before the nation — Berkeley became the first city in the country to formally celebrate Indigenous Peoples Day. Formalized by the City Council on the eve of the Columbus Quincentennial, the revision was led by Berkeley activist John Curl and several Native leaders.

From the Streets to the Ballot Box: Berkeley Politics in the 1970s, Berkeley Historical Society, 1931 Center St., through April 2022

But Berkeley is home to many other political firsts, a fact reflected in the Berkeley Historical Society exhibition "From the Streets to the Ballot Box: Berkeley Politics in the 1970s," which opens

Nov. 6 and runs through mid-April 2022.

David Mundstock was an activist and historian of Berkeley electoral politics who passed away Aug. 28, 2020. He was the only child of Jewish parents who had emigrated from Nazi Germany to Canada and later settled in San Francisco. Mundstock was a UC Berkeley undergraduate and law student and was deeply dedicated to the democratic promise of electoral politics. He spent countless hours registering people to vote, but his biggest contribution was organizing students to become a major constituency of the progressive coalition that elected the first representatives of the "new politics" to the Berkeley City Council in the early 1970s. The coalition became known as Berkeley Citizens Action, or BCA.

David understood the nuances of Berkeley's electorate and painstakingly compiled data on every election, often charting results in color on large precinct maps.

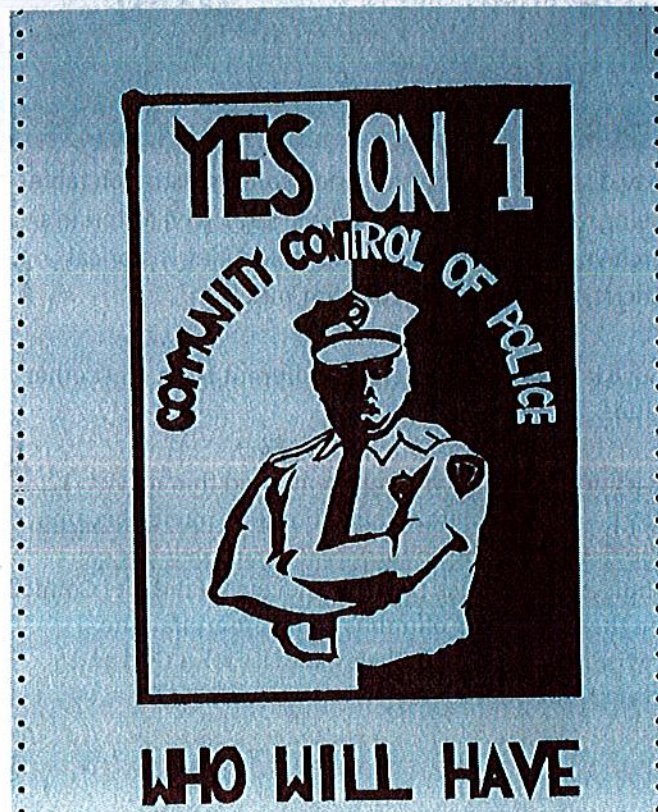
I was a member of the Inkworks Press collective, which printed many Berkeley campaign materials, and I befriended David while researching electoral posters. He asked me to survey his extensive archive in 2016, so though I was surprised to hear of David's death, I wasn't surprised to learn that he willed me his collection. After extracting box after box from under dusty eaves and creaky file cabinets, I reviewed the materials and donated them to the Berkeley Historical Society. One of

the meta-messages here is how community citizen-scholars passionately build collections that eventually need to move to more secure and accessible institutions.

The Mundstock collection is a powerful body of work detailing the evolution of politics in a vibrant city — over 30 cartons of documents as well as 150 political posters, boxes of campaign buttons and bumper stickers. It is still being processed at the BHS; this exhibition is a selective showcase highlighting just some of the many subjects available for further research.

Here are three of the many progressive campaigns documented in this collection:

★ **Community Control of Police (1971)**



THE POWER

Posters from the 1970 campaign for “community control of police.” Courtesy of Lincoln Cushing/Docs Populi archives

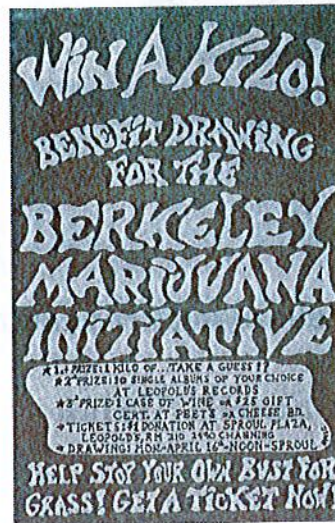
The need for fundamental change in policing, dramatically brought to the fore with the 2020 murder of George Floyd, has a deep history in Berkeley. In September 1970 the “community control of police” measure qualified for the spring elections — an unprecedented proposal to replace the citywide police force with three independent “neighborhood” departments, under civilian governance and a requirement that police officers live in Berkeley.

The measure was advanced by members of UC Berkeley’s School of Criminology and the National Committee to Combat Fascism, a coalition of the Black Panther Party and several community organizations. Berkeley had seen major law-enforcement struggles during the 1969 fight over People’s Park, where the primary problem was behavior by the Alameda County Sheriff’s Department and involvement of federal agencies including the FBI. This measure addressed persistent local concerns with the Berkeley police and served as a model for grassroots organizations around the country struggling against police racism.

In early spring 1971, a major public debate was held in Berkeley about the community control of police measure, featuring Rep. Ronald V. Dellums and Vice Mayor Wilmont Sweeney. Dellums pointed out that there had been numerous incidents of racist behavior by the police, which had only six Black officers in a department of over 200.

On April 7, 1971, voters elected three members of the progressive April Coalition slate but rejected the police measure by a large majority. In 1973 Berkeley voters again rejected police reform measures including a local residency requirement and “demilitarization” of the force, but approved a civilian-run review commission, one of the first in the country. In 2002 the former assistant city manager in Berkeley testified that the Police Review Commission “saved the city at least \$100,000 from one potential lawsuit alone.”

Berkeley Marijuana Initiative (1973) and Measure C (1979)



Tom Accinelli came up with a fundraising idea for a “Win a Kilo” marijuana raffle at a dollar a ticket, drawing national attention to the Berkeley Marijuana Initiative. Courtesy of the Berkeley Historical Society

Cannabis in California has been legal for medical use since 1996, and OK for recreational use since late 2016. Given Berkeley’s countercultural credentials, it should be no surprise that efforts to decriminalize marijuana were an early tool in the electoral arsenal. These efforts lacked a commitment to engaging with communities of color, which have always borne the brunt of drug enforcement. But still, they paved the way for less draconian community standards.

David Mundstock drafted one of the shortest initiatives ever. The key operational clause: “the Berkeley Police Department shall make no arrests for the possession, use, and cultivation of marijuana without the authorization of the Berkeley City Council.”

No ballot argument was submitted against the Berkeley Marijuana Initiative, but it drew national attention when Tom Accinelli came up with a fundraising idea for a “Win a Kilo” marijuana raffle at a dollar a ticket.

The measure was challenged in court and was never implemented as intended, so in 1979 military conscientious objector Steve Bloom drafted a new initiative. Measure C would direct the City Council to ensure that the enforcement of marijuana laws became the Berkeley Police Department’s “lowest priority.” The measure further cut off funds for the enforcement of marijuana laws, tried to stop arrests and mandated reports of all marijuana law enforcement activities to the City Council. Unopposed, the measure won.



Benefit for the Berkeley Marijuana Initiative

WIN A KILO! DRAWING APRIL 16

First prize:

One kilogram (2.2 pounds) of a well-known "leaty green substance"

Additional prizes:

- A giant four foot long bong pipe from ANNAPURNA, 2416 Telegraph (near Channing)
- A gift certificate for yogurt from YOGURT PARK, 2433A Durant (below Telegraph)

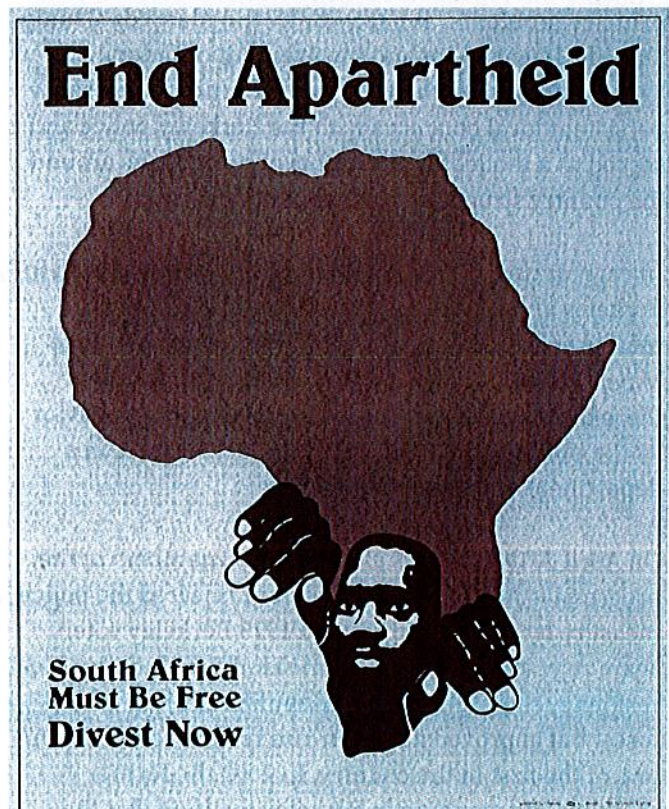
Tickets are available at the addresses listed above

A raffle ticket. Courtesy of the Berkeley Historical Society

Divestment from South Africa (1979)



Poster from 1979. Credit: Malaquias Montoya/Inkworks Press



Poster from 1985. Credit: Lincoln Cushing/Inkworks Press

A 1979 ballot measure condemned apartheid and required the withdrawal of City of Berkeley funds from banks doing business with South Africa.
Courtesy of the Berkeley Historical Society

Can a city influence social justice in a faraway country? This was exactly the question citizens answered in 1979, when Berkeley became the first city in the United States to add municipal weight to support the dismantling of apartheid in South Africa.

That year four Berkeley Citizens Action candidates were elected to the City Council: Mayor Gus Newport, John Denton, Florence McDonald and Veronica Fukson. Together with Councilwoman Carole Davis, who switched sides, there was now a progressive majority on the Berkeley City Council. The ballot also included a pair of initiative ordinances which BCA thought would help the campaign by fostering greater voter interest and turnout — Measures A & B, the Responsible Investment Ordinances about South Africa.

Concern about City of Berkeley investments that supported white-ruled South Africa had been voiced for years, leading to various unsuccessful City Council motions. In 1978 students at the UC Berkeley chapter of California Public Interest Research Group (CALPIRG) decided to address this issue with an initiative. The Campaign for Economic Democracy and BCA people from the campus community joined in the effort.

Measure A condemned apartheid and required the withdrawal of City of Berkeley funds from banks doing business with South Africa, and a Citizens Committee on Responsible Investments would help the Council implement this policy.

Originally flawed in its language, the supportive City Attorney's office submitted an amended initiative to reflect a "minimal" adverse financial impact if both measures A and B passed as a package. There was no campaign against them.

Eventually, massive international pressure led to the fall of South Africa's apartheid system. Nelson Mandela was freed on Feb. 11, 1990, and negotiations to end apartheid formally began that lasted for four years, ending with the election of Mandela as president. In 1996, the country initiated a Truth and Reconciliation

Commission to reckon with the gross human rights violations during apartheid.

*Lincoln Cushing is an archivist and author who documents, catalogs, and disseminates oppositional political culture of the late 20th century. His books include *Revolucion! Cuban Poster Art and Agitate! Educate! Organize! – American Labor Posters* and he was curator for the *All of Us or None: Poster Art of the San Francisco Bay Area* exhibition at the Oakland Museum of California in 2012.*

BERKELEY

REIMAGINING PUBLIC SAFETY COMMUNITY MEETINGS

All Meeting Times: 6pm-8pm

meeting link: <https://us06web.zoom.us/j/81664819932?pwd=dlBoYlhoaWlPNEMzZFZadUxQUEZSZ709>

- November 10: West Berkeley-Districts 1,2
- November 15: Downtown Civic Arts District, South Berkeley-Districts 3,4
- November 23: In-person (Location TBD)
- November 30: North, UC Campus, Southeast Berkeley-Districts 5,6,7,8

We Want Your Feedback

- The National Institute for Criminal Justice Reform will share their Final Report and Recommendations
- Additional opportunity to share your feedback by calling: 888-299-1118
- Visit the website at: <https://berkeley-rps.org/> for updates

