To: Honorable Mayor and Members of the City Council

From: Police Review Commission

Submitted by: George Lippman, Chairperson, Police Review Commission

Subject: “To Achieve Fairness and Impartiality” – Report and Recommendations from the Berkeley Police Review Commission

INTRODUCTION
Attached for your consideration is a report from the Berkeley Police Review Commission that examines racially-based disparate treatment of civilians by the Berkeley Police Department. Based on its findings, the PRC urges a sustained examination and remediation plan be implemented without delay by the BPD, in coordination with the PRC and City leaders. Specific policy, process, and practice changes are recommended.

CURRENT SITUATION AND ITS EFFECTS
In 2014, the events in Ferguson, Missouri and other instances of the killing of African Americans at the hands of law enforcement spurred a national conversation about the relationship between police department and the communities they serve. This conversation took place in the City of Berkeley as well.

The PRC formed a Fair & Impartial Policing Subcommittee in January 2016. The attached report is a culmination of the subcommittee’s examination of data about police-civilian encounters that the BPD began collecting and publishing in January 2015. Its review of the data, in addition to analyses undertaken by others, shows significant racial disparities in stop, search, and yield rates, especially when comparing these rates between Whites and African Americans and Latinos. The subcommittee found corroboration of these numbers through anecdotal evidence from community members of color.

The subcommittee reviewed several recent reports on policing policies and practices, including the draft interim report from the Center for Policing Equity analyzing BPD stop data. These reports, and their findings, helped inform the subcommittee’s recommendations. The subcommittee also acknowledges the training and policy measures BPD has undertaken related to fair and unbiased policing.
Finally, the PRC makes numerous recommendations in its report about data collection and analysis: what data should be captured, how to capture more accurately, and how it should be reported. Most significantly, the report further recommends measures to address racial disparities shown in the data, practices to ensure more respectful interactions with civilians, and steps to strengthen community relations.

At its November 15, 2017 meeting, after agreeing to a few minor revisions to the report as presented by its Fair & Impartial Policing Subcommittee, the members of the Police Review Commission voted unanimously to adopt the report and send it to the City Council and City Manager. M/S/C Lippman/Matthews. Ayes: Allamby, Ford, Lippman, Matthews, Perezvelez, Prichett, Roberts, Sherman, and Lacey (temporary appointment); Noes: None; Abstain: None; Absent: Yampolsky.

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

POSSIBLE FUTURE ACTION
The Council could direct the City Manager to have the Berkeley Police Department implement all or some of the recommendations in the report. Or, the Council could direct the City Manager to integrate the PRC’s recommendations with those made by the Council on November 14, 2017 (Item #24, Refer to the Berkeley Police Department to Address Disparate Racial Treatment and Implement Policy and Practice Reforms).

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
Expanded data collection and reporting could require additional staff or require a reallocation of existing resources.

CONTACT PERSON
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Attachments:
1: Report: “To Achieve Fairness and Impartiality”
Section 1. Introduction

In 2014, in response to an upsurge in reports of unwarranted police killings and discriminatory practice, President Obama appointed a Task Force on 21st Century Policing to help mend and strengthen police-community relations. The Task Force’s Final Report stated:

Recent events…have exposed rifts in the relationships between local police and the communities they protect and serve…. In establishing the task force, the President spoke of the distrust that exists between too many police departments and too many communities—the sense that in a country where our basic principle is equality under the law, too many individuals, particularly young people of color, do not feel as if they are being treated fairly….

These remarks underpin the philosophical foundation for the Task Force on 21st Century Policing: to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.¹

The community and the city government in Berkeley were deeply affected by the national conversation about race and policing. In City Council and town hall meetings, and in our civic commissions, residents met to discuss its implications for our own city.

This report by the City of Berkeley, California Police Review Commission (PRC) is a beginning examination of our own disparate treatment of civilians on a racial basis. Our starting place is the data about police-civilian encounters, available online at the Berkeley Police Department (BPD) website for stops beginning January 2015.² Several independent agencies have reviewed the data and discovered significant racial disparities in stop, search, and “yield rates” (the percentage of enforcement actions stemming from police stops), particularly between White civilians and African American and Latino civilians. These conclusions, from the police department’s own data, are corroborated by anecdotal testimony collected by the PRC from a number of civilians of color.

The BPD engaged the Center for Policing Equity (CPE) to review the stop data from the year 2015. CPE reported in its draft interim report that:

¹ https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf
² https://www.cityofberkeley.info/Police/Home/Berkeley_PD_s_Stop_Data_Now_on_City_s_Open_Data_Portal.aspx
Although disparities declined over the time period measured, Black and Hispanic drivers, and Black pedestrians, remain much more likely to be stopped by police than their White counterparts. Moreover, BPD data indicated wide and unexplained racial disparities in search rates. Black and Hispanic drivers, in particular, were disproportionately likely to be stopped and searched without being arrested.

Meanwhile, although Asian drivers were less likely than White drivers to be stopped, they were five times more likely to be searched, and four times more likely to be arrested, at a stop. Furthermore, data with respect to stops and searches revealed wide variation in racial disparity among BPD beats. Finally, Black people were subjected to reported use of force at about six times the rate of Whites.

These disparities are largely unexplained, and warrant further investigation, in particular with respect to the charges filed against drivers of these racial groups.³

It is the PRC’s goal in making this report to the City Council, the city manager, and the Berkeley community, to promote the development of trust between the police and communities of color. This trust, as with all relationships, can be built only on the basis of honest self-assessment.

The Commission recognizes the hard work that police officers do to keep the community secure, and the inherent risk that they take every time they report for work. We present this report in a positive spirit. Our analysis and recommendations are intended to ensure that all segments of the community have the same experience of policing.

The Commission contends that these statistics and anecdotal reports together raise urgent concerns regarding the progress of the department toward its goal of fair and impartial policing. We urge a sustained examination and remediation plan be launched without delay by the BPD in coordination with the PRC and city leaders. Our summary recommendations include:

A. Data Collection and Analysis Enhancements
   1. Add specific data elements to those already tracked. Maintain and analyze demographic data. Enhance the current web display for readability.
   3. Hire a data manager/analyst.
   4. Enhance ability to correctly identify ethnicity of individuals.
   5. Report every use of force.

B. Address racial disparities shown in the data
   1. Monitor stop, search, and enforcement/disposition outcomes across race.

³ https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/CPE%20Draft%20Report%2007142017(2).pdf
2. Determine if disparities are generalized or reside in a subset of the department and develop effective mitigations including policy reviews, staff support, counseling and training, or other as appropriate.
3. Work closely with PRC to develop mitigations and track progress.
4. Develop early warning systems to minimize future problems of biased policing.

C. Body Worn Cameras
   1. Accelerate full deployment of body cameras.
   2. Use camera footage to train officers and evaluate policies.

D. Other departmental steps
   1. Partner with academic institutions.
   2. Increase support for officer wellness and safety.
   4. Strengthen requirements for officers to identify themselves.

E. Community relations
   1. Prepare detailed action plan to build trust in and accessibility to the department, focused on communities of color.
   2. Consult and cooperate with the broader community to develop and implement policy and practice reforms.
   3. Increase positive community contact.

These recommendations are shown in more detail in Section 7, “PRC Policy and Practice Recommendations.”
Section 2. Background

In March 2014, the Police Review Commission recommended that the City Manager adopt the proposed General Order B-4, Fair and Impartial Policing Policy. The policy was the product of over a year of discussion by the Berkeley Police Department and community stakeholders including the ACLU, NAACP, National Lawyers Guild, and Coalition for a Safe Berkeley.

In 2013, the PRC had formed a subcommittee to develop the policy, working closely with the Berkeley Police Department. The policy that resulted from that effort not only makes it clear the Department explicitly prohibits racial profiling and other biased policing; it also clarifies procedures in the limited circumstances in which the department can consider race, gender and other demographic information of individuals. California Penal Code Section 13519.4(f) also prohibits racial profiling by law enforcement officers. This General Order helps to implement that state law.

This Fair and Impartial Policing Policy was passed by the Berkeley City Council in June 2014 and went into effect in January 2015. The collection of vehicle, pedestrian, and bicyclist stop data began January 26, 2015 and the data was published on the BPD website beginning that summer.

Community groups (Berkeley NAACP, Berkeley Copwatch, ACLU—Berkeley/Northeast Bay, National Lawyers Guild—San Francisco Bay and UC Berkeley Black Student Union) analyzed the demographics of this stop data and published an initial report on September 29, 2015. The BPD at this same time opted to contract with the Center for Policing Equity (CPE) to analyze their stop data, and has made no apparent effort to study its own data and draw its independent conclusions from them. Nearly two years later in July 2017, the BPD, at the direction of the City Council, released a draft interim report from the CPE. Each analysis showed what the community coalition called “stark racial disparities” of a similar scale, with the CPE, having access to professional data analysis tools and a larger base of data, able to explore the subject in greater depth.

BPD Chief Greenwood accompanied the CPE draft report with a five-page introduction. The Chief stresses the department’s compliance with law and policy against racial profiling, details the relevant training given to the officers, and takes issue with several aspects of the draft, many of them methodological. The department has yet to take a position on the meaning of the data; whether

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4 A third review has been conducted by the independent company Police Strategies. The company conducted a preliminary analysis of 24,800 stops made by Berkeley PD officers from 2015 to 2016 using data obtained from the City of Berkeley’s Open Data Portal. Access the 5 dashboards here:
https://public.tableau.com/profile/policestrategies#!/vizhome/BerkeleyPoliceDepartment-
StopsAnalysis2/LocationTime
(Click on “Stops by Race” for Police Strategies’ visual depiction of “Berkeley PD - Stops,
Enforcement Action and Searches by Race of Subject.”)
the data show a pattern of disparity, what would cause that disparity, how to remediate the root cause.

The Police Review Commission’s mandate, passed by the voters in 1973, states that:

The Commission established by this Ordinance shall have the following powers and duties: to review and make recommendations concerning all written and unwritten policies, practices, and procedures of whatever kind and without limitations, in relation to the Berkeley Police Department, other law enforcement agencies and intelligence and military agencies operating within the City of Berkeley, and law enforcement generally.

In 2016, the Commission voted to establish a Fair and Impartial Policing Subcommittee to conduct our own evaluation of the demographic data. This Commission is mandated by the electorate to provide the public, the City Council, and the city manager with advice from a Berkeley perspective.

Three years after the establishment of the Fair and Impartial Policing Policy, and two years after the release of the first batch of stop data, it is time to move forward on the issue of race and policing. It is toward that end that we respectfully submit this report to City leaders and the community.
Section 3. BPD Demographic Data on Police Stops, 2015

A. Overview

The Berkeley Police Department posts stop data that it collects pursuant to General Order B-4 (Fair and Impartial Policing) on the City’s Open Data Portal. The BPD overview can be found at http://ci.berkeley.ca.us/police/. The department’s home page states:

In our desire to be open and accountable to our community, the Berkeley Police Department voluntarily collects and publicly shares demographic stop data. Collection of data can assist and contribute to the national policing discussion, focus our attention internally on implicit bias and increase trust by making policing in Berkeley more transparent to the community.

On January 26, 2015 the Berkeley Police Department began collecting information for all vehicle (including bicycles) and pedestrian detentions (up to five persons). This stop data is now available for public viewing on the City of Berkeley’s Open Data Portal, which can be accessed at https://data.cityofberkeley.info/Public-Safety/Stop-Data/6e9j-pj9p. The police detention categories on the Open Data Portal are traffic, suspicious vehicles, pedestrian and bicycle stops. You will also find information on the incident number, date, time, location, and the demographic disposition listed in this data.

This data contains information on police contacts between January 26, 2015 through the present. The Berkeley Police Department will be updating this information approximately every 60 days.

B. Structure of the data

The following data items are reflected for each traffic, pedestrian, and bicycle stop. See Appendix 1 for more detailed description of each data item.

Line number

1. Incident number
2. Call date/time
3. Location
4. Incident type (traffic, pedestrian, etc.)
5. Dispositions (race, gender, age range, reason for stop, enforcement action, search/no search)

The data can be downloaded into MS-Excel or other formats for analysis.

C. Race-related analysis of the data


The Police Review Commission, along with several community organizations, spent significant time analyzing the data posted on the BPD website, and drafted
a report detailing the conclusions that we drew from it. In July 2017, when the Center for Policing Equity released its draft interim report, we found that it covered much of the same ground and came to generally the same conclusions as had the PRC. For the sake of clarity and simplicity, we decided to take the CPE report as our starting point. This means that this PRC report will focus primarily on stop data from 2015, and we will give our feedback on the analysis and recommendations contained in the CPE report.

We found the BPD database to be very difficult to navigate, and we will share what we learned so that others have an easier time learning from the data.

In order to produce useful results, certain rows of data must be set aside as they do not provide racial, gender, or age demographics.\(^5\)

Of the 11,808 rows of data supplied by the BPD for 2015, 10,060 usable rows remain after rows without demographics are discarded, meaning that almost 15% of the data cannot be used for this analysis.

Also, in some cases, the standard six characters occur two to five times in one row. This occurs when more than one civilian is encountered in one stop. This occurrence is fairly rare, taking place in only 2.5% of the usable data rows (250). Up to this point we have analyzed only the first individual described in a row.

2. Methodology: the designation of “Race.”

- See Appendix 2 for a brief discussion of the methodological issues of race that the Commission considered. These include the reality that the lens through which race is viewed in the data is the police officer’s perception, and concerns raised in our discussion about opportunities for improvement in the racial categories used by the department.

3. Racial disaggregation of BPD stop data.

Disaggregation is defined as separation of a mass of data into its component parts, specifically into racial or ethnic categories.

The 2015 Agreement between the BPD and the CPE calls for data analysis on “12-months’ worth of pedestrian and vehicle stops using BPD’s current data collection practices.” This scope of study is reflected in this report from the PRC. The CPE report, however, adds several other areas of study including vehicle stops from 2012 through 2014, use of force data from 2012 through 2016, and crime data from 2012 through 2015.\(^6\) This additional data cannot be analyzed by the PRC because the department has not shared it with the commission. The data given to the CPE should be given immediately to the PRC, as the civic commission responsible for advising the City on law enforcement and criminal

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\(^5\) As indicated by the department’s explanation of Disposition data above, “additional dispositions may also appear,” such as P, M, AR, 000000, etc. In cases where only these additional characters are present, and there is no Race designator, the row cannot be used for racial demographics, and we discarded it for this purpose.

\(^6\) https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/CPE%20Draft%20Report%207%201%202017%202.pdf, p. 10.
justice.
The BPD website provides raw, unanalyzed data, with racial designations provided for each civilian contact, but no breakdown giving subtotals by “race.” In order to look for patterns of racial treatment of various ethnicities, it is important to calculate the racial breakdown for the following aspects of the data.

   a) Percentages of civilians stopped, for each racial group, compared to the total of all stops.
   b) Percentage of civilians who are stopped from each racial group, whose stop results in arrest or citation, shown in the BPD data as enforcement. This ratio is known as the “yield rate” or “hit rate” of a stop, or of a search. In this report we will use the term “yield.”
   c) Percentages of civilians who are stopped from each racial group, who are then subject to a search.

The rest of this report section discusses the CPE report on these three aspects.

   a) Vehicle and pedestrian stops.

The CPE finds evidence for a strong racial disparity between vehicle stops of African American and white subjects:

Here, a strong disparity is evident. In an average quarter, 36% of traffic stops involve a Black subject, while only 34% involve a White subject. While these figures are not wildly different, 55% of the Berkeley population is White while only 10% is Black, meaning that a Black driver is nearly six times more likely to be pulled over than a White driver.

Disparities are also evident with respect to Hispanic drivers: they represent 12% of the stops performed by the department, while they make up approximately 11% of the population, a stop rate nearly double that of Whites.7

Similarly, for pedestrian stops:

Most pedestrian stops involved either White or Black pedestrians. In 2015, stops of White or Black pedestrians accounted for approximately 82% of all pedestrian stops: 50% were of White pedestrians and 32% were of Black pedestrians. This, however, is out of step with the demographic makeup of Berkeley: although only one in every 10 Berkeley residents is Black, nearly one third of pedestrian stops involved a Black subject.

Relative to population, Black pedestrians were about 3.5 times more likely than Whites to be stopped by police. Hispanics were slightly less likely than Whites and much less likely than Blacks to be stopped by police while on foot.8

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7 CPE report, figures 1a and 1b, pp. 14-15.
8 CPE report, figures 7b, 8, pp. 22-23.
A note on “residency”:
The Chief has raised concerns about certain assumptions in the CPE report regarding residency, including:

- Discussion of use of force relies on census data, rather than an examination of suspect demographics. Many arrestees are not Berkeley residents.

- The use of the word “resident” is used even though the data does not contain residency information. Berkeley is an active city, with non-residents—and very often non-resident offenders—coming through town at all times, day or night.

- In several instances, community demographics are relied upon in making predictions... this—like labelling everyone BPD contacts, “residents”—can be extremely misleading. (CPE report, Chief’s introduction, pp. 4-5)

PRC comment:
It is true that Berkeley has open borders and people go in and out of the city both day and night.

The PRC’s evaluation is that while CPE uses the word resident loosely, the report does examine the issue of residency extensively. For example:

It is important to recall, though, that the people present in Berkeley at any given time may come from other parts of the Bay Area (or of the state, or of the world), whose demographics may be different from those of Berkeley proper. Thus people who are stopped by police in Berkeley may not necessarily be residents of Berkeley. In the data we have, there is no way to ascertain whether the people who were stopped, searched, or upon whom force was used, were or were not Berkeley residents....

At this time, though, there is no way to control for this effect or to benchmark the effective representation of each racial group in the city. As a result, census-based comparisons are essential, but should be viewed with caution. (CPE report, pp. 13-14)

To be clear, the size of the Black or African American population of Berkeley has continued to decrease, to 7.4%. (Source: City of Berkeley Public Health Director, Office of Epidemiology and Vital Statistics, U.S Census Bureau) This trend is also clear in Alameda County as a whole, with a Black population of 11.6% in 2016, while Contra Costa’s Black population was 9.6% in 2016, and in the Bay Area was 6% in 2013 (Sources: [https://www.census.gov/quickfacts/fact/table/alamedacountycalifornia/PST045216](https://www.census.gov/quickfacts/fact/table/alamedacountycalifornia/PST045216), [https://www.census.gov/quickfacts/fact/table/contracostacountycalifornia/PST045216](https://www.census.gov/quickfacts/fact/table/contracostacountycalifornia/PST045216), [http://reports.abag.ca.gov/sotr/2015/section3-changing-population.php](http://reports.abag.ca.gov/sotr/2015/section3-changing-population.php)).

The idea, therefore, that the daytime population of Berkeley is skewed by an influx of African American outsiders, potentially explaining the plurality of stops being conducted on Black motorists, is without merit. This explanation could only be sustained if vastly larger numbers of Black people visit Berkeley compared to White people. Given employment and academic patterns in Berkeley, this is clearly not taking place. The commission remains concerned about this striking disparity in the race of those stopped by Berkeley police.
b) Yield rate.

The most revealing statistic is not the stop rate by race, but the yield rate by race. Again, this is the percentage of civilians who are stopped from each racial group, whose stop results in arrest or citation. Too low a yield rate suggests that a population may be getting stopped without reasonable suspicion or searched without probable cause. The yield rate, when viewed on a large data base such as this one, is a truer test than the stop rate of whether stops are being made without racial bias. This is because focusing on the yield removes the variable of rates of crime in different population groups.

Here is how CPE explains the significance of the yield rate, which they call the “hit rate:”

This analysis examines the outcomes of stops once they occur. If officers stop and search all drivers at the same level of suspicion, regardless of race, then arrest rates—the rate at which stops and searches uncover illegal activity—should be similar for each racial group. Where the arrest rate for one racial group is lower than for another group, it suggests that the group with the lower hit rate is being stopped and searched for lesser reason (i.e., at a lower level of suspicion) than a group with a higher hit rate: that is, members of that group are more likely to be stopped while they engaged in no unlawful conduct.

Hit rates can also be used to assess the efficiency of policing resource allocation: to the extent that searches of a particular group are frequent but yield a low hit rate, officers’ time and attention is being spent on behavior that fails to detect or deter criminal activity.9

The CPE’s evaluation of the 2015 data shows that few of the African Americans stopped by police – less than a quarter (22%) – and only 30% of Latinos, were arrested or cited during a stop, while 44% of white civilians were arrested or cited. These statistics indicate a significant racial disparity in yield rate (a two-to-one gap between Black and White).

Unfortunately, the meaning of this disparity is not made clear in the CPE report. The problem is that the report’s analysis focuses entirely on the rate of arrests, which are admittedly few (256, or 5.6% of enforcement activity), and overlooks the rate of citations, the overwhelming majority of the enforcement activity (4306, or 94.4%). The only standout in the arrest data is the 4% rate for Asian-Americans; all other groups cluster around 1%. But the disparity in citations indicates that, in CPE’s words, African Americans and Latinos are “being stopped and searched for lesser reason (i.e., at a lower level of suspicion); that is, members of that group are more likely to be stopped while they engaged in no unlawful conduct.”

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9 CPE report, pp. 31-32.
c) Search rate.
The greatest disparities appear with regard to who is searched. CPE states:

While the overall percentage of stops resulting in a search remained steady at around 10% for the general population, this graph shows that Black and Hispanic drivers are much more likely to be searched than are drivers of other races. Once pulled over, Black drivers are about five times more likely to be searched than White drivers, while Hispanic drivers are about 2.5 times more likely.\textsuperscript{10}

For pedestrians, the CPE reports that:

In 2015, 14% of Whites who were stopped on foot were searched. Pedestrian search rates for every minority group were close to double the White pedestrian search rate. 25% of Blacks and 26% of Asians were searched at pedestrian stops, while 30% of Hispanic pedestrians who were stopped were searched.\textsuperscript{11}

PRC agrees with CPE [and BPD verbally] that BPD should capture and share data on seizure of contraband so that it can be included in calculation of search yield rate.

D. Conclusions

According to the CPE’s analysis of data from 2013 and 2014, which the BPD has not shared with the PRC, some disparities have lessened in 2015 and 2016. If these indications are accurate, that is a positive development, and we would like to know if it was due to action by the department or was perhaps circumstantial. Since PRC does not have access to the older data, the use of force data, or the crime data, it is impossible for us to verify the improvement independently. And the disparities remain far too high, as the CPE points out: for example, even after a reported decline of 40% in search disparities from 2013 to 2015, "Hispanic drivers were searched at roughly double the White rate, and Black drivers were pulled over at more than three times the White rate."\textsuperscript{12}

The following conclusion contained in the CPE report would be good for this community to absorb:

[A] major takeaway of this analysis is that the wide racial disparities observed in BPD stops, searches, arrests and use of force combine to create an experience of policing for Black and Hispanic individuals in Berkeley that is quantitatively different from the experience of Whites.

Compared to Whites and Asians in Berkeley, Black and Hispanic people are much more likely to be stopped and searched by BPD.

\textsuperscript{10} CPE report, figure 3b and Table 4, pp. 17-18.
\textsuperscript{11} CPE report, figures 9b, 10 and 13b, and Tables 11 and 12, pp. 25-28.
\textsuperscript{12} CPE report, p. 44.
officers without being charged with any criminal offense. Because they are stopped and searched at higher rates (but arrested at the same rate per stop), Black and Hispanic individuals are much more likely to be arrested than Whites. BPD use of force reports indicate that Black individuals are six times more likely than Whites to experience police use of force.13

Civil rights activists in Berkeley have long pointed to the existence of “two Berkeleys” in the realm of law enforcement. These statistics confirm the anecdotal stories told by many African Americans about over-policing and the perception of policing that is not “fair and impartial”—whether intentionally or not. The numbers tell a story that the majority community simply does not see.

A finding of systemic or institutional racial disparities does not necessarily presume bias on the part of any individual officer. This demographic analysis is simply a beginning point for our mission to address racial disparities. The intent of the Police Review Commission is to work together with the police department and city and community leaders toward truly fair and impartial policing.

E. Additional notes

BPD provided this explanation of the difference between an Enforcement Action of “Other” as opposed to “Warning.” According to the Berkeley police, “Other” could mean “proves not so,” meaning that there was a suspicion that, on investigation, turned out to be incorrect, with therefore no reason for a warning; or that the civilian fled, leaving no ability for the officer to deliver a warning.

Further data analysis could be conducted on the BPD-released data, including a demographic examination of yield from searches by racial group based on the enforcement data; stop and search disparity by gender and age; and the subject of multiple civilians stopped and searched in one incident.

Data points that should be considered for addition beyond those already provided by BPD include: use of handcuffs, contraband yield rate from searches; beat or neighborhood; BPD unit; and a marker for the reporting officer that does not lead to disclosure of his or her identity, but assists in tracking a pattern of disparate behavior.

Regarding use of force, PRC did not analyze this aspect because we were not provided the relevant data by BPD. CPE states:

There were more reported use of force incidents for Black residents of Berkeley than there were for White residents. The per-capita use-of-force rate for Black residents was 65.2 per 10,000, while that for White residents was only 11.0 per 10,000, suggesting that Black residents were about six times more likely to be subject to use of force.14

13 CPE report, p. 45.
14 CPE report, figure 14b, p. 30.
CPE states further that since BPD does not require officers report use of physical force “unless the officer uses a weapon, the subject was injured, or the subject complains. As a result, incidents of physical force not involving a weapon are not comprehensively reported or tracked by BPD, and are not reflected” in the CPE tables showing quarterly use of force counts. The Chief’s statement that “in 2016, our officers handled over 78,000 incidents, conducted over 3,200 arrests, and issued over 5,600 citations… and reported only 32 uses of force (use of a weapon, leaving a visible injury, or where the arrestee complained of pain)” is therefore disingenuous. We agree with the CPE’s call to begin data collection of all use-of-force incidents, as other departments do both nationally and regionally.
Section 4. Anecdotal Reports From Community Members

The incidents listed below give substance to the impersonal data reflected in the previous section. While these accounts have not been litigated, and reflect personal views of the incidents, they bring an important civilian perspective of law enforcement as experienced by communities of color in Berkeley. The issues reflected in this section include racial discrimination and insensitivity, failure to de-escalate, arrest without probable cause, discourtesy, and improper police procedure.

All mentions of “police” refer to BPD officers.

1. 2/2/2014 - 6:30 p.m. An African American vendor at Ashby Flea Market noted an officer on a bicycle outside a fence. The vendor approached the officer asking if there was a problem. The officer explained she was arresting another person for public intoxication. The vendor noted to the officer that he knew the man and verified that he was harmless. The intoxicated man had in the meantime put a backpack in the vendor’s truck. The officer approached the vendor in a loud voice that she needed to search his truck. As she was removing the backpack, other officers approached the vendor from behind and forcibly wrestled him to the ground. At no time did the officers explain their actions. The vendor was arrested, taken to the police station, booked and put into a holding cell. He was never read his rights and was eventually told he was arrested for raising his voice.

2. 5/2/2014 - 10:15 p.m. A group of 3-4 African Americans were stopped by police for jay-walking in front of the high school. The situation got heated as the detainees protested the stop and four police cars arrived on the scene. Two detainees were arrested. A Caucasian couple had crossed prior to this group and were not stopped by police.

3. 5/15/2014. A group of African American UC students were walking to UC down Dwight Way. They jaywalked across Dwight. A police car spotted them and approached the group to stop to talk to the students but the group continued on. The police then pursued the group. The testimony from witnesses and the group was that the police were unduly harsh and rough with them. One or two were arrested and some members of the group filed a suit against police for harsh treatment.

4. 9/28/2014. A racially-mixed family was having pizza at Bobby G’s on University. Another diner called police saying that the mixed couple were “abusing their child by drinking beer and wine in front of their child.” Two police cars arrived with lights flashing. The owner attested that the family were regulars, and were minding their own business watching a football game. Police interrogated the African American father for one hour in a hallway at the restaurant.

5. 11/2014. A mother came to an NAACP meeting to lodge a complaint. Her son takes BART to SF to attend school at CCSF. Many times on his way
between home and Ashby BART, an unmarked police car rolls up and asks her son if he is on parole and other harassing questions such as “where are you going?” and “where do you live?” etc.

6. 11/1/2014, afternoon. In the 3200 block of Sacramento St. a Berkeley Copwatch member witnessed three BPD officers stop a vehicle with 3 African American men. All men were handcuffed and searched and the vehicle was searched but no arrest was made or citation issued.

7. 1/2/2015. An African American minister was stopped for driving without headlights. Without issuing a ticket or warning the officer proceeded to question the minister with “where are you coming from?” and “did you take anything?” (repeatedly). Then the officer proceeded to administer a sobriety check. After all of this, they sent the minister on his way.

8. 1/13/2015. ACLU received a statement from a witness who observed a low-speed car accident involving two vehicles at approximately 10 a.m. According to the witness, the African American driver of the vehicle that was hit was casually talking to a Caucasian officer when he was “slammed onto the police car” and placed under arrest. Also, a non-consent search was made of the arrestee’s vehicle. When the witness asked the arresting officer why the need for escalation she was told the African American driver was resisting arrest. When the driver of the other car involved in the accident and several other witnesses expressed concern how the young man was treated they received no clear answers. No statements were taken.

9. 2/23/2015. An African American resident getting off his bicycle in front of his house in South Berkeley was approached by two officers and asked where he was going. Additionally, this person was stopped another evening and asked if he was a parolee.

10. 7/23/2015. An African American retired city worker made a legal left turn on San Pablo onto Dwight Way eastward. A police car then followed the resident to his home a few blocks up Dwight. The police car pulled into his driveway behind him and asked where he had been and why did he stop here. His wife came out and asked why they were questioning her husband. The answer she received was “mistaken identity.” The officers got in their car and drove off.

11. 9/19/2015. An African American man, a security guard in uniform with a licensed gun, was talking with a Caucasian female on the corner of Bonar and Allston Way after a ceremony at the Berkeley Youth Association. A Caucasian man drove by, parked the car, got out and started videotaping the couple. The African American man asked the driver to stop videotaping. The man answered that it was his right to do so and started making statements such as “don’t bring a gun into my neighborhood.” After a heated back-and-forth, the driver called the police. Eight cars arrived. The lead officer reviewed the credentials of the African-American man, was satisfied and departed. One of the remaining officers stayed and
continue to ask the same questions for another 15 minutes. The African American security guard registered that he felt he was “unduly questioned” and was being “badgered.”

12. 9/20/2015. A vehicle was stopped on Sacramento at Fairview at 8:21p.m. for driving without headlights. Two officers approached the vehicle. There was one African American man and two African American women in the car. The driver was removed from the car and handcuffed. The two women were made to stand against the wall on the sidewalk. The vehicle was searched. Another police vehicle pulled up and talked to the officers. Shortly thereafter the persons were released without arrest or citation. A Public Records Act request was filed by NAACP on this incident and the response from BPD was that there was no information on this stop.

13. 9/21/2015. A witness observed an auto parked on Sacramento Street with four under-30 African American men. A police vehicle drove up and stopped at the parked car. Two officers got out and one officer asked all four in the parked car to step out. Each African American man was searched and the parked car was searched. No police action was taken. The officer in charge issued this warning before driving off: “We are watching you.”

14. Approximately 11/20/2015. A young Latino PRC member went on a ride-along with a BPD commander on his duty shift. He recounted “racially biased behavior from some officers” and “prejudiced comments about communities of color” during the ride and in the station.

15. 2016. The owners of “44 Restaurant and Lounge” lodged a complaint with NAACP and police. During happy hour to 8 p.m. the guests that frequent the bar are a racially mixed crowd. After 8 p.m. the guests are predominantly African American. After a minor complaint to police from a resident, the police parked a car with lights off across the street from the establishment for a period of four months. “44” has no history of rowdiness or spillover from bar patrons onto the sidewalk or the street. The bar down the street, Nick’s Lounge, has spillover into the street almost every night. The owners of “44” and the NAACP observed there is no police presence at Nick’s.
Section 5. Literature Review and Related Reports

This section of the report presents an overview of three recent reports on policing policies and practices along with some of the findings of each report. More detailed information about the reports and their findings is shown in Appendix 3 to this report. The three reports are:

- The President’s Task Force on 21st Century Policing completed in May 2015
- A study of Oakland Police Department’s (OPD) policies and practices by Stanford University completed in June 2016
- The Interim Report by the Center for Policing Equity (CPE) on the Berkeley Police Department (BPD) released in July 2017

These studies provide insight and recommendations on policing policies, practices and related stop and use of force data, and analysis by ethnic group. The information and insights from these studies were used, in part, by the PRC in developing its recommendations to the City Council.

President’s Task Force on 21st Century Policing Report

This was a national study involving law enforcement, the community, and other diverse stakeholders done to advise the president of the United States on key issues that should be addressed to improve policing nationwide.

The members of the Task Force on 21st Century Policing set forth many recommendations designed to bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities.

The Stanford Study on OPD

This study was a cooperative effort between Stanford researchers and OPD which initiated the study. It was an exhaustive and comprehensive two-year study undertaken commissioned by Oakland to analyze and improve its policing policies and practices. It was completed in June 2016.

The Stanford research on thousands of police interactions found significant racial differences in Oakland police conduct toward African Americans and other groups in traffic and pedestrian stops, and offers a data-driven approach to improving police-community relationships there and elsewhere.

The report makes 50 specific recommendations for police agencies to consider, such as more expansive data collection and more focused efforts to change the nature of mindsets, policies and systems in law enforcement that contribute to racial disparities.

The Interim CPE Report on BPD

This interim report was released in July 2017. Further work will be needed over the next few months to provide a more comprehensive, final report. In the
meantime, the PRC has reviewed the CPE data and recommendations and included our analysis and recommendations in this report.

Some important points excerpted from the interim CPE report follow:

The report presents analyses of BPD traffic stops and searches for calendar years 2012 through 2015, pedestrian stops for calendar year 2015, and officers’ use of force for calendar years 2012 through 2016. For all these analyses, we isolate race and ethnicity, exploring differences in practices and modeling outcomes of interest while controlling for competing factors, such as place specific crime rates. The raw data point to disparate treatment of Berkeley citizens based on race and ethnicity in vehicle stops and in use of force. While neighborhood variations in crime rates explain some of these disparities, some racial disparities remain after controlling for crime and other nonracial factors. After adjusting for community-level demographic differences, Black and Hispanic drivers remain exposed to higher stop rates than White drivers, and Black individuals remain much more likely to experience use of force.

BPD’s data collection with respect to use of force is not comprehensive. When its officers use force, BPD does not necessarily require its officers to complete a Use of Force report. Unlike many other departments, BPD requires that use of force incidents be reported only if a weapon is used, the person is injured, or the person files a complaint. As a result, CPE was unable to report any findings with respect to racial disparities in unreported use of force incidents. CPE encouraged BPD to begin data collection of all use-of-force incidents.

Many questions about these disparities remain unanswered, but could be addressed through more complete data collection and by further empirical investigation using more detailed geolocation data and more nuanced statistical analysis than can be provided in this interim report. Several such opportunities are identified in this report and its recommendations.

The interim CPE report makes 11 recommendations, which are shown in Appendix 3 to this report.

BPD’s Initial Response to the CPE Report

BPD’s initial response and comments on the CPE report, dated July 14, 2017, were included as a cover letter to the interim CPE report that was submitted to the City Council. The comments point out accomplishments by the BPD, BPD’s history of commitment to policing without racial profiling, the need for more dialog with CPE to insure all the data is clear and correct in the CPE report, and outlines the significant training that has been done in the department around these issues and policies that have been adopted, some of which are noted in the section below.
Section 6. BPD Initiatives to Address Impartial Policing Issues

BPD has been gathering more comprehensive stop, detention and arrest data since at least 2012, and since 2015 has given the community access to the data via BPD’s website. This was a good first step, but it’s clear from the interim CPE report that other data including additional use of force data should be added to the database.

In the last several years BPD indicates it has increased its training program related to impartial policing as follows:

- Leveraging Differences for a Competitive Advantage – This City-wide course was designed to understand a business case for diversity, how perception impacts team effectiveness, how differences in communication styles can impact the workplace, and tools for improving effectiveness. 2017
- Fair and Impartial Policing – BPD In-House training, Multiple Workshops spanning 2010-2016
- Tactical De-escalation – BPD In-House Training, 2016
- Crisis Intervention Training – 37-hour class (over 40% have attended thus far; we send officers whenever a class is offered) 2011-present
- Crisis Intervention Training – 8 Hour training 2016
- POST Biased-based Policing – 2014

BPD indicates it has also adopted several general orders and policies related to fair and impartial policing including those below.

- General Order B-4, Fair and Impartial Policing,
  Reaffirms the commitment of the Berkeley Police Department to fair and impartial policing; to clarify the circumstances in which officers can consider race, ethnicity and other demographics; and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way.
  - Police Regulation 282 Non-discrimination/Equal Employment
    Mandates employees to be fair and equitable in all their relations with citizens. Harassment on the basis of race, color, religion, ancestry, national origin, age, sex, et al. shall not be tolerated.
  - Police Regulation 257 Enforcement of Laws – Impartiality
    Mandates that employees shall enforce laws in a fair and impartial manner.
Section 7. PRC Policy and Practice Recommendations

As indicated in this report, the PRC has reviewed fair and impartial policing reports and recommendations from: the Center for Policing Equity (CPE) draft report on BPD, the Stanford Study on Oakland policing, and 21st Century Policing (a Federal Dept. of Justice report). These four reports contain over 100 recommendations to improve policing. The PRC has also reviewed and analyzed the stop data that has been gathered by BPD over the last two years. Using all of this information, the PRC has agreed upon the following recommendations to the Berkeley City Council:

A. Data Collection and Analysis.

1. BPD should add the additional data to that already being collected on traffic, bicycle, and pedestrian stops, within three months:
   a. Police use of force in the encounter (firearm, weapon, physical, less-lethal, OC, other, None)?
   b. Were handcuffs used in the encounter?
   c. Were civilians frisked/pat-searched?
   d. Was contraband found?
   e. Beat/neighborhood, and BPD unit

   BPD should collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests) and provide public access to the information. (Also recommended in 21st Century Policing.)

   Each column in the BPD spreadsheet should contain a separate and distinct field of data. Currently the “Dispositions” column contains multiple fields of data (race, gender, disposition, etc.). This makes the analysis and sorting of information very difficult. There should be a separate Race column, Gender column, etc.

2. BPD should prepare an initial report to the PRC and City Council within six months analyzing all stop data since January 2016, and quarterly thereafter. BPD should work with the PRC to aggregate and present all stop data in a way that can easily be understood by all stakeholders on an ongoing basis.

   - Make data accessible using a stop data dashboard; automate data analysis; hire a data manager/analyst. (Also recommended by Stanford OPD study.) In addition, the City should hire or engage a third party to review the data and report to the Council and PRC semiannually.

   The department should provide basic graphs and charts on its website that summarize the data in a clear and meaningful way.
Such visual aids will provide much greater access to information on recent stop trends than would a database alone.\textsuperscript{15}

BPD’s report to PRC should include stop data by officer, including the number of years of BPD experience of the officer, stripped of identifying information, in a form that can be aggregated to show a historical pattern.

3. More work needs to be done to correctly identify the ethnicity of individuals during a stop so that stop data is accurately represented.\textsuperscript{16}

4. Change the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint. (Also recommended by CPE.)

B. Addressing racial disparities shown in the data.

BPD should develop a specific action plan to counteract the racial disparities addressed in this report. The action plan should be in writing, and be regularly updated with strategies, results and actions taken to remedy any inequities or problems, and be reported to the PRC and Council in the quarterly report referenced above. The report should indicate what the department found and what it did to address problems, along with any indication of policies or orders that drove any disparate behavior. The core of the action plan should be as follows:

1. BPD shall monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. Review data evidence of racial disparities with regard to stops, searches, yield ratio between stops and citations/arrests, yield ratio between searches and contraband confiscated, use of force, use of excessive force. Analyze data about charges filed based on vehicle, bicycle, and pedestrian stops. (Also recommended by CPE.)

\textsuperscript{15} The following charts are examples to consider from the Richmond Police Department: https://opendata.ci.richmond.ca.us/Public-Safety/Reasons-for-Use-of-Force-Pie-Chart-/9wzz-ghyd
https://opendata.ci.richmond.ca.us/Public-Safety/Use-of-Force-Incidents-Since-2013-by-Call-Type/dkkh-c5yr
https://opendata.ci.richmond.ca.us/Public-Safety/Type-of-Force-Used-by-Officers/2mmb-56w6

See also the Police Strategies website cited above in the Background section.

\textsuperscript{16} We suggest this list, drawn from the 2010 US Census and influenced by the projected 2020 Census questions.

1. Latino or Hispanic origin
3. White or European origin
4. American Indian/Alaska Native
5. “AMEMSA” (Arab/Middle Eastern/Muslim/South Asian)
6. Other Asian/Pacific Islander origin
7. Other or unknown

2. Analyze data to determine whether the disparities are generalized across the force, or are concentrated in a smaller subset of outlier officers or squads/groups of officers. (The Stanford study defines outlier officers as “officers who are at risk of developing problematic behaviors or who have already done so.”) With respect to individual officers, set thresholds to identify outliers, such as those with a yield rate below the mean.

3. Where disparities are concentrated in a subset of officers, initiate investigation to determine the cause for the disparity. Evaluate and assess search incidents for legality. Evaluate whether there are identifiable causes contributing to high search rates and high or low recovery rates exhibited by outlying officers. Determine if there are any trends and patterns among officers with low and high recovery rates.\(^\text{17}\)

4. Where disparities are generalized across the force, review policies and practices to determine the institutional cause for the disparity.
   - Review policies on handcuffing people in searches, searching people who are on probation or parole, and asking people whether they are on probation or parole. (Also recommended by Stanford OPD study.)

5. Intervention is initially non-disciplinary, focused on training and counseling.\(^\text{18}\) If a yield or other problem is identified for a squad and/or beat, train the supervisor as well as the officer.
   - Identify officers who may have problems; monitor and reduce time pressures, stress and fatigue on officers. (Also recommended by Stanford OPD study.)
   - Also: Improve feedback channels. Give officers individualized feedback on their stop performance. Conduct customer-service audits after routine stops. Regularly administer community surveys.

6. As part of the quarterly report, BPD should detail what steps it has taken to address problems, along with any indication of policies or orders that drove any disparate behavior.

7. Develop an "early warning" systems to head off future problems of bias. (Also recommended by Stanford OPD study.)

C. Body cameras.

1. Accelerate procurement and full rollout of body cameras to all BPD officers. Immediately provide a project plan with timeline for rollout.

\(^{17}\) For example, did searches that do not show an investigative nexus, or an additional reason for search other than probation or parole status, result in a different level of recovery?

\(^{18}\) Per the 21st Century report, review of certain episodes including those that may be “within policy but disastrous in terms of community relations….will have a better chance of success if departments can abandon the process of adversarial/punitive-based discipline, adopting instead ‘education-based’ disciplinary procedures and policies.” Page 23.
• Use body camera footage to train officers and evaluate policies; require officers to self-audit racially charged footage. (Also recommended by Stanford OPD study.)

D. Other departmental steps.

1. BPD should engage/partner with academic institutions for advice in ongoing impartial policing studies and strategies, such as the African American Studies Department at UC Berkeley.

2. The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Policies should be put in place to support and properly implement officer wellness and safety programs. (Also recommended in 21st Century Policing.)

3. Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances. (Also recommended by Stanford OPD study.)

4. Law enforcement officers should be required to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted. (Also recommended by Stanford OPD study.)

E. Community relations.

1. BPD and PRC prepare within six months a detailed action plan to build community relationships, trust in and accessibility to the department, especially addressing communities of color and immigrant communities and high crime areas.

2. BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. (Also recommended by CPE.)

3. Increase positive community contact. Hold monthly relationship-building meetings. Show more care in high-crime areas. Develop and track measures of community engagement. (Also recommended by Stanford OPD study.)
Section 8. Conclusion

In the words of the National Institute of Justice,

Racial and ethnic minority perceptions that the police lack lawfulness and legitimacy, based largely on their interactions with the police, can lead to distrust of the police. Distrust of police has serious consequences. It undermines the legitimacy of law enforcement, and without legitimacy police lose their ability and authority to function effectively.19

On the other hand, law enforcement based on concepts of Procedural Justice,20 Principled Policing,21 and Reconciliation22 can build legitimacy and trust in the police, directly enhancing public safety. Four pillars of procedural justice include:

1. **Voice** (the perception that your side of the story has been heard);
2. **Respect** (perception that system players treat you with dignity and respect);
3. **Neutrality** (perception that the decision-making process is unbiased and trustworthy);
4. **Understanding** (comprehension of the process and how decisions are made).

The recommendations that the Police Review Commission makes in this Report are designed to be positive, constructive, and non-judgmental. They are intended as an aid to the police department and the city leadership to understand the concerns arising from both the department’s data and the anecdotal community testimony.

The Commission appreciates the willingness of the community members who served as members of the Fair and Impartial Policing Subcommittee, and others who gave testimony to the Subcommittee. We thank the PRC staff and community and academic partners, including the Center for Policing Equity and others, for your support for this initiative.

We also thank the Berkeley Police Department – both its management and officers – for their perspective and expertise in local policing policies and practices. The PRC intends to continue proactively cooperating with BPD to help effect positive change in policing practices in Berkeley and to support BPD to become a national leader in fair and impartial policing strategies and policies.

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21 https://uploads.trustandjustice.org/misc/ChiefJOnesPrincipledArticle.pdf
22 https://trustandjustice.org/resources/intervention/reconciliation
# Appendix 1. Structure of BPD Demographic Data

Descriptions for each data item appear in the Information button at the top of each column on the web page.

<table>
<thead>
<tr>
<th>Data Item</th>
<th>BPD description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Line number</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>7. Incident number</td>
<td>Created by BPD Computer Aided Dispatch system.</td>
<td></td>
</tr>
<tr>
<td>8. Call date/time</td>
<td>Date and time of the incident</td>
<td></td>
</tr>
<tr>
<td>9. Location</td>
<td>General location of the incident/stop</td>
<td></td>
</tr>
<tr>
<td>10. Incident type</td>
<td>This is the occurred incident type created in the CAD program. A code signifies a:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Traffic stop (T)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suspicious vehicle stop (1196)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pedestrian stop (1194)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bicycle stop (1194B)</td>
<td></td>
</tr>
<tr>
<td>11. Dispositions</td>
<td>Ordered in the following sequence:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1st Character = Race, as follows: A (Asian) B (Black) H (Hispanic) O (Other) W (White)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2nd Character = Gender, as follows: F (Female) M (Male)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3rd Character = Age Range, as follows: 1 (Less than 18) 2 (18-29) 3 (30-39), 4 (Greater than 40)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4th Character = Reason, as follows: I (Investigation) T (Traffic) R (Reasonable Suspicion) K (Probation/Parole) W (Wanted)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5th Character = Enforcement, as follows: A (Arrest) C (Citation) O (Other) W (Warning)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6th Character = Car Search, as follows: S (Search) N (No Search)</td>
<td></td>
</tr>
</tbody>
</table>
Additional dispositions may also appear. They are:
P - Primary case report
M - MDT narrative only
AR - Arrest report only (no case report submitted)
IN - Incident report
FC - Field Card
CO - Collision investigation report
MH - Emergency Psychiatric Evaluation
TOW - Impounded vehicle
0 or 00000 – Officer made a stop of more than five persons
Appendix 2. Concept and Methodology of the Designation of Race

- Social scientists understand the concept of race itself to be a social construct and to be scientifically invalid. We discuss race only to understand human attitudes and patterns of identity and discrimination and oppression. It stands in for other factors such as ethnicity, nationality, religion, color, etc.

- The designation of race in the stop-data refers to the officer’s perception of the civilian’s “race,” not to the civilian’s self-identity, nor even to the civilian’s “true race.” This is because the critical question in the encounter between the two is what is in the mind of the officer; that is, does the officer believe he or she is encountering a Black, White, Latino, Asian, or other person?
  - The officer is expected to give a true report on his or her perception of the civilian’s “race.”

- Subcommittee members raised other methodological questions about the racial designation, including:
  - A policy complaint was submitted in 2015 by an African gentleman whose race was denoted as “Other” by a BPD officer. The category of “Black” should include people of African and Afro-Caribbean descent. The concern is that the number of Black people stopped and searched may be under-counted.
  - “Asian” is so broad a term as to be useless and is somewhat offensive. The population of Asia itself is some 4.3 billion people, 60% of humanity. It should be possible for officers to determine a somewhat finer breakdown.
  - Add “AMEMSA” (Arab/Middle Eastern/Muslim/South Asian) or some variant.
  - The term “Latino” is arguably more appropriate than “Hispanic,” which some Latinos perceive as offensive.
Appendix 3. Details of Literature Review and Related Reports

This appendix presents a review of three recent reports on policing policies and practices along with some of the overview findings of each report. The three reports are:

- The President’s Task Force on 21st Century Policing completed in May 2015
- A study of Oakland Police Department’s (OPD) policies and practices by Stanford University completed in June 2016
- The Interim Report by the Center for Policing Equity (CPE) on the Berkeley Police Department (BPD) released in July 2017

These studies provide insight and recommendations on policing policies, practices and related stop and use of force data, and analysis by ethnic group.

President’s Task Force on 21st Century Policing Report

This was a national study involving law enforcement, the community, and other diverse stakeholders done to advise the president of the United States on key issues that should be addressed to improve policing nationwide. The report’s findings are summarized as follows:

- Building trust and nurturing legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve.

- Police must carry out their responsibilities according to established policies and those policies must reflect community values. To achieve this end, law enforcement agencies should have clear and comprehensive policies on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures – among others such as external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths. These policies should also include provisions for the collection of demographic data on all parties involved. All policies and aggregate data should be made publicly available to ensure transparency.

- The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated and must set expectations for transparency, accountability, and privacy.

- The report emphasizes the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working
with neighborhood residents to co-produce public safety. Law enforcement agencies should, therefore, work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

- Today’s line officers and leaders must be trained and capable to address a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis. To ensure the high quality and effectiveness of training and education, law enforcement agencies should engage community members, particularly those with special expertise, in the training process and provide leadership training to all personnel throughout their careers.

- The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Policies should be put in place to support and properly implement officer wellness and safety programs.

The members of the Task Force on 21st Century Policing set forth many recommendations designed to bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities. These recommendations are used as insights for the PRC recommendations herein.

The Stanford Study on OPD

This study was a cooperative effort between Stanford researchers and Oakland’s Police Department, which initiated the study. It was a comprehensive two-year study undertaken by Oakland to analyze and improve its policing policies and practices. It was completed in June 2016.

Across the United States, the report noted, police agencies are guided by the commitment to serve communities with fairness, respect and honor. Yet tensions between police and communities of color are documented to be at an all-time high.

The Stanford research examined data from body camera footage, police stops and reports, and community and resident surveys of thousands of Oakland police interactions. It found significant racial differences in Oakland police conduct toward African Americans and other groups in traffic and pedestrian stops, and offers a data-driven approach to improving police-community relationships there and elsewhere.

The report makes 50 specific recommendations for police agencies to consider, such as more expansive data collection and more focused efforts to change the nature of mindsets, policies and systems in law enforcement that contribute to racial disparities.
The study analyzed traffic stop data from police body cameras that occurred between April 1, 2013, and April 30, 2014. During this period, 28,119 traffic and pedestrian stops were recorded by 510 police officers. Police can legally stop people on the basis of traffic violations, probable cause, reasonable suspicion, or for being on probation or parole, among other reasons.

They found that 60 percent of police stops in Oakland, or nearly 17,000 stops, were made of African Americans. This rate is more than three times that of the next most common group, Hispanics (whites accounted for 13 percent). The research also showed that:

- When officers report being able to identify the race of the person before stopping them, the person stopped is much more likely to be African American (62 percent) than when officers couldn’t tell the race (48 percent).
- African American men were more likely to be handcuffed during a stop (1 out of 4 times) than whites (1 out of 15 times), excluding arrests.
- African American men were also more likely to be searched (1 in 5 times vs. 1 in 20 times for whites), though officers were no more likely to make a recovery from those searches.
- African American men were more likely to be arrested after a stop by police –1 in every 6 vs. 1 in 14 for white men.

Also, 77 percent of Oakland police officers who made stops during the 13-month period never discretionarily searched a white person, but 65 percent did so with an African American person.

Likewise, 74 percent of these officers did not handcuff a white person who was not ultimately arrested, yet 72 percent did so with an African American person. Also, the degree of racial disparities in handcuffing and arrests was lower for more experienced officers than less experienced ones.

The researchers point out that racial disparities are not defined as overt racism – in fact, they found no such acts by Oakland police officers while conducting the study. It is not so much an individual as an institutional problem or pattern, they note. They found a consistent and persistent pattern of racial disparity, even when data was controlled for variables such as crime rate. They said that drilling deep into the data allowed the researchers to identify problem areas and evidence-based recommendations.

The researchers suggest that police departments in Oakland and elsewhere can overcome a subtle bias problem. Using better data, providing education and becoming informed are the first steps.

The report had many specific recommendations that are used herein by the PRC for BPD where applicable.
The Interim CPE Report on BPD

This interim draft was released in July 2017. Further work will be needed over the next few months to provide a more comprehensive report. In the meantime, the PRC has reviewed the data and recommendations and included our analysis and recommendations in this report. A summary of the CPE report findings and recommendations are shown below.

According to CPE the aim of this interim report is to begin to provide the Berkeley Police Department a powerful tool toward identifying and reducing biases, and improving community-police relations. It is intended as a preliminary guide toward options for ensuring equity in public safety. Too often, law enforcement data have been captured with an eye towards accounting or litigation, without leveraging the data to optimize performance. This report is designed to help fill that gap, providing straightforward statistical answers to some of the most pressing questions facing BPD and other law enforcement agencies.

The Center for Policing Equity aims to address the needs of both law enforcement and communities, who can avail themselves of the CPE’s National Justice Database (NJD). The NJD collects policing data to measure fairness and improve policing equity, and to make its findings transparent to law enforcement and to communities. NJD’s analysis applies a rigorous analytic framework to make sense of policing data, seeking to identify and understand the consequences of policing activities and the sources of racial disparity. In this research brief, empirical documentation is presented of the degree of racial and ethnic disparities in BPD’s policing practices, as well as possible interpretations of such differences. While the results are mixed, the NJD analysis reveals encouraging findings and heartening trends. It also flags questions and disparities that warrant further investigation and reform.

The BPD’s collection of vehicle stop data has been quite comprehensive; researchers were able to analyze data from vehicle stops between January 2012 and October 2015. The BPD began documenting pedestrian stops in January 2015. As a result, this report was prepared with the only year of data that was available. We encourage the BPD to continue its collection of vehicle and pedestrian stop data so that more powerful analyses can be conducted on a larger dataset representing multiple years of BPD practice.

However, BPD’s data collection with respect to use of force is not comprehensive. When its officers use force, BPD does not necessarily require its officers to complete a Use of Force report. Unlike many other departments, BPD requires that use of force incidents be reported only if a weapon is used, the person is injured, or the person files a complaint. As a result, CPE was unable to report any findings with respect to racial disparities in unreported use of force incidents. CPE encouraged BPD to begin data collection of all use-of-force incidents.

CPE’s findings are summarized as follows:
The pages that follow present analyses of BPD traffic stops and searches for calendar years 2012 through 2015, pedestrian stops for calendar year 2015, and officers’ use of force for calendar years 2012 through 2016. For all these analyses, we isolate race and ethnicity, exploring differences in practices and modeling outcomes of interest while controlling for competing factors, such as place specific crime rates. The raw data point to disparate treatment of Berkeley citizens based on race and ethnicity in vehicle stops and in use of force. While neighborhood variations in crime rates explain some of these disparities, some racial disparities remain after controlling for crime and other nonracial factors. After adjusting for community-level demographic differences, Black and Hispanic drivers remain exposed to higher stop rates than White drivers, and Black individuals remain much more likely to experience use of force.

Other results of this interim analysis offer reasons for concern and opportunities for further investigation and reform. Although disparities declined over the time period measured, Black and Hispanic drivers, and Black pedestrians, remain much more likely to be stopped by police than their White counterparts. Moreover, BPD data indicated wide and unexplained racial disparities in search rates. Black and Hispanic drivers, in particular, were disproportionately likely to be stopped and searched without being arrested. Meanwhile, although Asian drivers were less likely than White drivers to be stopped, they were five times more likely to be searched, and four times more likely to be arrested, at a stop. Furthermore, data with respect to stops and searches revealed wide variation in racial disparity among BPD beats. Finally, Black people were subjected to reported use of force at about six times the rate of Whites. These disparities are largely unexplained, and warrant further investigation, in particular with respect to the charges filed against drivers of these racial groups.

This report’s analysis and explanation of observed racial disparities in BPD policing data is limited by the data BPD has shared with researchers, and by the time available for data analysis and reporting. Many questions about these disparities remain unanswered, but could be addressed through more complete data collection and by further empirical investigation using more detailed geolocation data and more nuanced statistical analysis than can be provided in this interim report. Several such opportunities are identified in this report and its recommendations.

CPE’s report presented 11 specific recommendations as follows:

1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury or complaint.

2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband found during vehicle or pedestrian searches, and that it analyze data about charges filed at vehicle and pedestrian stops.
3. We recommend that BPD track and analyze whether law enforcement actions are officer-initiated, or respond to calls for service.

4. We recommend that BPD affirm that the egalitarian values of their officers are visible in the work they do.

5. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values.

6. We recommend BPD track hit rates and monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success.

7. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

8. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist.

9. We recommend that trainings include clear messaging that group-based hierarchy is not consistent with the values of BPD.

10. We recommend that value-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department.

11. We recommend leveraging the existing community advisory board to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. While not an exhaustive list of possible solutions to the issues raised in this report, these 11 recommendations represent straightforward first steps towards addressing each of them.

The PRC’s analysis of the CPE report and related recommendations are presented elsewhere in this report.