



# Public Safety Committee

City of Berkeley  
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## ACTION CALENDAR

July 23th, 2019

To: Honorable Mayor and Members of the City Council

From: City Council Public Safety Committee:  
Councilmember Ben Bartlett  
Vice Mayor Susan Wengraf  
~~Councilmember Rashi Kesarwani~~  
Councilmember Rigel Robinson

Subject: Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement

### RECOMMENDATION

That the City Council, with a qualified positive recommendation, for the Mayor to convene the task force, as outlined in Councilmember Harrison's amended referral (4/24/18), in an expeditious manner and to request that adequate budget resources be allocated to allow the task force to complete its work regarding the City Manger's Referred April 30th, 2019 item: Review and provide feedback on the Berkeley Police Department responses to inter-related Council and Police Review Commission referrals, reports and recommendations, including the Center for Policing Equity report recommendations, regarding stop data collection, data analysis, community engagement, and related topics.



Kate Harrison  
Councilmember District 4

ACTION CALENDAR  
April 24, 2018

To: Honorable Mayor and Members of the City Council  
From: Councilmember Harrison  
Subject: Accept and Acknowledge Report from the Berkeley Police Review Commission, “To Achieve Fairness and Impartiality,” and Refer Key Recommendations to the City Manager for Policy Development and Consideration in September 2018 Report to City Council.

RECOMMENDATION

1. Accept and acknowledge the Berkeley Police Review Commission’s (“PRC”) Report and Recommendations: “To Achieve Fairness and Impartiality.”
2. Refer key PRC report recommendations, detailed in the Background below, to the City Manager ~~fer to~~:
  - a. ~~consideration~~ in the September 2018 City Manager Report to City Council on the Berkeley Police Department’s efforts to track yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found; and implement policy and practice reforms; and
  - b. ~~development~~, where appropriate, ~~of~~ new BPD policies, or further ~~enhancement to~~ existing BPD policies.

BACKGROUND

The City of Berkeley and its police department are internationally recognized as having contributed to the development of modern law enforcement policies, practices and accountability measures. In the first decades of the twenty-first century, renewed community engagement in the issue of police disparities has focused attention on improving accountability in policing across departments in the Bay Area and the country.

In response to the findings from the Center for Policing Equity and the PRC, on November 14, 2017, the City Council passed a referral directing the City Manager to:

[T]rack yield, stop, citation, search and arrest rates by race, develop training programs to address any disparities found, and implement policy and practice reforms that reflect cooperation between the Berkeley Police Department (“BPD”), the Police Review Commission (“PRC”) and the broader

Berkeley community. The City Manager will report findings in September 2018 and annually thereafter, using anonymized data.

On January 23, 2018, the PRC submitted to the Council, the final report of its Fair and Impartial Policing Subcommittee, which was formed in January 2016. The independent report, unanimously adopted by the full PRC, examined testimony from community members regarding racially-based disparate treatment of civilians by the BPD, and also offered a range of specific policy, process, and practice recommendations. Council continued consideration of the report to the April 24, 2018 meeting.

This Council item accepts the report and acknowledges the important work of the PRC.

Many of the PRC's policy, process, and practice recommendations are already incorporated in the November 14, 2017 Council referral to the City Manager. The November referral is an important step in the right direction. However, there are some key recommendations that were not included in the November referral.

The policy goals of the Council, City, and the community would be well served if these additional set of recommendations are referred to the City Manager for policy development and further consideration in the September 2018 City Manager Report to City Council on racial disparities in policing.

The following PRC policy recommendations should be referred to the City Manager:

## 1. Create, Present and Execute a Departmental Action Plan

A written departmental action plan should be an important part of the City Manager and Department's efforts to study and address racial disparities.

In November, the Council directed the City Manager to "report findings" to the Council by fall 2018, but it did not require an action plan to follow on those findings. To be effective and broadly accepted, the action plan should be developed by a task force appointed by the City Manager to include representatives of the BPD, Berkeley Police Association, PRC, interested community organizations (particularly of constituencies of color), and academic experts. The plan, presented to the PRC for consideration and then the Council within six months of the above findings, would detail solutions to the problem, measures to address racial disparities, taking into account the action plan recommendations contained in the PRC and CPE reports.

## 2. Officer Identification

Develop a policy requiring officers to identify themselves by their full name, rank

and command and provide it writing (e.g. a business card) to individuals they have stopped, as in Oakland, New York, Providence, and San Jose.

### **3. Review and Update BPD Policy Surrounding Inquiries to Parole and Probation Status**

The City Manager and BPD review existing policies surrounding asking the community members whether they are on probation or parole.

### **4. Enhance Search Consent Policies**

The City Manager and the department create a policy that officers state the reason for a stop and/or search, obtain consent before initiating a search, and explain that a person has a right to refuse consent when there is no probable cause or warrant (except when the officer has reason to believe there is an immediate safety concern and conducts a pat search). Ideally, officers should obtain written acknowledgement that they have sought consent.

~~The~~ Oakland and New York City require officers to get written or audio recorded consent before searching a person without a legal basis.

The following PRC policy recommendations enhancing the utility of existing technological systems should be referred to the City Manager:

### **5. Reporting Data on the Public Data Portal**

The City Manager should consider the PRC's recommendation that the BPD integrate existing and planned data collected by the BPD, such as that related to use of force; handcuff, frisked/pat-search use; discovery of contraband; and beat/neighborhood and unit, into the *public* data portal.

The Council's November 14, 2017 referral was internally focused and required nothing specifically to be reported into data portal. Ongoing efforts to address racial disparities will be enhanced by further public transparency and easier to use data.

### **6. Simplifying Public Data Portal Data Structure**

Insure that data columns in the online portal include distinct data points. This

would be a change from the current practice, where certain columns include multiple fields. This change would enhance the readability of the data set.

## **7. Collect Data on Frisks and Summons**

The City Manager should consider the PRC's recommendation that the BPD collect data on all BPD detentions including, frisks and summons.

The Council did not require that these important data points be included in expanded data collection. However, adding these points would greatly enhance the city's understanding of the scope of racial disparities.

The following longer-term PRC technological recommendations should be referred to the City Manager:

## **8. BPD Data Dashboard**

The City Manager should explore the establishment of a data dashboard from which BPD leadership can view real-time data about racial disparities and other policing data, as well as provide accessible graphs and charts reflecting relevant data analysis.

In the last budget referral, money was appropriated by Council for a BPD data analyst. The dashboard would represent an important venue through which the Data Analyst could present their findings to department leadership.

## **9. Enhance Existing "Early Warning" Systems**

Enhance existing BPD "early warning" system to identify and mitigate issues of bias by department staff for internal performance review and intervention.

### FINANCIAL IMPLICATIONS

Staff time would be necessary for considering these additional proposals and developing new policies to satisfy their intent.

### ENVIRONMENTAL SUSTAINABILITY

No Ecological Impact

### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

### ATTACHMENT

Accept and Acknowledge Report from the Berkeley Police Review Commission, "To Achieve Fairness and Impartiality," and Refer Key Recommendations to the City Manager for Policy Development and Consideration in September 2018 Report to City Council.

ACTION CALENDAR  
April 24, 2018

1. Chart Comparing November 14, 2017 Council Referral to City Manager to April 24, 2018 Key Recommendations to the City Manager