



Kate Harrison
Councilmember District 4

REVISED AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: April 24, 2018

Item Number: 38b

Item Description: **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**

Submitted by: Councilmember Harrison

Adds detail about how the action plan should be developed and makes other minor edits.



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 ~~for~~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

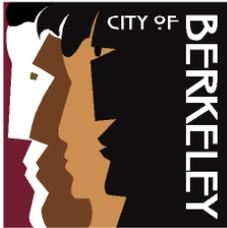
Councilmember Kate Harrison, Council District 4, 510-981-7140

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



Kate Harrison
Councilmember District 4

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

Council Referral to City Manager (11/14/17)	Key Recommendations to the City Manager (4/24/18)
<p>Action: 24 speakers. M/S/C (Bartlett/Wengraf) to approve the following recommendation.</p> <p>Direct the City Manager 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 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.</p> <p>1. Tracking yield rates (i.e., the percentage of citations or arrests per traffic or pedestrian stop and the ratio of contraband found by search conducted) by individual officer, by patrol and by the department as a whole disaggregated by the race of the individual(s) stopped. This will include analyzing whether police actions were officer- initiated or in response to calls for service or</p>	<p>The following PRC policy recommendations should be referred to the City Manager:</p> <p>1. Create, Present and Execute a Departmental Action Plan</p> <p>A written departmental action plan should be an important part of the City Manager and Department’s efforts to study and address racial disparities.</p> <p>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</p>

warrants. This data will focus BPD examination of the reasons for disparate racial treatment and to identify any outliers.

2. Considering any other criteria which would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions.

3. Developing training programs to address the organizational causes of any disparate treatment and outcomes by race uncovered in #1 above and, in accordance with the City's body worn camera policy, through examination of footage on police body cameras (e.g., more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training).

4. Consulting and cooperating 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. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms.

5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed.

Departmental, personnel and training issues will be easier

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 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

<p>to address with accessible and granular empirical data.</p> <p>Vote: All Ayes.</p>	<p>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.</p> <p>Oakland and New York City require officers to get written or audio recorded consent before searching a person without a legal basis.</p> <p>The following PRC policy recommendations enhancing the utility of existing technological systems should be referred to the City Manager:</p> <p>5. Reporting Data on the Public Data Portal</p> <p>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 <i>public</i> data portal.</p>
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	<p>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.</p> <p>6. Simplifying Public Data Portal Data Structure</p> <p>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.</p> <p>7. Collect Data on Frisks and Summons</p> <p>The City Manager should consider the PRC’s recommendation that the BPD collect data on all BPD detentions including, frisks and summons.</p> <p>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.</p> <p>The following longer-term PRC technological recommendations should be referred to the City</p>
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	<p>Manager:</p> <p>8. BPD Data Dashboard</p> <p>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.</p> <p>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.</p> <p>9. Enhance Existing “Early Warning” Systems</p> <p>Enhance existing BPD “early warning” system to identify and mitigate issues of bias by department staff for internal performance review and intervention.</p>
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