



CITY COUNCILMEMBER
RIGEL ROBINSON
DISTRICT 7

REVISED AGENDA MATERIAL

Meeting Date: July 14, 2020

Item Number: 23

Item Description: BerkDOT: Reimagining Transportation for a Racially Just Future

Submitted by: Councilmember Robinson

Amends the Recommendation to more explicitly outline the second long term purpose of the referral.



CONSENT CALENDAR
July 14, 2020

To: Honorable Mayor and Members of the City Council
From: Councilmembers Rigel Robinson, Lori Droste, & Ben Bartlett, & Mayor Jesse Arreguin
Subject: BerkDOT: Reimagining Transportation for a Racially Just Future

RECOMMENDATION

Refer to the City Manager, the FY 2021-22 budget process, and the proposed community engagement process to reimagine public safety to:

- (1) Pursue the creation of a Berkeley Department of Transportation (BerkDOT) to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs, & infrastructure, and
(2) Identify & implement approaches to reduce and/or eliminate the practice of pretextual stops based on minor traffic violations.

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BACKGROUND

Philando Castile was pulled over for a broken brake light.1
Sandra Bland was pulled over for failing to signal a lane change.2
Maurice Gordon was pulled over for speeding.3
All three died at the hands of police.

It can never be truly known just how many others in similar circumstances suffered such an unjust fate. The headline "routine traffic stop turns deadly" has become all too common in this country. Traffic stops have a history of racial bias that has been continually backed up by the courts — Whren vs. United States enabled police officers to conduct pretextual stops, in which minor traffic violations are used as pretext to stop and search drivers suspected of more serious criminal activity.4 Coupled with the racial biases that permeate this country to this day, these stops have too often escalated into use of force or unnecessary arrests that disproportionately harm Black Americans. While Berkeley police officers have not been involved in an officer-involved shooting since 2012, these issues challenge every city, and Berkeley can play a leading role in addressing them.

1 https://www.nytimes.com/2017/06/21/us/video-police-shooting-philando-castile-trial.html
2 https://www.nytimes.com/2019/05/07/us/sandra-bland-video-brian-encinia.html
3 https://www.vox.com/identities/2020/6/9/21285536/maurice-gordon-police-shooting-explained
4 https://www.ovez.org/cases/1995/95-5841

The murders of George Floyd, Breonna Taylor, and Ahmaud Arbery have re-ignited a national debate around policing and public safety. Many are taking a second look at the fundamental roles of police, such as traffic stops, and whether these responsibilities could be shifted to unarmed civil servants instead. A serious discussion of the role of modern policing is incomplete without a focus on traffic enforcement. According to the Stanford Policing Project, police pull over more than 20 million motorists per year, making traffic stops the most common interaction Americans have with police.⁵

While recent events have brought the nation's attention to particular policing practices and the role of law enforcement in traffic stops, proposals to separate traffic enforcement from the police are by no means a recent development. In her book *Policing the Open Road*, author Sarah Seo chronicles how the rise of the car, a symbol of American freedom, opened the doors to more intrusive policing with disastrous consequences for racial equity.⁶ As Seo argues, though the Fourth Amendment provides constitutional protection from unreasonable searches and seizures, jurists have continually interpreted the clause narrowly in the context of cars, enabling a massive surge in deeply discretionary policing practices all over the country. New criminal procedures were developed that accommodated, rather than limited, police intervention and effectively sanctioned police discrimination. Constitutional challenges to unjust traffic stops failed in court, leaving Black Americans with few tools to defend themselves against searches and stops.

In July 2019, almost a year before the tragic death of George Floyd, Minneapolis' largest transportation advocacy group, Our Streets Minneapolis, announced that they did not support traffic enforcement as a tool for enhancing street safety. The release opens: "At Our Streets Minneapolis we firmly believe traffic enforcement is not a good strategy to make streets better places to bike, walk, and roll."⁷ The organization's statement was premised on two key theses: (1) increased traffic enforcement would amplify racial disparities and (2) street safety could be better achieved through smarter street design. Studies conducted in Minneapolis found stark disparities in traffic law enforcement for Black bicyclists⁸ and motorists.⁹ Though they make up only 18 percent of Minneapolis residents, Black & African Americans make up 70 percent of vehicle searches and 68 percent of body searches at traffic stops.

⁵ <https://openpolicing.stanford.edu/findings/>

⁶ <https://www.hup.harvard.edu/catalog.php?isbn=9780674980860>

⁷ https://www.ourstreetsmpls.org/why_we_don_t_support_traffic_enforcement

⁸ <https://www.ourstreetsmpls.org/citationreport>

⁹

https://tableau.minneapolismn.gov/views/MPDStopDataOpenData/MPDStopInformation?%3Aembed=y&mp:%3AshowAppBanner=false&:%3AshowShareOptions=true&:%3Adisplay_count=no&:%3AshowVizHome=no

Unfortunately, the same story can be told in virtually every major city in America. Berkeley is not an exception.

As UC Berkeley Professor Jack Glaser with the Center for Policing Equity (CPE) put it, "Berkeley appears to be doing better than most agencies, but it has work to do."¹⁰ The 2018 CPE report *The Science of Justice* found that Black and Hispanic drivers and pedestrians are stopped at much higher rates by Berkeley police. Interestingly, in the last quarter, although police stops are generally down for all racial groups under shelter-in-place, the racial disparity in stops has increased significantly.¹¹

Local transportation advocates such as Walk Bike Berkeley have joined the nationwide call for a reimagining of the role of policing in traffic enforcement.¹² Here in the Bay Area, BART officials have pledged to shift \$2 million in funding away from BART police and fare inspectors, and instead allocate it towards unarmed ambassadors.¹³ Fare inspection has been a contentious issue for years, with a 2019 report showing that 52 percent of BART fare evasion citations go to Black riders despite them making up only 12 percent of ridership.¹⁴ Much like with traffic enforcement, officials are grappling with ways to conduct fare enforcement without giving authorities the discretion that so often leads to racial profiling.

One way of addressing these issues in Berkeley is by creating a Department of Transportation (BerkDOT), shifting traffic and parking enforcement responsibilities away from the Berkeley Police Department and coupling it with the work currently housed in the Transportation Division of the Public Works Department. Currently, traffic stops and parking citations fall under the Investigations Division of the Berkeley Police Department. Within the division is the Traffic Bureau, which consists of the Traffic Unit and the Parking Enforcement Unit.¹⁵

Calls to relocate transportation planning work to a new city department have existed for some time, with the hope that such an organizational realignment could amplify and accelerate the critical work occurring already. Berkeley once housed its transportation work in the office of the City Manager, which was managed by an Assistant to the City Manager for Transportation. However, for years now, the Transportation Division has existed within Public Works. Berkeley would join the City of Oakland in having a

¹⁰ <https://www.berkeleyside.com/2018/05/11/berkeley-police-stops-show-racial-disparities-but-what-does-that-mean>

¹¹ <https://data.cityofberkeley.info/Public-Safety/Berkeley-PD-Stop-Data-NEW-/4tbf-3yt8>

¹² <https://www.walkbikeberkeley.org/wbb-updates-actions-media/2020/6/4/black-lives-matter>

¹³ <https://www.sfchronicle.com/bayarea/article/Defunding-police-BART-to-shift-2-million-from-15353626.php>

¹⁴ <https://sanfrancisco.cbslocal.com/2020/02/24/bart-police-data-disparity-citations-black-passengers-quality-of-life/>

¹⁵ https://www.cityofberkeley.info/Police/Home_-_translated/Traffic_Bureau.aspx

Department of Transportation separate from the Department of Public Works. Oakland created OakDOT in 2015, following the lead of other major cities like Washington D.C., New York City, and Los Angeles. Their department has since become a national model for equity in the transportation sector with the help of the OakDOT Racial Equity Team and the City of Oakland Department of Race and Equity.¹⁶ The creation of a separate transportation department has enabled a more targeted equity approach, resulting in a more accessible and equitable public engagement strategy, the prioritization of historically underserved areas for funding and investment, and the creation of low-income rideshare pricing programs in response to community need.¹⁷

Berkeley can lead the nation in refocusing its traffic enforcement efforts on equitable enforcement, focusing on a cooperative compliance model rather than a punitive model. A Department of Transportation in the City of Berkeley could shift traffic enforcement, parking enforcement, crossing guards, and collision response & reporting away from police officers—reducing the need for police interaction with civilians—and ensure a racial justice lens in the way we approach transportation policies, programs, and infrastructure. It would also ensure a focus on transportation that is separate and apart from public works issues, fitting for the importance of transportation as an issue of concern to Berkeley and as a key component of our greenhouse reduction goals.

FINANCIAL IMPLICATIONS

If the city ultimately undertakes such a reorganization, there would be significant upfront costs involved in establishing a new city department. Changes in staffing and the creation of new positions would require funding. In the long term, however, these changes could result in significant cost savings.

ENVIRONMENTAL SUSTAINABILITY

Transportation represents 60 percent of the City of Berkeley's greenhouse gas emissions. Empowering our sustainable transportation work in a new city department would continue and amplify the work of our city to reduce greenhouse gas emissions, in alignment with our Climate Action Plan.¹⁸

CONTACT PERSON

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¹⁶ <https://www.oaklandca.gov/topics/oakdot-racial-equity-team>

¹⁷ <https://rpa.org/latest/lab/oakdot-offers-example-of-transit-equity-in-action>

¹⁸ <https://www.cityofberkeley.info/climate/>