

# May 19, 2021

## Albany Policing Links

City of Albany, CA

*This document is purposefully somewhat repetitive to provide resources both in chronological and subject-matter formats.*

### Our City pages

[Social Equity & Inclusion homepage](#)

[Social Equity & Inclusion FAQ](#)

- Questions collected primarily from [Community Dialogue Session](#) July 20, 2020 and [SEJC Public Questions](#) Aug 9, 2020 [Social & Economic Justice Commission \(SEJC\)](#) mirror page

### Police Department

[Police Department Overview](#) (3pg) provided Sep 21, 2020 to City Council Study Session: SEJC Equity Impact Plan Interim Update ([Youtube](#) | [Agenda](#) | [Minutes](#) (12 pages))

Study Session: Overview of Police Department Budget and Policies on Jul 20, 2020

[YouTube](#) | [Agenda](#) | [Minutes](#) (10pg)

- [Staff Report](#) (5pg)
- [Budget Overview](#) (5pg)
- [PD FAQ](#) (10pg)
- [Public Comments prior to 5pm](#) (78pg)

### Pages

[APD homepage](#)

[Policies, Procedures & Training SB978 page](#)

- [Policies, Practices and Training FAQ](#) (11pg) – also linked under [Statement Concerning George Floyd](#) under Chief of Police
- [Policy Manual](#) (611pg)
  - [Hate Crimes](#) (Policy #318) (11pg)
  - [Immigration Violations](#) (Policy #413) (6pg)
- [Aerosol Transmissible Diseases \(ATD\)](#) policy (30pg)

- [Communications Standardized Guidelines](#) (17pg)
- Trainings:
  - General:
    - [Field Training Manual- Feb 2017](#) (304pg)
    - [Communications Training Manual](#) (125pg)
    - [Communications Training Workbook](#) (90pg)
  - Force and Weapons:
    - [APD POST Perishable Skill Firearms 101919](#) (7pg)
    - [Impact Weapons](#) (18pg)
    - [Less Lethal Training Outline Dec 2019](#) (4pg)
    - [Taser X2 Training Outline](#) (5pg)
    - [Weaponless Defense 1](#) (20pg)
    - [Weaponless Defense 2](#) (14pg)
    - [Weaponless Defense Outline](#) (1pg)
  - Other specific:
    - [Dispatch Procedures with Kensington](#) (17pg)
    - [Officer Exposure Protocol Training Outline 2011](#) (5pg)
    - [Respiratory Protection Program APD- 4-25-11](#) (11pg)

[2017-2021 Strategic Plan](#) (28pg)

## Human Resources

[Albany Peace Officers Association \(APOA\) Memorandum of Understanding \(MOU\)](#) (36pg) linked on [Bargaining Unit Agreements](#) under Human Resources

Job Descriptions linked under Job Classifications under Human Resources

- [Public Safety Dispatcher](#) (3pg) – not classified under APOA
- [Police Officer](#) (3pg)
  - [Police Cadet](#) (4pg)
  - [Police Sergeant](#) (4pg)
  - [Police Lieutenant](#) (4pg)
  - [Police Chief](#) (4pg)
- [Police Administrative Specialist](#) (4pg)
- [Police Services Technician I and II](#) (4pg)

- [Police Records Specialist](#) (3pg)
  - [Police Records Assistant](#) (3pg)

[Salary Schedule](#) linked on [Salaries & Benefits](#) page

## Finance & Administrative Services

[Police Fees & Parking Violations](#) (3pg) linked under the [Master Fee Schedule](#) homepage and from [Police Forms & Fees](#) page

- see also [Abandoned & Impounded Vehicles](#) page under Police Department

[Budget & Financial Reports](#) page

## Government Bodies

[Community Task Force on Policing \(CTFP\)](#) homepage

[City Council meeting](#) page with archives including minutes

[SEJC page](#) with archives including minutes

## Easy Links

[AlbanyKALB YouTube Channel](#) homepage

- [CTFP](#) playlist
- [City Council](#) playlist
- [Social & Economic Justice Commission \(SEJC\)](#) playlist
- [Community Meetings](#) playlist
- [Special Events](#) playlist

[City Calendar](#) displays past meetings and still links to agendas

## Consultant-made PDF documents

[Draft SEJC Interim Report: Racial Equity Impact Plan \(December 1, 2020\)](#)

- Contains further links to GoogleDrive files from the consultants (Nicole Anderson and Associates, LLC) with their different presentation slides, various meeting notes, [resources folder](#), etc

## Chronological Relevant Meetings with attachments

*"SEJC" stands for Social & Economic Justice Commission*

*"Working Group" is the Working Group to Develop Community Policing & Relations Task Force*

*"CTFP" is Community Task Force on Policing*

*\*Include numerous public testimonies around racism, policing*

### 2020

Jun 14	*Mayor's Town Hall	<a href="#">YouTube</a>	--	--	<a href="#">Partial transcript</a> (24pg)
Jun 15	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (11pg)	5-14 Addition of Work Plan item to SEJC Regarding Systemic Racism <a href="#">Public comments</a> (2pg)
Jul 6	*City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (14pg)	<a href="#">Partial transcript</a> (43pg) <a href="#">11-1 Consultant Services public comments</a> (10pg)
Jul 7	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (2pg)	6-3 Action Plan to Address Systemic Racism <a href="#">Public Comments received prior to agenda</a> (286pg) <a href="#">Public Comments prior to 5pm July 7</a> (12pg)
Jul 18	*Community Dialogue Session	<a href="#">YouTube</a>	<a href="#">Slides</a>	--	<a href="#">Public Comments</a> (20pg)
Jul 20	City Council	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (10pg)	
	- Study Session: Overview of Police Department Budget and Policies				<a href="#">Staff Report</a> (5pg) <a href="#">Budget Overview</a> (5pg) <a href="#">PD FAQ</a> (10pg) <a href="#">Public Comments prior to 5pm</a> (78pg)
	- Regular mtg				<a href="#">Good of the City Public Comments prior to 5pm</a> (2pg)
Aug 4	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (3pg)	<a href="#">Public Comments prior to 5pm</a> (9pg) <a href="#">Public Comments Regarding Dialogue Session</a> (20pg) <a href="#">Public Comments to SEJC and General</a> (9pg) <a href="#">Public Comments prior to 5pm 08-04-2020</a> (8pg)
Aug 13	Working Group	<a href="#">YouTube</a>	<a href="#">Agenda</a>	--	<a href="#">Action Minutes</a> on next meeting (Aug 24) agenda (2pg)
Aug 20	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (2pg)	<a href="#">SEJC Public Questions sorted</a> (5pg)
Aug 24	Working Group	<a href="#">YouTube</a>	<a href="#">Agenda</a> (wrong header)	--	<a href="#">Task Force draft framework</a> (2pg) <a href="#">Public Comments prior to cutoff</a> (6pg) <a href="#">Public Comments after cutoff</a> (3pg) <a href="#">Action Minutes</a> on next meeting (Sep 10) agenda (2pg)

Aug 27	SEJC Policing Subcommittee	--	<a href="#">Agenda/Notes</a> (6pg)	--	
Sep 1	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (3pg)	<a href="#">Public Comments prior to 5pm</a> (6pg) <a href="#">SEJC Policing Subcommittee Mtg Notes</a> (6pg)
Sep 8	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a> (wrong header)	<a href="#">Minutes</a> (10pg)	9-1 Amending the Second Year of the Biennial Operating Budget Covering Fiscal Years 2019-20 to 2020-21 <a href="#">Staff Report</a> (10pg) <a href="#">Proposed FY20-21 Budget</a> (27pg) <a href="#">General Fund Reserve Policy</a> (6pg) <a href="#">Personnel Listing</a> (2pg) <a href="#">PowerPoint Presentation</a> (9pg)
Sep 10	Working Group	<a href="#">YouTube</a>	<a href="#">Agenda</a>	--	<a href="#">Work Group draft framework</a> (6pg) <i>Note City Council archive has wrong date, wrong agenda/video links</i>
Sep 21	City Council	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (12p)	
	- Study Session: SEJC Equity Impact Plan Interim Update				Study Session <a href="#">Staff Report</a> (2pg) <a href="#">Community Development Department Overview</a> (33pg) <a href="#">Police Department Overview</a> (3pg) <a href="#">Public Comments Equity Impact Update prior to 5pm</a> (2pg) <a href="#">Consultant PowerPoint Presentation</a> (11pg)
	- Regular mtg				12-1 Recommendations from Working Group <a href="#">Staff Report</a> (2pg) <a href="#">Task Force on Policing framework draft</a> (6pg) <a href="#">12-1 Public Comments prior to 5pm</a> (2pg)
Oct 6	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a> (wrong header)	<a href="#">Minutes</a> (2pg)	<a href="#">SEJC Policing Subcommittee Mtg Summary</a> (7pg)
Oct 22	Student Voice Listening Session	N/A	<a href="#">Agenda</a>	<a href="#">Notes</a>	--
Nov 2	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (8pg)	11-2 Community Task Force on Policing <a href="#">Staff Report</a> (3pg) <a href="#">Community Task Force on Policing framework</a> (6pg) <a href="#">Alternative Introduction Letter</a> (1pg) <a href="#">Meeting PowerPoint Presentation</a> (15pg) <a href="#">Public Comments prior to 5pm</a> (2pg)
Nov 4	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (2pg)	<a href="#">SEJC Policing Subcommittee Report</a> (9pg)

Nov 16	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (10pg)	11-1 Community Task Force on Policing <a href="#">Staff Report</a> (3pg) <a href="#">Resolution No. 2020-107</a> (3pg) <a href="#">Community Task Force on Policing</a> (6pg) <a href="#">Alternative Introduction Letter</a> (1pg) <a href="#">11 02 20 Staff Report</a> (3pg) <a href="#">Public Comments prior to 5pm</a> (5pg)
Dec 1	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (1pg)	<a href="#">Albany Equity Interim Report</a> (10pg)
Dec 21	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (12pg)	12-2 Selection of Two Council Members for Subcommittee to Review Applications for Community Task Force on Policing <a href="#">Staff Report</a> (2pg) <a href="#">Resolution No. 2020-107</a> (10pg)
2021	-----	-----	-----	-----	-----
Jan 27	CTFP Application Review Subcommittee	<a href="#">YouTube</a>	<a href="#">Agenda</a>	--	<a href="#">Report</a> (1pg) <a href="#">Resolution 2020-107</a> (10pg) <a href="#">Applications Received</a> (112pg) <a href="#">Additional Applications Received 2021.01.27</a> (12pg)
Feb 1	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (11pg)	5-4 Advisory Body Appointments: SEJC – Jeremiah Garrett-Pinguelo (AUSD BOE) 9-2 Quarterly Financial Update: <a href="#">Staff Report</a> (4pg) <a href="#">Q2 FY21 YTD Budget to Actuals</a> (26pg) <a href="#">Q2 FY21 Investments</a> (1pg)
Feb 2	SEJC mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (3pg)	6-1 Selection of SEJC Member to Serve on CTFP <a href="#">Staff Report</a> (11pg)
Feb 16	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (10pg)	5-5 Appointments to CTFP: <a href="#">Staff Report</a> (2pg) <a href="#">Resolution No. 2020-107 Establishing CTFP</a> (10pg) <a href="#">List of Subcommittee Recommendations</a> (1pg) <a href="#">CTFP Applications with Bookmarks 1-29</a> (124pg) 5-8 Police Fleet Vehicle Purchase: <a href="#">Staff Report</a> (2pg) <a href="#">Reso 2021-12 PD Vehicle Purchase</a> (1pg) <a href="#">Hybrid Patrol car bid 02032021</a> (1pg) <a href="#">LEHR Outfitting bid 02032021</a> (3pg) <a href="#">Good of the City Public Comment</a> (1pg)

					9-2 Comprehensive Annual Financial Report (CAFR) and Annual Audit for FY2019-20: <a href="#">Staff Report</a> (6pg) <a href="#">2019-20 City of Albany CAFR - CALLP</a> (180pg)
Mar 1	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (11pg)	8-1 Amending the Second Year of the Biennial Operating Budget Covering Fiscal Years 2019-20 to 2020-21 <a href="#">Staff Report</a> (3pg) <a href="#">Proposed FY2020-21 Budget Exhibit A</a> (16pg) <a href="#">Resolution No. 2021-16</a> (1pg) <a href="#">CC 2020-09-08 SR 9-1 Proposed Budget Amendment FY 20-21</a> (54pg)
Mar 25	Community Conversations: Get to Know Your Local Police Department	<a href="#">YouTube</a>	--	--	--
Apr 5	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	<a href="#">Minutes</a> (10pg)	11-2 Police Community Relations Advisory Committee <a href="#">Memorandum – Mayor Gary</a> (5pg) <a href="#">Public Comments prior to 5pm</a> (1pg)
Apr 20	CTFP Application Review Subcommittee		CANCELLED		--
Apr 29	CTFP Application Review Subcommittee	<a href="#">YouTube</a>	<a href="#">Agenda</a>	--	<a href="#">Report</a> (1pg) <a href="#">Resolution 2020-107</a> (10pg) <a href="#">Staff Report to City Council 2021-02-16 including Applications Received</a> (125pg)
May 3	City Council mtg	<a href="#">YouTube</a>	<a href="#">Agenda</a>	Pending	7-5 <a href="#">Proclamation</a> – National Police Week and Peace Officers' Memorial Day 7-15 Appointments to CTFP <a href="#">Staff Report</a> (2pg) <a href="#">Resolution No 2020-107 Establishing CTFP</a> (10pg) <a href="#">List of Subcommittee Recommendations</a> (1pg)
May 17	City Council Study Session	<a href="#">YouTube</a>	<a href="#">Agenda</a>	Pending	2-2 Fiscal Years 2021/22 and 2022/23 Biennial Budget <a href="#">Staff Report</a> (4pg) <a href="#">Proposed Biennial Budget</a> (23pg) <a href="#">Proposed Staffing v2</a> (3pg)
May 18	CTFP	<a href="#">YouTube</a>	<a href="#">Agenda</a>	Pending	<a href="#">Resolution No. 2020-107</a> (10pg) <a href="#">Community Task Force Overview of Deliverables</a> (1pg)

## Compiled Relevant Public Comments

- Jun 14, 2020 Mayor's Town Hall [partial transcript](#) (24pg)
- [Jun 15 City Council](#) (2pg) on 5-14 Addition of Work Plan item to SEJC Regarding Systemic Racism
- Jul 6 City Council
  - [Partial transcript](#) (43pg)
  - [11-1 Consultant Services](#) (10pg) – item 11-1 Consultant Services to Assist the City's Social and Economic Justice Commission and the City Council in the Development of an Action Plan to Address Systemic Racism and Further Inclusivity and Social Equity within the City of Albany
- Jul 7 SEJC – item 6-3 Action Plan to Address Systemic Racism
  - [Prior to agenda](#) (286pg)
  - [Prior to 5pm July 7](#) (12pg)
- [Jul 18 Community Dialogue Session](#) (20pg)
- Jul 20 City Council
  - [Study Session](#) (78pg) – Overview of Police Department Budget and Policies
  - [Regular meeting](#) (2pg)
- Aug 4 SEJC
  - [Public Comments prior to 5pm](#) (9pg)
  - [Public Comments Regarding Dialogue Session](#) (20pg)
  - [Public Comments to SEJC and General](#) (9pg)
  - [Public Comments prior to 5pm 08-04-2020](#) (8pg)
- Aug 20 [SEJC Public Questions sorted](#) (5pg)
- Aug 24 Working Group to Develop Community Policing & Relations Task Force
  - [Prior to cutoff](#) (6pg)
  - [After cutoff](#) (3pg)
- [Sep 1 SEJC](#) (6pg)
- [Sep 21 City Council](#) (2pg) – item 12-1 Recommendations from Working Group to Develop a Community Task Force on Policing
- [Nov 2 City Council](#) (2pg) – item 11-2 Continued discussion regarding establishment of a Community Task Force on Policing
- [Nov 16 City Council](#) (5pg) – item 11-1 Resolution establishing a Community Task Force on Policing
- [Feb 16, 2021 City Council](#) (1pg)
- [Apr 5 City Council](#) (1pg) – item 11-2 Police Community Relations Advisory Committee



## Meetings dealing with Budget/Expenses

Jul 20, 2020 City Council Study Session: Overview of Police Department Budget and Policies ([YouTube](#) | [Agenda](#) | [Minutes](#) (10pg))

- [Staff Report](#) (5pg)
- [Budget Overview](#) (5pg)

Sep 8 City Council ([YouTube](#) | [Agenda](#) | [Minutes](#) (10pg)) – 9-1 Amending the Second Year of the Biennial Operating Budget Covering Fiscal Years 2019-20 to 2020-21

- [Staff Report](#) (10pg)
- [Proposed FY20-21 Budget](#) (27pg)
- [General Fund Reserve Policy](#) (6pg)
- [Personnel Listing](#) (2pg)
- [PowerPoint Presentation](#) (9pg)

Feb 1, 2021 City Council ([YouTube](#) | [Agenda](#) | [Minutes](#) (11pg)) – 9-2 Quarterly Financial Update

- [Staff Report](#) (4pg)
- [Q2 FY21 YTD Budget to Actuals](#) (26pg)
- [Q2 FY21 Investments](#) (1pg)

Feb 16 City Council ([YouTube](#) | [Agenda](#) | [Minutes](#) (10pg))

- 5-8 Police Fleet Vehicle Purchase
  - [Staff Report](#) (2pg)
  - [Reso 2021-12 PD Vehicle Purchase](#) (1pg)
  - [Hybrid Patrol car bid 02032021](#) (1pg)
  - [LEHR Outfitting bid 02032021](#) (3pg)
- 9-2 2 Comprehensive Annual Financial Report (CAFR) and Annual Audit for FY2019-20:
  - [Staff Report](#) (6pg)
  - [2019-20 City of Albany CAFR - CALLP](#) (180pg)

Mar 1 City Council ([YouTube](#) | [Agenda](#) | [Minutes](#) (11pg)) – 8-1 Amending the Second Year of the Biennial Operating Budget Covering Fiscal Years 2019-20 to 2020-21

- [Staff Report](#) (3pg)
- [Proposed FY2020-21 Budget Exhibit A](#) (16pg)
- [Resolution No. 2021-16](#) (1pg)
- [CC 2020-09-08 SR 9-1 Proposed Budget Amendment FY 20-21](#) (54pg)

May 17 City Council Study Session ([YouTube](#) | [Agenda](#) | Pending) – 2-2 Fiscal Years 2021/22 and 2022/23 Biennial Budget

- [Staff Report](#) (4pg)
- [Proposed Biennial Budget](#) (23pg)
- [Proposed Staffing v2](#) (3pg)

Resources on oversight models, with links:

Here is a general body that provides information on types of oversight:

<https://www.nacole.org/>

Here are the towns and cities in California that I am aware of with existing police oversight bodies or offices, in different forms. The links give information on their format and process:

Novato

<https://www.novato.org/government/boards-commissions-committees/police-advisory-and-review-board>

Davis

<https://www.cityofdavis.org/city-hall/commissions-and-committees/police-accountability-commission>

Claremont

<https://www.ci.claremont.ca.us/government/commissions>

Tulare

<https://www.tulare.ca.gov/government/boards-commissions-committees/citizen-complaint-police-review-board>

National City, CA

<https://www.nationalcityca.gov/government/boards-commissions/community-police-relations-commission>

UC Davis

<https://pab.ucdavis.edu/>

UC Berkeley

<https://vca.berkeley.edu/police-review>

City of Berkeley

<https://www.cityofberkeley.info/DepartmentHome.aspx?id=10184>

Richmond

<http://www.ci.richmond.ca.us/81/Community-Police-Review-Commission>

<http://www.ci.richmond.ca.us/2455/Office-of-Professional-Accountability>

Oakland

<https://www.oaklandca.gov/boards-commissions/police-commission>

San Jose

<https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor>

BART

<https://www.bart.gov/about/policeauditor>

San Francisco

<https://sfgov.org/dpa>

Santa Cruz

<https://www.cityofsantacruz.com/government/city-departments/police/community-policing/chief-s-advisory-committee>

<https://www.cityofsantacruz.com/government/city-departments/police/community-policing/independent-police-auditor>

Sacramento

<https://boards.cityofsacramento.org/board/2945>

<http://www.cityofsacramento.org/opsa>

Anaheim

<http://www.anaheim.net/4802/Police-Review-Board>

Long Beach

<https://www.longbeach.gov/citymanager/cpcc/>

Los Angeles

[https://www.lapdonline.org/police\\_commission](https://www.lapdonline.org/police_commission)

Los Angeles Unified School District

<https://www.oimla.com/>

Orange County

<https://oir.ocgov.com/>

Riverside

<https://www.riversideca.gov/cityclerk/boards-commissions/community-police-review-commission/about/>

San Diego

<https://www.sandiego.gov/cpp/about>

San Diego County

<https://www.sandiegocounty.gov/clerb/>

San Jose

<https://www.sanjoseca.gov/your-government/appointees/independent-police-auditor>

Palo Alto

<https://www.cityofpaloalto.org/Departments/Police/Accountability/Independent-Police-Auditor>

Walnut Creek

<https://www.walnut-creek.org/government/commissions-committees/chief-s-community-advisory-board>

Here are some resources to add to the Community Task Force on Policing list:

- The [NYPD Reform Now Coalition press release](#) includes links to the agenda. It is a coalition of community groups seeking to change policing in NYC.
- [NYS Attorney General Preliminary report](#) and recommendations on police reform (attached)
- The Police Executive Research Forum has a number of [publications](#) you can check out.
- The US DOJ COPS office has a Community Policing [library](#) you can also check out.
- Center for Court Innovation is a leader in community justice and has some good [resources](#) you might find useful.
- [National Institute for Criminal Justice Report](#) that was created for Berkeley

# Resources By Media Type:

## Resource Hubs

[Community Resource Hub](#) – filter by organization, media type, and topics like use of force, surveillance, police unions, oversight, de-escalation, data collection/reporting, budgets, community control, accountability, alternatives to arrests, sheriffs, training, and different targeted groups

[MPD150](#): A People’s Project Evaluating Policing – Minneapolis 150-year performance review and resource hub, contains books, intros, articles on implementation and examples, historical context, alternative responses to violence, toolkits and resource guides, zines and posters

Critical Resistance’s [Abolish Policing](#) page, including webinars/workshops, toolkits, videos, booklets, emergency preparedness

[8toAbolition](#) and their [resources](#) page

Interrupting Criminalization’s [2021 Materials for #DefundThePolice Campaigns](#)

[One Million Experiments](#) – hub for community-based safety projects

[In Our Names Network](#), Andrea Ritchie – lots of gender-based violence, LGBTQIA+, domestic violence, and rape resources

M4BL (Movement 4 Black Lives) [policy platforms](#), particularly [invest-divest](#) and [community control](#) and [defund the police](#)

[transformharm.org](#)

[Creative Interventions](#) – transformative justice (TJ) toolkit, workbook, [storytelling](#) about examples of TJ in action

[aworldwithoutpolice.org](#)

[Campaign Zero](#), including reports, research such as on oversight

[BYP100](#), Black Youth Project

[Mariame Kaba](#), major name in abolition

[Oakland Power Projects](#)

## Short Videos

- Project NIA’s [Defund Police](#)
- Amistad Law Project’s [Practical Abolition](#) series
- [No Cop Academy](#) documentary theatrical trailer

## Zines

- Interrupting Criminalization’s [Police Abolition 101](#) zine

## Art

- Interrupting Criminalization's [Abolition Imagination Cards](#)
- Graphic notes for Interrupting Criminalization's [Cops Out of Care](#) webinars

## Short Posters

- [Reformist reforms vs abolitionist steps in policing](#), by Critical Resistance
- [Defund Police Coalition Priority Recommendations](#), from Oakland's Defund Police Coalition in response to Reimagining Public Safety Task Force recommendations

## Guides/Toolkits/Reports

Mariame Kaba's [What's Next? Safer and More Just Communities Without Policing](#) – 10 key steps to reimagining public safety, FAQs with citations of studies, models, resources

[Reducing Violence Without Police: A Review of Research Evidence](#) by John Jay Research and Evaluation Center, with citations

American Public Health Association's [Addressing Law Enforcement Violence as a Public Health Issue](#), with citations

Interrupting Criminalization's [Defund the Police—Invest in Community Care: A Guide to Alternative Mental Health Crisis Responses](#)

Human Rights Watch's [A Roadmap for Re-imagining Public Safety in the United States](#) with 14 recommendations and background context and citations

COVID19 Policing Project's [Divesting from Pandemic Policing and Investing in a Just Recovery](#)

[Revenue Generation Playbook](#): How to Fully Fund Our Communities

Action Center on Race and the Economy's [The RISE and REACH of Surveillance Technology](#)

Interrupting Criminalization: [The Demand Is Still #DefundPolice](#)

[Freedom to Thrive: Reimagining Safety & Security in Our Communities](#) from The Center for Popular Democracy & Law for Black Lives & BYP100

[The Most Dangerous Thing Out Here is the Police: Trans Voices on Police Abuse and Profiling in Atlanta](#), report by Solutions Not Punishment Collaborative in 2016

## Reimagining Public Safety Task Forces

Recommendations reports:

- [Oakland, California](#)
  - Anti Police-Terror Project's [response](#), including [priorities](#) sheet
    - See also the Defund Coalition's [initial response](#), including articles and resources
    - See also the Defund Coalition's [demands](#)
- [Montgomery County, Maryland](#)
- [Denver, Colorado](#)

- [Austin, Texas](#)
- [Ithaca County, New York](#)

Home pages:

- [Oakland, California](#)
- [Berkeley, California](#)

## Research Tools

- Social Movement Support Lab's [Spending and Personnel over Time](#) – for state, county, and some cities

# Some resources from the above with specific subject matter:

## Community Policing

- [The Problem with “Community Policing”](#) article/book excerpt by Maya Schenwar and Victoria Law
- [Police “Reforms” You Should Always Oppose](#) article by Mariame Kaba in 2014
- [The other side of the COIN: counterinsurgency and community policing](#) from 2011
- “Beyond Bratton” chapter in [Policing the Planet](#)
- [We Don’t Just Need Nicer Cops. We Need Fewer Cops](#) article
- [The Myth of Liberal Policing](#) article

## Community control/oversight/review/accountability

- [Problems with Community Control of Police and Proposals for Alternatives](#)
- [Campaign Zero’s](#) oversight section including studies, reviews

## Reimagining Public Safety: community-based alternatives to policing

- [One Million Experiments](#) – hub for community-based safety projects
- [What’s Next? Safer and More Just Communities Without Policing](#)
- Human Rights Watch’s [A Roadmap for Re-imagining Public Safety in the United States](#) with 14 recommendations and background context and citations
- [Reducing Violence Without Police: A Review of Research Evidence](#) by John Jay Research and Evaluation Center, with citations
- [Freedom to Thrive: Reimagining Safety & Security in Our Communities](#) from The Center for Popular Democracy & Law for Black Lives & BYP100

## Mental Health

- Interrupting Criminalization’s [Defund the Police—Invest in Community Care: A Guide to Alternative Mental Health Crisis Responses](#)
- [5 Ways to Help Someone in a Mental Health Emergency Without Calling the Police](#) on The Body is Not an Apology

## Health Care

- Interrupting Criminalization’s [Cops Out of Care](#) graphic notes and webinar recordings

## Transformative Justice

- [Creative-Interventions.org](#) – transformative justice (TJ) toolkit, workbook, [storytelling](#) about examples of TJ in action



## Traffic

- [What Traffic Enforcement Without Police Could Look Like](#)
  - Note that per Andrea Ritchie and Community Resource Hub, California law currently requires police to cover traffic enforcement, and Berkeley will be lobbying for that to change while likely instructing BPD to deprioritize various offenses and looking at decriminalization as well

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**From:** Ge'Nell Gary  
**Sent:** Wednesday, June 23, 2021 8:18 AM  
**To:** Anne Hsu  
**Subject:** FW: CTFP agenda 2021-06-15  
**Attachments:** OPD Reimagining Public Safety Memo (11192020).pdf

Hi Anne,

Please forward this email with attachment to the task force.

**Attached** is an example of 2020 legal policy guidance provided to Oakland City officials who convened the Reimagining Public Safety Task Force. It discusses an Oakland-specific policing measure and then general analysis of police labor rights that may answer some questions raised by Albany members.

Thank you,  
Mayor Gary  
City of Albany  
1000 San Pablo Avenue  
Albany CA 94706  
510-559-4581

Sent from [Mail](#) for Windows 10

**TO:** Oakland Reimagining Public Safety Task Force and related Advisory Boards; Oakland City Councilmembers; Mayor of Oakland; City Administrator of Oakland; City Attorney of Oakland; Oakland Police Commission; Anti-Police Terror Project; Coalition for Police Accountability; American Friends Service Committee; Wellstone Democratic Renewal Club; Ella Baker Center for Human Rights; CM Elect (D3) Carroll Fife; CM Elect (D7) Treva Reid

**FROM:** Allyssa Victory, ACLU of Northern California Police Practices/Criminal Justice Attorney

**RE:** Potential Legal Challenges to Defunding OPD by 50% from Oakland's General Purpose Fund

**DATE:** November 19, 2020

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## **I. INTRODUCTION**

The City of Oakland ("City") passed a resolution to create the Reimagining Public Safety Task Force to provide recommendations and guidance on how to reduce the City's general purpose fund ("GPF") allocation to the Oakland Police Department ("OPD") by 50% in the 2021 fiscal cycle. The City has since established the Task Force co-chaired by Councilmembers Nikki Fortunato Bas and Loren Taylor. Our office was asked to provide legal expertise and guidance on resolving some potential barriers to the defunding objective, specifically: (1) Oakland's 2014 Measure Z and (2) police officer labor rights.

## **II. MEASURE Z**

### **a. History of Measure Z**

Measure Z, the "Public Safety and Services Violence Prevention Act of 2014," was approved by Oakland voters in 2014.<sup>1</sup> The measure renewed a \$99.77 annual parcel tax (adjusted each year for inflation) on single-family homes and an 8.5% tax on parking, which were originally approved in 2004 under Measure Y. Measure Z went into effect upon its passage in November 2014 and specified that the City "shall hire and maintain no fewer than 678 sworn police personnel as early as practicable after the passage of this Ordinance and at all times after July 1, 2016."<sup>2</sup> The City must meet these conditions to be able to levy and to collect the Measure Z taxes. The measure sunsets in 2024.<sup>3</sup>

The Measure Z revenues are split as follows: 3 percent for evaluation and audits, \$2M for the Fire Department, 60 percent of the remaining funding for the Police Department, and the remaining funds for public safety programs, including Operation Ceasefire and the Unity Council.<sup>4</sup> Measure Z

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<sup>1</sup> Full text of measure available at

<http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/report/OAK063829.pdf>. All citations and references are to Measure Z unless otherwise stated.

<sup>2</sup> Section 3(C)(2)(a)

<sup>3</sup> Section 7 ("The taxes enacted by this Ordinance shall be imposed and levied for a period of ten (10) years.")

<sup>4</sup> Section 3(B) and (C)

taxes generate over \$20M per year in revenue for the City.<sup>5</sup> The City's Public Safety and Services Violence Prevention Commission oversees the implementation of Measure Z and manages its revenues.<sup>6</sup>

**b. Specifics of Measure Z**

The City is prohibited from collecting the taxes provided by this measure for any fiscal year ("FY") that it does not budget for a minimum of 678 sworn police personnel.<sup>7</sup> If the City budgets for, but fails to maintain, 678 sworn police personnel during a fiscal year, the amount of the parcel tax collected the following fiscal year would be reduced by an amount proportionate to the number of days the City did not meet the minimum required police staffing level during the prior fiscal year.<sup>8</sup> If the City budgets for, but fails to maintain, a minimum of 678 sworn police personnel during a FY, collection of the parking tax surcharge during the following FY would be suspended for the number of days that the City did not meet the required police staffing level during the prior FY.<sup>9</sup>

Exceptions to budgeting and maintaining a minimum of 678 sworn police personnel may apply: (1) if grant funding or other non-General Purpose Fund ("GPF") funding budgeted for sworn police personnel in FY 2014-2015 becomes unavailable in later years<sup>10</sup>; (2) if a severe, unanticipated event adversely impacts the GPF to prevent the City from maintaining the minimum number of sworn police personnel; or (3) if the number of sworn police personnel unexpectedly falls below the required level despite the City's hiring plan.<sup>11</sup> In such cases the numeric requirements for budgeting and maintaining sworn police personnel would be reduced by the shortfall.<sup>12</sup> The measure establishes requirements for the City to declare an exception.<sup>13</sup> The Measure further prohibits the City "from laying off any police officers if such layoffs will result in a reduction of sworn police personnel to a level of less than 800."<sup>14</sup>

If an exception is met, the City Administrator must officially declare that an exception exists within 90 days of the fiscal year to include that an exception condition is met, facts of condition(s), and facts of the City's attempts to avoid the condition.<sup>15</sup> The process for exceptions must be completed each year.<sup>16</sup>

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<sup>5</sup> See City of Oakland FY 2020-21 Adjusted Budget "2252- Measure Z Violence Prevention and Public Safety Act of 2014" at pg. 24 available at <https://cao-94612.s3.amazonaws.com/documents/Adopted-Reso-and-Exhibits-w-Cover-Memo.pdf> (listing a total of \$26,393,250.00 in revenue); see also City of Oakland "Measure Z Overview and Summary", <http://www2.oaklandnet.com/government/o/CityAdministration/d/measure-z/index.htm> (estimating \$24-25M annual revenue).

<sup>6</sup> *Id.* at City of Oakland "Measure Z Overview and Summary"

<sup>7</sup> Measure Z, Section 3(C)(2)(d)

<sup>8</sup> Section 3(C)(2)(e)(iii) and (iv)

<sup>9</sup> Section 3(C)(2)(e)(iv)

<sup>10</sup> It is unclear what the total of "grant funding or other non GPF" is received each year for OPD

<sup>11</sup> Section 3(C)(2)(d)(i)-(iii)

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Section 3(C)(2)(b)

<sup>15</sup> Section 3(C)(2)(d)

<sup>16</sup> Section 3(C)(2)(d)(i)-(iii)

**c. Options to Address Measure Z in Defunding OPD**

The 2019-2021 budget<sup>17</sup> has been adopted and the June 2020 mid-cycle budget passed with a minor reduction in OPD's budget. OPD currently maintains 792 authorized sworn officers and 371 authorized non-sworn full-time employees, which allows the City to levy and to collect the Measure Z tax this fiscal year. Maintaining the status quo means that the City will maintain and/or increase OPD's budget to allow the department to maintain Measure Z's minimum staffing levels and will allow the City to continue to levy and to collect the Measure Z tax.

**1. OPTION 1: Reduce OPD's Budget and Lose Measure Z funding**

The goal of the Task Force is to reduce OPD's budget from the GPF by at least 50 percent. The City may do that and simply lose the revenue from Measure Z.<sup>18</sup> 50% of OPD's GPF is higher than the annual revenue expected from Measure Z.

If police are not budgeted for at a minimum staffing level of 678 officers, the City cannot levy or collect the tax or the parking surcharge authorized by Measure Z. **The City will lose an estimated \$26M in GPF from the inability to levy and collect the Measure Z tax, but also saves at least \$150M from the 50% cut to OPD's GPF budget.**<sup>19</sup> Thus, the City will retain around \$124M to repurpose in the GPF, of which a portion can be directed to the same programs and services previously funded by Measure Z. This is the recommended course of action to achieve the dual goals of (1) the task force to reduce OPD's budget from the GPF by 50% and to (2) maintain programs, services, etc. that were previously funded through Measure Z. This option will also eliminate any administrative costs of levying and collecting on Measure Z and to operate the related oversight body.

**2. OPTION 2: Measure Z's exceptions.**

The text of Measure Z includes exceptions that will allow the City to continue to collect the tax without meeting the minimum staffing requirement. The three bases for exceptions are:

**(1) if grant funding or other non-General Purpose Fund ("GPF") funding budgeted for sworn police personnel in FY 2014-2015 becomes unavailable in later years.**

Analysis: This requires assessment of OPD's grant and non-GPF funding levels since 2014/15. The City Administrator would have to make the case that funds are no longer "available" to meet the budget necessary for minimum staffing requirements.

**(2) if a severe, unanticipated event adversely impacts the GPF to prevent the City from maintaining the minimum number of sworn police personnel**

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<sup>17</sup> <https://cao-94612.s3.amazonaws.com/documents/FY-2019-21-Adopted-Budget-Policy-Book-FINAL-WEB-VERSION.pdf>

<sup>18</sup> This analysis presumes that the City will need to lay off/reduce the number of officers in order to achieve its budgetary reduction.

<sup>19</sup> Measure Z currently funds \$16,173,040.00 to OPD which specifically goes to Chief of Police office and both Field Operations Bureaus of OPD.

Analysis: This may be the best exception to apply given the reduction in GPF expected to continue into the next fiscal cycle(s) related to declared emergencies including those related to the global pandemic and economic recession.<sup>20</sup> The City Administrator would have to make the case that “unanticipated events” adversely impacted the GPF to an extent that “prevents” the City from funding OPD at the levels to meet Measure Z staffing.

**(3) if the number of sworn police personnel unexpectedly falls below the required level despite the City's hiring plan.**

Analysis: The City may have the least control over this exception because it is determined more by OPD staffing and recruitment levels. The 2019-21 budget funded 792 authorized sworn officers and 371 authorized non-sworn full-time employees. This exception is not currently met. The City Administrator will have to declare that staffing levels “unexpectedly” fell below Measure Z’s requirements. The “unexpected” standard makes it hard to declare this exception at the outset of a budget cycle and within the 90-day timeline required.

**Process to exercise an exception:** Exercising an exception will require concerted action by the City Administrator and the City Council. The City Administrator must declare that an exception is met with a factual statement of the conditions and attempts to resolve the conditions **no less than 90 days before the fiscal year: March 30, 2021**. The exception declaration process must be undertaken annually under Measure Z. The City Council may then adopt resolutions and budgets that reflect the City Administrator’s declared exception with regards to the City’s budget.

3. OPTION 3: Ballot Measure to repeal/revise Measure Z

Measure Z was approved as a ballot measure by Oakland voters. Repeal or modification must likewise be done by ballot measure. A ballot measure could change Measure Z to free the City to cut 50% from OPD without losing the measure’s tax revenue. There are several options for revising the Measure to make this permissible, including: removing all conditions of OPD staffing to levy the tax; reset the minimum staffing level to numbers that would still allow the City to levy the tax and to reduce OPD’s budget from the GPF; connect Measure Z funding to public safety metrics other than OPD staffing levels.

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<sup>20</sup> See, e.g. “Update from City of Oakland re: COVID-19” available at: <https://www.oaklandca.gov/news/2020/update-from-city-of-oakland-re-covid-19> (noting proclamation of local emergency by City Administrator); Council Resolution No. 87397 (November 2, 2018) (declaring a climate emergency) available at <https://cao-94612.s3.amazonaws.com/documents/87397-CMS-Climate-Emergency-Declaration.pdf>; Council Resolution No. 88056 (February 6, 2020) (renewing and continuing local homelessness emergency declaration) available at <https://oakland.legistar.com/MeetingDetail.aspx?ID=761619&GUID=6260AB49-0D3C-41E1-AF64-C1BEF573A6DD&Options=&Search=>; and Council Resolution No. 88075 (March 12, 2020) (declaring local public health emergency).

4. OPTION 4: Reduce OPD's Budget in 2024 when Measure Z sunsets

Measure Z sunsets in 2024. To continue the taxes and the requirements, voters will have to reauthorize its provisions by ballot measure. The City can simply wait until 2024 to make dramatic cuts to OPD's budget without any concerns for Measure Z; which will no longer be in effect by operation of its own terms. The programs and services funded by Measure Z would also cease receiving those funds, but the 50% reduction of OPD's budget from the GPF would result in savings that far exceed the expected Measure Z revenue, freeing funds that can be repurposed for the same programs and services that were provided under Measure Z.

**Our office strongly recommends Option #1** to reduce the OPD budget from the GPF by 50% and bar itself from collecting Measure Z. This action will still leave the City with around \$124M in unallocated GPF to spend elsewhere, including on maintaining the same services provided with Measure Z funding. Option #1 also has the simplest process requiring only that the City Council adopt a budget that does not meet Measure Z's funding requirements to OPD. This is in contrast to options like #2 that will require administrative actions and the political will of City executive officers. The administrative process may also be susceptible to legal challenge including what facts and showing are sufficient to meet the Measure Z exceptions. Thus, Option #1 is the most direct and least burdensome path to reach the defunding goal.

**III. MOU BETWEEN THE CITY AND OPOA**

City officials have also asked how police labor rights may affect the defund goal. Reducing OPD's budget allocation from the GPF does not violate any express terms of the current MOU contract with the City. Additionally, any meet and confer requirement is procedural and does not prohibit the City from reducing OPD's budget.

The Oakland Police Officers Association ("OPOA") represents most officers within OPD.<sup>21</sup> OPOA is a recognized public employee labor organizations with labor rights conferred under the Meyers-Milias-Brown Act ("MMBA").<sup>22</sup> The MMBA is concerned solely with promotion of communications and personnel management between employers and employees.<sup>23</sup> The MMBA is enforced by the Public Employee Relations Board ("PERB").<sup>24</sup>

The City entered into a labor Memorandum of Understanding ("MOU") with OPOA that is currently in effect until June 30, 2024.<sup>25</sup> MOUs are binding contracts and are interpreted in accordance with the general rules of contract law.<sup>26</sup>

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<sup>21</sup> Oakland Police Management Association ("OPMA") represents most supervisors within OPD and has a MOU separate from that with OPOA. Other specialized positions like technicians fall into other union representation each with their own MOUs. All labor agreements can be accessed here:

<https://www.oaklandca.gov/documents/city-of-oakland-labor-union-memoranda-of-understanding>

<sup>22</sup> Cal. Gov't Code § 3500 *et seq.*

<sup>23</sup> Cal Gov't Code § 3500

<sup>24</sup> PERB administrative decisions are appealable to a Superior Court.

<sup>25</sup> Memorandum of Understanding between the City of Oakland and Oakland Police Officers' Association, December 12, 2018 to June 30, 2024. Available at: <https://cao-94612.s3.amazonaws.com/documents/OPOA.pdf>  
Approved by required council resolution November 27, 2018.

<sup>26</sup> *National City Police Officers' Assn. v. City of National City* (2001) 87 Cal.App.4th 1274, 1278–1279.

Labor law may require that the City first meet and confer before implementing changes that can or will directly affect employment conditions and relations in defunding OPD. However, meet and confer is a procedural requirement only for mandatory bargaining subjects; does not impose actual barriers to City's defunding *decision*; and does not mandate that the City reach agreement with labor representatives on implementation.

**A. THE CITY'S MOU WITH OPOA**

MOUs are binding contracts and are interpreted in accordance with the general rules of contract interpretation.<sup>27</sup> Terms in the contract cannot be changed during its duration and a violation of an MOU term is treated as a breach of contract.<sup>28</sup>

Here, the introductory clause of OPOA's MOU with the City states that:

Except as limited by Charter Section 910 and by the specific Agreement, the City retains all rights, powers, and authority granted under the Charter, including, but not limited to, the exclusive right to determine the merits, necessity, and organization of any service or activity the City may now or hereafter provide; to determine the City's mission and the mission of the Police Department and its employees, and to assign work, to direct, and schedule employees; to set standards of service; to determine methods, means, and personnel by which the City will conduct its operations; to finance City operations and to determine financing methods; to establish and to enforce reasonable dress and grooming standards and to determine the style or type of City-issued apparel, equipment, and technology; and to take all actions necessary to carry out its mission and these reserved rights."

"The City agrees that there will be no layoffs of members for the duration of this MOU. This provision does not apply to termination based on disciplinary proceedings. Subject to other provisions in this section, in the event that a reduction in force is required, it shall be accomplished in accordance with the provisions of section 9.02 Layoff Procedure, of the Personnel Manual, except [with respect to seniority credits].

This clause confers broad authority and reserved rights to the City. "Minimum staffing levels" are not included in the terms of the existing MOU nor is it a subject of mandatory bargaining under state law. "City operations and financing methods" are expressly within the exclusive rights of the City to determine under the MOU. Thus, the City's budgetary decisions are not part of the OPOA MOU and cannot violate the plain terms of the contract.

However, there are various possible additional legal hurdles and outcomes dependent on how the City characterizes its actions and justifications and how a budget allocation will be implemented.

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<sup>27</sup> *National City Police Officers' Assn. v. City of National City* (2001) 87 Cal.App.4th 1274, 1278–1279.

<sup>28</sup> See, e.g. *In County of Fresno v. Fresno Deputies Sherriff's Assn* (2020) 51 Cal.App.5th 282, where two members of the sheriffs' association were unilaterally reassigned. The court looked to the plain language of the MOU between the parties. The court found that the MOU contained a management rights clause that "specifically granted the county the right to assign and reassign employees" such that "[t]he department's action in reassigning Isaac and Alstrom was consistent with these terms of the MOU." *Id.* at 297-98.



As one example, if the targeted 50% budget reduction to OPD will be implemented through a reduction in the number of sworn officers, the City may encounter a breach of contract claim because of the express language in the existing MOU stating that “there will be no layoffs” during its duration (until June 30, 2024).

### ***B. OPOA MEET AND CONFER CHALLENGES***

OPOA may argue that the City is required to first bargain with it before deciding and implementing changes that may affect OPD employees. “Meet and confer in good faith” means that both parties promptly meet upon request and have a desire to reach an agreement.<sup>29</sup> All matters within the scope of representation are categorized generally as “mandatory” or “permissive” bargaining topics.<sup>30</sup> Mandatory topics must be expressly discussed and bargained for, in good faith, by both parties. In any meet and confer (mandatory or permissive), **the parties are not required to reach final agreement because the employer (in this case the City of Oakland) has the ultimate power of refusal.** *Building Material & Construction Teamsters’ Union v. Farrell* (1986) 41 Cal. 3d 651, 657. Generally, the scope of union representation under the MMBA is limited to “matters relating to employment conditions and employee-employer relations including, but not limited to, wages, hours, and other terms and conditions of employment”.<sup>31</sup> “The scope of representation **shall not** include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.”<sup>32</sup> Meet and confer is an administrative process that can consume time causing delay of decisions or implementation or become the basis of a legal challenge by the OPOA that will be resolved through PERB.

California’s jurisprudence developed a 3-part test on whether a topic is subject to mandatory bargaining ( within the scope of union representation) under the MMBA: (1) whether the proposed action has a significant and adverse effect on wages, hours, or working conditions; (2) whether the action arises from managerial and policy decisions; and if both two steps are met, then step three (3) is to balance them to determine if mandatory bargaining will truly benefit the employee-employer relationship.

In the case of Oakland’s defund efforts, the City’s own rationales for any direct or incidental changes to OPD staffing will affect the inquiry. Nonetheless, even if the City is required to first meet and confer with OPOA, it is not obligated to reach any agreement with OPOA.

#### ***i. Step One: Significant or Adverse Effect on Bargaining Members***

This factor considers the “significant and adverse” impact to current wages, hours, or employees’ working conditions. De minimis impact is insufficient to meet the first step of the test. It is the burden of the charging party to establish a significant and adverse effect. *Riverside* at p. 7. If the first step showing is not met, the inquiry ends and meet and confer is not required.

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<sup>29</sup> Cal. Gov’t Code § 3505

<sup>30</sup> Permissive bargaining topics are those that parties to a labor agreement may bargain for but are not obligated or required to do so by law. Unions may never strike due to an impasse on a permissive bargaining subject. There are also prohibited bargaining subjects like anti-discrimination.

<sup>31</sup> Cal Gov’t Code § 3504

<sup>32</sup> *Id.* (emphasis added)

*Riverside* concerned the County of Riverside’s Concealed Carry Weapons permit policy applicable to all retired probation officers who carry concealed weapons. The Riverside Sheriff’s Association filed the PERB charge alleging that the County was required to meet and confer because the policy affected a retirement benefit. *Id.* at p.5. PERB rejected the association’s argument that “the policy substantially, and with a high degree of certainty, affects the safety of current employees and their families as well as the peace of mind of current employees” because it was clear from the evidence that the policy intent was to bind retirees, not current employees. *Id.* at p. 8.

Likewise, the *Claremont* court ended its inquiry at this first step in finding that the impact of a new racial profiling study requiring officers to record stop data was de minimis and, thus, did not require meet and confer.

The legislative intent of the limiting language in the scope of representation (Gov’t Code 3504) is to avoid “forestall any expansion of the language of ‘wages, hours and working conditions’ to include more general managerial policy decisions.” *Berkeley Police Assn. v City of Berkeley* (1977) 76 Cal App 3d 931, 937 (internal quotations in original; citation omitted). *Berkeley* concerned a challenge by the police association to a decision by the Chief of Police that would allow a member of the city’s citizen police review commission to attend internal discipline hearings and to send a police department rep to each commission meeting. *Id.* at 932. The Court concluded that “to require public officials to meet and confer with their employees regarding fundamental policy decisions such as those here presented, would place an intolerable burden upon fair and efficient administration of state and local government.” *Id.* at 937.

On the contrary, *Indio Police Command Unit Assn. v. City of Indio* (2014) 230 Cal.App.4th 521 concerned a challenge to the city’s police department reorganization plan that would eliminate at least five (5) positions and create three (3) new positions that would be in a different bargaining unit. *Id.* at 528-29. The Court held that the reorganization was a transfer of employees from one bargaining unit to the other making it a mandatory subject of bargaining. *Id.* at 538-39. Topics found to have met the first requisite showing include: layoffs, the availability of work for bargaining members, and the size of a bargaining unit (*Riverside* at p. 8. ) as well as transfer of work to non-bargaining members; work shift changes; and disciplinary rules (*Claremont* at p. 4) (collecting cases).

**ii. Step Two: Arises from the Implementation of Fundamental Managerial and Policy Decisions**

The City of Oakland has many arguments it can advance to demonstrate a fundamental policy and managerial decision to reduce is policing services including OPD’s failure to meet all conditions and ongoing federal monitoring after 17 years under a Negotiation Settlement Agreement (“NSA”), economic emergencies precipitated by our declared homeless emergencies since 2018 and ongoing health pandemic, etc.<sup>33</sup> Strong reasoning connecting to City policy, compliance, and City management at the outset will end the meet and confer inquiry in favor of the City.

Public agencies in California have a unilateral right to establish policy. *Claremont POA v. City of Claremont*, #S120546, 39 Cal. 4th 623 (Cal. 2006) (emphasis added).

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<sup>33</sup> See *supra* fn 20.

*San Jose Peace Officers Assn v. City of San Jose* (1978) 78 Cal.App.3d 935 squarely concluded that a “use of force policy” is not within the scope of MMBA representation for law enforcement agencies. Though the court acknowledged that use of force policy affected the working condition of officer safety, the policy did not “primarily” concern working conditions because it was inextricably interwoven with important policy considerations relating to the basic concepts of the entire system of criminal justice.” *Id.* at 945-46; accord *San Francisco Peace Officers Assn v. San Francisco Police Commission*, 27 Cal. App. 5th 676, 684-89<sup>34</sup> (collecting cases)(holding that adoption of a new use of force policy was “for the City alone to make this fundamental managerial and policy”). *San Jose* thoroughly discussed that peace officers’ workplace safety must be treated differently from other public employees because of peace officers’ unique powers to inflict force on people. *Id.* at 945-46 (citing *Long Beach Police Officers Assn vs. City of Long Beach* (1976) 61 Cal. App. 364, 371).

Likewise *Long Beach* held that a city may adopt a policy on deadly use of force without meeting and conferring so long as it was not “substantially” inconsistent with the law and did not endanger officer safety by preserving the right to use deadly force “in the necessary defense of himself (or other persons) from death or serious bodily injury.” 61 Cal. App. at 373.

Even budgetary decisions have been held to arise from managerial decisions including layoffs due to city cost-saving measures. See *IAFF L-188 v. PERB* (City of Richmond), #S172377, 2011 Cal. Lexis 516.; see also *IAFF L-188 v. PERB* (Richmond), #A114959, 2009 Cal. App. Lexis 373 (1st Dist.) (holding that a municipality’s decision to lay off firefighters is not a mandatory subject of bargaining, although the effects of a layoff decision, such as workload and safety concerns, are negotiable).

**iii. Step Three: Balancing the Need for Unencumbered Decision-making Against the Benefit to the Bargaining Relationship**

If a subject is determined to meet both step 1 (substantially and adversely impacts wages, hours, or working conditions) and step 2 (managerial and policy decision), then step 3 weighs them against each other.

**In the case of Oakland’s defund efforts**, the City’s rationales for any direct or incidental changes to OPD staffing may reach the third stage balancing test of whether it is outweighed by the benefit to the bargaining relationship.

For example, *Rialto Police Benefit Assn v. City of Rialto* (2007) 155 Cal.App.4th 1295 held that the city’s decision to eliminate its own police force to instead contract with the county sheriff was a permanent transfer of work requiring meet and confer. 155 Cal.App.4th at 1303. “Courts have found violations of the duty to bargain, for example, when an employer has transferred bargaining-unit work to an independent contractor or to established or newly hired employees outside the bargaining unit.” *Id.* at 1303 (collecting cases). The *Rialto* court accepted the city’s claims that its decision was based on fundamental policy decision to continue to the balancing test. *Id.* at 1305. The court found that the city was not motivated by a desire to discontinue law enforcement services but, instead, “the City’s decision was motivated by the desire to reduce costs as well as issues involving employee morale, level of service, and management conflicts. These issues are eminently suitable for resolution through collective

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<sup>34</sup> See also amicus brief submitted by League of California Cities and California State Association of Counties in Support of Respondent/Appellees San Francisco Police Commission et al. (January 30, 2018).

bargaining.” *Id.* at 1309. Thus, the court held that the benefit to the bargaining relationship outweighed the need for the city to make an unencumbered policy decision. *Id.*

If the City seeks to transfer duties away from OPD, it may encounter the meet and confer requirement dependent on how it characterizes its actions. As demonstrated by the *Rialto* case, transferring the same duties to an outside bargaining unit or contractor will trigger a mandatory duty to meet and confer. For example, if the City were to “transfer” duties like traffic enforcement outside of OPD then it will likely trigger meet and confer. However, if the City decides to eliminate all traffic enforcement in the City or to create a new type of traffic service different from OPD then it will be arguable whether this is a “transfer” of work duties at all.

Nonetheless, the City can make a strong showing under step 2 given the various local emergencies, fiscal constraints, and the years of struggling to gain compliance with the entirety of the NSA. The strength of these managerial and legal/policy interests for the City as a whole can outweigh any benefit to bargaining with OPOA.

Thus, the City may make all necessary decisions to reduce the GPF budget for OPD by 50% without first bargaining with OPOA as the budgetary decisions of the entire City are not mandatory bargaining subjects and financial rights are expressly reserved for the City. If *implementation* of the decisions will affect mandatory bargaining subjects, the City must first meet and confer with OPOA. Even with mandatory bargaining topics, the City is not obligated to reach any agreement with OPOA but must simply discharge its procedural duty to meet and confer in good faith.<sup>35</sup>

#### **IV. CONCLUSION**

Based on the foregoing, the City has the power and ability to reduce OPD’s budget from the GPF by 50% in the next fiscal year. Legal hurdles can be avoided or overcome dependent on how the City characterizes its actions as shown in public records. Defunding decisions that will be implemented through officer reductions may trigger the most legal issues, including a meet and confer requirement with the OPOA. However, the legal issues addressed in this memo amount to only procedural hurdles and not absolute prohibitions on the City’s goal.

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<sup>35</sup> Nothing prohibits the City from meeting and conferring in good faith on permissive topics. It may be good practice to meet and confer in good faith on any topic that may **validly** give rise to a PERB challenge; though the union always bears the burden of proof in bringing such charges.

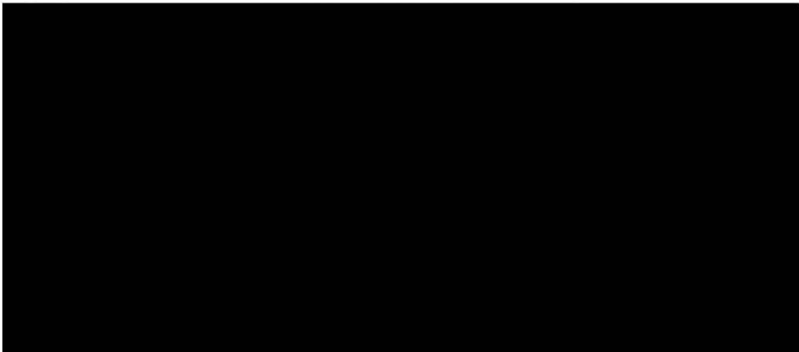
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**From:** [REDACTED]  
**Sent:** Friday, July 23, 2021 4:10 PM  
**To:** City Clerk <CityClerk@albanyca.org>  
**Subject:** Email for Community Task Force on Policing

**Warning: This email originated from outside the City of Albany. Think before you click!**

Hi everyone,

In case you haven't seen this article about NYC: [Mental Health Pilot Program in New York City Shows Promising Results as an Alternative to the Police](#)



**Mental Health Pilot Program in New York City Shows Promising Results as ...**

Andrew Leung

A pilot program in New York City shows promise of being a workable model as an alternative to police interventio...

Julie Winkelstein

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**From:** [REDACTED]  
**Sent:** Monday, July 26, 2021 1:20 PM  
**To:** City Clerk  
**Subject:** Resource for CTFP

**Warning: This email originated from outside the City of Albany. Think before you click!**

Hi Anne,

Please inform the CTFP members of this new four-emails-over-four-weeks course by ACLU on racism in policing and divestment, and add it to the resource document:

[https://action.aclu.org/petition/want-know-more-about-police-race-and-calls-divest?initms aff=nat&initms chan=eml&utm medium=eml&initms=210726 racisminpolicing course-recruit gradead sail&utm source=sail&utm campaign=racisminpolicing&utm content=210726 criminallaw course-recruit gradead&af=qoYiiPuC8XPVENFbFLWg8T%2BRO%2Bdsbg3/GShcfA%2Bp8zi6HpVTzJctWPAPvjw46D8f13zbEVXzvk\\_uJdQRfPKC2m5NKfCDH0Dt2jBpsNZgmVZuiDnDmiZaW8xWcawV99gOup5hmr8e3kV6gAkPO4HRStmxDsY0jxjvRLscuY%2BLHrQ%3D&gs=nkGkEHRptiC1o6ALJEQ7I3xdoEfK0tSJBzsR7xAu9Y0HHWRWe1QGTKMDgb8R3/m&ms aff=nat&ms chan=eml&ms=210726 racisminpolicing course-recruit gradead sail](https://action.aclu.org/petition/want-know-more-about-police-race-and-calls-divest?initms%20aff=nat&initms%20chan=eml&utm%20medium=eml&initms=210726%20racisminpolicing%20course-recruit%20gradead%20sail&utm%20source=sail&utm%20campaign=racisminpolicing&utm%20content=210726%20criminallaw%20course-recruit%20gradead&af=qoYiiPuC8XPVENFbFLWg8T%2BRO%2Bdsbg3/GShcfA%2Bp8zi6HpVTzJctWPAPvjw46D8f13zbEVXzvk_uJdQRfPKC2m5NKfCDH0Dt2jBpsNZgmVZuiDnDmiZaW8xWcawV99gOup5hmr8e3kV6gAkPO4HRStmxDsY0jxjvRLscuY%2BLHrQ%3D&gs=nkGkEHRptiC1o6ALJEQ7I3xdoEfK0tSJBzsR7xAu9Y0HHWRWe1QGTKMDgb8R3/m&ms%20aff=nat&ms%20chan=eml&ms=210726%20racisminpolicing%20course-recruit%20gradead%20sail)

(Apologies for the ugly link via mobile!)

Thank you,

Cory Dostie