



Item No. 4 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: STEVE MCCULLEY, CHIEF OF POLICE

DATE: JULY 1, 2020

SUBJECT: DISCUSSION OF POLICING REFORMS AND INITIATIVES

RECOMMENDATION

Review and Discuss

BACKGROUND

On May 25, 2020, George Floyd, a 46-year-old black man, was killed in Minneapolis, during an arrest for allegedly using a counterfeit bill. Floyd's death triggered widespread demonstrations, protests, rioting, and looting in more than 75 U.S. cities and around the world against police brutality, police racism, and lack of police accountability. The incident resulted in a resounding call for police accountability, true police reform, ending systemic racism within the policing profession, as well as some calls for cities to defund or even disband their police forces all together.

At the core of policing in the United States, and throughout the world, the foundation is the development and maintenance of the trust of the people police officers serve. Without the trust and confidence in its policing agencies, society can begin to break down, with increasing crime, violence, and the perception of police targeting different ethnic minorities, particularly the black community. When incidents of unjustified shooting and killings by police, especially of unarmed black citizens, the result is outrage amongst all ethnic groups leading to claims of systemic racism, within the police organization, and a call for true and overdue reform.

ANALYSIS

The Atherton Police Department's (APD's) Use of Force Policy is in conformance with California's AB 392 (2019), known as the California Act to Save Lives, the most stringent use of deadly force law in the nation. The Policy was last updated in December 2019, in compliance with state law, which required implementation by January 1, 2020. Most recently, amendments were made to the Policy in line with anticipated changes by Governor Newsom.

Like many police agencies, the Department's Policy Manual is primarily adopted from Lexipol. Lexipol is a company that provides public safety policies that are vetted by national and State-

specific experts in related fields and attorneys that are subject matter experts. Using policies vetted by Lexipol assures that our policies are compliant with federal, state and case law, as well as conform to modern best practices.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Our officers are involved daily in numerous and varied interactions. When warranted, our officers may use reasonable force in carrying out their duties.

Our officers will, at times, face situations where those arrested may forcefully resist being taken into custody. There will also be situations where our officers are forced to defend themselves against assault. Our officers must understand, and show true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department and each of our officers recognize and respect the value of all human life and dignity without prejudice. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

From 2015 to 2019, our officers responded to approximately 55,000 calls for service, conducted over 15,000 traffic stops, and made over 300 physical arrests. During this time period, there were no documented uses of force or related use of force investigations. Over the last 5 years the Department has received six (6) formal citizen complaints alleging officer misconduct. Each of these complaints was thoroughly investigated. The outcome of these investigations found that in each of the complaints, the allegations were either unfounded, and/or, the officer was exonerated, and their actions were in accordance with policy and procedure. Investigations were conducted through interviews and a review of bodycam footage. Often, a review of the bodycam footage, with the complainant, resulted in a determination of either unfounded or exonerated.

Recent Reform and Initiatives

In 2015, President Obama established the “21st Century Policing Task Force”. The task force was established for and charged with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust. The outcome of the task force was the identification of “6 Pillars of Law Enforcement”. Additional information on the “6 Pillars of law enforcement can be found online at the following link: https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf. The Pillars include building trust and legitimacy, policy and oversight, technology and social media, community policing and crime reduction, officer training and education, officer safety and wellness. These have been embraced by law enforcement executives across the nation and serve as the model foundation for any progressive, relevant, and modern police agencies. The Department fully endorses these measures and supports them through our vision, mission, and values statements, as well as our motto of “No Call Too Small.” This motto drives every aspect of our policing philosophy.

In response to the calls for reform, on June 16, 2020, President Trump signed an Executive Order on Safe Policing for Safe Communities. A copy of this Executive Order can be found online at the

following link: <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/>.

In Section Two of the Executive Order, there is a call for law enforcement agency certification and credentialing to ensure law enforcement agencies constantly assess and improve their practices and policies to ensure transparent, safe, and accountable delivery of law enforcement services to their communities. The Department has recently completed an extensive accreditation process based on a process used in the State of Washington as California does not yet have its own.

On June 15, 2020, in response to the recent calls for police reforms, the State of California Attorney General, Xavier Becerra, made a “call for broad police reforms and proactive efforts to protect lives.” In his call, the Attorney General urged law enforcement agencies statewide to develop and implement policies, as appropriate, to adopt certain use-of-force reforms. A copy of the Attorney General’s call can be found online at the following link: <https://oag.ca.gov/news/press-releases/attorney-general-becerra-calls-broad-police-reforms-and-proactive-efforts>.

Also, in response to calls for police reform, a nationwide campaign has developed, referred to as “#8Can’tWait”. The essence of the campaign is the adoption of eight (8) procedural rules that hope to decrease police violence. Information regarding the #8Can’tWait reforms can be found at the following link: <https://www.vox.com/2020/6/5/21280402/8-cant-wait-explained-policing-reforms>.

The Department’s current policies address all four of the above reform initiatives. Lexipol has also addressed each and promulgated information surrounding the initiatives. Information from Lexipol can be found at the following link: <https://www.lexipol.com/state/california/>.

Excessive use of force incidents, such as what occurred in Minneapolis, can happen even with the best use of force policies in place. To prevent these types of incidents from occurring in Atherton, our officers are selected after a rigorous hiring process which involves a comprehensive background check as well as an intensive psychological examination. Once hired, our officers are periodically trained and tested in use of force policy knowledge as well as their ability to use force techniques in a lawful, competent manner. Policies are in place to ensure appropriate supervision of our officers as well as detailed internal reporting of use of force events provide the department the ability to continually review officer conduct and policies related to use of force.

Departmental leadership, through these practices, maintain an organizational culture where there is zero tolerance for use of excessive force. Department leadership personnel recognize this culture is critical in maintaining community trust.

In the implementation of these policies, we understand the critical importance of achieving a balance of protecting the community, taking persons into custody with the least amount of force being used, while providing our officers the ability to adequately protect themselves and others from injury or death.

Racial Equity

The Department's Bias Policy is designed to ensure that our officers provide law enforcement services and enforce the law equally, fairly, objectively and without discrimination toward any individual or group. Our officers receive recurring training on bias-free policing, with the next scheduled training session to be conducted in August 2020. This recurring training provides our officers with an understanding of what racial profiling/bias is and the negative impact it can have, not only on the individual targeted, but also on the entire community.

Every member of the Department is required to perform their duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Our officers are required to intervene to prevent any biased-based actions by another officer. **Understanding that racial inequity is a systemic problem in American society, our Department strives to be a leader in bias-free policing in order to gain and maintain the public trust that is vital in the successful operation of a police department and affirm the department's commitment to focus on community policing.**

In addition to a review of training, policies and practices, policing tools, statistics and opportunities for improvement, the Police Chief will address each of the various reform initiatives during the presentation on July 1.

POLICY FOCUS

The recent death of George Floyd, while in the custody of the Minneapolis Police, was tragic and shocking. When dealing with calls for police reform and allegations that use of deadly force is out of control and an epidemic in the U.S., it is critical that all involved parties utilize factual information and best practices to determine the proper response and course of action.

The ADP will continue to focus on and support high quality training, up to date policies/procedures, transparency, and accountability, to ensure a high level of profession, progressive, and unbiased policing, in order to provide the highest level of safety and security services for the residents we all serve.

The policy focus for the July 1 Study Session is a dialogue around policing in Atherton; a review of training, policies and practices, policing tools, statistics, and the opportunities for improvement.

FISCAL IMPACT

None at this time.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about this item is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents

as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

ATTACHMENTS

PowerPoint Presentation

ATHERTON POLICE DEPARTMENT

Discussion on Policing Reforms and Initiatives



Police Chief's Message



- ▶ The Atherton Police Department protects the Town with the community's safety in mind. Our policies and standard operating procedures demonstrate this core belief.
- ▶ The ideals expressed in “#8Can'tWait” are addressed by the requirements of SB 230. SB 230 was approved by California Governor Newsom in September 2019.
- ▶ SB 230 mandates important use of force policies and training, including an emphasis on de-escalation and the sanctity of life.
- ▶ The Department has developed a series of use of force principles to improve community relations while balancing the safety of our officers and the community we serve.

Training Programs & Policies



- The Commission on Peace Officer Standards & Training, known as POST, dictates various training requirements that police personnel must have on a continuous basis.
- Some of these topics include: Use of Force (AB 392), Crisis Intervention Training, De-Escalation, Racial Profiling/Implicit Bias, Museum of Tolerance in Los Angeles, Immigration Training (SB 54).
- In FY 2019/2020, our officers received 2,720 hours of training. This is a more than the typical police agency.

The Tools We Use



- Less-lethal, sometimes called non-lethal, munitions are just a step below the deadly force continuum.
- The less-dangerous options give police officers another avenue to manage suspects in a situation.
- These tools can include:
 - 40 mm launcher, Taser, Baton and OC spray.

Tools Continued...



- Bodycams
- In Car Video
- K9
- ALPR
- ASP Baton
- De-escalation
- Crisis Intervention
- Scaled Officer Response (2 to 3 in most cases)



Local Statistics

In 2015 - 2019 -

- 55,000 calls for service (inclusive of 15,000 traffic stops)
- 300 arrests
- No Uses of Force
- 6 Citizen complaints (all unfounded or officer exonerated)

In 2020 -

- 2 Authorized Uses of Force in 2020 - Wrist lock/40mm
- Last officer involved shooting was in 1979

President Obama's 21st Century Policing Task Force (2015)



6 Pillars of Law Enforcement

- Building Trust and Legitimacy
- Policy and Oversight
- Technology and Social Media
- Community Policing and Crime Reduction
- Training and Education
- Officer Safety and Wellness

President Trump's Executive Order on Safe Policing (June 2020)



- Order creates a database to track police officers with multiple instances of misconduct.
- Uses federal grants to encourage departments to meet certain higher certification standards on use of force.
- Calls on departments to involve social workers and mental health professionals on calls dealing with homelessness, mental illness and addiction.
- Questions limits to power
- Order calls for police departments to ban the use of chokeholds, except when an officer feels his or her life is endangered.

Attorney General - 8 Procedural Rules (June 2020)



- In response to the recent calls for police reforms, in June 2020, the State of California Attorney General, Xavier Becerra, made a “call for broad police reforms and proactive efforts to protect lives.”
- Attorney General identified 8 Procedural Rules

AG Becerra's 8 Procedural Rules



- Intervention
- Ban Chokeholds and Carotid Restraints
- De-Escalation
- Proportionality
- Verbal Warnings
- Moving Vehicles
- Deadly Force As Last Resort
- Comprehensive Reporting
- *Canine Use*

#8Can'tWait Campaign



A national movement called '8 Can't Wait' pursues 8 major changes to policy and training. All of the #8Can'tWait changes are reflected in current Lexipol Policies.

- **Require De-escalation**
- **Duty to Intervene**
- **Ban Chokeholds & Strangleholds**
- **Require Warning Before Shooting**
- **Ban Shooting at Moving Vehicles**
- **Require Exhaust All Alternatives Before Shooting**
- **Require 'Use of Force' Continuum**
- **Require Comprehensive Reporting**

Opportunities for Improvement



- Develop sincere community relationships with each point of contact
- Engage with the community and improve their understanding of the Department's role and operations.
- Don't become complacent with traditional approaches and processes that may engender race-biased behavior.
- Each policy should be examined to verify that its operations and procedures are consistent with the mission and strategy of the Department.

Next Steps



- Pursue Federal Accreditation - Commission on Accreditation for Law Enforcement Agencies (CALEA)
- Provide continued support for focused training
- Expand Public Engagement, Transparency and Outreach (could include a survey)
- Continue a Practice of Town Hall Meetings focused on community policing
- Continue to Host an Annual Citizens Academy

QUESTIONS AND DISCUSSION



Questions are the path to learning