



STAFF REPORT – CITY COUNCIL MEETING

June 17, 2020

TO: Honorable Mayor and City Council Members

FROM: Brian Ahearn, Chief of Police

PREPARER: Eileen Verbeck, Police Business Manager

DATE: June 11, 2020

TITLE: **Arcata Police Department's Discussion of Campaign Zero and Police Reform.**

RECOMMENDATION:

It is recommended that the Council receive and discuss Arcata Police Department's report on Campaign Zero and police reform.

INTRODUCTION:

In response to the killing of George Floyd, the Arcata City Council requested an item to discuss necessary public safety reforms to insure a practice of fair and impartial policing in Arcata.

DISCUSSION:

On Monday, May 25, 2020, George Floyd, a 46 year old African-American man living in Minneapolis, Minnesota, died while in the custody of Minneapolis Police officers. Video of the contact shows a former Minneapolis Police Department officer pinning a handcuffed Mr. Floyd to the ground by placing his knee on the right side of Mr. Floyd's neck. Mr. Floyd pleaded for his life as he voiced, "I can't breathe" multiple times. The former officer held his knee against Mr. Floyd's neck for 8 minutes and 46 seconds. Mr. Floyd died shortly thereafter.

As video of Mr. Floyd's death surfaced protests occurred throughout the country. Civil Rights leaders, Church leaders, elected officials, community groups and members, celebrities, current and former police officials as well as many other people throughout the world denounced this senseless act of violence against Mr. Floyd. The subject officer as well as three other Minneapolis Police Department officers were all terminated from employment and arrested and charged for various crimes in the homicide of George Floyd.

Mr. Floyd's death at the hands of police officers was one more death of an African-American male while in the custody of law enforcement officers. Other uses of force against African-American's by law enforcement over the years have sparked outrage throughout the country. The prevalence of video and social media enables images, video and a description of what occurred to be transmitted throughout the world in almost real time or, through platforms such as Facebook live, can be streamed in real time.

On March 3, 1991, video surfaced of LAPD officers striking Rodney King repeatedly with batons as he lay on the ground. Protests began and turned violent after the officers were acquitted of criminal charges. Significant looting occurred as fires smoldered from several structures purposefully set ablaze by rioters. The killing of African-American men by law enforcement officers continued in the years following 1991; many of those deaths occurring the past several years. Among those who died were:

Eric Garner, a 43 year old African-American male, was killed by NYPD officers on July 14, 2014 after officers applied a choke hold in which Mr. Garner continually exclaimed, "I can't breathe." The killing of Mr. Garner generated widespread protests and charges of police brutality.

Michael Brown, an 18 year old African-American male, was shot and killed by a Ferguson, Missouri police officer on August 9, 2014. Protests occurred and a curfew was established.

Laquan McDonald, a 17 year old African-American male, was shot by a Chicago Police officer on October 20, 2014. The United States Department of Justice initiated a civil rights investigation and determined the Chicago Police Department had a culture of excessive violence, especially against people of color. The Chicago PD was placed on a consent decree.

Freddie Gray, a 25 year old African-American male, died on April 19, 2015 after he was arrested one week earlier by Baltimore Police Department officers who then transported Mr. Gray in a prisoner van. During the transport Mr. Gray sustained injuries to his spinal cord. Protests turned violent and a state of emergency was declared.

Stephon Clark was a 22 year old African-American male who was shot and killed by Sacramento Police Department officers on March 18, 2018. Mr. Clark was holding a cell phone in his hand when he was shot. The killing of Mr. Clark generated protests throughout the Sacramento area including a Black Lives Matter protest that shut down a freeway.

Calls for an end to police brutality and transforming how policing services are delivered continue to resonate throughout the world because of the death of George Floyd. Police brutality is at the center of much of the protests and debate as there have been several incidents involving police using excessive force captured on video.

School districts in Minneapolis and Portland are withdrawing from contracts with local law enforcement for School Resource Officer services and the Oakland School District is preparing to vote on a proposal to disband their school police department. The distancing from traditional law enforcement continues as the Paramount Network cancelled the television show "Cops" which has been aired on TV for the past 32 years.

The death of George Floyd has elevated the call for change to a level not witnessed in the recent past; imploring for systems to reform in order to end police brutality and dismantle structural racism. Millions of people, peaceful and with great emotion have demonstrated for over two weeks. Fires, looting and curfews have been a part of the outcry from communities throughout the country as frustration and past calls to action have gone largely unanswered.

One week after the death of Mr. Floyd, elected officials and police departments began prohibiting the use of any chokehold technique by their officers. Calls for additional use of body worn cameras, changes to use of force policies and a renewed commitment to civilian oversight of law enforcement

was just the beginning. An examination of due process rights afforded officers that enable those who commit criminal acts or misconduct to go undetected or to easily transfer to other police departments was cited by those demanding change as another system that was in need of sweeping reform. Many called for additional changes in the tactics and weaponry used by law enforcement while managing protests and to de-militarize police departments. Calls to defund police departments and shift those monies to youth and social service programs gained traction with Los Angeles, New York and other cities making commitments to do just that. The Minneapolis City Council voted to dismantle their police department and replace it with a community-based public safety model; citing the failure of incremental attempts at police reform.

As these calls for change continued the Campaign Zero initiative was identified by many throughout the country as a model for police reform. The Campaign Zero program contains ten elements including suspending the “broken windows” theory of policing, demilitarizing law enforcement and limiting use of force, among others. Contained within the Campaign Zero program is a second initiative called 8 Can’t Wait; a campaign to bring immediate change to law enforcement. On Wednesday, June 3, 2020, the Mayor of the City of Arcata, Michael Winkler, received an email from a community member encouraging the City and the Arcata Chief of Police to “consider implementing eight actions to end police brutality.” The community member cited in their email Campaign Zero, an initiative formed to end police violence in America. Mayor Winkler forwarded the email to Brian Ahearn, the Chief of Police for the Arcata Police Department. Chief Ahearn responded to the Mayor that evening and also sent the following response to the author of the email:

“Thank you _____ and Mayor Winkler. Police and Sheriff’s Department’s throughout the nation have stood in solidarity with community members against police brutality and systemic racism and to denounce the murder of George Floyd while in the custody of Minneapolis Police Officers. Reforms in policing have occurred in the last several years oftentimes in response to injustices committed against community members by police officers. Campaign Zero and other initiatives are designed to effect much needed change. I expect many law enforcement agencies to adopt elements of Campaign Zero, My Brother’s Keeper and other movements to effect the change needed to reverse the impacts of systemic racism throughout the history of our country. The Arcata Police Department is a leader in progressive policing and utilizing 21st Century best practices to police our community through the eyes of our community members and the shoes they walk in. We will work to reduce the potential for force to even have to be considered as an option and these eight principles, many of which are already in place, are a road map to saving lives. In President Obama’s Town Hall earlier today Campaign Zero was identified as a mechanism to hold local police chiefs accountable. Thank you for holding me accountable to the standards that all community members expect.”

Earlier this same day President Barack Obama spoke during a virtual town hall on the death of George Floyd that was televised on CNN. The town hall was hosted by My Brother’s Keeper Alliance, a program of President Obama’s Foundation. Campaign Zero was identified during the town hall as one mechanism to effect the change that is necessary in policing. Campaign Zero states, “We can live in a world where the police don’t kill people by limiting police interventions, improving community interactions, and ensuring accountability.”

The Arcata City Council directed City staff to evaluate the Campaign Zero initiative relative to the wider discussion taking place throughout the country regarding police reforms.

The Campaign Zero initiative includes the following ten principles:

End the broken windows theory of policing by decriminalizing many quality of life crimes, by abolishing profiling and stop and frisk policies and by shifting the response to those having a mental health crises to behavioral health experts.

Establish civilian oversight and a civilian complaints office, all as paid employees, with the authority to create police policy, discipline and terminate officers, hold public disciplinary hearings and hire and fire Police Chiefs.

Limit the use of force to include utilizing deadly force only when all other reasonable alternatives have been exhausted, evaluate whether the application of force applied was necessary, revise and strengthen use of force policies, prohibit high-speed pursuits and to hold officers accountable when excessive force is applied.

Independently investigate and prosecute police officers to include lowering the standard of proof for a civil rights violation allegation against a police officer and to utilize federal funds and special prosecutor's offices to investigate cases involving police violence.

Community representation to include hiring candidates who are reflective of the communities they serve and to utilize survey instruments to gauge community sentiment and to utilize community input when developing policies.

Require the use of body-worn cameras.

Invest in rigorous and sustained training to include scenario based training on implicit bias, procedural justice and relationship based training.

End for-profit policing to include abolishing ticket and arrest quotas.

Demilitarize policing, in part, by preventing police departments from purchasing or using military weaponry.

Establish fair police union contracts by removing barriers to effective oversight and removing contract provisions that allow officers to continue to receive pay while on administrative duty because of force used that injured or killed a civilian.

8 Can't Wait is a compilation of select policies separated out from Campaign Zero (with the use of force continuum request being the only policy not included in Campaign Zero) and specifically identified as affecting immediate change within police departments once implemented. Those eight policies include the following:

- Ban chokeholds and strangleholds;
- Require de-escalation;
- Require warning before shooting;
- Requires exhausting all alternatives before shooting;
- Duty to intervene;
- Ban shooting at moving vehicles;
- Require use of force continuum;
- Require comprehensive reporting.

California is the most progressive state in the nation in terms of reforms applied to the policing profession and the criminal justice system. As such, it should be noted that according to the Campaign Zero website, California is the only state who is considered to have passed the requisite legislation to be considered in compliance with the requests made by the Campaign Zero initiative.

As for 8 Can't Wait, these policies, in whole or in part, are included in the Arcata Police Department's policy manual. Chokeholds and strangleholds have never been authorized or taught. The carotid control hold was banned for use by APD Officers on June 4, 2020. De-escalation training and techniques are required in California under AB 392 and SB 230. Requiring a warning before shooting is included in APD's use of force policy. It is important to note that Campaign Zero acknowledges that officers may not be able to provide a warning, in all cases, before applying deadly force. APD's use of force policy includes the same caution by stating, "...a verbal warning should precede the use of deadly force, where feasible..."

Similar to requiring a warning before shooting, Campaign Zero applies a caveat as well when defining what they characterize as requiring exhausting all alternatives before shooting. In exploring the Campaign Zero initiative further the campaign requests that all reasonable alternatives be exhausted before applying deadly force. This recommendation is the essence of a use of force continuum, something the 8 Can't Wait platform also suggests municipalities incorporate in their policies. APD has language in our use of force policy that includes the tenets of a use of force continuum. Other policies specific to different types of force options, for example, Control Devices and Techniques and Conducted Energy Device, provide additional guidance on available force options that, when considered in totality, represent a use of force continuum. How the continuum is applied depends on what is presented to the officer. Exhausting all reasonable alternatives before applying deadly force does not imply or mandate that APD officers must work their way through the use of force continuum, beginning with the lowest level of force and transitioning to greater levels of force before resorting to deadly force if the situation before them would lead a reasonable officer to immediately apply deadly force. Should an officer, for example, be met with gunfire, they do not have to start at the lowest force option and work their way up the continuum to finally have the authority to utilize deadly force. The officer is taught and expected to go straight to deadly force.

Duty to intervene is included in APD's use of force policy. APD does ban shooting at moving vehicles except when, "...the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others..." APD does require comprehensive reporting not only by policy but as is mandated by SB 230 as well.

California Peace Officer Standards and Training, or POST, governs all peace officer training throughout the state. Training, including the basic academy curriculum, is typically delivered by instructors who are current or former police officers. The Arcata Police Department is committed to continue working with our community partners, including the NAACP, Black Humboldt, the Humboldt Area Foundation and equity arcata to develop meaningful and effective training that is consistent with community expectations.

Beginning in 2017 through the present, members of the Arcata Police Department participated in training that included a six month intensive program on institutional racism and racial inequalities in the United States; Promoting Fair and Impartial Public Safety; Implicit Bias; and Racial Bias and the Four Dimensions of racial bias to include internal, interpersonal, structural and institutional. APD was in attendance at equity arcata's eight hour racial equity training and four hour learning session

on cultural humility as well as Dr. Tarana Burke's presentation on the Me Too Movement at Humboldt State University.

The Arcata Police Department was the only law enforcement agency represented at the 2019 Wiyot Days; having received a personal invitation from Tribal Chair Ted Hernandez after initiating an in-person meeting with Chair Hernandez to continue the process of building trust and a relationship with Native Americans as APD continues to learn how best to serve the needs of our indigenous community. The Arcata Police Department began a program in June 2020 whereby monthly training is mandatory for all APD personnel. Training topics include Department policies, professional development, topics specific to the law enforcement profession and emerging topics such as racial injustices within the criminal justice system brought to the forefront by the death of George Floyd. The training topic for June 2020 is a 5 part video series on systemic racism located at www.raceforward.org. July's training is a 2 hour Bias and Racial Profiling Training through the POST portal.

All of this coincides with APD's on-going efforts to bring racial equity training to the law enforcement community in Humboldt County. In conjunction with HSU's Office of Diversity, Equity and Inclusion, APD is working to tailor a training plan through the Humboldt Area Foundation that will strengthen how police services are delivered in Arcata. APD also contacted Dr. Jennifer Eberhardt from Stanford University, a psychologist who specializes in racial biases in the criminal justice system, to bring training to Arcata and Humboldt County. Dr. Eberhardt recently wrote a book, Biased, which is being incorporated into APD's Leadership Development program as required reading.

California POST requires that the basic academy curriculum contain a minimum of 16 hours of training on Cultural Diversity/Discrimination. In addition, as the POST curriculum is currently written, two hours of refresher training are required every five years. The basic academy curriculum includes additional instruction on how all people should be treated. Leadership expectations are included in the Leadership, Professionalism and Ethics learning domain and the constitutional rights of all people are included in the Criminal Justice System learning domain. Principled policing, including implicit and explicit bias are included in the Principled Policing in the Community learning domain. Use of force/de-escalation and arrest and control are two stand-alone learning domains included in the basic academy.

There are several strategies to consider for implementation within the Arcata Police Department to further strengthen our commitment to policing with compassion and humanity at the forefront and with public service as the goal. These strategies include the following:

- Remove the carotid control hold from the Arcata Police Department's use of force policy;
- Expand the use of portable audio/video recorders to include body worn cameras;
- Return 14 rifles originally procured through the military surplus program for Patrol purposes to the Department of Defense's Law Enforcement Support Office program; and
- Finalize a POST approved de-escalation training program for APD personnel to commence in 2020.

The Arcata Police Department has implemented several best practice measures this past year to restructure and re-define how policing services are delivered in Arcata. We strive to continue to be a trusted partner in the provision of public safety services; an organization who is called upon as a source of safety, service and hope for all people.