



# Public Safety Commission Agenda Report

ITEM NO.   4  

**DATE:** August 9, 2021

**FROM:** Ed Donnelly, Public Safety Commission Sub-Committee  
Lisa Watson, Public Safety Commission Sub-Committee

**SUBJECT:** **Discussion on the Potential of Unarmed Traffic Enforcement Officers**

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## **Recommendation**

It is recommended that the Public Safety Commission:

1. Hold a discussion on the potential of unarmed traffic enforcement officers; and
2. Provide a recommendation to the City Council regarding the possibility of unarmed traffic enforcement officers.

## **Background**

In 2015 the California Legislature passed AB953, The Racial and Identity Profiling Act (RIPA). This law compels police agencies throughout the State to provide statistics regarding racial and ethnic data for each interaction their officers have with the public. To provide oversight for this program, the RIPA advisory board was created. RIPA went into effect in 2018 with the State's largest law enforcement agencies and is being rolled out through 2023 to include every law enforcement agency statewide. The South Pasadena Police Department will begin collecting statistical data for an April 2023 submission to the Department of Justice (DOJ).

In their 2021 Annual Report, the RIPA board reported that people of color are stopped for daytime traffic infractions at more than double the rate of Caucasians. In addition, black motorists and passengers were more than twice as likely to be detained, handcuffed, or removed from vehicles as white individuals. Similar statistics have been seen across the nation. Along with general calls for police reform in the wake of the murder of George Floyd by a Minneapolis Police officer in May of 2020, this data has prompted academic and political calls for Unarmed Traffic Enforcement (UTE) programs to be developed.

Earlier this year, City Council directed the Public Safety Commission (PSC) to study the potential of UTE to reduce the number of violent encounters during traffic stops. The PSC's Sub-Committee on UTE, consisting of Commissioners Watson and Donnelly, were tasked with investigating the viability of instituting this type of program in South Pasadena. The Sub-Committee's mandate was broad and included conversations with local activist groups, South Pasadena Police (SPPD) Chief Solinsky, police department staff, and additional resources from outside the City.

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The Sub-Committee's work commenced with collecting and reviewing statistics regarding traffic enforcement, use of force, and bias both locally in California and nationwide. In the later stages of the Sub-Committee's work, this expanded to include inquiries into the use of unarmed traffic officers in other municipalities in the United States, the United Kingdom, and New Zealand. The data and resources reviewed, including the aforementioned 2021 RIPA report, have been included as a comprehensive attachment to this document.

On a typical day, approximately 135,000 cars travel on South Pasadena streets. In addition, State Route 110 passes directly through the center of the City. This volume of traffic constitutes a substantial public safety concern and is fraught with the possibility of property damage, injury, and death. In response to persistent requests by residents for more rigorous traffic enforcement, the SPPD instituted a Traffic Bureau in 2019 consisting of two officers patrolling on a motorcycle and one in a patrol car. In 2020, SPPD responded with an officer to 26,858 calls, with an additional 32,159 received for other services. These totals include 3,788 traffic stops; 2,170 citations; 1,018 warnings and 509 arrests. SPPD officers reported the use of force in only three of these stops. The current SPPD dispatch and reporting system does not track race or ethnicity data for traffic enforcement in an actionable way. The updated Computer Assisted Dispatch (CAD) system deployed by SPPD this year in preparation for RIPA reporting requirements will track this data. It will be readily available for analysis in April 2023.

The Sub-Committee researched existing and proposed UTE programs throughout the country. This research included academic and journalistic sources, direct conversation with persons involved in implementing UTE policies, review of ordinances, meeting minutes, email correspondence, and Zoom meetings. In the course of this investigation, no formal UTE program was identified or found to be currently operating in the United States.

### **Discussion/Analysis**

Three newly proposed programs were identified and investigated. The three municipalities that have proposed or passed ordinances to establish UTE programs are Berkeley, CA; Cambridge, MA; and Philadelphia, PA. A two-pronged approach was taken to explore how these cities were implementing the launch of UTE. The Sub-Committee made direct contact with City Council members or City Manager/Mayor's staff in the three cities and requested that SPPD staff make direct agency to agency contact with the corresponding police departments.

#### Berkeley, CA

In July of 2020, the Berkeley City Council, with the endorsement and support of Mayor Jesse Arreguin, passed an omnibus package to reimagine public safety. The concept included the creation of a new City Department of Transportation. Under the purview of the newly created BerkDOT is the creation of an unarmed traffic enforcement department. The Sub-Committee contacted Trano Trachtenberg, Legislative Aide, to Mayor Arreguin. Mr. Trachtenberg provided meeting minutes from the Berkeley Transportation Commission's February 2021 meeting that included an extensive report on the practicalities of creating the new department of transportation. It is noted in the report from Liam Garland, Berkeley's Public Works Director, that *"enforcement of traffic violations set forth by non-sworn personnel could violate state law. Until state law changes, such a shift in function outside of BPD may be preempted. The City*

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*Council adopted a resolution on December 15, 2020, requesting the California legislature enact legislation to give municipalities greater flexibility in traffic enforcement.”*

When contacted by the SPPD staff, the Berkeley PD Traffic Bureau reported there had been no plan implemented, only a discussion by the political leadership to explore the idea. As of this time, the implementation of UTE in Berkeley has been completely halted until such time that the California Penal Code is amended to allow for the issuing of citations by non-sworn officers. The City passed an ordinance that prevents police officers from enforcing minor traffic infractions. This ordinance may trigger litigation from the State for police negligence, litigation from the ACLU for negligence in enforcing laws fairly for all residents, and class action litigation from residents impacted by negligence in enforcing existing laws.

### Cambridge, MA

In July of 2020 and subsequently September of 2020, the Cambridge, MA City Council put forth a proposal to establish a UTE program. Policy Order POR 2020 #178 proposed that primary traffic enforcement be transferred from the Cambridge Police Department to unarmed personnel from the Traffic and Parking Department, Public Works, Health & Human Services, or another appropriate agency.

The Sub-Committee conversed with the Councilors who sponsored this effort, Councilor Quinton Zondervan and Councilor Jivan Sobrinho-Wheeler, by email, phone, and Zoom meetings. The Cambridge City Council and Public Safety Committee discovered that Massachusetts law precludes non-sworn officers from issuing traffic citations. A transcript of the October 14, 2020, Cambridge Public Safety Committee meeting is included as an attachment to this document. When contacted by SPPD staff, the Cambridge PD noted that the proposal had been rejected entirely due to current state rules and regulations. As of this time, the implementation of a UTE program in Cambridge has been completely halted until Massachusetts state law is amended to allow for the issuing of citations by non-sworn officers. The Councilors report that they have abandoned this program and refocused their efforts to establish a CAHOOTS model mental health response team.

### Philadelphia, PA

In May 2019, voters in Philadelphia approved the creation of a corps of public safety enforcement officers. The responsibilities of this proposed uniformed but unarmed team are to assist police with code enforcement and regulating traffic, especially a widespread scourge of double-parked cars. Though this ordinance was passed, funding for this program has not been approved, and it has been delayed until possibly 2022. The Sub-Committee received no response from the Philadelphia Mayor or City Manager's staff. The SPPD reports that they contacted their colleagues at the Philadelphia PD, confirming that this program has not been implemented.

### Additional UTE type programs

In addition to the three UTE proposals cited above, other similar programs were investigated by the Sub-Committee. To ensure a comprehensive understanding of alternative traffic enforcement concepts, three additional programs were examined.

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### New Orleans

The City of New Orleans has contracted a private company, On Scene Services (OSS), to handle accident investigations. The New Orleans Police Department is currently understaffed, and the City was looking for ways to ease the burden on police resources. The employees of OSS are primarily retired police officers with experience in traffic enforcement. When an accident is reported, employees of OSS are sent to conduct an investigation at the scene of the collision. If there is evidence of criminal activity, the New Orleans Police are called to handle arrests and citations. In incidents where there is no apparent criminal activity, the OSS employees compile a report submitted to the NOPD for review and insurance companies that cover the motorists involved in the accident. Other than this contractor's accident response service, the City of New Orleans does not have an active UTE program.

### The United Kingdom Highways Agency

The United Kingdom (UK) Highways Agency has uniformed traffic officers that patrol local highways in marked squad cars. Through email correspondence and Zoom meetings, the UK Highway Agency shared the details of this program. Though they are uniformed and patrol roads similarly to police, the traffic officers are responsible solely for traffic flow. These responsibilities include clearing accidents, removing debris, reporting damage, initiating necessary repairs, and traffic control during significant public events. In the event of any criminal behavior, they do not respond but call the appropriate police agency. While there is a tradition of police foot patrols in London that do not carry firearms, this does not extend to traffic enforcement as the situation is fraught with the possibility of violence during a traffic stop. The UK does not currently have any active UTE program.

### New Zealand

The New Zealand National Police Force had a decades-long UTE program that began as early as when automobiles were introduced to the country. This program was implemented for roughly sixty years until it was ended in 1993. In the country's history, thirty-one percent of officers killed in the line of duty died during traffic stops. The deaths of officers include both unarmed and armed officers. Due to the dangerous nature of making traffic stops, the responsibilities of the unarmed patrols were assimilated into the regular duties of the National Police. New Zealand does not currently have an active UTE program.

## **Technology for Traffic Enforcement**

Aside from the use of unarmed personnel, the Sub-Committee explored the use of technological solutions to enforce traffic regulations. Current approaches to this largely revolve around the use of automated camera systems. Automated camera systems effectively identify infractions when motorists exceed the speed limit or have illegally crossed through an intersection during a red light. Cameras are not effective at enforcing any other types of traffic infractions. The Sub-Committee looked into the possibility of deploying these camera systems in South Pasadena.

### Red Light Cameras

Red Light Cameras are legal in California; however, the citations issued by mail are unenforceable because they are not issued by a sworn officer and have no impact on the driver's

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DMV record. Because it is widely known by motorists that red light cameras citations do not need to be paid, most cities in California have discontinued their use.

The City of Los Angeles has not used automated red-light cameras since 2011. The ACLU has also voiced its opposition to automated red light cameras as a possible infringement of resident's privacy rights. While the ACLU has not brought any litigation explicitly addressing the use of red-light cameras, they remain opposed to using any surveillance systems in public areas.

### Speed Cameras

The use of automated radar-activated cameras to enforce speed infractions is not currently legal in California. In February 2021, a bill was introduced to the California Assembly by Reps. Chiu and Freidman to approve the use of these types of camera systems. AB550 would authorize a pilot program to use speed cameras in Los Angeles, Oakland, San Jose, San Francisco, and one additional Southern California city that has not yet been named.

If this bill passes, the ACLU will most likely bring immediate litigation for privacy concerns against any municipality that deploys a speed camera system as they previously have done in Davenport, IA.

A second bill introduced in the California Senate by Senator Susan Rubio, SB735, has been met with opposition by both police unions and the ACLU. Per amendments, SB735 is strictly limited to providing for the use of speed cameras only in currently identified school zones. The full text of both AB550 and SB735 are included as an attachment in this report.

### **Additional approaches to achieve the goal of equitable traffic enforcement.**

The Sub-Committee also explored additional alternatives to reduce the disproportionate enforcement of traffic along racial and ethnic lines. There are two pragmatic approaches to achieve this in the absence of an unarmed patrol or technology systems: police policy review and officer training.

### SPPD Policy

In 2020 the PSC undertook a substantial review of SPPD policy regarding the use of force. This review found that SPPD policy largely met or exceeded the policy requirements of the 8Can'tWait Campaign with the exception of the outdated Use of Force Continuum concept. This is reflected in the minimal use of force deployed during traffic stops by SPPD officers, as noted above. Additional policy review may be required once more comprehensive data about the racial and ethnic makeup of motorists stopped in South Pasadena is available in preparation for RIPA reporting requirements.

### SPPD Training

Since November of 2020, SPPD personnel have participated in ongoing training courses aimed at reducing bias and increasing the use of de-escalation during interactions with the public. This includes:

1. Bias and Racial Profiling

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2. Crisis-Intervention and De-Escalation Training
3. Implicit Bias Training (Conducted by staff from the Museum of Tolerance)
4. Threat Assessment and De-Escalation Strategy
5. De-Escalation
6. Diversity, Equity, and Inclusion Awareness

Chief Solinsky reports that this training is required department-wide and is ongoing on a regular basis. As the new CAD system is launched and data can be collected, it can be used to analyze the effectiveness of these training programs regarding traffic enforcement.

### **Findings**

1. California Penal Code Section 830.1 reserves the power to issue moving citations to sworn peace officers. Until such time that this is changed through legislation, the use of Unarmed Traffic Enforcement cannot be legally conducted and is therefore moot. The PSC should monitor for any legislative changes in the future, at which time this approach can be revisited.
2. In the event that any of the municipalities studied by the Sub-Committee do enact a UTE program without changes to state law, the results should be monitored and analyzed by the PSC and the City. The review should consider the implementation of this type of approach, including any strategies that allow for deploying a UTE team without changes to the California Penal Code.
3. The PSC and City should monitor the outcomes of AB550 and SB735. If either of these bills becomes law, the PSC and City should monitor the results to determine if speed cameras systems effectively reduce harm from speeding motorists and whether the burden of litigation is prohibitive.
4. The SPPD must continue officer training to ensure constant reductions of the interference of bias as they conduct traffic enforcement stops.
5. The PSC, the City, and the SPPD should conduct a timely review of racial and ethnic data of motorists that are stopped for traffic violations as it is collected with the new CAD system. The review should be ongoing and, if necessary, should cause review and changes to policy and training dependent on the results.

### **Fiscal Impact**

There is no fiscal impact associated with the discussion of this report. There may be additional costs related should the PSC be directed to continue further research or conduct community outreach. Should a UTE program be implemented when legally permissible, there will likely be significant fiscal impacts in creating a new department or potential litigation.

### **Environmental Considerations**

The action considered is exempt from the California Environmental Quality Act (CEQA), as it is not considered a “project” pursuant to Section 15378(b)(5) of CEQA Guidelines. The action

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involves an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

#### **Attachments:**

- A. 2021 Annual Racial and Identity Profiling Act Report
- B. Transcript of the October 14, 2020, Cambridge Massachusetts Public Safety Committee
- C. Text of AB550
- D. Text of SB735
- E. Berkeley 2-2021 Fair and Impartial Policing Report
- F. CA v, Goldsmith – Red Light Cameras Lawsuit
- G. Philadelphia Bill 18081801 Full Text
- H. Cambridge POR 2020 #178 Full Text
- I. South Pasadena 2014 traffic Flow Study
- J. SPPD Traffic Function and Responsibility Policy
- K. PSC UTE Sub-Committee Chart of Contacts

**ATTACHMENT A**  
2021 Annual Racial and Identity Profiling Act Report



**ATTACHMENT B**  
Transcript of the October 14, 2020, Cambridge  
Massachusetts Public Safety Committee

**ATTACHMENT C**  
Text of Assembly Bill 550

**ATTACHMENT D**  
Text of Assembly Bill 735

**ATTACHMENT E**  
Berkeley 2-2021 Fair and Impartial Policing Report

**ATTACHMENT F**  
CA v, Goldsmith – Red Light Cameras Lawsuit

**ATTACHMENT G**  
**Philadelphia Bill 18081801 Full Text**

**ATTACHMENT H**  
Cambridge POR 2020 #178 Full Text

**ATTACHMENT I**  
South Pasadena 2014 traffic Flow Study



**ATTACHMENT J**  
**SPPD Traffic Function and Responsibility Policy**

**ATTACHMENT K**  
**PSC UTE Sub-Committee Chart of Contacts**