



Weekly Management Report

September 11, 2020

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MEMORANDUM



CITY MANAGER'S OFFICE

DATE: September 3, 2020

TO: Justin Hess, City Manager

FROM: Judie Wilke, Assistant City Manager *Judie Wilke*
BY: Christine Alles, Administrative Analyst

SUBJECT: Summary of the 2020 State Legislative Session

INTRODUCTION

The California Legislature adjourned the 2020 legislative session on August 31st concluding a chaotic year disrupted by a pandemic and punctuated by outbreaks of COVID-19 in the Capitol, frenzied hearings, and remote voting. When the Assembly and Senate convened in January, legislators introduced 2,223 bills, the majority with a focus on homelessness, housing, and climate resiliency, and the state projected a \$6 billion surplus. With the onset of the pandemic in March and in the wake of civil unrest and protests against police violence, the Legislature was forced to pivot its attention to housing security, workforce protections, and police reforms. Exacerbating the situation, the economic impact of the pandemic reduced the state's surplus to a budget deficit of \$54 billion, leaving legislators with constrained funds for new initiatives. The suspension of activity at the Capitol in March and July due to outbreaks of COVID-19 resulted in constricted timeframes to craft, vet, publicize and hear new legislation. As such, many significant bills died on the Senate and Assembly Floors as they failed to reach concurrence before the midnight deadline on August 31st, with approximately 400 bills passing both Houses, statistically the lowest number of bills to reach the Governor's desk.

While the pandemic limited the pace of activity in the Capitol, legislators ultimately voted on several key pieces of legislation to respond to the current public health emergency, address racial inequities, and make progress on the state's homelessness and housing crisis. In coordination with the City's advocacy firm, City staff actively identified and tracked 90 bills with a potential impact on the City of Burbank and responded to over 20 pieces of legislation as these bills made their way through the legislative process. This memo provides a summary of significant measures that failed passage or reached concurrence in the 2020 legislative session.

HOUSING

While the beginning of the legislative session saw continued efforts to increase housing development at the expense of local control (SB 50) and clarify previous Accessory Dwelling Unit (ADU) legislation (AB 953), these bills were waylaid by a Senate Housing package that aimed to address the scarcity of affordable housing in the state. Included in the package were five measures that would have provided cities the tools to allow housing as an eligible use on idle retail sites (SB 1385); streamline rezoning of low density neighborhoods (SB 902); offer greater incentives to developers for moderate and low-income housing (SB 1085); and expand expedited CEQA review of large developments that met a threshold for affordable units (SB 995). Also included in the package, SB 1120 faced opposition as it mandated ministerial approval of duplexes and subdivisions of single-family lots. All five measures ultimately failed passage.

Other efforts to provide financial incentives and funding for housing production, which the City of Burbank supported, failed to pass both Houses of the legislature. Notably SB 1299 would have provided cities that converted idle or underutilized retail sites to workforce housing with seven years of the average sales tax revenue generated by that site in the previous seven years. Alternatively, SB 795 sought to fill the affordable housing gap by allocating \$10 billion over 5 years to various state housing and economic development programs.

The Assembly likewise introduced several housing production bills, specifically AB 1279, which designated "high opportunity areas" in the state and required housing development to be a use by-right within these areas; AB 3040, which encouraged cities to upzone single family or low density areas for additional Regional Housing Needs Allocation (RHNA) site identification credits; and AB 3107, which required that housing development be authorized in commercially zoned areas as long as projects met specific criteria. While these bills failed passage, two significant Assembly measures were sent to the Governor's desk, AB 725 and AB 2345. AB 725 requires at least 25% of a jurisdiction's share of the regional housing need for both moderate-income and above moderate-income housing be allocated to sites with zoning that allows at least four units of housing. However, jurisdictions such as Burbank with a Housing Element due before 2022 are not subject to the bill's requirements for the 6th cycle. AB 2345 revises density bonus law, increasing the maximum density bonus to 50 percent depending on the number and level of deed-restricted affordable homes and reducing the maximum parking a locality may require for qualifying projects.

RESPONSE TO COVID-19

The legislature addressed the state's public health crisis with the passage of a tenant relief measure, worker's compensation legislation, and expanded family leave laws. With the Governor's executive orders in March authorizing local eviction protections and the Judicial Council's halting of nearly all evictions in the state, legislators sought to strike a deal on pandemic eviction legislation. Earlier this month, the Judicial Council announced that courts could resume processing eviction cases effective September 1st. While several proposed measures offering various degrees of rent and mortgage relief to tenants and property owners failed passage (AB 828, SB 939, AB 1436, SB 1410), AB 3088 emerged

as the main vehicle for tenant relief. The urgency legislation was fast-tracked by legislative leadership, passed both Houses, and signed by the Governor to go into effect immediately, minutes before the September 1st deadline.

AB 3088, known as the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 provides residential tenants financially impacted by COVID-19 with eviction protections for unpaid rent between March 1, 2020 to August 31, 2020. Rent owed during this period will be converted to civil debt, collectible in small claims court. For rent missed between September 1, 2020 and January 31, 2021, a tenant will be responsible for at least 25 percent of rent due, or they will be open to eviction. The Act further imposes penalties on landlords who resort to extrajudicial means to force a tenant to vacate, such as shutting off utilities. Furthermore, cities and counties will no longer be able to extend any local eviction moratoria. Notably, missing from the Act are eviction protections for commercial tenants and mortgage forbearance for small landlords.

To address COVID-19 in the workplace, the legislature considered several key bills that faced opposition from public and private employers alike. Of the three key worker's compensation legislation (AB 664, AB 196, SB 1159), only SB 1159 made it to the Governor's desk. SB 1159, which the Governor has indicated he is likely to sign, creates a rebuttable presumption for COVID-19 for workers infected at their place of work through 2022. The legislature further passed AB 685, which requires employers to notify employees of exposure to COVID-19 within one business day. Lastly, SB 1383 expands family leave to 12 weeks per year for all public and private businesses with five or more employees.

PUBLIC SAFETY REFORMS

Police reforms emerged as a principal focus for lawmakers late in the legislative session, with several bills geared towards police recruitment and public employment, false reports and discriminatory calls, use of force policies, and police transparency and oversight. Notable among the bills that failed passage, AB 66 would have limited the use of rubber bullets and chemical agents to disperse lawful assemblies, enforce curfews, or respond to verbal threats or non-compliance with law enforcement directives; AB 1472 and AB 1550 made discriminatory 911 calls against an individual based on their race, religion, or gender a civil rights violation or hate crime; SB 731 would have eliminated immunity from liability for certain public employees and public entities and decertified peace officers who have been let go for misconduct; and reporting laws such as SB 776 and AB 1314 would have required law enforcement agencies to disclose all incidents involving use of force and information relating to use of force settlements, respectively. Ultimately, the police reform measures that were successful were more moderate in nature and included a ban on chokeholds (AB 1196), independent review of police shootings by the Department of Justice (AB 1506), and authorization for counties to establish a sheriff oversight board (AB 1185).

CONCLUSION

While compressed timelines and revenue shortfalls largely redirected legislators' efforts from housing, transportation, and environmental legislation, the Legislature did pass SB

793, banning the sale of flavored tobacco products effective January 2021, which the Governor signed into law and already faces a proposed referendum for the 2022 ballot. On the micromobility front, legislators passed the League sponsored AB 1286, which requires shared use mobility device providers to obtain an agreement with the city it seeks to operate in and comply with all local operation, parking, and safety rules, as well as maintain minimum commercial general liability insurance. The legislature also passed SB 1441 to extend the sunset date on the collection of Utility Users Tax (UUT) for prepaid telephone services until January 1, 2026, which was a legislative priority for the City. The City further participated in local recovery campaigns and continues to advocate for greater pandemic response funding at a state and federal level.

Although a significant number of bills failed passage this year and the Governor is unlikely to convene an extraordinary session, City staff will continue to monitor vital legislation that may be reintroduced in January 2021. Legislators have indicated the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020 is a temporary measure, and further work is necessary to expand the newly passed rent relief legislation to include mortgage forbearance for small landlords and eviction protections for commercial tenants. Additionally, AB 1080 and SB 54, which set a state goal to reduce waste from single-use plastic packaging by 75% by 2032, failed to pass for the second year in a row but will likely be reintroduced in 2021 given the large backing from local governments. Further discussions on affordable housing, development, and mitigation fees will likely continue in the next session as well. In line with the City's legislative platform, staff will continue to advocate the City's position on legislation that has been sent to the Governor's desk and will consider the priorities of the legislature in preparing the City's 2021 Legislative Platform.

memorandum

DATE: August 25th, 2020

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director 
Fred Ramirez, Assistant Community Development Director 
Lisa Frank, Senior Planner

SUBJECT: **Planning Board Actions of August 24th, 2020**

At the Planning Board meeting of August 24th 2020 the Planning Board met for a public hearing to discuss the following items:

Public Hearing

1. Project No. 18-0006999 | 624-628 S San Fernando Blvd | Conditional Use Permit, Development Review, and Density Bonus Increase

At their meeting of August 24, 2020, the Planning Board unanimously approved a Conditional Use Permit, Development Review, Lot Line Adjustment and Density Bonus request for a new 42-unit mixed-use residential development with ground floor commercial (office and retail) located at 624-628 S. San Fernando Blvd., across the street from the City's Robert Ovrham Park and Community Center. The existing site includes two office buildings and surface parking, and will not displace any existing housing units. 5 out of the 42 total new homes (a mix of 1, 2, and 3 bedroom units) on the 2nd through 4th floors will be deed-restricted Affordable housing units, generated through a combination of State Density Bonus and the City's Inclusionary Housing Ordinance. Of the 5 Affordable units, 4 will be reserved for households qualifying as Very Low Income and 1 for a household qualifying as Low Income. The public right of way around the project site will be upgraded with *Burbank2035*-compliant widened sidewalks (15 foot width along S. San Fernando Blvd and 12 foot width along E. Cedar Ave.), a new ADA-compliant pedestrian ramp at the corner with a wider corner radius for improved accessibility, and the planting of new street trees. The 15-day appeal period for the Project terminates at the end of day on September 8, 2020. The Board made a motion, carried by a vote 5-0.

Attendance

Present: Atteukenian, Rizzotti, Liu, Hadian, Gamboa

Absent:

MEMORANDUM



COMMUNITY DEVELOPMENT



DATE: August 24, 2020

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director *Q for ??*
VIA: Simone McFarland, Assistant Community Development Director *Q*

SUBJECT: Landlord-Tenant Commission Meeting – August 3, 2020

- Chairperson Stump welcomed and congratulated the newly appointed Commissioners Darin Chase and Cari Pelayo.
- One member of the public attended the WebEx meeting. The person was interested in civic engagement with the Boards, Commissions, and Committees, and asked about applying to the Landlord-Tenant Commission. Commission Chair Stump responded two (2) people were recently appointed, and shared the City Clerk's website for future openings.
- Commission Chair Stump provided the following announcement:
 - The City Council extended the City's Eviction Moratorium through September 30, 2020. Renters are obligated to pay lawfully charged rent, and under the July 28th Ordinance, will have six months from the expiration of the City eviction moratorium to pay back due rent. Additionally included was wording that stated that late fees, interest and penalties could no longer be accrued under the new moratorium.
- Staff provided the following announcement:
 - Burbank City Council will be holding a special meeting on August 7th at 2:00pm regarding an initiative ballot measure that as proposed makes changes to the Landlord Tenant Commission. The Commission was invited to tune-in.
- The Commission elected Commissioner Stump as Chairperson and Commissioner Small as Vice Chair to serve from September 2020 through August 2021.
- Commissioners provided updates on cases assigned related to them related to: the eviction moratorium and sub-leasing. The cases related to the moratorium were resolved through mediation. The case related to a tenant sub-leasing from a third party corporation is still pending. In the meantime, staff followed-up with Code

Enforcement to inquire on possible violations on the subleasing case. Code Enforcement staff stated there were no code violations with the case.

- The meeting was adjourned at 7:31 pm.

MEMORANDUM



COMMUNITY DEVELOPMENT

DATE: September 9, 2020

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director *PP*
VIA: Simone McFarland, Assistant Community Development Director
Housing and Economic Development *MHE for SM*
VIA: Mary Hamzoian Economic Development Manager *MHE.*
BY: Melissa Colasanto, Administrative Analyst I

SUBJECT: BURBANK HOSPITALITY ASSOCIATION (BHA) MEETING SYNOPSIS
August 19, 2020

- City staff from the Community Development Department made a presentation to the Board on the current status of short-term rentals and the preparation of a proposed ordinance to allow and regulate short-term rentals in Burbank.
- The Board approved a \$50,000 sponsorship for the 2020 Virtual Creative Talent Network Animation eXpo in Burbank on November 16th through 22nd.
- City staff from the Community Development Department and StreetPlus provided the Board with an overview of the City's Homelessness Plan and StreetPlus services in response to COVID-19.
- The Board approved the renewal of preferred annual membership to HotelPlanner.com, the largest online group hotel reservation system, for nine Burbank hotels.

**CITY OF BURBANK
POLICE DEPARTMENT
MEMORANDUM**



DATE: September 4, 2020

TO: Justin Hess, City Manager

FROM: Scott LaChasse, Chief of Police *Scott LaChasse*
By: Michael Albanese, Deputy Chief
(Josephine Wilson, Former Police Administrator)

**SUBJECT: UPDATE ON THE OFFICE OF INDEPENDENT REVIEW
RECOMMENDATIONS FOR THE 2018 MONITORING REPORT OF THE
BURBANK POLICE DEPARTMENT**

At the joint Council/Police Commission meeting held on July 14, 2020, the Office of Independent Review (OIR Group) provided its sixth monitoring report of the Police Department following an audit of the Department's internal investigations and administrative reviews to include uses of force incidents, vehicle pursuits, officer-involved shootings and Command Staff email communications. During a discussion on the Department's response to the OIR recommendations, the Council requested a status update on the OIR recommendations from the fifth monitoring report.

The fifth OIR monitoring report was presented at a joint Council/Police Commission meeting on March 5, 2019. There were 21 recommendations which the Department had either completed or was in the process of complying. A response to the recommendations was included as part of the OIR report. The purpose of this memorandum is to provide an update of the status of the 21 recommendations.

Recommendation 1:

BPD should specifically instruct supervisors reviewing Taser uses of force, to focus on the length and number of deployments and any extended deployment beyond five seconds or with more than two separate applications should be referred to the CIRB team for immediate review.

Department's 2019 Response

- The Department reviews all Taser deployments during the Critical Incident Review Board process; each Taser deployment/activation is evaluated and reconciled with the Department's Taser policy. Additionally, the Training Supervisor completes a

Taser download/analysis of each Taser activation and provides a report that codifies the Taser event, time, cartridge information, duration (in seconds), temperature and battery life. The Taser Report is included in the Use of Force Investigation package and is discussed in detail during the supervisory and Critical Incident Review Board review process. Any anomaly associated with the Taser device and/or deployment is addressed directly either by the officers' immediate supervisor/Watch Commander and/or Training Supervisor.

Department's 2020 Update

The Department is in compliance – On March 3, 2020, the Department began issuing and training on the new Taser 7s, which were approved by the Council in July 2019 as part of the Axon Bodyworn and In-Car Camera program. Training was completed by April 28, 2020. The new Taser 7 has an internal shutoff system that restricts any Taser activation beyond five seconds, regardless of whether the Officer still has their finger on the activation trigger. This feature ensures that there cannot be an extended Taser activation. Since the acquisition of the new Taser 7, there has been no incident of an extended Taser activation. It is important to note that each Taser activation is reviewed by the Investigating Supervisor, Watch Commander and Commanding Officer with a final review and recommendation by Critical Incident Review Board. The Board is comprised of a peer member, tactical personnel/subject matter expert and members of the Command Staff.

Recommendation 2:

When BPD reviews Taser uses of force, it should focus on the specific restrictions for deployment of the weapon and ensure that sufficient fact-gathering during the investigative phase is achieved to address such issues, and that the analysis addresses those restrictions.

Department's 2019 Response

- Agreed – however, the Department believes this recommendation is achieved during the Use of Force Investigation and the subsequent review processes; specifically, supervisory/Watch Commander review, the respective Commanding Officers' review of the incident and the formal review Critical Incident Review Board process. During the Review Board process, the circumstances of the incident are analyzed/discussed to determine if any policy violations have occurred and the force used meets the threshold established in Graham versus Connor.

Department's 2020 Update

The Department is in compliance with this recommendation. The Critical Incident Review Board process will continue to be vigilant in their evaluation of the Use of Force investigation to ensure that all facts are gathered and evaluated during the Review Board process.

Recommendation 3:

BPD should closely examine each encounter preceding a use of force and determine whether there were times during the conversation where disengagement may have been the preferred option.

Department's 2019 Response

- Agreed – during Critical Incident Review Board sessions, the Board will continue to conduct a critical review of the circumstances preceding the use of force to determine if would have been more appropriate to disengage from the subject before a use of force incident occurs.

Department's 2020 Update

The Department is in compliance. The Critical Incident Review Board continues to review all circumstances that led up to the use of force and evaluates if there were disengagement opportunities before the incident occurred. Feedback is given to the officer involved and if appropriate, training and/or equipment recommendations are provided. Additionally, the Department has identified a new training curriculum that is specific to engaging community members during challenging contacts. The training incorporates communication strategies and de-escalation techniques that maximize the opportunity for professional interactions. Approximately 24 sworn personnel will attend this training on October 1, 2020, and future sessions will be scheduled based upon evaluation of the delivered course curriculum.

Recommendation 4:

When examining critical incidents, BPD should review the specific tactics of any rescue or first aid operation with an eye toward self-examination and improvement.

Department's 2019 Response

- The Department understands OIR's recommendation – however in a high risk unfolding crisis the rescuing of a subject(s) requires immediate movement/relocation from a deadly threat. The movement of a subject from a threat to a safe location must be swift and can be impaired by the size of the subject – size of the officers – number of officers – distance of the move – status of the threat while ensuring that there is appropriate cover so that the movement of the subject does not place the subject and/or officers in additional peril. Moreover, after any high risk intervention, the involved personnel participate in a debrief of the incident to identify areas of improvement, training and/or equipment recommendations. The Department will take heed to OIR's recommendation moving forward.

Department's 2020 Update

The Department trains for rapid unfolding incidents that necessitate swift movement of rescuing and or evacuating community members. When practical, any first aid/life saving

measure will be introduced. In addition to the annual first aid-related training, it should be noted that every officer has a trauma kit and tourniquets for such extraordinary events. The tactical medical kits are equipped with immediate life-saving supplies and all officers are trained on the use and application of the life-saving devices.

Recommendation 5:

BPD should inform its first-level supervisors of their primary role as incident commanders and the importance of delegating tactical operations to officers when resources allow.

Department's 2019 Response

- During high-risk interventions it is not uncommon for the roles and physical positions of officers/supervisors to change as the circumstances and environment change. A supervisor may become a covering officer, carry a ballistic shield and/or shoulder weapon or may be directly involved in the rescue effort. In this instant case it was appropriate for the supervisor to assist with the rescue of the subject while covering officers (with a shield) provided some protection during the movement of the suspect. During fluid/dynamic high risk incidents, officers/supervisors are trained to be flexible and interchangeable with their respective physical roles/positions depending on the dynamics of the circumstances, environment and suspect behavior

Department's 2020 Update

The Department recognizes the need for Supervisors to provide oversight during tactical operations; however, during extraordinary high-risk interventions roles may change due to the circumstances, behaviors and environment. The Department trains for these very dynamic and extraordinary circumstances to optimize on Officer and public safety. It is the Department's practice that supervisors only engage in first responder roles in the absence of additional supervisors being on scene during bona fide emergency situations.

Recommendation 6:

BPD should consider alternatives to the current "one-month block" sampling model (e.g., a bi-annual and shorter window) that would potentially reach more participants without increasing workload.

Department's 2019 Response

- Moving forward - The Department recommends that OIR select the dates of the email audit to be conducted for a calendar year. The dates that OIR selects in that calendar year will be part of the annual email audit.

Department's 2020 Update

The Department has implemented the recommendation starting in 2019 to include the Office of Independent Review selecting the dates for the email audit. The dates selected are blind to the organization.

Recommendation 7:

The City should consider providing OIR Group with smaller samples from different months as a way of freshening the audit process for senior BPD management.

Department's 2019 Response

- Moving forward - The Department recommends that OIR select those dates/samplings for the Command Staff's email audit; the Command Staff's email audit will coincide with the Department-wide annual email audit.

Department's 2020 Update

The Department has implemented the recommendation starting in 2019 to include the Office of Independent Review selecting the dates for the email audit. The dates selected are blind to the organization.

Recommendation 8:

The Department should limit its use of the "Exonerated" finding for those allegations in which factual evidence is not in dispute, the allegation as made does not constitute a violation of policy, and BPD management has no concerns about aspects of the officer's handling of the interaction.

Department's 2019 Response

- During the review of investigative facts, if the outcome of a personnel investigation is categorized as Exonerated the Department will conduct another detailed review/analysis to ensure that the Exonerated category is the proper disposition; if not, the appropriate disposition will be applied. Moreover, the Department is presently reviewing the definitions of all disciplinary actions/outcomes to ensure that the definitions/categories are consistent with law enforcement's best practices.

Department's 2020 Update

The Department continues to review each internal investigation separately to determine that the appropriate classification/outcome is based on the facts of the case. The Department maintains a layered review process to ensure that there is consistency in the findings and that any sustained penalty is appropriate and consistent with the Department's disciplinary process. The multiple levels of review include the Commanding Officer of the Officer involved, Deputy Chief, Chief of Police and when applicable, the City Discipline Committee. The Department is presently evaluating the definition of "Exonerated" to avoid confusion.

Recommendation 9:

The Department should remain vigilant with regard to the timely completion of cases by regularly attending to all aspects of the relevant chronology. These include an emphasis

on identifying and relying upon the earliest possible “start date” when calculating the statutory period for potential discipline.

Department’s 2019 Response

- Agreed - the Department will identify the investigative “start date” that is required by statute – this recommendation will be an organizational priority once an internal investigation has been initiated. It should be noted that the Department has not had an out-of-statue IA since July of 2015.

Department’s 2020 Update

This is an organizational priority as it relates to statute of limitation compliance. The organization conducts over 50 internal investigations each year. A “statute of limitation” (SOL) date is established at the onset of the investigation for all internal investigations (IA) that are conducted/investigated by the Department. The one (1) investigation in the 2019 OIR Report was an anomaly due to the involvement of a “third party” investigator who conducted the investigation with the required oversight by the City’s established disciplinary process. It was during the Skelly hearing/process that the City and Officer’s representatives agreed to modify the SOL date due to additional information discovered during the hearing. Subsequently, Department Policy 1020 – Personnel Complaint Procedures, was revised on June 18, 2020, to address and incorporate the new procedure.

Recommendation 10:

The Department should review its recent records of discipline for sustained allegations of misconduct to ensure consistency and sufficiency in its consequences.

Department’s 2019 Response

- The Department does an annual audit of all of their IA’s involving high utilizers to determine if there is a pattern/trend of misconduct. Additionally, during the administrative review of any sustained allegation, disciplinary consistency is the centerpiece of the review process. It should be noted that the review process involves the following; investigating supervisor, respective Commanding Officer, Deputy Chief, Internal Affairs Bureau personnel, Chief of Police, and “City Discipline” when applicable. The review process is layered to ensure that there is consistency in the findings and that any sustained penalty is appropriate and consistent with the Department’s disciplinary process.

Department’s 2020 Update

The Department is in compliance with this recommendation. The Department conducts an annual audit involving high utilizers to determine if there are any trends or patterns of misconduct. Any sustained allegation is part of a review process that includes the Investigating Supervisor, Commanding Officer of the involved Officer, Deputy Chief, Internal Affairs Bureau, Chief of Police and City Discipline Committee when applicable.

Recommendation 11:

Burbank should continue to routinely evaluate claims against the Department through the prism of administrative review, and should conduct additional investigation into potential misconduct or other performance issues as needed.

Department's 2019 Response

- The Department receives a copy of all claims that are submitted/filed. The Department's Audit Supervisor is the repository of the claim processes and that supervisor evaluates each claim to determine if administrative action is required: that is, the initiation of a Personnel Complaint and/or Administrative Review – if one has not already been initiated. The Chief of Police and Deputy Chief are also involved in that review process which is another safeguard that all claims are evaluated for any allegations of potential misconduct/policy violations.

Department's 2020 Update

The Department is in compliance. There is a thorough review process of claims that are submitted and filed. A Supervisor reviews each of those claims to determine if there is any misconduct or training considerations that could result in a personnel complaint or administrative review.

Recommendation 12:

BPD should regularly evaluate/audit the qualifications and eligibility status of its reserve officers.

Department's 2019 Response

- Agreed – the Department will implement an annual audit of the Department's Reserve Officer Program to ensure that all of the Department's Reserve Officers are in compliance with all Department and POST training standards. Moreover, the Commanding Officer of the Detective Bureau is the Reserve Officer program manager who attends all Reserve Officer meetings for oversight and Departmental representation.

Department's 2020 Update

Oversight of the Reserve Program - to include recruitment training and professional development - was transferred to the Community Outreach and Personnel (COPS) Bureau, which has direct oversight of ongoing training and Peace Officer Standards and Training compliance for the entire Department. The COPS Bureau regularly evaluates the compliance of the Reserve Officers. The Professional Standards Unit completed an annual audit of the Reserve Program in February 2020 and found all Reserve Officers in compliance with Department and POST qualification and eligibility requirements.

Recommendation 13:

BPD should ensure that misconduct allegations are addressed with appropriate rigor and concern for risk management in dealing with these “at will” members of the agency.

Department’s 2019 Response

- Agreed – the Department will continue to maintain the same high standards it has for their Reserve Officers as they do for their full-time officers.

Department’s 2020 Update

The Department is in compliance with this recommendation. All employees regardless of sworn, civilian or at will/Reserve status are held to the same disciplinary standard and review process.

Recommendation 14:

BPD should standardize its own recent good work and look for ways to apply an objective and multi-part test (such as the one created by the federal Department of Justice) to the facts in cases involving racial profiling/biased policing allegations.

Department’s 2019 Response

- Agreed – the Department will continue to evaluate an officers’ historical information as it relates to any potential racial biases (fact check) during alleged racial profiling/bias allegations and continue to reference the Department of Justice’s “A Resource Guide on Racial Profiling Data Collection Systems” when investigating these serious allegations.

Department’s 2020 Update

This is an ongoing priority for the Department to audit/monitor any racial profiling/biased based policing allegations. In October 2019, the Department begun discussions with Tiburon, the Computer Aid Dispatch system vendor, to discuss implementation of system updates in compliance with the Racial and Identity Profiling Act (RIPA) mandated by the California’s State Attorney General’s Office. The Department completed implementation of the Electronic Daily Field Activity (eDFAR) software in June 2018 and is completing system modifications this summer. The newly designed eDFAR contains more than 56 individual fields that capture critical information through which supervisors and managers can measure performance at the officer level, the shift level, and even at the divisional level. Specifically, random audits of officers’ Field Interview contacts in the eDFAR system will assist in determining if there is a pattern of discriminatory enforcement. The Department is also exploring other resources implemented by other law enforcement agencies such as the Long Beach Police Department to assess officer compliance for non-discriminatory enforcement.

Recommendation 15:

BPD should remain vigilant about maintaining its own high standards for the force review process, particularly with regard to effectively addressing allegations of misconduct by subjects against involved officers.

Department's 2019 Response

- Agreed – the Department will continue to remain vigilant during the review of all force investigations. The Department will appropriately address/reconcile any allegations of misconduct during that review. This particular recommendation will be discussed during Department-wide supervisory training to ensure Department vigilance is maintained.

Department's 2020 Update

The Department is in compliance with this recommendation. The recommendation has been discussed during supervisory training. The Department also conducts an expansive investigation of any allegations of misconduct against officers that involves use of force. The onboarding of the Bodyworn and In-Car Camera system provides an added investigative feature that will ensure that there is a fair and partial investigation addressing any allegations of misconduct particularly involving force incidents.

Recommendation 16:

BPD should continue to prioritize the timely resolution of force cases in the interest of providing officers with the most useful possible critiques.

Department's 2019 Response

- The Department makes a strong effort to have a timely resolution of force cases and provide the Critical Incident Review Board outcome to the involved officers. However, there are instances where the investigation is impeded due to various investigative components; specifically, waiting on/depending on third parties for production of video/audio footage – interviewing witnesses, collecting other evidentiary items for a complete investigation. Additionally, the use of force investigative review process involves the investigating supervisor, a reviewing Watch Commander who ultimately submits the use of force investigation to their respective Commanding Officer. The layered review process may result in requests for additional investigative follow-up and information that could delay the force investigation's submission for review by the Critical Incident Review Board. Commonly referred to as an "investigative kick-up" which is necessary to ensure that a comprehensive use of force investigation has been conducted/completed.

Department's 2020 Update

The Department is in compliance with this recommendation. Most force investigations are completed within a 14-day timeframe; however, the review process extends the evaluation of the force incident in the event that there are questions by the reviewing entities such as the Watch Commander and/or respective Commanding Officer before it is even placed into the Critical Incident Review Board process. In certain circumstances, the Deputy Chief will send back the force investigation for more information so that there is a complete use of force investigative package for the Board to review. Once the Board reviews the use of force, there could be more time added if there are training and equipment needs associated with the incident. Most importantly, all use of force incidents receive a detailed review and analysis to ensure Department policy compliance.

Recommendation 17:

The Department should continue to regularly assess the use of the De Minimis force protocol to ensure that it is not over-used, particularly with the broadening of the definition to include pain compliance measures.

Department's 2019 Response

- Agreed – the Department will continue to audit and evaluate incidents of De Minimis force. Additionally, the Department will continue to provide annual use of force training and incorporate the use/criteria associated with De Minimis force incidents to ensure that there is compliance with Department policy.

Department's 2020 Update

The Department has a structured policy in place to monitor De Minimus force incidents to ensure that the criteria is not expanded to a greater use of force incident. In addition to supervisory Watch Commander oversight (that includes notification, review, recordation of the De Minimus force incident), the Department conducts an annual audit of every De Minimus force incident which is another layer of review to ensure that personnel are in compliance with the criteria in the Use Of Force policy.

Recommendation 18:

When force is used on a handcuffed person, BPD should expressly acknowledge in its force analysis the specific limitations in its policy for using force in that situation and whether sufficient circumstances existed under that policy to support the officers' actions.

Department's 2019 Response

- Agreed – part of the Critical Incident Review Board process is to examine all force incidents and during circumstances where a handcuffed person is the subject of force – the Board will review the circumstances that led up to the force intervention and evaluate the level of force used for policy compliance/implications.

Department's 2020 Update

The circumstances of all force incidents involving a handcuffed suspect are fully examined during the Critical Incident Review Board process to determine if the force was necessary and in compliance with policy. The Department acknowledges OIRs recommendation and continues to be attentive to any force incidents involving a handcuffed suspect.

Recommendation 19:

BPD should implement an upgraded and more realistic pursuit training program.

Department's 2019 Response

- Agreed – however, it should be noted that the Department had two pursuits during this past evaluation period. During the review/critique of those pursuits the decision to initiate a pursuit was critically evaluated for policy compliance. Also noteworthy, was that in both pursuits over-driving was not a factor and the officers' driving behavior was also critically evaluated.

The Department's quest to pursue and implement realistic/upgraded pursuit training was conducted during this evaluation period. Department spent time and resources looking for viable and realistic pursuit training. During the Department's research to find upgraded/realistic pursuit training the outcome has been disappointing. The cost associated with real-world – scenario based pursuit training is extremely expensive. Additionally, the Department has interviewed vendors, reviewed four different products that appeared to be a viable training option however all of those products fell short of the Department's expectations in addition to falling short of critical decision making as it relates to initiating a pursuit.

But, this recommendation will continue to be an organizational priority moving forward and the Department will continue to create training vignettes that provide realistic pursuit training.

Recommendation 20:

BPD should track evidence of the success or failure of the new pursuit training program and, based on that data, set a date certain for deciding if the pursuit policy needs revision.

Department's 2019 Response

- Agreed – when contemporary pursuit training is implemented the Department will evaluate each pursuit and reconcile the circumstances/outcome of the pursuit to determine if more training is required and/or the pursuit policy needs any revisions.

Department's 2020 Update on Recommendations 19 and 20 – pursuit training

Burbank Police Officers receive training in vehicle pursuits, based on Peace Officer Standards and Training (POST) standards. POST sets minimum selection and training standards for California law enforcement. The training is largely lecture-based, with most

driving consisting of low-speed maneuvers and collision avoidance. This is primarily due to the fact that Burbank PD does not have access to a facility which would allow for safe driving under conditions (speed, distance, driving maneuvers, and stress levels) which closely replicate real-world pursuit driving experiences. Our neighboring cities of Glendale and Pasadena experience the same facility challenges and also just provide the basic required POST standards.

To address the OIR Recommendation, the Department reached out to the Los Angeles Police Department (LAPD) regarding use of their Edward M. Davis Training facility located in Granada Hills. The other closest training facility is located at the San Bernardino County Sheriff's Department. One of the core functions of the Davis Training Facility is Emergency Vehicle Operations, including pursuit driving training. The 44-acre center has three firing ranges and a mock city scene where recruits and officers can practice driving maneuvers. The facility is known for providing first-rate vehicle pursuit training with its full instructor staff and driving course.

LAPD staff expressed a willingness and ability to assist Burbank PD by providing the facility and instructor staff for an 8-hour block of vehicle pursuit training. With the Davis Training Facility's schedule focused on recruit training for LAPD, their calendar is filled during their normal operating hours (Monday – Friday). However, the staff and facility can be made available on weekends, on an overtime basis for LAPD staff. LAPD would provide the patrol vehicles to be driven during the training. The availability of the facility only on weekends also limited Burbank PD to the option of providing this training only on overtime basis for all personnel. The cost of approximately \$250,000 was cost prohibitive.

Burbank PD further pursued opportunities for other cost effective options to provide the necessary training. This effort culminated into a review of Virtual Reality (VR) options. Law enforcement agencies are increasingly recognizing the need to incorporate VR technology into their training regimen, ranging from driving options to tactical operations. VR has demonstrated its ability to transform and drive results in the learning and training arena. From traditional classroom environments to extreme training situations, VR has the potential to reduce investment costs and increase enrichment across a range of industries.

The Department completed a critical evaluation of four different simulators at the International Association of Chiefs of Police Conference and trade show. The simulators were costly and did not provide the training rigor that meets our needs. The animation did not provide the realism of pursuit driver training that is needed for law enforcement purposes and the simulators are prone to induce motion sickness. Although not too optimistic, the Department is evaluating a non-motion simulator wherein the Police Department would create different driving pursuit training vignettes specific to the City.

At this time, especially considering the City's financial challenges, the Department recommends maintaining our training as is, meeting POST-mandated standards.

Department-wide training will continue to be conducted in these forms: roll call training; debriefing sessions on Department and outside agency pursuits; and, any department-wide training efforts that reinforce pursuit driving and policy implications. It should be noted that the predominant challenge with our pursuits to date is not overdriving but policy application. The policy is being revised for clarity but ongoing reinforcement of the Department's Pursuit Policy is a priority, to ensure everyone is conversant with its provisions. The Department averages just under 50,000 calls for service a year and for the past five years the Department has averaged five pursuits a year which equates to .0001% of all Department incidents.

Recommendation 21:

BPD should continue its efforts to assign the initial pursuit review/critique to a sergeant who was not involved with the incident.

Department's 2019 Response

- Agreed – when staffing allows – the Department will ensure that a non-involved supervisor conducts the Pursuit Investigation. Any major pursuit incident the Department will consider calling in additional supervisors to conduct the pursuit investigation.

Department's 2020 Update

It is an organizational preference that the Sergeant assigned to conduct the pursuit investigation was not involved in the incident; however, staffing will dictate who will complete the investigation. If a supervisor has had a minuscule role in the pursuit, the Department finds that it is appropriate for that supervisor to conduct the investigate if he is the one available. To the extent possible, the Department works hard to ensure that the investigation is conducted by a supervisor not associated with the pursuit.

MEMORANDUM



CITY MANAGER'S OFFICE

DATE: September 9, 2020

TO: Justin Hess, City Manager

FROM: Judie Wilke, Assistant City Manager *Judie Wilke*
BY: Christine Alles, Administrative Analyst

**SUBJECT: City Manager Tracking List #2274: Response to Council Inquiries
Regarding Federal Funding**

Background

On January 7, 2020 the City of Burbank's federal advocacy firm, David Turch and Associates presented a federal legislative update to City Council. This memo is in response to inquiries made by Council in regard to federal funding for a variety of programs, including housing and homelessness resources, substance abuse and mental health services, K-12 education funding, and cybersecurity for public utilities. In December 2019, Congress passed H.R. 1158 and H.R. 1865, two consolidated appropriations bills that provide funding for various federal departments for Fiscal Year (FY) 2020, including Housing and Urban Development (HUD), Health and Human Services (HHS), the Department of Education (ED), and the Department of Energy (DOE). Furthermore, in response to the COVID-19 pandemic, Congress passed supplemental appropriations bills, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020. Congress is currently engaged in the appropriations process to determine spending for FY 2021. This memo details federal funding made available for FY 2020, funding opportunities for the City of Burbank, as well as federal budget considerations for FY 2021.

Fiscal Year 2020

Department of Housing and Urban Development

HUD funds a variety of housing and homelessness programs nationwide and received \$49.1 billion for FY 2020, a \$4.9 billion increase in funding over the previous year. In brief, of the \$49.1 billion for HUD, H.R. 1865 allocates \$23.9 billion for tenant-based rental assistance, which includes the Section 8 Voucher Program and supportive housing for homeless veterans. Overall, funding for rental assistance programs increased by \$1.3

billion over 2019 levels. The City of Burbank will receive \$9.5 million via the Section 8 Housing Program to aid approximately 850 households for FY 2020-21, and such funding includes 15 Veterans Affairs Supportive Housing Vouchers. Additionally, HUD was allocated \$2.8 billion, an increase of \$141 million compared to 2019, for homeless assistance grants, such as those awarded through Los Angeles Homeless Services Authority's Continuum of Care. Via this program, the City applied for and received 20 Permanent Supportive Housing Vouchers.

At the national level, HUD funding also includes \$3.4 billion for Community Development Block Grants (CDBG) and \$1.35 billion for the HOME Investment Partnership. These two programs combined were awarded \$200 million in additional funding over the previous fiscal year. As an entitlement community, the City of Burbank received \$1,045,087 in CDBG and HOME Program funds for FY 2020-2021. The CARES Act apportioned a further \$5 billion in supplemental funding towards the CDBG Program, distributing \$1 billion directly to states and the remainder via existing formulas to entitlement communities. The City received \$614,000 in supplemental CDBG funding within 30 days of enactment of the CARES Act, which Council approved for the creation of tenant and small business assistance programs.

Substance Abuse and Mental Health Programs

The Department of Health and Human Services (HHS) received \$94.9 billion this fiscal year to aid in its mission to promote public health and safety. This represents an additional funding of \$4.4 billion over 2019 levels. One of the core divisions of HHS is the Substance Abuse and Mental Health Services Administration (SAMHSA), which received \$5.9 billion for FY 2020, a \$140 million increase over the previous fiscal year. SAMHSA delivers targeted treatments and mental health services for children and youth through programs such as Project AWARE and the National Child Traumatic Stress Initiative, as well as substance abuse counseling for the homeless via opioid prevention and treatment programs. Overall, these programs received a combined increase of \$56 million in funding for FY 2020. The CARES Act, furthermore, provided an additional \$425 million to SAMSHA for health surveillance and support to prevent, prepare for, and respond to coronavirus, domestically and internationally. While HHS does provide funding for specific mental health community programs, the City pursues funding for services such as its Community Resource Officers via state-distributed funds from the Department of Justice's COPS program.

Education Funding

The Department of Education funds elementary, secondary, and post-secondary education programs and grants in California by allocating money to the State, which channels the vast amount of these funds to school districts via formula programs. For FY 2020, ED received \$72.8 billion, \$1.3 billion more than in 2019. Pursuant to state funding formulas, California is expected to receive an estimated \$4.5 billion for elementary and secondary school programs by the close of the fiscal year. Such funding includes \$1.96 billion for grants to local education agencies, \$11.3 million for homeless children and youth education, and \$1.3 billion in special education grants. The CARES Act further provides \$30.75 billion for the Education Stabilization Fund to mitigate costs incurred by schools for closures and distance learning during the pandemic, which will be distributed to eligible applicants.

Cybersecurity

The Department of Energy's (DOE) Office of Cybersecurity, Energy Security, and Emergency Response (CESER) addresses cybersecurity threats against utilities and energy infrastructure security. The division was allocated \$156 million, \$36 million more than in 2019, towards efforts to secure the nation's energy infrastructure, reduce the impact of cybersecurity events, and assist with restoration activities. While CESER responds to natural and man-made threats, the agency does not currently offer discretionary, competitive grant programs.

Fiscal Year 2021

Looking ahead to FY 2021, which for the federal government begins on October 1, 2020, the President's Proposed Budget seeks to eliminate CDBG and HOME Investment Partnership programs, as well as defund certain afterschool and summer school programs while reducing overall funding for most federal departments. While there are concerns over the President's budget proposal to defund certain programs, there is wide bipartisan support for these services and Congress has rejected proposals to eliminate such programs in the past. Congress is still engaged in the appropriations process and has until September 30, 2020 to pass twelve appropriations bills for continued funding of federal departments for FY 2021. Furthermore, as the Senate and House of Representatives return from recess in the first weeks of September, Congress will continue negotiations on a further coronavirus relief package. The City has and will continue to advocate for direct and flexible funding for local governments for pandemic response and the provision of critical municipal services.