



## City of Foster City

### MEMORANDUM

*City Manager's Department*

DATE: July 10, 2020

TO: Mayor and Members of the City Council

VIA: Dante G. Hall, Interim City/District Manager

FROM: Tracy Avelar, Police Chief  
Jennifer Phan, Principal Management Analyst

SUBJECT: POST MEETING DEBRIEF REPORT – TOWN HALL MEETING ON  
COMMUNITY POLICING (JUNE 29, 2020)

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#### OVERALL PURPOSE & GOAL

In light of recent events that have occurred across the nation, the topics of race relations, police use of force policies, and needs for significant reform became front and center in public discourse. Communities, including Foster City, called for an examination of institutional policies that contribute to the disparities and experiences of people of color. The main topic of discussion was the use of force policies of police departments, and the need to reconsider policies that extend to all aspects of society that otherwise create those inequities.

In response to requests and concerns voiced from community members, the City hosted a virtual Town Hall Meeting, on June 29, 2020 from 6:00 PM-7:30 PM, to provide an opportunity for honest and open dialogue, specifically around local community and police relations. The overall purpose of this meeting was to offer an open forum in which Foster City constituents could provide their input and feedback on how local policing practices may be improved.

City Council, alongside Interim City Manager Dante Hall, Police Chief Tracy Avelar, and City staff, listened in. Staff from the Peninsula Conflict Resolution Center (PCRC) helped facilitate the discussion by joining in as a neutral, third-party.

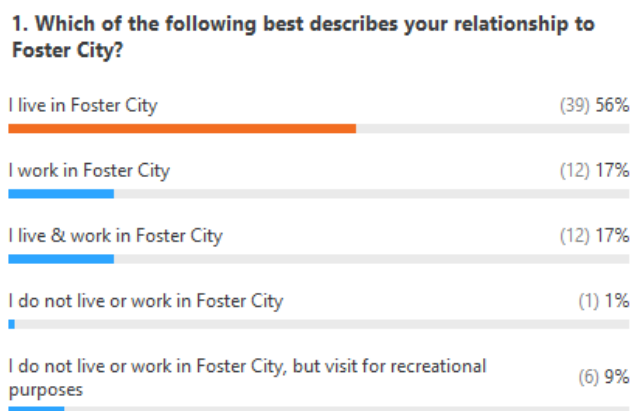
Community input was sought on Foster City Police Department (FCPD) priorities and policies, service delivery, and steps that can be made with community partners to help improve and advance the department. The information gathered at this meeting was evaluated and will be used to help set the City's priorities, including FCPD's, moving forward. This memorandum summarizes the common themes heard thus far and proposed next steps to build upon and strengthen community relations with local government.

## GENERAL INSIGHTS – ATTENDEE CHARACTERISTICS & SENTIMENT

The Town Hall Meeting had a total of 165 attendees join via Zoom. The meeting was also broadcast and live streamed on FCTV, Comcast Channel 27 and AT&T Channel 99. During the meeting, 3 sets of poll questions were posed as an engagement tool and to better understand the audience make-up. It should be noted that poll participation was optional, so the percentage of respondents to attendees varies between each poll launch.

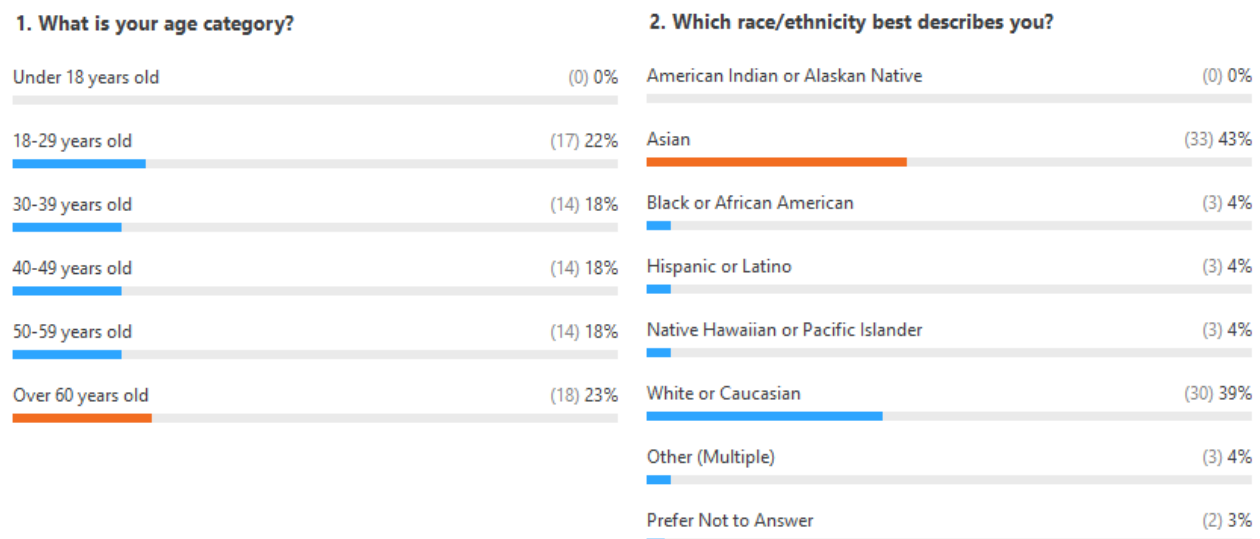
The questions in the first two poll launches focused on basic demographic, background characteristics of the respondents. The information from these questions would help City staff understand if a diverse set of groups were represented in the conversation.

**Figure 1. First Poll Launch**



As depicted in Figure 1, a majority of the respondents live in Foster City (a total of 73% with 56% living in Foster City and 17% living & working in Foster City). As for the age range of the respondents, it was fairly distributed amongst the age groups (See Figure

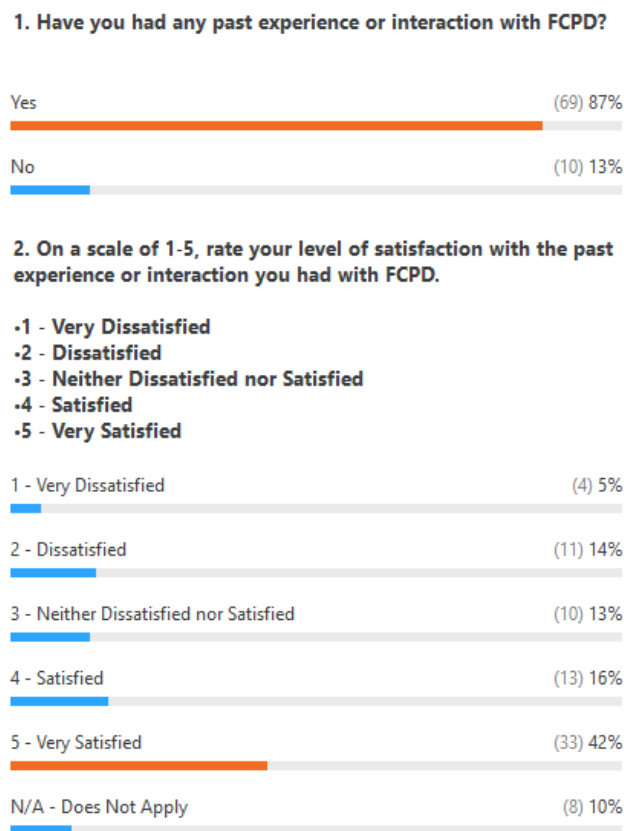
**Figure 2. Second Poll Launch**



2). For race/ethnicity, most respondents identified themselves as either Asian, or White or Caucasian. This is fairly reflective of the population in Foster City; which is 47.5% Asian and 43.7% White or Caucasian (Source: U.S. Census Bureau, 2018 American Community Survey, 5-year estimates).

Next, the third poll launch asked respondents of their past experience or interaction with FCPD. It was designed to measure general sentiments of the department. While a decent number of respondents rated their past experience or interaction with FCPD as a “5” that being “Very Satisfied,” it does not negate that other respondents had lower ratings of FCPD (See Figure 3). It also does not preclude the fact that some may have had multiple exchanges with FCPD and that each of those may vary in terms of level of satisfaction.

**Figure 3. Third Poll Launch**



**COMMON TOPICS AND EMERGING THEMES**

The majority of the time at the Town Hall Meeting was dedicated for public comment, with 3 minutes provided to each speaker. The shared sentiments were largely mixed with many in support of FCPD and increasing funding, whilst others stressed the need for reform and reallocation of funding. While public opinion varied, it was evident that most want to see meaningful change and ensure there are no disproportionate outcomes or use of force when policing communities of color.

**Figure 4. Public Comment Word Cloud**



In listening to the constituents, City staff was asked to consider the following questions:

- Are we in line with the values and expectations of the community?
- How do we make sure everyone is heard? What can we do to build bridges & work together?
- How can we reimagine the Police Department and in what areas can we do better?
- What solutions can we identify to move forward?

These key questions were contemplated as City staff evaluated the proposals and questions received. Aside from written comments and emails sent in the weeks prior to the Town Hall Meeting, the City had also received approximately 25 more emails on the matter of community policing following the meeting. There were four fundamental topics that were discussed: Transparency, Oversight & Accountability, Diversity & Inclusion, and Community Relations.

Transparency	Oversight & Accountability	Diversity & Inclusion	Community Relations
<ul style="list-style-type: none"> <li>• Crime Data &amp; Metrics</li> <li>• Budget</li> </ul>	<ul style="list-style-type: none"> <li>• Training</li> <li>• Policies &amp; Procedures</li> <li>• Technology</li> </ul>	<ul style="list-style-type: none"> <li>• Hiring Practices</li> </ul>	<ul style="list-style-type: none"> <li>• Outreach &amp; Engagement</li> <li>• Resources</li> </ul>

Within each topic, several key themes emerged:

1. Constituents recognize that the FCPD has been highly effective at reducing crime and making the City safer. To further strengthen community trust, law enforcement should strive towards greater transparency on policing activities and practices.

2. To properly serve and protect the community, officers must respect its constituents and the law. They must be accountable to the law, the rules as set forth by FCPD, and the expectations of the community.
3. Constituents support police presence, but one in which they collaborate and share responsibility for public safety based on strong personal and professional relationships.

Attached to this memo is a draft document further detailing the topics and themes outlined above. Currently in progress, to also be included in this document, are responses to the commonly asked questions.

### NEXT STEPS

This initial Town Hall Meeting was intended to be the start of the conversation. As emphasized during the meeting, the City is committed to an ongoing effort in seeking and understanding how it may continuously improve its policies, processes, and practices to better serve and represent its constituents.

As mentioned, City staff is working on responses to each of the proposals and questions submitted at and following the Town Hall Meeting. Overarching questions & answers will be posted on the City's website at the FCPD At-a-Glance webpage: [www.fostercity.org/fcpdataglance](http://www.fostercity.org/fcpdataglance).

Although discussions thus far have focused on community policing, City staff recognizes that what needs to be addressed is the root matter of systemic racism. A fundamental component of tackling that is to gain input and learn from truthful experiences. In the coming weeks, City staff will also be exploring additional ways to connect with the community, that will involve more listening and dialogue opportunities, with a broader scope of relationship building and racial reconciliation. A formal proposal for a community engagement process will be presented to City Council for consideration.

After understanding those interests, it will require discernment and strategic investment to translate these into public policy recommendations that produce sustainable outcomes for the community.

Attachment:

- Draft Outline of Topics & Themes (Including Responses to Proposals & Questions, as of July 13, 2020)

# TOPICS & THEMES FROM TOWN HALL MEETING

The City hosted a virtual Town Hall Meeting, on June 29, 2020 from 6:00 PM-7:30 PM, to provide the members of the public an opportunity for honest and open dialogue, specifically around local community and police relations. The overall purpose of this meeting was to offer an open forum in which Foster City constituents could provide their input and feedback on how local policing practices may be improved.

This report outlines four interconnected topics and emerging themes from the discussion on the Foster City Police Department (FCPD). Responses to the proposals and questions submitted from community members are also provided.

Transparency	Oversight & Accountability	Diversity & Inclusion	Community Relations
<ul style="list-style-type: none"> <li>•Crime Data &amp; Metrics</li> <li>•Budget</li> </ul>	<ul style="list-style-type: none"> <li>•Training</li> <li>•Policies &amp; Procedures</li> <li>•Technology</li> </ul>	<ul style="list-style-type: none"> <li>•Hiring Practices</li> </ul>	<ul style="list-style-type: none"> <li>•Outreach &amp; Engagement</li> <li>•Resources</li> </ul>

## Transparency

*Transparency* is a cornerstone of good governance. FCPD embraces this and continuously strives to maintain a proactive role in promoting agency and officer integrity. The ability to readily access public information encourages inclusion, keeping residents better informed about Police Department operations, and is essential in good community policing and maintaining accountability.

QUESTION / STATEMENT	RESPONSE
1 Would it be possible to get more detailed crime statistics for Foster City?	<p>Crime information data tools are available for purchase and FCPD would be supportive of making that information public.</p> <p>Currently, Daily Bulletins are available for many of our calls for service. Calls of a confidential or sensitive nature (domestic violence, mental health evaluation, sexual assault, child abuse, elder abuse, etc) are not included in the Daily Bulletin.</p>
2 What metrics do you measure the success of the police, police force, and policing efforts? If crime is slightly up this year over last, why will doing more of the same kind of policing improve this (by decreasing the crime rate)?	<p>It is difficult to measure the success of a police department using quantitative measurements. Often, the relationship the police department has with the community is the true measurement. There is no measurement for crime that has been prevented due to visibility, crime prevention measures, and arrests of suspects for crimes that may have continued.</p> <p>The goal of the police department is to serve the community and fight crime and the fear of crime to increase the quality of life for all concerned.</p> <p>Comparisons with crime trends being experienced in surrounding County agencies. Foster City is often</p>

	below the levels of criminal activity and trends experienced in surrounding cities. Regarding increases in certain criminal activity from one year to the next, law enforcement constantly assesses and adjusts methods of policing based on changing crime trends, increases in specific crimes in our city, quality of life issues known in our city, and a variety of other reasons.
3	<p>What is the deadline to pass the budget? How is budget getting allocated?</p> <p>The budget for an upcoming fiscal year (beginning July 1 and ending June 30) is generally passed at the City Council's second meeting in June (third Monday of the month).</p> <p>The City has an extensive fiscal planning process that includes the City Council holding a series of budget meetings where various aspects of the budget are discussed. All budget sessions are open to the public and the public is invited and encouraged to attend.</p>
5	<p>How do we effectively redistribute funding into other community resources such as affordable housing or sustainability?</p> <p>The City does have funds that contribute towards initiatives such as affordable housing and sustainability. Namely, this includes the "City Affordable Housing Fund" for the purpose of funding affordable housing projects, and the "Sustainable Foster City Fund" that supports the implementation of the Sustainable Foster City plan, to achieve the vision to "Sustain and Enhance the Quality of Life in Foster City" through economic and environmental sustainability initiatives.</p>

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*Oversight & Accountability*

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The Chief of Police reports directly to the City Manager who reports to the City Council. Significant matters of employee discipline and misconduct are coordinated with the City's Human Resources Department and the City Attorney's Office. Both entities are completely independent of the Police Department, nonpolitical, & nonpartisan. FCPD has an accountability-driven culture, that also includes the self-monitoring of its officers and practices.

<b>QUESTION / STATEMENT</b>	<b>RESPONSE</b>
<p>1</p> <p>Accountability for Police, including mandatory use of body cameras, open disciplinary hearings, and release of records. Each police department should maintain an "Accountability Dashboard" where all complaints, investigations, disciplinary actions, etc., into all officers are publicly available. The LAPD has a "Use of Force" dashboard which should serve as a starting point but include the points above. <a href="http://www.lapdonline.org/use_of_force">http://www.lapdonline.org/use_of_force</a>. The dashboard should also include a link to the body cam or police vehicle dash cam video footage of the incident, as shown on LAPD's website.</p>	<p>Foster City Police Department currently requires officers to record all enforcement contacts and calls for service with their Body Worn Camera.</p> <p>SB 1421 amended 832.7 of the penal code to allow for the release of records related to the report, investigation and findings on discharge of a firearm, use of force resulting in great bodily injury or death, sexual assault against a member of the public, and dishonesty related to the reporting, investigation, or prosecution of a crime.</p> <p>Foster City Police Department has <u>one</u> such record and it has been released to the public.</p>

<p>2 Foster City PD and City should revise how you do union contracts to not give away certain public rights when a police officer is investigated. For example, we do not want officers to have rights not granted to civilians in similar situations such as the right to confer prior to an interview and the right to withhold public release of evidence for example.</p>	<p>The FCPD enters into a Memorandum of Understanding (MOU) with the Foster City Police Officers Association (FCPOA and/or POA)</p> <p>The FCPOA contract does not address rights to confer, release of records, or give any additional rights not granted to civilians. The FCPOA MOU is made publicly available on the City website at: <a href="https://www.fostercity.org/hr/page/bargaining-unit-agreements">https://www.fostercity.org/hr/page/bargaining-unit-agreements</a>.</p>
<p>3 It should also be made clear that officers who violate policies or engage in prejudicial behavior will be terminated, along with any fellow officers who cover for them. A review of disciplinary procedures might have to be a topic for the next round of negotiations with the police union.</p>	<p>FCPD officers are held to the highest standards and policy violations are immediately addressed. Discipline is levied based on the policy violation (late for work, pursuit policy). FCPD has a long history of holding officers accountable, up to and including termination.</p>
<p>4 Work with San Mateo county and DA to adopt a policy to prohibit the use of qualified immunity in civil rights cases or have a community member panel vote on whether the use of qualified immunity is appropriate and justified. (<a href="http://bostonreview.net/law-justice/alex-reinert-we-can-end-qualified-immunity-tomorrow">http://bostonreview.net/law-justice/alex-reinert-we-can-end-qualified-immunity-tomorrow</a>) Will the Police Department of Foster City adapt a policy of choosing to not use the Qualified Immunity approach to reviewing officer's behavior investigating/persecuting officers in instances of Use of Force? This is a choice that Foster City can make and can help lead the state into a future where police officers police understanding that they will be held accountable for their actions.</p>	<p>Qualified immunity has been highly debated and litigated. The Supreme Court recently declined to address it. There are currently several legislative bodies that have included removal of qualified immunity and it may either be a non-issue or decided that it would not be appropriate to remove.</p>

Police officers in the State of California receive some of the most relevant and progressive *training* in the nation. FCPD invests heavily in training for all police personnel and at a minimum, ensures compliance with [California's Commission on Peace Officer Standards and Training \(POST\)](#) requirements. Foster City Police Department has several subject matter experts that provide training to our own personnel. Outlines for that training can be found [here](#). This is not a complete list of all training received by FCPD personnel, but rather the trainings that they provide.

FCPD's entire Policy Manual is also available online [here](#). The Police Department strives to meet these guidelines and is committed to ensuring that all members of the community remain safe. The Police Chief has outlined in a '[Message to the Community](#)' responses to questions specifically surrounding FCPD's *use of force policies* and their response to [8cantwait.org](#).

<b>QUESTION / STATEMENT</b>	<b>RESPONSE</b>
<p>1 Policy 401 bias-based policing should be "prohibition of." Discourage implicit bias.</p>	<p>FCPD appreciates and agrees with this suggestion to help clarify the intent of Policy 401. More training on this topic for police officers is suggested.</p> <p>FCPD currently is required by law to train on bias-based policing every five years. Our department goal is to include the training every two years. The expectations are really held through the department culture and the diversity of our team.</p>



<p>2 The current policy available at <a href="https://www.fostercity.org/sites/default/files/fileattachments/police/page/18211/use_of_force_review_boards.pdf">https://www.fostercity.org/sites/default/files/fileattachments/police/page/18211/use_of_force_review_boards.pdf</a>, states that “302.2 POLICY The Foster City Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.” This raises pertinent concerns regarding conflict of interest. An independent review committee, including community members (who are not a part of the PD, police unions or city/county government) must review/investigate all incidents involving use of force leading to serious injury or death. The final investigation report must be publicly available on PD’s website.</p>	<p>Section 832.7 of the Penal Code already requires release of any record, investigation, or findings of any use of force by a peace officer that results in great bodily injury or death.</p>
<p>3 Please strike "or perceived by the officer" in Policy 300.3, as this allows for even radical perceptions informed by bias to negate liability when excessive force is employed.</p>	<p>This policy is consistent with law. “The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.” <i>Graham v Connor</i>.</p>
<p>4 Review and update of Policy 309 to strengthen current guidance such as “Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.” The policy should be updated to clearly prohibit the use of tasers in aforementioned circumstances, as opposed to procedural guidance. Taser policy is good but call on strengthening current guidance. Prohibit use of force or taser in certain circumstances. Change verbiage.</p>	<p>Prohibiting less lethal options can restrict officer’s ability to safely bring resolution to unique and potentially dangerous situations. Other known circumstances could include situations where a subject is thought to pose an immediate threat of harm to others if not stopped. Maintaining non-lethal options, such as the Taser device, provides officers with tools that are not likely to cause significant injury. When we limit options in use of force, we can unintentionally create more danger rather than less.</p>
<p>5 What is the policy on managing public protests, use of tear gas, non-lethal rounds?</p>	<p>Foster City Police Department policy on “public protests” is 470-First Amendment Assemblies.</p> <p>Foster City currently does not use or train with tear gas or non-lethal rounds related to managing protests.</p>

The *use of technology* can improve policing practices and enhance public safety. As FCPD evolves and looks towards implementing new technology, it recognizes that it must be built with a defined policy framework with purposes and goals clearly delineated.

	<b>QUESTION / STATEMENT</b>	<b>RESPONSE</b>
1	<p>Vehicle Fingerprint Technology / Automated License Plate Reader (Flock Safety ALPR) – Why is the City routinely tracking and collecting data on residents? What type of oversight is required? How long is that data retained, and for what purposes is it used?</p>	<p>ALPR’s are currently not used in Foster City. The process of bringing the item to council and the public will occur before ALPR’s are purchased and installed. There will be a full staff report and experts that will be available for questions. ALPR’s are used as an investigation tool.</p>

	<p>The implementation of an Automated License Plate Reader program can aid the Department in the following ways:</p> <ul style="list-style-type: none"> <li>• Locate stolen, wanted and subject of investigation vehicles</li> <li>• Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement</li> <li>• Locate witnesses and victims of violent crimes</li> <li>• Locate missing and at-risk persons, including those subject to Amber or Silver Alerts</li> </ul>
2	<p>Cellular Investigation Technology (Cell Hawk) – Why is it needed? And what type of oversight is required?</p> <p>Foster City Police Department currently utilizes Cellebrite and CellHawk during investigations where a search warrant for cell phone records of a criminal suspect has been obtained. This is not surveillance equipment. Cellebrite is used to download the information in the target phone, wherein a search warrant has authorized the download or request for information. CellHawk is used to analyze and process the information received through the download or from the cell phone company. It takes days worth of an investigators time deciphering information and completes it in minutes.</p> <p>Technology is involved in almost all crimes we investigate, from residential and auto burglaries, to fraud and sex crimes.</p>
3	<p>Ring – Is Foster City engaged or partnered with Amazon or any other commercial entities to conduct citizen surveillance?</p> <p>While Foster City Police Department has partnered with Ring, any video request would be provided by private citizens voluntarily. To date, Foster City Police Department has not received any video.</p>
4	<p>What military style equipment is currently under the possession of the PD? Provide rationale for why it is needed for Foster City.</p> <p>Foster City Police Department does not have military equipment.</p>

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### Diversity & Inclusion

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Foster City Police Department hires for character and has an unwavering focus on hiring those that hold the same values, reflect the diversity of the community, and are in the law enforcement profession to truly serve and protect the rights and safety of all. The Police Department values *diversity & inclusion* within its workforce (whether its race, gender, language, life experience, and cultural background) to improve understanding and effectiveness in dealing with all communities of people.

	QUESTION / STATEMENT	RESPONSE
1	<p>Mandatory diversity requirements for policing forces to characteristically represent the communities they are policing. This data needs to be readily available to the public to ensure transparency and accountability. The diversity requirements should be reviewed periodically (perhaps annually) to ensure progress towards achieving diversity goals.</p>	<p>Diversity is and has been an intentional goal of the Foster City Police Department. Our current sworn personnel is made up of 55 percent of employees that come from a diverse set of racial and ethnic backgrounds. Since 2014, the last 16 out of 21 hires have reflected such diversity and include 5 females.</p>

<p>Additionally, we should mandate the collection of demographic data (especially race) with respect to all unsolicited police stops.</p>	<p>We have a very diverse 7-person recruitment team comprised of 5 racially and ethnically diverse officers, including one female officer.</p> <p>Demographics on traffic stops are not currently collected, however starting in January 2023 Foster City will be mandated by AB 953, Racial and Identity Profiling Act to provide that type of data. That means that in January of 2022, Foster City will need to start collecting the mandatory 16 elements of stop-data, which is not limited to traffic stops. Foster City is working with our CAD system provider to enable the collection of the necessary data to ensure compliance with providing the report to the DOJ by April 2023.</p>
<p>2 What is the hiring process for police officers and are background checks done?</p>	<p>FCPD has comprehensive hiring process that includes;</p> <ul style="list-style-type: none"> <li>• Employment application</li> <li>• Oral board interview</li> <li>• Completion of Personal History Questionnaire</li> <li>• Personal History Questionnaire interview</li> <li>• Full Background Investigation to include polygraph test</li> <li>• Psychological examination</li> <li>• Physical examination</li> <li>• Interview with Police Captains</li> <li>• Interview with Chief of Police</li> </ul>

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*Community Relations*

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Constructive relationships between constituents and its local government (including law enforcement agency) are vital to a well-functioning and thriving community. *Community relations* enable the understanding of needs and aspirations, helping achieve more equitable and effective public decision-making.

FCPD, alongside the City, is committed to improving the public's trust and confidence through a multitude of engagement opportunities. Its goal is to establish long term partnerships in which there is a greater sense of community ownership that collaboratively helps identify and resolve issues that affect personal safety and property, and the quality of life within the community.

<b>QUESTION / STATEMENT</b>	<b>RESPONSE</b>
<p>1 Annual audit for PD records by a team of community member volunteers. This will help ensure compliance to community expectations and measure progress towards achieving proposed reforms.</p>	<p>More information on what types of records being referenced would be required to evaluate the feasibility of this suggestion.</p>
<p>2 Let's have a citizen committee discuss:</p> <ul style="list-style-type: none"> <li>• tasers and chemical agents and rubber bullets being designated as non-lethal weapons</li> <li>• having an adequate budget to crime prevention and social welfare</li> </ul>	<p>The recommendation of a citizen committee is duly noted. Most of these have also been addressed in other areas.</p>

<ul style="list-style-type: none"> <li>• ensuring civilian oversight over the FCPD with a third party review board</li> <li>• a new force of use policy where the deployment of firearms is the exception not the rule.</li> <li>• a new union agreement with the city redrafted with community transparency in mind.</li> </ul>	
<p>3 What do you feel the role of the police department is in our community?</p>	<p>FCPD is part of the community. The role of the police department is the safety and security of the community.</p> <p>To protect community members from crimes against their person and property. To maintain law and order while educating the public in ways they can take action to increase their own levels of safety and security. To serve our community in various ways that foster a teamwork mentality, maintain the quality of life expected by our community members, and that let our community members know we are a full-service agency that exists to serve and protect.</p>
<p>4 Is it feasible to have a trained mental health professional or unarmed police officer to respond to certain calls (such as welfare checks or car accidents) to help de-escalate a situation?</p>	<p>This recommendation would require thorough analysis and research, on a regional level, to determine whether it is feasible and the impacts, if any.</p>
<p>5 What role does the G.R.E.A.T. Program play? How is it effective?</p>	<p>The Gang Resistance Education And Training (G.R.E.A.T.) Program is an <a href="#">evidence-based</a>, national and international gang and violence prevention program that has been building trust between law enforcement and communities for almost 30 years.</p> <p>G.R.E.A.T. is intended as an immunization against delinquency, youth violence, and gang membership. It is designed for children in the years immediately before the prime ages for introduction into gangs and delinquent behavior.</p> <p>The G.R.E.A.T. Program is built around school-based, law enforcement officer-instructed classroom curricula.</p> <p>The study of effectiveness of the G.R.E.A.T. program can be found <a href="#">here</a>.</p>