Regular Session

RS

Milwaukie City Council

CITY OF MILWAUKIE

COUNCIL REGULAR SESSION

Zoom Video Conference
www.milwaukieoregon.gov

2322nd Meeting
REVISED AGENDA
SEPTEMBER 15, 2020
(Revised September 11, 2020)

Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the City Council will hold this meeting through Zoom video meetings. The public is invited to watch live on the city's YouTube channel, Comcast Cable channel 30 in city limits, or by joining the Zoom webinar (visit https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-284 for details).

Written comments may be submitted by email to ocr@milwaukieoregon.gov. Council will take verbal comments. **To speak during the meeting**, see the Zoom information (meeting link above).

Note: agenda item times are estimates and are subject to change. **Page #**
Revised Times: highlighted times below reflect the addition of agenda item 3. D.

1. **CALL TO ORDER** (6:00 p.m.)
   - A. **Pledge of Allegiance**
   - B. **Native Lands Acknowledgment**

2. **ANNOUNCEMENTS** (6:01 p.m.)

3. **PROCLAMATIONS AND AWARDS**
   - A. **Milwaukie Police Department Life Saving Awards** (6:05 p.m.)
     Staff: Luke Strait, Police Chief
   - B. **National Preparedness Month - Proclamation** (6:20 p.m.) **4**
     Presenter: Lisa Batey, City Councilor
   - C. **Distraction Free Driving Awareness Week - Proclamation** (6:25 p.m.) **5**
     Presenter: Mark Gamba, Mayor
   - D. **Bring Play to Milwaukie Bay Campaign - Proclamation** (6:30 p.m.) **10**
     (added to the agenda)
     Presenters: Lisa Batey, City Councilor, and
     Wilda Parks, City Councilor

4. **SPECIAL REPORTS**
   - A. None Scheduled.

5. **COMMUNITY COMMENTS** (6:40 p.m.)
   To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

6. CONSENT AGENDA (6:45 p.m.)

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

A. Approval of Council Meeting Minutes of: **12**

1. **August 11, 2020, Study Session;**
2. ~~**August 18, 2020, Work Session; and**~~ (removed from the agenda)
3. ~~**August 18, 2020, Regular Session.**~~ (removed from the agenda)

B. Contract Authorization for Budget Performance Software – Resolution **16**

C. Contract Authorization for Merchant Card Payment Services – Resolution **20**

SCHEDULE NOTE: Agenda item 8. A. will be heard before items 7. A. and 7. B. The time estimates below reflect this agenda order.

7. BUSINESS ITEMS

A. Police Stops Data – Discussion (7:20 p.m.)
Presenter: Ken Sanchagrin, Oregon Criminal Justice Commission

B. Equity and Policing – Update (7:50 p.m.) **26**
Staff: Ann Ober, City Manager

8. PUBLIC HEARINGS

A. Protest of Abatement at 12550 SE 43rd Avenue (6:50 p.m.) **65**
Staff: Tim Salyers, Code Compliance Coordinator

9. COUNCIL REPORTS (9:20 p.m.)

10. ADJOURNMENT (9:25 p.m.)

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

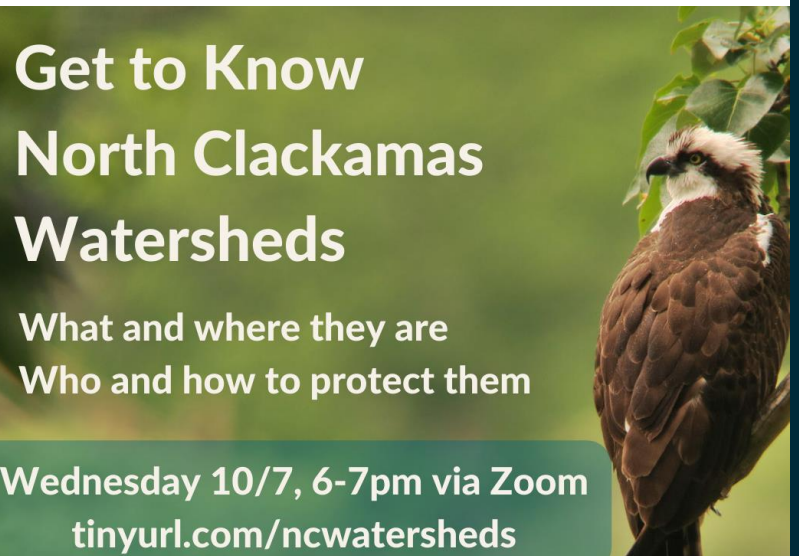
Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.

RS Agenda Item 2

Announcements

OUR PLAN
FROM VISION TO ACTION
CITY OF MILWAUKIE • COMPREHENSIVE PLAN UPDATE



Mayor's Announcements – September 15, 2020

- **City Hall Blue Ribbon Committee (CHBRC) – 2nd Meeting Wed., Sep. 16 (6 PM)**
  - Public is invited to attend the video meeting via Zoom.
  - For more information about the CHBRC visit www.milwaukieoregon.gov/bc/chrbrc.

- **Comprehensive Plan Implementation Committee (CPIC) – 1st Meeting Thu., Sep. 17 (6 - 8 PM)**
  - Public is invited to attend the video meeting via Zoom.
  - For more information about CPIC contact Senior Planner Vera Kolias at koliasv@milwaukieoregon.gov.

- **Milwaukie Home Energy Score - Zoom Video Webinar – Wed., Sep. 23 (6 – 6:30 PM)**
  - What's a Home Energy Score? Who needs to get one? Why should we care about home energy efficiency? Learn the answers to these questions and more.

- **Get to Know North Clackamas Watersheds - Online Workshop Series – Wed., Oct. 7 (6 – 7 PM)**
  - Dip your toes in the virtual creek with a virtual tour of points of interest, discuss how urbanization affected these watersheds, and dive into the best ways to steward the streams.

- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV**

RS Agenda Item 3

Proclamations & Awards

CITY OF MILWAUKIE

PROCLAMATION

WHEREAS, the month of September is recognized by emergency responders and public safety agencies nationwide as a time to actively promote emergency preparedness in our communities through planned activities, events, and public awareness campaigns; and

WHEREAS, National Preparedness Month is an opportunity for all Milwaukians to prepare their homes, businesses, and communities for all types of emergencies; and

WHEREAS, emergency preparedness is the responsibility of everyone, and all are urged to make preparedness a priority and work together to ensure that individuals, families, and communities are prepared for disasters and emergencies of any type; and

WHEREAS, investing in personal and community preparedness can reduce injuries, fatalities, and economic devastation in our community and in our nation; and

WHEREAS, during September, Clackamas Fire District #1 and the City of Milwaukie urge residents to make themselves better prepared for emergencies including where to access emergency information, enrolling in platforms to receive emergency alerts, and learning about regional and statewide evacuation procedures.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **SEPTEMBER 2020** to be **NATIONAL PREPAREDNESS MONTH** in Milwaukie.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this **15th** day of September **2020**.

_____

Mark Gamba, Mayor

ATTEST:

_____

Scott Stauffer, City Recorder

NATIONAL PREPAREDNESS MONTH
2020 Disasters Don't Wait. MAKE YOUR PLAN TODAY.

RS 3. B. 9/15/2020
Presentation

The Importance of Disaster Preparedness

Julie Tanz and Judy Batt, Co-Coordinators for Milwaukie's Community Emergency Response Team

CERT
COMMUNITY EMERGENCY RESPONSE TEAM

Agenda

- Key Disaster Elements
- Emergency Services
- Importance of Preparedness
- Make a Plan
- Go Bag Checklist
- Level 1 – Be Ready
- Level 2 – Be Set
- Level 3 – Go!
- Learn More

Key Disaster Elements

- They are relatively unexpected
- Emergency personnel may be overwhelmed
- Lives, health, and the environment are endangered

Emergency Services in a Disaster

- In an emergency you can call 9-1-1 for help, in a disaster there is no 9-1-1 to call
- Damage caused by natural, technological, or man-made disasters can be extensive
- Emergency services are trained and equipped to handle emergencies, but they may not be available in a disaster

Importance of Disaster Preparedness

- Infrastructure down weeks to months
- Structures unoccupiable
- You are likely to be on your own for days or longer
- You will have to rely on your own resources for food, water, first aid, and shelter
- Neighbors and coworkers will have to provide immediate assistance to those who are hurt or need help

Make a Plan

- Where do I go?
- What do I have in my Go Bag?
- What do I have in my household supplies?
- How do I communicate with my family?

Go Bag Checklist

	Flashlight and extra batteries	Radio (am/fm/weather)	
	Whistle	Dust mask	
	Multitool – Leatherman	Cash – including quarters for pay phones	
	Local map and compass	Permanent marker and paper	
	Phone numbers	Medical records (medications, allergies)	
	Insurance cards	Extra prescription glasses	
	Personal hygiene items	Shovel	
	Tarp	Duct tape	
	Pliers	Hammer	
	Lighters	Candles	
	Fire starter	Matches in waterproof container	
	Hatchet	Can opener	
	Rope	Cell phone charger	
	First aid kit	Pet supplies	
	Water purification system	Cooking utensils (mess kit)	
	Heavy gloves	Hand sanitizer	
	Bleach	Space blanket	
	Trash bags	Rain ponchos	
	Baby wipes	Food and water	

Level 1 – Be Ready

- Get ready for potential evacuation
- Be aware of the area dangers
- Monitor emergency services and media
- Make a plan what to take if level changes to 2
- Decide what is needed for those with special needs
- Determine where pets and livestock will be welcomed

Level 2 – Be Set (Long Term Notice)

- Be set to evacuate
- Significant danger in area
- Consider voluntary relocation
- Start packing transportation with essentials
- Possible no further notice

- Wallet, purse, keys, glasses
- Medications
- Pets in cages with food
- Changes of clothes
- Go Bag
- Banking information plus cash
- Valuables
- Licenses, deeds, insurance docs, etc
- Photos, heirlooms
- Computer with back up drive

Level 3 – Go! (Short Term Notice)

- Evacuate immediately
- Danger is imminent
- Do not gather belongings
- Final notice

- Wallet, purse, keys, glasses
- Medications
- Pets in cages with food
- Changes of clothes
- Go Bag

Learn More About Preparedness

- www.ready.gov
- www.ready.gov/cert
  - § CERT aids in community preparedness
  - § 24 hour training class sponsored by Clackamas Fire
  - § Disaster prep, disaster psychology, fire and hazmat, medical operations, extrication, light search and rescue, ICS, terrorism
  - § Additional training in radio communications

Summary

- Key Disaster Elements
- Emergency Services
- Importance of Preparedness
- Make a Plan
- Go Bag Checklist
- Level 1 – Be Ready
- Level 2 – Be Set
- Level 3 – Go!
- Learn More

PROCLAMATION

WHEREAS, Oregon cities hold citizen safety as a paramount concern; and

WHEREAS, distracted driving occurs when drivers engage in activities that divert their attention from their primary task of driving, such as texting, talking on a phone, interacting with passengers, listening to loud music, and reading; and

WHEREAS, smart phone use, because it distracts the driver's visual, manual, and cognitive abilities, is especially dangerous for the driver and others; and

WHEREAS, sixty-percent of Oregonians use a smartphone and seventy-percent of Americans admit to using their smart phone while driving; and

WHEREAS, the National Highway Traffic Safety Administration, reports that each day more than 9 people are killed and over 1,060 people are injured in crashes that are reported to involve a distracted driver; and

WHEREAS, the Oregon Department of Transportation reports that a crash involving a distracted driver in Oregon occurs every 2.5 hours; and

WHEREAS, in 2017 the State of Oregon launched a Distracted Driving campaign aimed at raising awareness about the dangers of distracted driving; and

WHEREAS, through adoption of House Bill 2597 the Oregon State Legislature has taken steps to prohibit and discourage the use of handheld devices while driving.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **October 5th to 12th, 2020**, to be **DISTRACTION FREE DRIVING AWARENESS WEEK** in Milwaukie and encourage all residents to learn more about distracted driving at www.oregon.gov/odot/safety/pages/distracted.aspx.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 15th day of September 2020.

_____

Mark Gamba, Mayor

ATTEST:

_____

Scott Stauffer, City Recorder

Attachment 1

TAKE THE PLEDGE

Choose to make a difference.

The fight to end distracted driving starts with you. Just like buckling up, it's a decision that saves lives. Make the commitment to drive distraction-free today.

Take the pledge to:

- **Protect lives by never texting or talking on the phone while driving.**
- **Be a good passenger and speak out if the driver is distracted.**
- **Encourage friends and family to drive phone-free.**

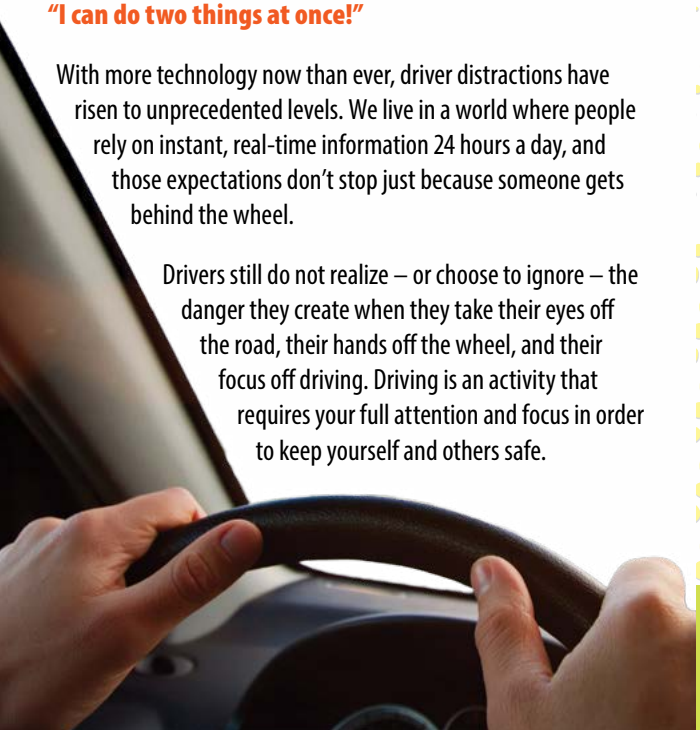
Save a life. Spread the word. Take the pledge to drive distraction-free and learn more about what you can do to promote safer roads for everyone at www.distraction.gov.

THE MYTH:

"I can do two things at once!"

With more technology now than ever, driver distractions have risen to unprecedented levels. We live in a world where people rely on instant, real-time information 24 hours a day, and those expectations don't stop just because someone gets behind the wheel.

Drivers still do not realize – or choose to ignore – the danger they create when they take their eyes off the road, their hands off the wheel, and their focus off driving. Driving is an activity that requires your full attention and focus in order to keep yourself and others safe.



Like

www.facebook.com/OregonDOT/
www.oregon.gov/ODOT/TS

SAVE YOUR LIKES FOR LATER.

A DISTRACTED DRIVER CRASH OCCURS EVERY 2.5 HOURS IN OREGON.

IT'S BETTER TO STAY ALIVE THAN TO STAY CONNECTED.

DON'T TEXT OR TALK ON YOUR PHONE WHILE DRIVING.

IT COULD SAVE YOUR LIFE OR A FRIEND'S LIFE.

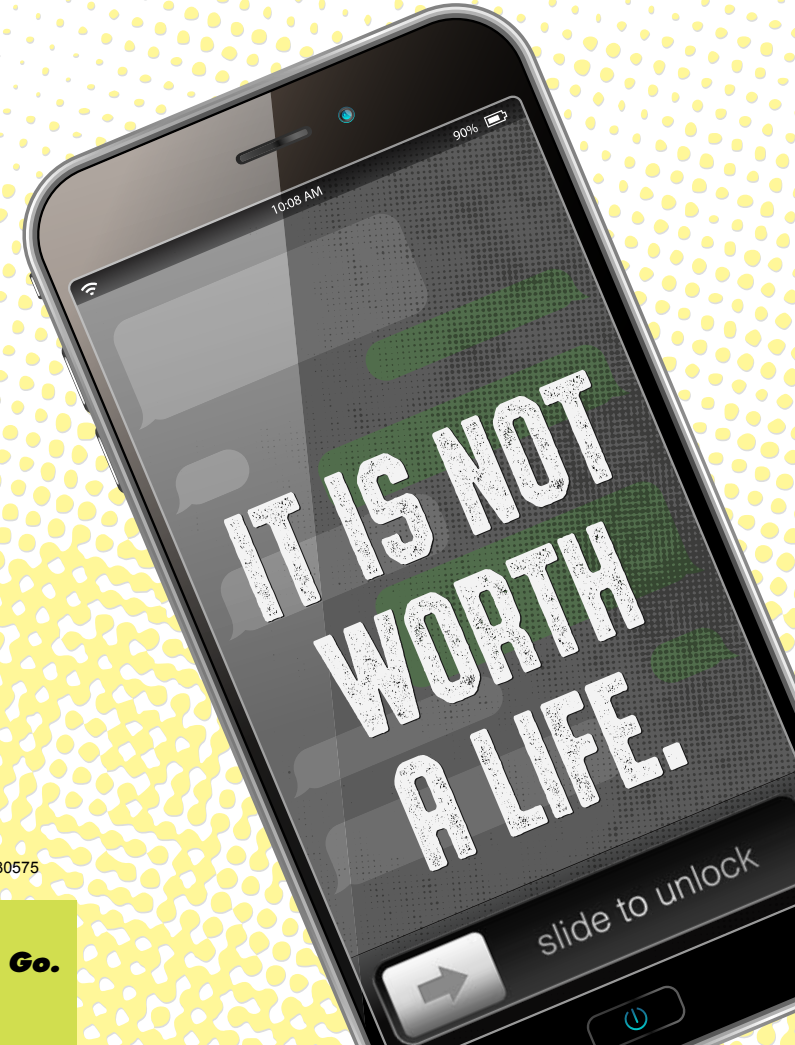
Oregon Department of Transportation

Form 737-3539 (8/17) Stock No. 330575

Drive Without Distractions. *The Way to Go.*
Transportation Safety — ODOT

DISTRACTED DRIVING

Eyes on the Road. Not on Your Phone.



DRIVE DISTRACTION-FREE

Distracted drivers pose a deadly risk to everyone on the road. Drivers engage in a range of distracting activities from eating, grooming, reading, talking, or texting on their phones. Hands-free is not risk free, as dangerous mental distractions exist even when drivers keep their hands on the wheel and eyes on the road.

There are four types of driver distraction:

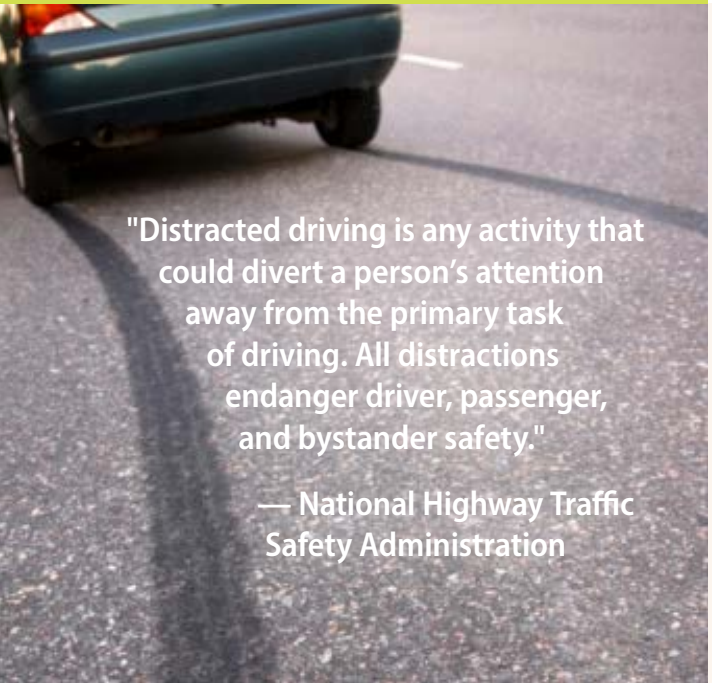
VISUAL
Looking at something other than the road

AUDITORY
Hearing something not related to driving

MANUAL
Handling something other than the wheel

COGNITIVE
Thinking about something other than driving

Distractions often involve more than one of these types, with both a sensory and a mental component.



DISTRACTED DRIVING LAWS PROTECT EVERYONE

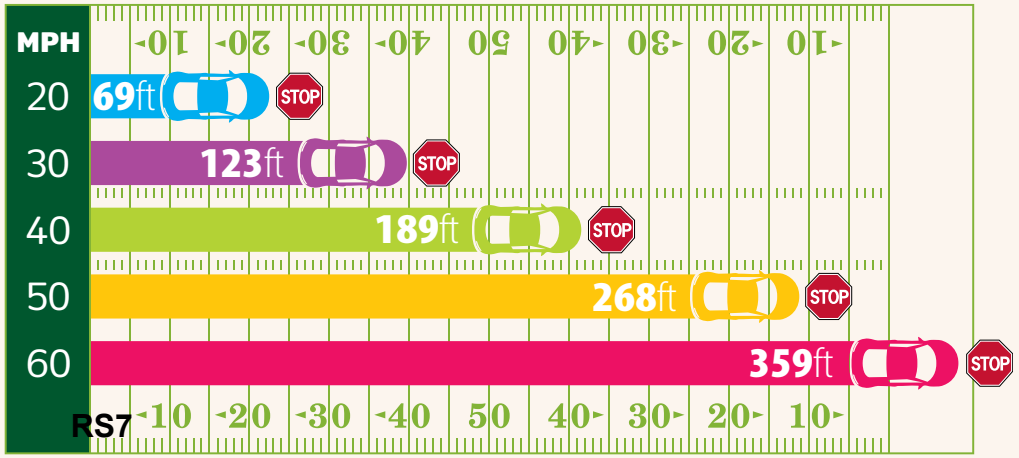
Oregon's cell phone law prohibits the use of any mobile electronic device by drivers unless you are using a hands-free device (drivers under age 18 are banned from using any kind of mobile electronic device, hands-free or not). No driver of any age is allowed to text while driving. Oregon's law is a primary offense, so police can stop a driver just for violating this law. Drivers caught violating ORS 811.507 could face a Class B traffic violation with a presumptive fine of $260 (maximum $2,000) for the first conviction.

TIPS TO AVOID DISTRACTIONS

- **Turn it off and stow it.** Turn your phone off or switch it to silent mode before you get in the car. Then stow it away so that it's out of reach.
- **Use a cell phone app** that automatically notifies callers when you are driving and stops tempting notifications.
- **Pull over.** If you need to make a call, pull over to a safe area away from traffic.
- **Ask a passenger** to operate the phone for you while you're driving.
- **X the Text.** Don't ever text and drive, browse online, read your email or social media while driving. It's dangerous and against the law in most states. Even voice -to-text isn't risk-free.
- **Prepare your route.** If using a GPS device, enter your destination before you start to drive. If you prefer a map or written directions, review them in advance. Pull over to a safe area away from traffic if you need to review.
- **Mind the kids.** Pull over to a safe place to address situations involving children in the car.
- **Secure your pets.** Unsecured pets can be a big distraction in the car.
- **Focus on driving.** Multi-tasking behind the wheel is dangerous. Refrain from eating, drinking, reading, grooming, smoking, and any other activity that takes your attention off the road.

5 SECONDS

is the average time your eyes are off the road while texting. When driving at 55 mph, that is enough time to cover the length of a football field.



IT COSTS TO DRIVE DISTRACTED IN OREGON

Below we list the monetary costs of driving distracted in Oregon — but when you aren't paying attention to driving, the costs could be even higher: you could kill yourself or someone else… is it worth a life for a text or call?

Oregon's Updated Law

In Oregon, it is illegal to drive while holding or using a mobile electronic device (e.g. cell phone, tablet, GPS, laptop). This law does not apply to the following:

- Using hands-free or built-in devices, if 18 years of age or older.
- Use of a single touch or swipe to activate or deactivate the device or a function of the device.
- Making a call to provide or summon medical help and no one else is available.
- When parked safely, i.e., stopped at the side of the road or in a designated parking spot.

REMINDER: It is NOT legal to use the device when stopped at a stop light, stop sign, in traffic, etc.

The fines

- First offense, *not* contributing to a crash: Class B violation.
  - Fine up to $1,000.
- Second offense — or first offense — if it contributed to a crash: Class A violation.
  - Fine up to $2,000.
- Third offense in ten years: Class B misdemeanor.
  - Fine up to $2,500.
  - Could be six months in jail.

Course for first-time offenders

- For a first offense that does not contribute to a crash, the court *may* offer to suspend the fine if the driver completes and pays for an approved Distracted Driving Avoidance course and shows proof to the court within four months.
- Court may schedule a hearing to determine if person successfully completed the course. If the driver successfully completes the course, the court must enter a sentence of "discharge." Only the fine is suspended — the violation will still be recorded on the driver's driving record.

Eyes on the road.
Not on your phone.

Oregon Department of Transportation

www.oregon.gov/odot/safety/pages/distracted.aspx

RS9

4/2019

CITY OF MILWAUKIE

PROCLAMATION

WHEREAS, the Milwaukie Parks Foundation is committed to enhancing Milwaukie parks and ensuring that they are accesible to everyone in the community, recognizing that parks and green spaces can increase healthy lifestyles, create better mental health, and encourage healthy play for years to come; and

WHEREAS, the Milwaukie Parks Foundation strives to actively promote awareness about Milwaukie parks, in particular Milwaukie Bay Park, through work parties, and public awareness campaigns; and

WHEREAS, the need for parks and green spaces in our community during the global pandemic has become ever more apparent, and communities have come to recognize green infrastructure to be as critical as other types of infrastructure; and

WHEREAS, the Milwaukie Parks Foundation encourages all community members to recognize October 2020 as Bring Play to Milwaukie Bay Park Month, by connecting to their parks, supporting their green spaces, and working to develop a children's nature play area in Milwaukie Bay Park; and

WHEREAS, during October the Milwaukie Parks Foundation and the City of Milwaukie urge residents to support their parks through work party events, supporting local restaurants, and visiting their parks.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **OCTOBER 2020** to be **BRING PLAY TO MILWAUKIE BAY MONTH** in Milwaukie.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this **15th** day of September **2020**.

_____

Mark Gamba, Mayor

ATTEST:

_____

Scott Stauffer, City Recorder

MILWAUKIE PARKS FOUNDATION
MILWAUKIEPARKSFOUNDATION.ORG

RS 3. D.
9/15/2020
Presentation

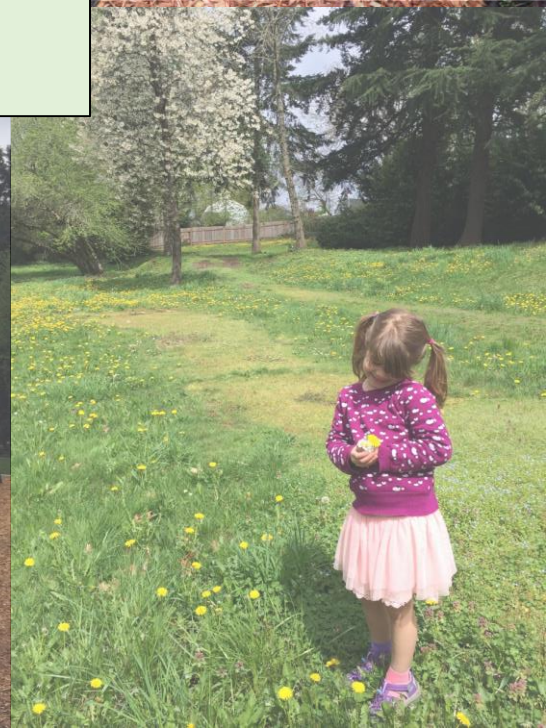
Bring Play to Milwaukie Bay

Encouraging Milwaukie residents to connect with their parks & green spaces, and support creation of a nature play area at Milwaukie Bay Park

MILWAUKIE PARKS FOUNDATION
MILWAUKIEPARKSFOUNDATION.ORG

MPF
Committed to parks engagement

Milwaukie Parks Foundation is committed to promoting awareness and encouraging interaction with Milwaukie's many parks and natural areas.



To Your Health!

Spending time outdoors has a positive impact on both physical and mental health.

Studies have shown

"People living near parks and green space have less mental distress, are more physically active, and have extended life spans."[1]

"There is also strong evidence that time spent in nature can improve the attention capacity of children with attention deficit disorders."[1]

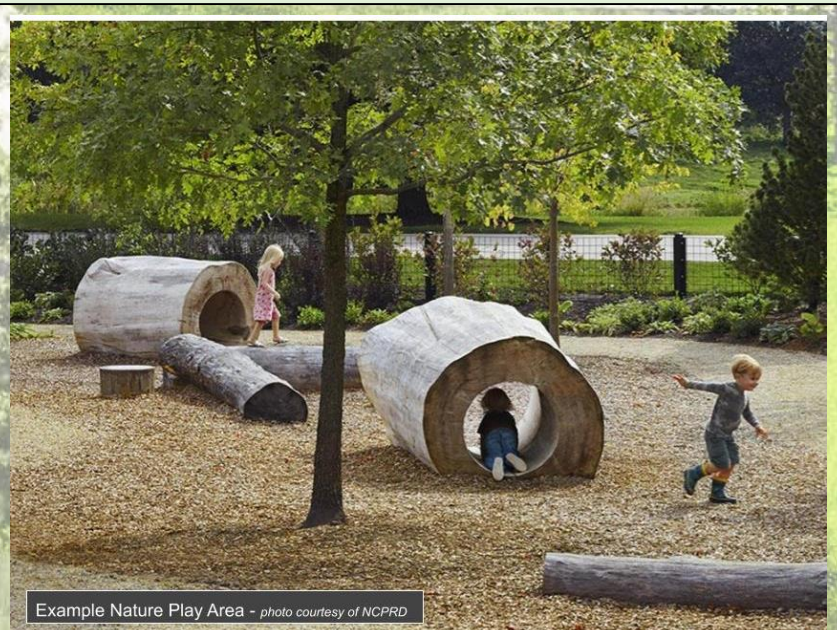
"Positive health effects are enhanced when green space includes the presence of water, or blue space."[1]

[1] *Urban Nature For Human Health and Well-Being, A research summary for communicating the health benefits of urban trees and green space*, US Department of Agriculture, https://www.fs.usda.gov/sites/default/files/fs_media/fs_document/urbannatureforhumanhealthandwellbeing_508_01_30_18.pdf, p.2

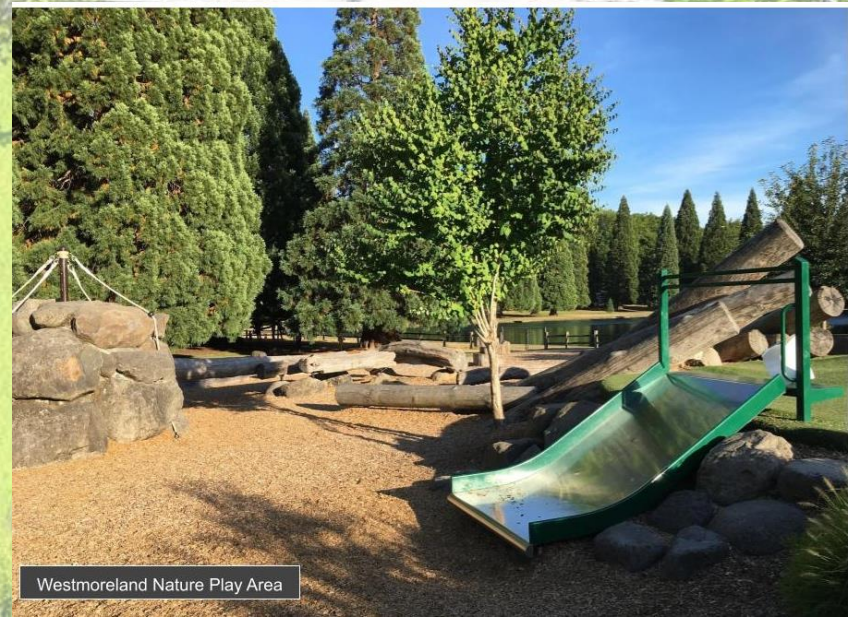
Nature Play at Milwaukie Bay

With the planned addition of a nature play area, Milwaukie Bay Park is slated to become an even greater asset for residents of Milwaukie and the region.

Westmoreland Nature Play Area

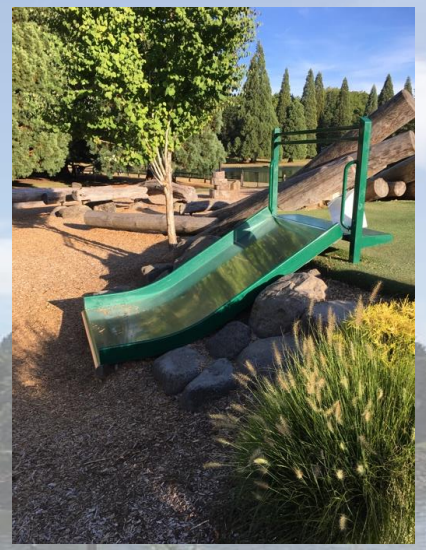


Example Nature Play Area - *photo courtesy of NCPRD*



Westmoreland Nature Play Area

October
Connect With Your Parks & Natural Areas



During the month of October, MPF is encouraging all community members to connect with Milwaukie's parks and natural areas, and to support the creation of a nature play area at Milwaukie Bay Park.

October
"Bring Play to Milwaukie Bay" Month

To bolster our campaign of promoting connection and awareness with Milwaukie's parks and natural areas, MPF asks that Milwaukie City Council declare October:

"Bring Play to Milwaukie Bay" Month

www.milwaukieparksfoundation.org

RS Agenda Item 5

Community Comments

Scott Stauffer

From: Scott Stauffer
Sent: Tuesday, September 15, 2020 7:35 PM
To: Scott Stauffer
Subject: 9/15 RS Zoom Chat Log

Zoom Webinar Chat

From Judy Wittke to All panelists: 06:22 PM
what time does the meeting begin

From Me to All panelists: 06:24 PM
The City Council regular session began at 6 p.m. It is streaming live now on Zoom, YouTube, and Comcast cable channel 30 in city limits.

From Councilor Kathy Hyzy (she/hers) to All panelists:
Scott, I'm hearing from Colin that the YouTube video quality is very poor. Voices re understandable, but there's a ringing noise, and the visuals are not very good.

From Me to All panelists:
Hi Kathy - thanks for letting me know. Because of the fires and smoke at city hall we are running this meeting from home and Willamette Falls Studios' Oregon City facility. The visuals and feed is not it's usual form for sure, but we're running from not normal settings. We'll be working to improve it going forward.

From Councilor Kathy Hyzy (she/hers) to All panelists:
Thanks!

From E (el/he/him/his) to All panelists and attendees:
is this the only time to give comments? or just the time to give comments about this issue?

From Me to All panelists:
E - this is the time on the agenda dedicated to public comments on topics not already on the agenda elsewhere. If you have a comment on something not on the agenda this is the time to make it. Do you want to make a comment at this time or during a later topic?

From Tim Salyers to All panelists and attendees:
I AM OK

From Me to All panelists:
Noted Tim, thank you.

From E (el/he/him/his) to All panelists:
is this presentation available for download? or can it be? I would like to share some of this data with others.

From Me to All panelists:
This presentation will be posted on the 9/16 regular session meeting webpage tomorrow. It will be available for download as a PDF.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
p: 503.786.7502 f: 503.786.7540
City of Milwaukie
10722 SE Main St • Milwaukie, OR 97222

RS Agenda Item 6

Consent Agenda

CITY OF MILWAUKIE

COUNCIL STUDY SESSION

Zoom Video Conference
www.milwaukieoregon.gov

MINUTES

AUGUST 11, 2020

Council Present by Video: Council President Angel Falconer; Councilors Lisa Batey, Wilda Parks, Kathy Hyzy, Mayor Mark Gamba

Tree Board Members Present by Video: Chair Kathleen Brennan-Hunter, Gina Dake, Jon Brown

Staff Present by Video: City Attorney Justin Gericke; City Manager Ann Ober; City Recorder Scott Stauffer; Climate Action & Sustainability Coordinator Natalie Rogers; Public Works Director Peter Passarelli

Mayor Gamba called the meeting to order at 5:16 p.m.

1. Public Tree Code – Discussion

Mr. Passarelli explained that staff and the Tree Board had been working to revise the public tree code. He discussed the process of re-writing the code and asked for Council clarification on fees, low-income assistance, and programmatic permits.

Mr. Passarelli reviewed the proposed updates to Milwaukie Municipal Code (MMC) Chapter 16.32 Tree Cutting. He discussed the Tree Board's belief that healthy street trees should not be removed, noted the benefits of street trees, and explained that the proposed code changes were meant to protect street trees.

Mayor Gamba and **Mr. Passarelli** discussed the cost benefit analysis for different projects that may require the removal of a tree. **Mayor Gamba** expressed concern about the city setting a precedent to remove trees, or not, that developers may follow. He urged the group to consider the city's tree removal policy carefully. **Ms. Ober** recalled previous discussions about increasing the tree removal cost as the size and diameter of the tree increased, in hopes to preserve older trees. She also recalled that staff incorporated some of the City of Portland's fee scale and rules when developing Milwaukie's tree code.

Mr. Passarelli and **Mayor Gamba** discussed tree removal costs and code exemptions for tree removal fees. **Council President Falconer** suggested that the tree code and city tree policies emphasize the public value of infrastructure projects when considering the removal of trees. **Mayor Gamba** agreed and believed it would help set a precedent for private development projects. **Ms. Ober** noted how staff could work to implement language about the public benefit.

Mr. Passarelli discussed the new Meek Street stormwater detention facility which required the removal of 13 trees. He noted that the city had replanted over 40 trees as a mitigation effort on that project. **Council President Falconer** suggested the Meek Street project could be an example of analyzing a public benefit project.

Mr. Passarelli reviewed the proposed fees for street and public trees. He reported that the code did not currently include a tree removal fee. He explained the proposed scaled rate fee structure based on the diameter of the tree. He reported that the Tree Board also proposed adding a requirement that when a tree is removed a tree should be

replanted or a fee should be paid to support a new planting at another location. Other proposed fees included a programmatic permit and an enforcement/restoration fee.

Council President Falconer expressed appreciation for the fee in lieu of planting a tree but wondered why the city would charge a fee to plant a tree. **Mr. Passarelli** clarified there would not be a fee to plant a new tree. The Tree Board was recommending that if a tree had to be removed and a new tree could not be planted on the same property, then a fee-in-lieu of planting would be applied for a replacement tree to be planted elsewhere.

The group noted scenarios in which different fees would be charged and the process to remove a tree. **Mr. Passarelli** expressed the Tree Board's desire for trees to be valued as an asset and seen as a loss for the community when removed.

Councilor Batey discussed the proposed review criteria and approval standards when the city decides to issue a tree removal permit. She asked if the city would charge a resident to remove a Tree of Heaven, which was on the noxious weed list. **Ms. Rogers** clarified that the proposed criteria and approval standards were for the removal of healthy, allowed, native species. She noted there was a separate list of situations for how to remove invasive or dead and diseased species.

Council President Falconer wondered if there was a list of problematic trees that do not do well in certain areas. **Mr. Passarelli** explained the code currently referred to the Oregon noxious weed list and the only tree on that list was the Tree of Heaven. He noted the city's public work standards listed other invasive species and the city could add reference to those standards in the MMC. **Council President Falconer** liked the idea of adding the reference to the standards and suggested changing the section title to "beneficial and healthy trees" to make it clear.

The group discussed different tree species that can be problematic. **Mr. Passarelli** noted the city had updated the street tree list to capture concerns about invasive species. He explained this proposal was for trees that were appropriate to plant in the public right of way (ROW) and in public spaces in Milwaukie, and it was not an exhaustive list. **Council President Falconer** did not want a homeowner to be hit with a large fee for removing a healthy but invasive problematic tree. The group noted the list should be continuously updated, especially as the climate changes.

The group discussed the street tree list and how to determine when a homeowner would not have to pay to remove a problematic tree. **Ms. Dake** reported that the Tree Board did not want a nuisance tree species list but wanted to give urban foresters more discretion.

Councilor Batey suggested the city do public outreach to explain about tree permits and ROW rules. **Mayor Gamba** agreed.

Mr. Passarelli explained how the Tree Board appraised a tree's value. He noted the associated fees did not capture the additional benefits trees provide. The group discussed how a tree's appraisal value was calculated.

Mr. Passarelli discussed the Tree Board's proposed fee exemptions for hazardous trees, minor maintenance, and public improvement. He explained the proposed fees were for when someone intentionally damages a tree to make it a hazard.

Councilor Hyzy pointed out that there was an arts tax that the city must pay when purchasing new buildings and she wondered if the city should apply that standard to

trees. The group noted the city also paid money for art in the new library. **Ms. Ober** agreed Councilor Hyzy's question was a good policy question for Council and noted that if such a fee or tax was added now, it would be on top of the costs already calculated for current Safe Access for Everyone (SAFE) projects. She said staff could calculate what the costs could be for future projects. She noted staff's work to not remove trees and suggested that if money was collected from fees they could go into a tree fund for future tree replanting projects. The group discussed potential benefits of a tree removal fee. **Ms. Ober** said staff would bring back policy options for Council to review.

Mr. Passarelli explained the programmatic permits that the Tree Board proposed. He noted that Portland had a structure where utilities, like Portland General Electric (PGE), were required to pay a fee, provide public notice to the neighborhood and nearby property owners about tree trimming maintenance, and follow tree trimming standards. He confirmed that Milwaukie did not currently charge a permit fee and there was no required public notice. He noted that Portland had a five-year program permit and explained why Milwaukie was proposing a two-year permit.

Mr. Passarelli discussed proposed language about low income assistance and how the city could exempt a property owner from the fees based on income. **Council President Falconer** suggested the language be reworded to clarify that available city funds be used to assist with tree removal specifically and if someone meets a certain income threshold the city manager may exempt the other fees. **Ms. Ober** commented that Council President Falconer's suggestion would be consistent with other city policies.

The group discussed the current median household income. Council believed that the policy should be based on Milwaukie's median household income, not the Portland Metropolitan Statistical Area (MSA).

Ms. Rogers discussed the inequitable distribution of trees in relation to low income, Black, Indigenous, People of Color (BIPOC), and marginalized communities across the United States. She noted the public health benefits that trees provide. She reviewed maps from Portland's equitable urban forest tree planting strategy that showed lower income areas had less trees. She provided a map of Milwaukie's tree cover in relation to low-income census data. She noted the importance of street trees to balance out heavy pavement areas and observed that the city had more control over ensuring a shared access to tree canopies by way of providing street trees in the public ROW.

Councilor Batey asked if there was any discussion about cutting trees during nesting season. She noted conversations she had with arborists and was curious to hear the Tree Board's thoughts about seasonal tree cutting. She also reported hearing that oak trees should have been planted at the Meek Street project area.

Mr. Passarelli commented on the types of trees that were planted at the Meek Street project. **Councilors Batey and Hyzy** and **Ms. Rogers** discussed the climate that oak trees grow best in. **Ms. Rogers** noted the importance of educating the public about choosing the right tree for the right place. **Mr. Passarelli** observed that having diverse tree species was helpful. The group discussed different types of trees.

Mayor Gamba expressed his excitement and appreciation for the Tree Board's work. He was concerned about the slow process in establishing the tree code for private property. The group noted that the Comprehensive Plan Implementation Committee (CPIC) work called for addressing it.

Councilor Hyzy shared Mayor Gamba's concerns. She remembered Portland's process for developing a tree code and reported that developers cut down many trees before the tree code was established. She was enthusiastic about Milwaukie's robust process and hoped that once the code was written the review process would not be dragged out.

Councilor Batey suggested that the city's tree outreach and education process could highlight heritage trees while promoting the value of trees.

The group discussed the timeline in adopting new code language.

Council President Falconer noted missed opportunities where trees could be planted. She hoped the Tree Board could work with the Public Safety Advisory Committee (PSAC) and the city engineering department to coordinate tree planting opportunities in the public ROW. **Councilor Hyzy** noted conversations she had with neighbors about the importance of engaging landowners to make sure people felt included and had a choice and a role in the success of street trees.

Mr. Passarelli remarked that the Tree Board would discuss Council's feedback at their next meeting and adjust the proposed code language.

2. Carbon-Free Product Exploration, continued – Discussion

Ms. Rogers referenced the city's climate action goals and noted the city's work with PGE and NW Natural Gas on exploring the development of a carbon-free energy product. She provided an overview of the city's climate action work, including the advocacy of changes to the international building code. She reported that building energy is the number one source of emissions in Milwaukie. She explained that the city's new Home Energy Score (HES) program would begin on October 1 and more information could be found on the city's website.

Ms. Rogers provided details on the city's work with PGE to explore an opt-out option for the carbon-free electricity product. She explained how the product would help meet Milwaukie's carbon-free electricity goal and would be designed to match the community's preference. She noted the legislative requirements and other items to consider when developing such a product.

The group thanked Ms. Rogers and Mr. Passarelli for their work in pioneering these types of programs.

2. Adjourn

Mayor Gamba adjourned the meeting at 7:16 p.m.

Respectfully submitted,

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Amy Aschenbrenner, Administrative Specialist II

CITY OF MILWAUKIE

RS 6. B.
9/15/2020

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Sept. 1, 2020

Reviewed: Brandon Gill, Information Technology Manager,
Keith McClung, Assistant Finance Director, and
Kelli Tucker, Procurement & Contracts Specialist

From: Bonnie Dennis, Finance Director

Subject: **Contract Authorization for Budget Performance Software**

ACTION REQUESTED

Council is asked to authorize the city manager to execute a contract with OpenGov to purchase budgeting performance software.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

May 23, 2020: the Budget Committee received presentations by department directors on the proposed budget for the 2021-2022 biennium (BN). The committee unanimously approved the budget to Council.

June 16, 2020: Council adopted the budget for BN 2021-2022, which included the purchase of new budgeting tool software within the finance and information technology departments.

August 31, 2020: the Budget Committee discussed the proposed budget tool and ongoing costs.

ANALYSIS

The development of the budget requires multiple steps between all city departments. To manage these steps and administer the budget development process, the finance department currently uses Microsoft Excel. While this tool has been effective, many software programs have been developed to alleviate version control and provide real time updates as program numbers solidify during the budget process. When using Excel for the BN 2021-2022 budget, each department completed a workbook that had two or threeworksheet tabs. As those are completed, the data from each workbook is manually entered into a master workbook known as the budget file. Additionally, finance uses Excel to create several other workbooks used for various reasons including revenue analysis, payroll projections, and expenditure analysis.. Within the budget file, each fund, department, and other supporting worksheet is manually entered into one of the 58 subsequent worksheets. In total, the finance department touches several hundred spreadsheets. While several cities use Excel, it is obsolete given the magnitude of the city's budget and the existence of other, budget-specfic software packages. Additionally, using Excel is inefficientand presents a greater risk of error.

The finance team reviewed Forecast5, BalancingAct, and OpenGov as potential alternatives to Excel. In evaluating each of these tools, the finance team determined that the OpenGov budgeting and performance platform had a substantial number of tools that would eliminate the concerns around efficiencies and errors, while providing a monitoring and analysis tool to better fit the city's needs. OpenGov provides software solutions for governments all over the country and in

Oregon, including Clackamas and Klamath counties and the cities of Forest Grove, and Ashland. Staff's conversations with OpenGove have been positive, and both the finance director and city manager have experience with OpenGov from previous employers as well.

OpenGov is an integrated cloud=based software-service for budgeting, performance, communications, and reporting with the following functionalities:

- An integrated solution that allows for all pieces of the budget process (including historical information and various versions of budget within each of the processes) to be in one environment;
- Fully automated integration with the city's existing financial management system (Incode) to allow staff to focus on analysis versus manual data consolidation;
- Inclusion of management reports and customizable dashboards to track and manage various financial and non-financial performance metrics;
- Comprehensive and robust personnel cost forecast module that allows for detailed salary calculations and projectionsand multiple scenario analysis;
- Centralized view of different data sets;
- Configurable and flexible reporting engine that will allow staff to create and edit their own reports to drive operational performance;
- Unlimited user license model to involve as many people as necessary during the budget process and communicate and collaborate within the tool;
- Ability to forecast and allocate expenses; and
- Capability to plan and budget for the Capital Improvement Plan (CIP), allowing the insertion of maps, project descriptions, costs, financing, and other metadata.

CONTRACTUAL AGREEMENT

The software purchase will be made from a competitively awarded price agreement with SHI International Corp, who is an authorized reseller of the OpenGov product. The city is allowed to purchase goods and services through price agreements under Public Contracting Rule (PCR) 15.000, given that the term of the contract does not exceed five years. The agreement would be for an initial term of five years beginning September 2020, with project implementation beginning immediately. Any contract renewal will require the finance team to procure the software through another price agreement or follow a separate procurement process, either of which will require Council's approval. The cost of the system for the first year is $66,190, which includes the first-year subscription fee, initial set-up, and employee training.; The cost for the second through fifth years of the agreement will be $35,500annually The total cost for the initial contract will be $208,190.

BUDGET IMPACT

Initial set-up costs and subscriptions for years one and two will be absorbed in this biennium budget. It is anticipated that these costs will be allocated from within the finance department by reducing expenses for contract services, travel, training, supplies, printing, and other costs. A supplemental budget or transfer for this biennium is not needed at this time. Finance staff will be including these expenditures in its request for CARES Act funding. The remaining contract costs are an annual subscription to be included in the next biennium budgets.

WORKLOAD IMPACT

Finance staff will have an increased workload during the setup and training phase of the software deployment. Other city departments will also need to receivetraining. After the initial year, it is assumed that the workload impact will decrease given the efficiencies built into the software.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

Managers from all city departments received a demonstration of OpenGov and concurred with moving forward.

STAFF RECOMMENDATION

Staff recommends that Council authorize the city manager to sign a contract with OpenGov for a five-year term.

ALTERNATIVES

City staff can continue to use Excel for the budget process.

ATTACHMENTS

1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING EXECUTION OF A CONTRACT WITH OPENGOV FOR BUDGETING PERFORMANCE SOFTWARE.

WHEREAS, the finance department uses Microsoft Excel to complete its biennium budget process with departments and the compilation of the budget; and

WHEREAS, software programs have been developed to alleviate version control and provide real-time updates and workflows specific to the budget process; and

WHEREAS, finance and other city departments have requested the city acquire a new budgeting tool that provides for real-time analysis of department financing under multiple scenarios; and

WHEREAS, finance department staff conducted a procurement process and received presentations from three different financial software vendors before determining that OpenGov would be the best provider of the desired budget tools; and

WHEREAS, the proposed procurement complies with Public Contracting Rule (PCR) 15.000 for purchasing goods and services from a competitively awarded price agreement.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager, or their designee, is authorized to execute a five-year contract with OpenGov for budgeting performance software and the finance director, or their designee, is designated as the project manager for the implementation of the software.

Introduced and adopted by the City Council on **September 15, 2020**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CITY OF MILWAUKIE

RS 6. C.
9/15/2020

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Sept. 1, 2020

Reviewed: Bonnie Dennis, Finance Director, and
Keith McClung, Assistant Finance Director

From: Kelli Tucker, Accounting & Contracts Specialist

Subject: **Sole Source Contract Authorization for Merchant Card Payment Services**

ACTION REQUESTED

Council is asked to authorize the city manager to execute a sole source contract with OpenEdge for merchant card payment services.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

October 2017: staff followed an intermediate procurement process for merchant card payment services and selected OpenEdge.

January 15, 2019: Two years following an intermediate procurement process for merchant card payment services, Council adopted Resolution 5-2019 authorizing a contract extension.

September 2019: staff followed a direct appointment procurement process to execute a new contract with OpenEdge until a formal solicitation could be issued.

February 2020: prior to issuing the formal solicitation, staff held a meeting with representatives from Tyler Technologies (the city's current financial software provider) to assess which card processors could be integrated or would be compatible with Tyler's Incode platform. Staff were advised that four processors would integrate with Incode: Authorize.net, BridgePay, ETS, and OpenEdge. Tyler Technologies informed the city at that time that there was no requirement to choose one of these processors, but that choosing another processor would likely result in a manual process when uploading payment files to Incode.

March 2020: staff issued a formal solicitation for merchant card payment services and received four responsive proposals. Umpqua Bank was selected.

May 19, 2020: Council adopted Resolution 30-2020 authorizing the execution of a contract with Umpqua Bank for merchant card payment services that would be integrated with Incode through BridgePay.

ANALYSIS

The city offers debit and credit card payments for services, including but not limited to, business registration, court fines, utilities, parking, library fines, and building permits.

The city (and other Incode clients) received notice in March from Tyler Technologies acknowledging their formal decision to no longer support Authorize.net. After this notice, there was no further communication from Tyler Technologies regarding the discontinuance of any other processor. As such, staff moved forward with the Umpqua Bank contract and implementation steps.

In July, finance staff and representatives of Umpqua Bank and Tyler Technologies met to discuss implementation steps. It was during this meeting that Tyler Technologies informed the group that all processor solutions, except OpenEdge, were no longer being supported with Incode for online card payments. One of the discontinued providers, BridgePay, was necessary to partner with Umpqua Bank, making. the city's decision to move forward with Umpqua Bank for online card payments no longer feasible. The city would still be allowed to use Umpqua Bank for in-person card transactions only.

Court and utility online card payments total approximately 88% of all card transactions currently processed with the city. Removing the ability to pay online is not an option, and splitting services between more than one processor does not make good business sense. Additionally, given the importance of social distancing during the COVID-19 pandemic and when city facilities are closed to the public, it is critical that online card payments remain an option for customers. Negotiating a contract with OpenEdge, the only remaining provider, is the sole source solution we have identified for the city to continue providing card payment services. It is important to note that the contract with Umpqua Bank for banking services remains in effect and is currently under implementation.

With Tyler Technologies' recent decision to no longer support integration with other card processors, the city is left with OpenEdge as its sole source option for online card payments. Staff has satisfied all requirements to award a sole source contract under Public Contracting Rule 10.070(A) and Oregon Revised Statute 279B.075. Staff has negotiated with OpenEdge to obtain contract terms that are most advantageous to the city.

BUDGET IMPACT

The cost savings for bank charges is estimated at $8,900 per year.

WORKLOAD & CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

None.

STAFF RECOMMENDATION

Staff recommends that Council authorize the city manager to sign a three-year contract with OpenEdge.

ALTERNATIVES

None.

ATTACHMENTS

1. Resolution
2. Client Satisfaction Offer (contract)

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING EXECUTION OF A SOLE SOURCE CONTRACT WITH OPENEDGE FOR MERCHANT CARD PAYMENT SERVICES.

WHEREAS, the city offers debit and credit card payments for services including, but not limited to, business registration, court fines, utilities, parking, library fines, and building permits;

WHEREAS, the city is committed to providing its customers a secure payment solution that is compliant with Payment Card Industry Data Security Standards (PCI DSS); and

WHEREAS, the finance department issued a formal solicitation for card payment services and selected a processor for merchant card payment services; and

WHEREAS, staff was later informed by Tyler Technologies that integrated card payment services with the Incode platform, which the city currently uses, are available from only one source, OpenEdge.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager, or their designee, is authorized to execute a three-year contract with OpenEdge for PCI DSS-compliant card payment processing services, and the finance director or designee is authorized to administer any necessary subsequent documents.

Introduced and adopted by the City Council on **September 15, 2020.**

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

Attachment 2

Client Satisfaction Offer

City of Milwaukie, Oregon

Date: 8/31/2020

MIDs: 8788242964007 (Online Utility Payments)

8788242964008 (City Hall)

8788242964009 (Online Court Payments)

8788242964010 (Online Business Registration)

8788242964011 (Public Safety Building)

8788242963981 (Ledding Library)

OpenEdge values its merchant clients and strives to create mutually beneficial, long-term relationships with them. To that end, OpenEdge offers you, the merchant named above ("Merchant"), the following terms on behalf of its affiliate, Global Payments Direct, Inc. ("Global"). Accepting this offer will modify your Card Services Agreement (the "Agreement") with Global, as follows:

Pricing Adjustments

Risk Assessment Fee set to 0.15% and $0.15 per Item
Settlement Funding Fee set to 0.050% and $0.05 per Item
Please see afore sent Rate Analysis for more details.

Contract Term

The Term of the Agreement will be extended from the date of execution below for a period of "36" months. This new Term supersedes conditions surrounding the existing Term, and you hereby waive any early termination fee indemnities or waivers previously issued. All other terms and conditions of the Agreement remain unchanged. This Client Satisfaction Offer and the details contained herein are confidential and may not be disclosed, displayed, or otherwise transmitted to any third party except to attorneys, accountants or other professional advisers as may be necessary to effect the purposes of this letter between the parties.

Sincerely,

Signed_____ Date_____

Alan Briones, Client Advocate Manager

*****

Reviewed and Accepted by Merchant:

Merchant Signature_____ **Date**_____

Please Print Name Ann Ober

Please Print Title City Manager

CITY OF MILWAUKIEONLINE BUSINESS - MILWAUKIE, OR

Rate review based on processing month: July-20

Rates subject to change.

6 Locations Review

8/18/2020

Card Type	Charge Type	# Trans	$ Sales	CURRENT RATES % Disc	CURRENT RATES Per Item	CURRENT RATES Total Fees	PROPOSED RATES % Disc	PROPOSED RATES Per Item	PROPOSED RATES Total Fees	Savings
Fee	GP Fee - Risk Assessment Fee	2946	532,585.24	0.290%	0.2640	1111.18	0.150%	0.1500	1240.78	-129.60
Fee	Settlement Funding Fee	2946	532,585.24	0.084%	0.1300	831.99	0.050%	0.0500	413.59	418.40
Fee	PCI Non Compliance	6	0.00	0.00%	39.0000	234.00	0.00%	0.0000	0.00	234.00
Fee	CE Suite Fee	5	0.00	0.00%	45.0000	225.00	0.00%	0.0000	0.00	225.00
Statement Totals		2946	532,585.24			9,950.81			9,202.86	

TOTAL POTENTIAL MONTHLY SAVINGS	**$747.95**
POTENTIAL YEARLY SAVINGS	**$8,975.39**
PERCENTAGE SAVINGS	**8%**

This is a summary of proposed rate and fee changes

RS Agenda Item 7

Business Items

RS 7. A.
9/15/2020
Presentation

Statistical Transparency of Policing (STOP) Program

Analytical Approach and Preview for City of Milwaukie

Ken Sanchagrin, JD PhD
Interim Executive Director
Oregon Criminal Justice Commission
15 September 2020

HB 2355 – STOP

Presentation Outline

§ Brief introduction to the STOP Program

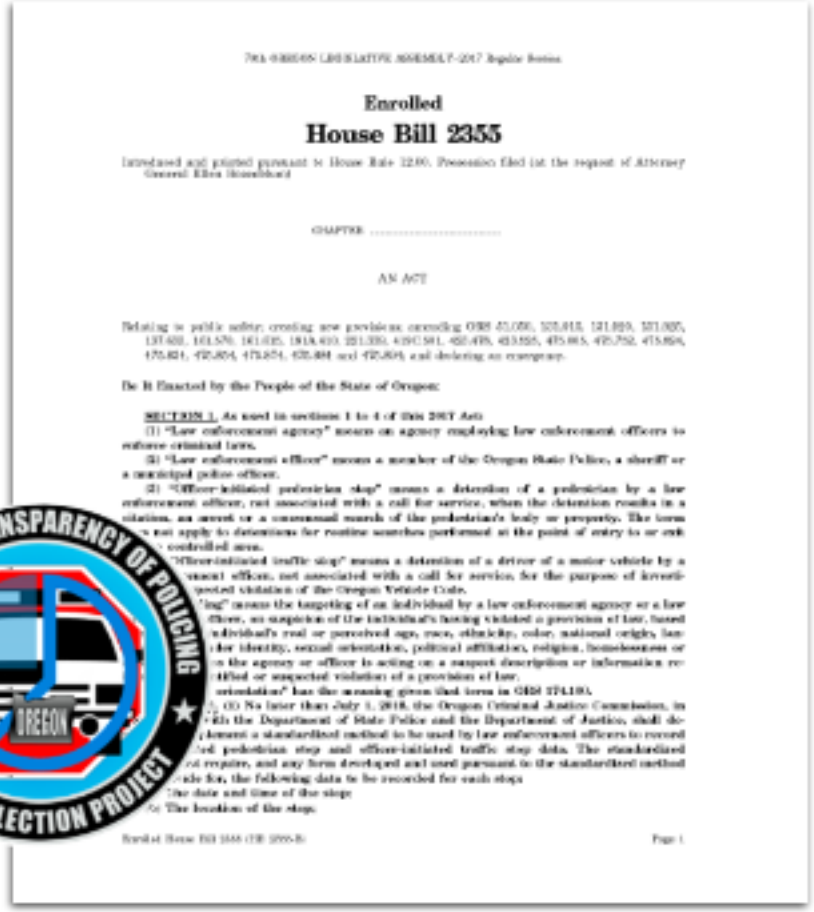
§ Methodological challenges in analyzing stops data

§ Analytical considerations for City of Milwaukie

§ STOP Program's analytical approach

HB 2355 – STOP

Background and Introduction



Enrolled

House Bill 2355

CHAPTER .....

AN ACT

Relating to public safety; creating new provisions; amending ORS [illegible]; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2017 Act:

(1) "Law enforcement agency" means an agency employing law enforcement officers to enforce criminal laws.

(2) "Law enforcement officer" means a member of the Oregon State Police, a sheriff or a municipal police officer.

(3) "Officer-initiated pedestrian stop" means a detention of a pedestrian by a law enforcement officer, not associated with a call for service, when the detention results in a citation, an arrest or a consensual search of the pedestrian's body or property. The term does not apply to detentions for routine searches performed at the point of entry to or exit from a controlled area.

(4) "Officer-initiated traffic stop" means a detention of a driver of a motor vehicle by a law enforcement officer, not associated with a call for service, for the purpose of investigating a suspected violation of the Oregon Vehicle Code.

(5) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based on the individual's real or perceived age, race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, homelessness or mental illness, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

(6) "Sexual orientation" has the meaning given that term in ORS 174.100.

SECTION 2. (1) No later than July 1, 2018, the Oregon Criminal Justice Commission, in consultation with the Department of State Police and the Department of Justice, shall develop a standardized method to be used by law enforcement officers to record officer-initiated pedestrian stop and officer-initiated traffic stop data. The standardized method must require, and any form developed and used pursuant to the standardized method must provide for, the following data to be recorded for each stop:

(a) The date and time of the stop.

(b) The location of the stop.

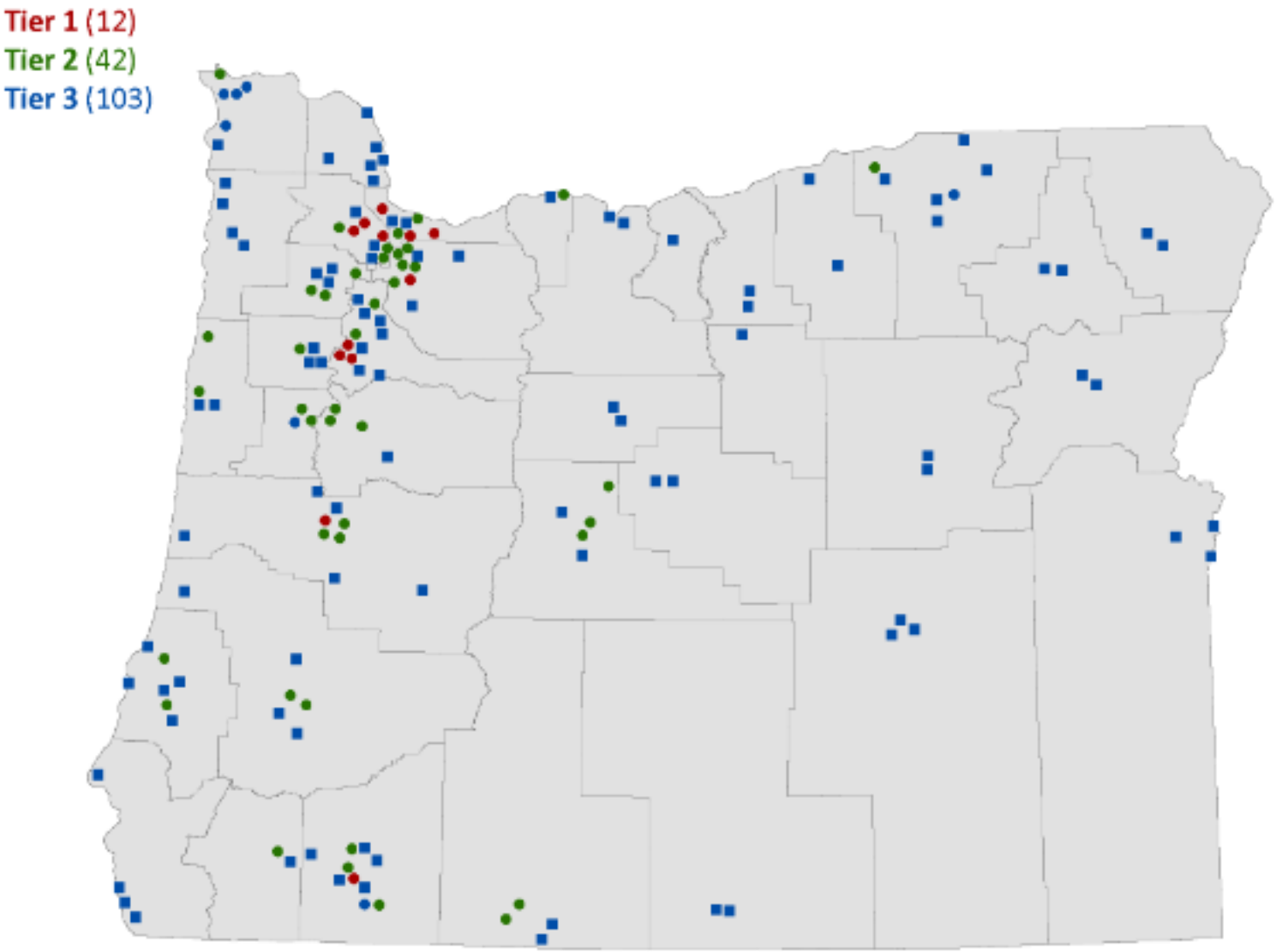
Enrolled House Bill 2355 (LC 1999-3) Page 1

§ HB 2355 (2017) required law enforcement to report on all discretionary traffic and pedestrian stops.

STOP Data Elements	
Agency Name	Gender
Stop Date/Time	Reason for the Stop
Location & County†	Outcome of Stop
Type of Stop (Traffic/Ped)	Search (Y/N)
Residential Zip Code†	Search Reason
Race/Ethnicity	Search Findings
Age	Was an Arrest Made?

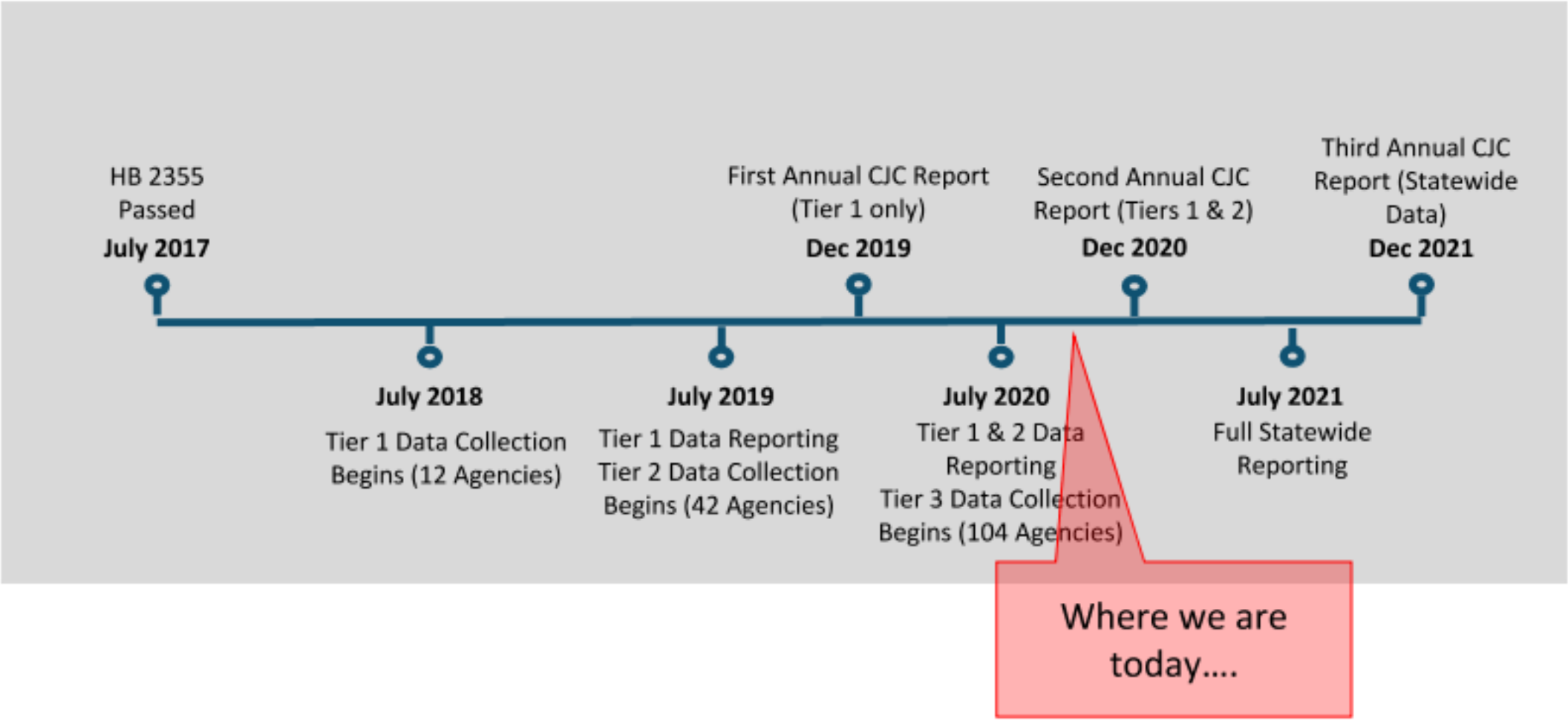
BACKGROUND

THREE TIER APPROACH



BACKGROUND

STOP PROGRAM TIMELINE



OREGON STOP PROGRAM

ANALYTICAL APPROACH

HB 2355 – STOP

Background and Introduction

Selected Traffic Stop Benchmark Data (CT)

Department	Stops Count	Stops Pct.	Pop Pct.	Ratio
Berlin	1,902	22.29%	12.89%	1.73
Branford	1,547	11.96%	13.12%	0.91
Danbury	2,036	34.77%	31.97%	1.09
East Hampton	185	2.16%	5.82%	0.37

§ Research Challenges – 30 Years of Stop Research

- § Mostly, research has used benchmark analyses to determine if there are disparities.
- § Academic research demonstrates that benchmark based analyses are often biased and/or invalid.
- § Quality analysis of stop data is difficult and time consuming.
- § No analysis is perfect and all approaches have strengths and weaknesses.
- § No statistical method can "prove" discrimination.

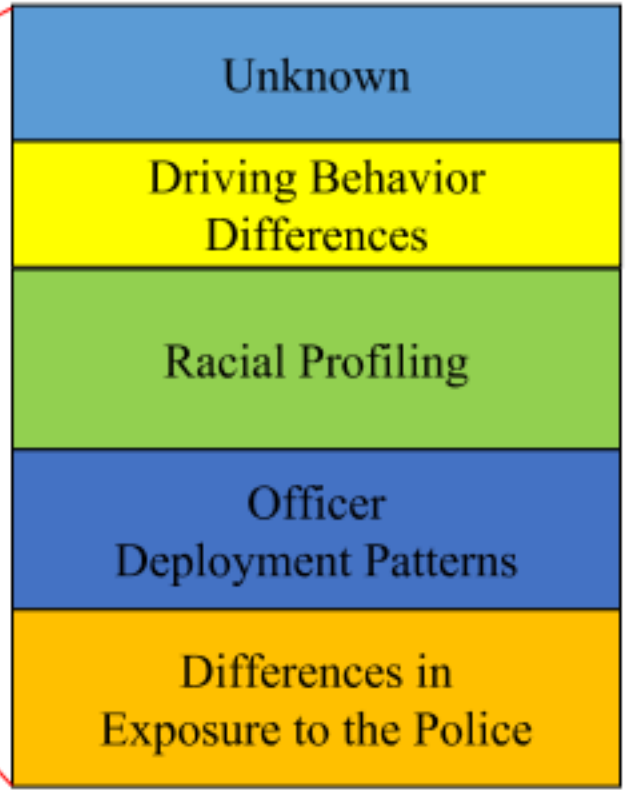
HB 2355 – STOP

Background and Introduction

§ Research Challenges

Selected Traffic Stop Benchmark Data (CT)

Department	Stops Count	Stops Pct.	Pop Pct.	Abs Diff	Ratio
Berlin	1,902	22.29%	12.89%	9.40	1.73
Branford	1,547	11.96%	13.12%	1.16	0.91
Danbury	2,036	34.77%	31.97%	2.80	1.09
East Hampton	185	2.16%	5.82%	3.66	0.37



HB 2355 – STOP

Analysis of Oregon STOP Data

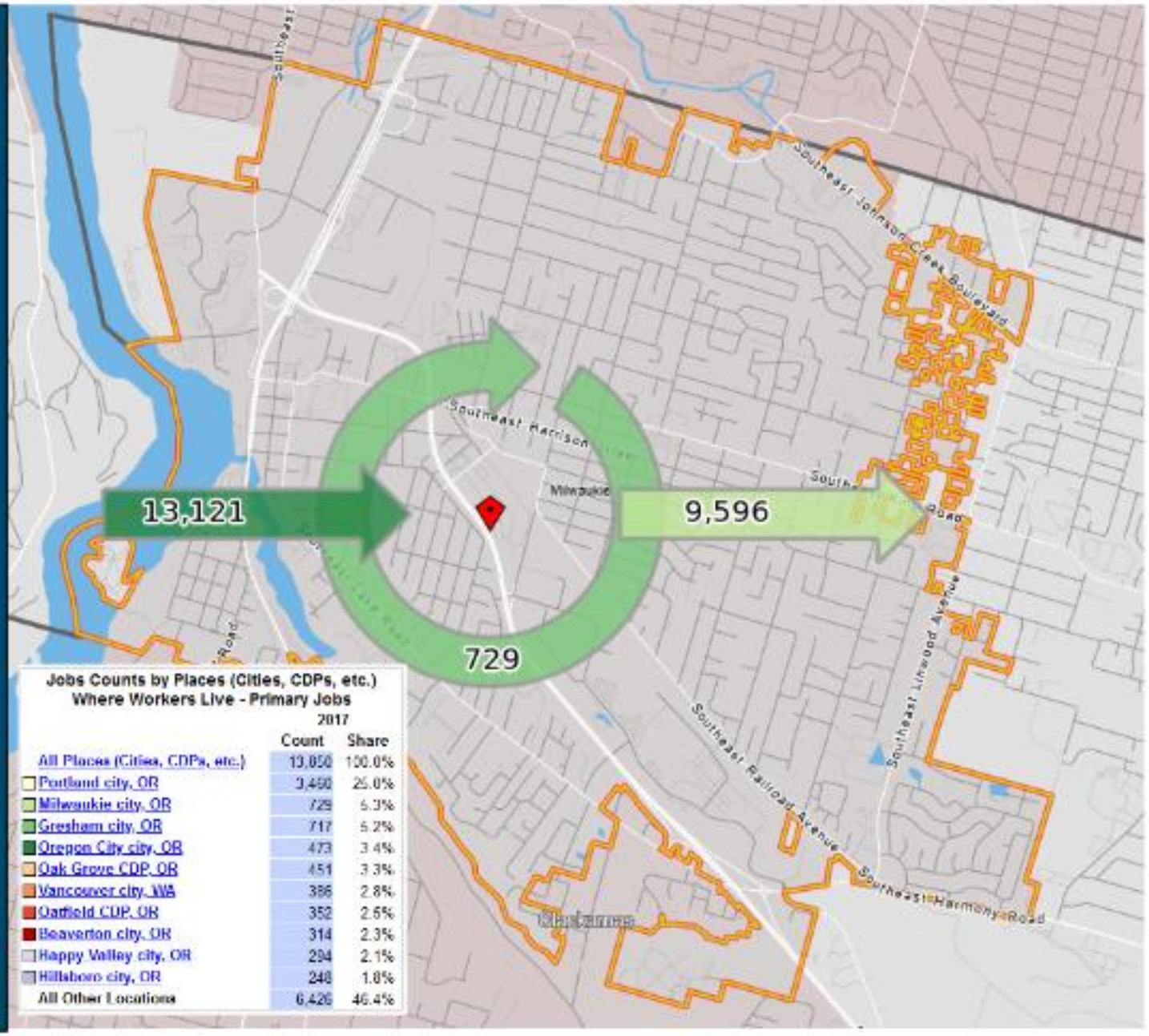
Preliminary STOP Data for Milwaukie (7/1/19-6/30/20)

	STOP Data		Census
Race/Ethnicity	**Num.**	**Pct.**	**Pct.**
White	4,941	81.4%	83.6%
Black	361	5.9%	1.6%
Hispanic	483	7.5%	9.1%
Asian or PI	171	3.6%	3.3%
Native American	18	0.4%	0.5%
Middle Eastern	98	1.6%	--
Two+ Races	--	--	2.8%
Total	**6,072**	**100%**	**100%**

- § Preliminary City of Milwaukie Data
  - § An initial assessment of stops data identifies some areas for further investigation.
  - § Direct comparison, however, demonstrates some of the shortcomings in assessing stops data with Census data.
- § Relevant Issues for Milwaukie in deeper analyses:
  - § Travel patterns for work, shopping, recreation, etc.
  - § COVID-related effects on the driving population as well as on stop frequency and patterns.

TRAVEL PATTERNS

MILWAUKIE, OR

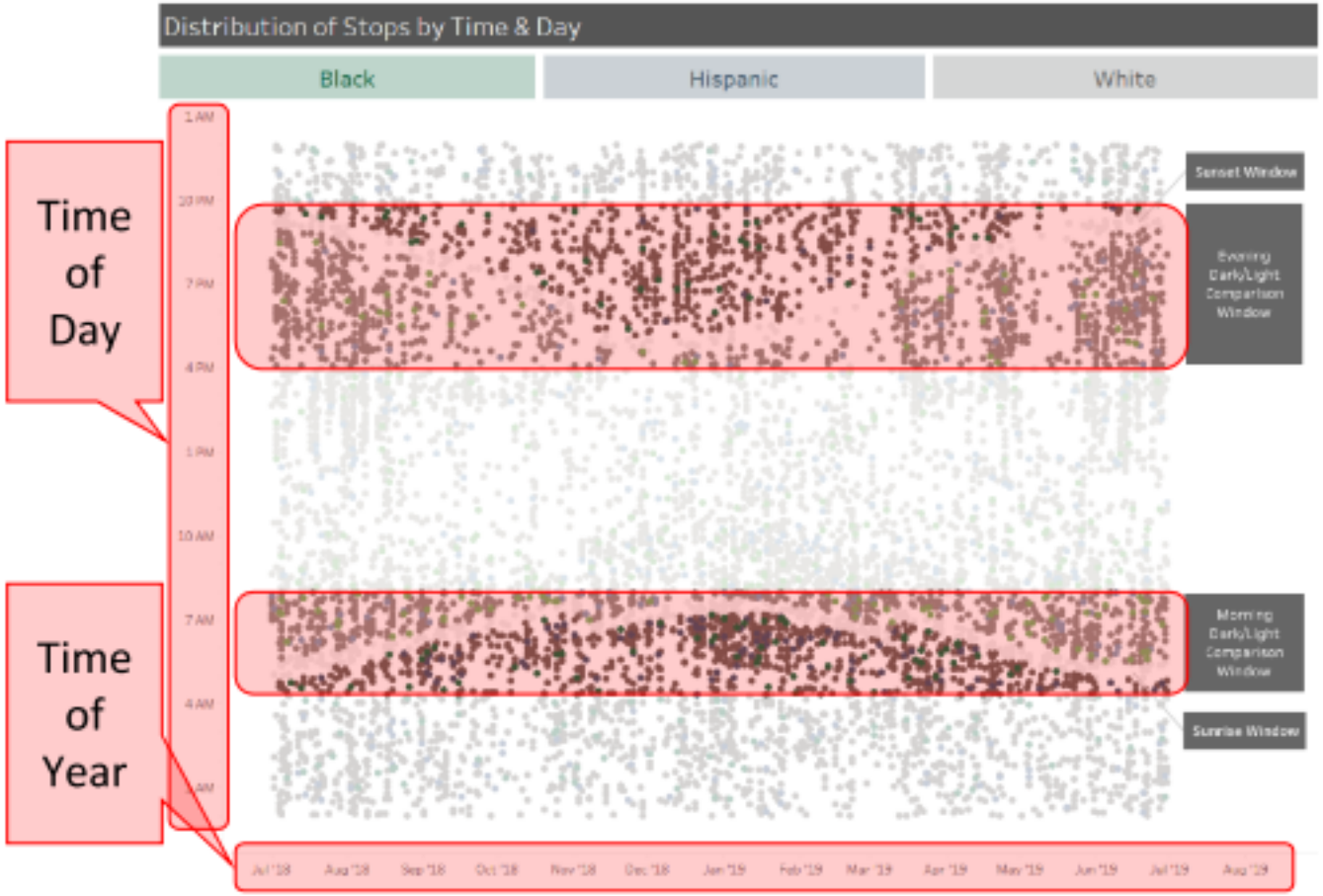


Jobs Counts by Places (Cities, CDPs, etc.)
Where Workers Live - Primary Jobs
2017

	Count	Share
All Places (Cities, CDPs, etc.)	13,850	100.0%
Portland city, OR	3,490	25.0%
Milwaukie city, OR	729	5.3%
Gresham city, OR	717	5.2%
Oregon City city, OR	473	3.4%
Oak Grove CDP, OR	451	3.3%
Vancouver city, WA	386	2.8%
Oatfield CDP, OR	352	2.5%
Beaverton city, OR	314	2.3%
Happy Valley city, OR	294	2.1%
Hillsboro city, OR	248	1.8%
All Other Locations	6,426	46.4%

HB 2355 – STOP

Analysis of Oregon STOP Data – The Decision to Stop a Driver



- § The Initial Stop Decision
- § Veil of Darkness Model
  - § Compares stops made in the daylight to stops made in darkness.
  - § If stops are being made in a race-neutral manner, stop rates should be almost identical and the model results for daylight/darkness should not be statistically significant.
  - § To ensure that similar driving populations are examined, only stops made during the morning and evening are included in the models.

HB 2355 – STOP

Analysis of Oregon STOP Data – The Decision to Stop a Driver

Logistic Regression of Minority Status on Daylight for All Tier 1 Agencies

Sample	Asian/PI	Black	Hispanic	Middle Eastern	Native Am.
Tier 1 Agencies	1.05	0.96	0.93	0.89	0.86
Tier 1 Agencies (no OSP)	0.95	0.90	0.90	1.02	0.81
Tier 1 Agencies		0.90	0.89		
Tier 1 Agencies (no OSP)		0.85	0.92		

Limited to DST Window

- § The Initial Stop Decision
- § Veil of Darkness Model
  - § **Reading the Results**: an odds ratio above 1.0 indicates that a minority group was stopped more often in the daylight, which indicates a possible disparity.
  - § No statistically significant disparities above 1.0 were found in the VOD models in CJC's first annual report.

HB 2355 – STOP

Analysis of Oregon STOP Data – What Happens During a Stop

List of Variables Used for Matching

Age	Gender
Agency	Holiday
Stop Reason	Stop Type
Daylight	Daily Stop Volume
Day of the Week	Time of Stop

- Post Stop Outcomes: Searches, Arrests, Citations
- Propensity Score Matching
  - Ideally, we would like to approximate a random control trial.
  - Propensity score matching analysis mimics important aspects of an RCT in cases where random assignment is not possible.
  - In effect, you are able to balance your data so you can test for race-based differences.
  - For the following analyses, we test for differences across race in:
    - Citations
    - Searches
    - Arrests
    - Any non-warning outcome (i.e., citation, search, or arrest)

HB 2355 – STOP

Analysis of Oregon STOP Data – What Happens During a Stop

		Citation	
Agency	**Race**	**Actual**	**Predicted**
All Tier 1 Agencies	Black	--	--
	Hispanic	43.0%	37.4%
	Asian/PI	--	--
	Middle E.	--	--
	Native Am.	--	--
All Tier 1 Agencies (no OSP)	Black	--	--
	Hispanic	40.7%	37.3%
	Asian/PI	--	--
	Middle E.	--	--
	Native Am.	--	--

The actual citation percentage in the STOP data for Hispanics

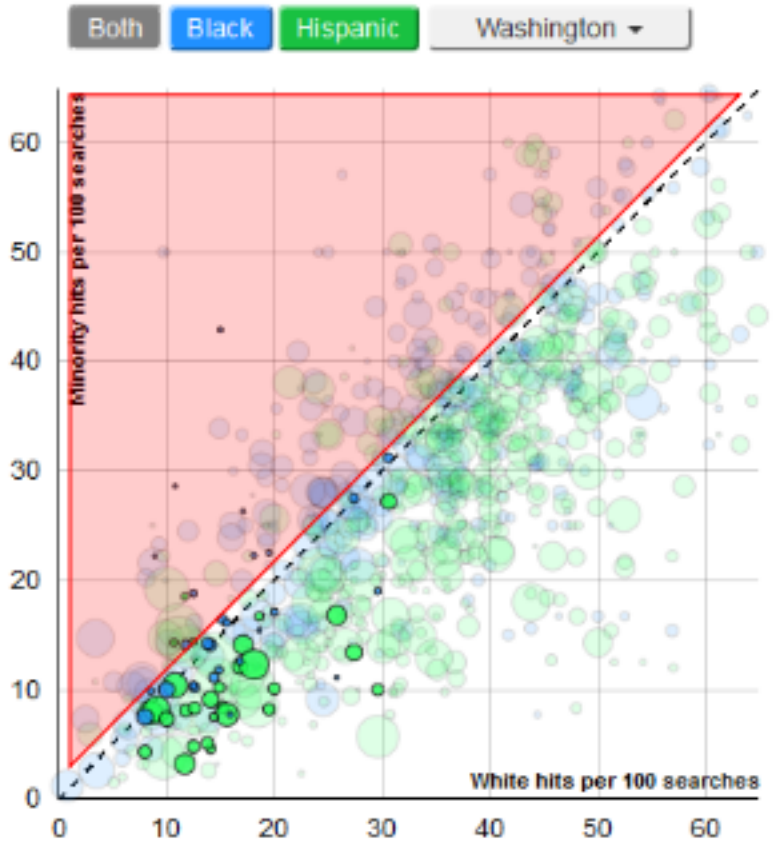
The citation percentage we'd expect if our stopped Hispanics were White.

- § Post Stop Outcomes: Searches, Arrests, Citations
- § Propensity Score Matching
- § **Reading the Results**:
  - § Only statistically significant results are shown.
  - § If there is a gap between our predicted and the actual outcomes for a given racial group, then there is evidence of a disparity.

HB 2355 – STOP

Analysis of Oregon STOP Data

- § Post Stop Outcomes: Searches
- § Outcome/Hit Rate Test
  - § Successful searches should be equal across different races if the decision to search is based on race neutral factors.
  - § If hit rates are consistently lower for one racial group, the target group is being searched more often than success rates would warrant.
  - § For example:
    - § If searches of whites are successful 60% of the time, but searches of Hispanics are only successful in 10% of cases, then
    - § The model would suggest that a different (and less successful) standard is being used when searching Hispanics.



Questions

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CITY OF MILWAUKIE

RS 7. B.
9/15/2020

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council

Reviewed: Kelly Brooks, Assistant City Manager, and Justin Gericke, City Attorney

From: Ann Ober, City Manager, and Luke Strait, Police Chief

Date Written: Sept. 4, 2020

Subject: **Equity, Inclusion, and Justice – Initial Goal Update and Discussion**

ACTION REQUESTED

Council is asked to receive an update on the new equity, inclusion, and justice goal, as well as provide feedback on desired outcomes and next steps.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

July 14, 2020: Council discussed a proposed resolution in support of diversity, equity, and inclusion (DEI) and the Black, Indigenous, and People of Color (BIPOC) community crafted by Mayor Gamba and Councilor Hyzy.

August 4, 2020: Council requested a resolution be added to the August 18 agenda to change the existing community engagement goal to equity, inclusion, and justice.

August 18, 2020: Council approved a resolution changing its goals to include one focused on equity, inclusion, and justice.

ANALYSIS

On August 18, Council amended its goals to include equity, inclusion, and justice. The resolution revising the goals asserted several immediate actions for city staff and Council, some of which had been set in motion prior to resolution adoption:

- Conduct listening sessions and create subsequent changes to city practices, policies and codes;
- Work on relationship building with Milwaukie's BIPOC residents and defining the next steps forward for this work;
- Draft a budget adjustment to move additional resources to this work;
- Fund equity, inclusion, and justice training for all staff, including the police department, and for related training to achieve this goal; and
- Further our own education about systemic racism.

The city has made significant headway in each of the noted items. This staff report and the subsequent presentation are to provide an update on those items and set-up an opportunity for staff to receive further Council feedback.

Listening Sessions

On Thursday August 20, Saturday August 22, and Wednesday September 10, Council members joined the city manager and police chief to hear from BIPOC Milwaukians. The sessions were created so leadership could hear the experiences of BIPOC residents and receive feedback about needed improvements and changes in city government. Rather than try to represent those experiences here, notes from the first two session are attached and those reading the staff report are encouraged to review those documents in their entirety. Staff will provide the notes from the September 10 meeting once participants have a chance to review and confirm the included content.

Policy Review

Council also requested a review of city policies as a part of this process. Over two legislative sessions, the Oregon State Legislature amended laws regarding police practices and policies. The amendments have implications for existing city policies. Attorney Steve Schuback, the city's labor attorney, is currently reviewing 15 Milwaukie Police Department (MPD) policies for compliance with the law, as well as readability. This work is being conducted to a) comply with state law, b) apply best practices, and c) prepare the policies for review by community members for possible additional changes. Mr. Schuback will be presenting the legislative changes and an overview of his work at this Council meeting.

Statistical Transparency of Policing (STOP) Data

Making changes to city policies and programs will require staff to initiate a review of current practices. One place the city has initiated that process is through the review of the MPD's STOP data. Oregon House Bill 2355 required all Oregon police agencies to begin tracking all optional or discretionary police stops, where a person was not free to leave. This data is reported to the Oregon Criminal Justice Commission (CJC) for analysis. July 2020 marked the end of the first year of reporting to the CJC. Staff has reviewed Milwaukie's initial data and are working with staff from the CJC to better understand and evaluate it. The CJC ultimately breaks down the data by race/ethnicity and other demographic factors, to search for disparities. Although the CJC has indicated they do not have concerns with our initial data we are continuing to work directly with them for further analysis.

Relationship Building

The city manager, police chief, and members of Council have continued to communicate with members of Milwaukie's BIPOC community through ongoing emails and one-on-one conversations. One item that stood out in both the creation of, and then participation in, the listening sessions was the focus on direct, personal communication with BIPOC individuals and families. The city manager has created an email list of BIPOC community members interested in being involved the city's equity, inclusion, and justice work. BIPOC community members interested in receiving emails regarding the city's work in this area are invited to email obera@milwaukieoregon.gov.

Budget Adjustments

On June 16, Council made a few last-minute changes to the city budget to begin the work of the equity, inclusion, and justice goal. Those adjustments have allowed for initial staff equity and bias training, as well as the listening sessions. At the city's Budget Committee meeting on August 31, staff presented the anticipated expenditures associated with hiring an equity program manager, which the city manager hopes to do by October. The associated budget adjustment for this new position is expected later in the biennium. The Budget Committee

expressed no concern with the expected budget adjustment or the hiring of the equity program position.

Training

As of September 4, all managers and most staff have received equity or implicit bias training. An additional equity training has been arranged for late October after the hiring of our new equity program manager, so that person may participate with other newly hired employees and individuals who missed the first round of training. The equity trainings have been provided by Empress Rules, a local equity training firm. The implicit bias training has been provided by Fair and Impartial Policing, a firm based out Chicago, Illinois. Fair and Impartial Policing will return after the coronavirus (COVID-19) pandemic gathering restrictions have been eased to lead a community training and discussion.

Council Equity Education

Council members have been participating in the city equity trainings. A couple councilors will also participate in the community implicit bias training and discussion. Councilors have also noted individually their own personal training and reading during council conversations.

NEXT STEPS

As part of Council's previous community engagement goal, staff had requested that Council provide the purpose and desired outcomes at the start of all projects and programs. For the equity, inclusion, and justice goal, Council is asked to provide similar clarification of the goal's purpose and desired outcomes.

- The goal change resolution adopted on August 18 includes several statements on the purpose of the equity, inclusion, and justice goal. Are there any additional purpose statements missing?
- What outcomes (not tactics) is Council trying to reach through this goal? Would Council prefer to wait until the equity program manager is in place before outlining the desired outcomes?

BUDGET IMPACT

Additional budget impacts will be determined with additional council feedback.

CLIMATE IMPACT

None.

WORKLOAD IMPACT

Creating a new equity, inclusion, and justice program has been, and will continue to be, a significant undertaking. A staff person will be hired to address these increased workload demands.

STAFF RECOMMENDATION

None.

ATTACHMENTS

1) STOP Methodology Background Document
2) Listening Session Notes for August 20 and 22

STOP Program Research Brief

Analytical Approaches to Studying Stops Data

October 2018

Oregon Criminal Justice Commission

The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

1. INTRODUCTION

The statistical examination of police traffic and pedestrian stop data was borne out of litigation in the mid-1990s. For decades, advocacy groups cited anecdotal evidence supporting the notion that law enforcement applies different standards to minority drivers and pedestrians concerning various police-citizen interventions. The specific and systematic measurement of these police practices during stops, however, did not occur until it was required in *State of New Jersey v. Soto et al.*, a case where a group of defendants claimed that New Jersey state troopers targeted highway drivers based on the color of their skin. In *Soto*, as well as in *Wilkins v. Maryland State Police*, which occurred at the same time, courts sought empirical data that could properly compare the rates of traffic stops to the driving population at risk for being stopped by the allegedly offending law enforcement agencies. In each of these instances, the courts decided to compare the rates at which minority drivers were stopped by law enforcement with estimates of the driving population based on observational traffic studies prepared during litigation.

Following the conclusions of the cases cited above, the US Department of Justice, along with several professional organizations, began hosting conferences concerning the improvement of police-community relationships. A specific focus of a number of these conferences, including those hosted by the Police Executive Research Forum in 2001, the SOROS Foundation and the Institute on Race and Justice at Northeastern University in 2003, as well as others that followed, was on the collection, analysis, and public reporting of traffic and pedestrian stop data. In response, many states began to mandate the collection of traffic stop data, and in states that did not or have yet to call for data collection legislatively, many local jurisdictions and departments began to collect and analyze stop data on their own.

While numerous individual law enforcement agencies in Oregon have been collecting and analyzing data from traffic and/or pedestrian stops for many years, the State did not mandate statewide collection of this data until the passage of HB 2355 in 2017. Under HB 2355, the Oregon State Police, in cooperation with the Oregon Criminal Justice Commission (CJC), was required to develop and implementing a statewide, standardized method for recording data on officer-initiated traffic and pedestrian stops occurring in the state. Data collection is being phased in over a three-year period, with large agencies to begin data collection in July of 2018, and medium and small agencies following in 2019 and 2020, respectively.[1] Following data collection, the CJC is required to perform statistical analyses examining the prevalence and disposition of officer-initiated traffic and pedestrian stops. This purpose of this brief is to examine the extant research examining stops by law enforcement and represents a foundation for the selection and deployment of appropriate analytical approaches and methodologies to ensure that the CJC meets the requirements outlined in HB 2355.

2. ASSESSING AND ANALYZING TRAFFIC STOP DATA

Since *State of New Jersey v. Soto et al.*, there has been significant development and innovation within the academic and applied research literature concerning the analysis of traffic and pedestrian stop data. As of this time, however, no single approach is considered to be the single, gold standard for analyzing stop outcomes. The lack of a singular approach to the analysis of this type of data stems from several sources. The first can be traced to the nature of the traffic stop itself. Initially, it is tempting to view a traffic stop

[1] For the purposes of the law, large agencies are those with 100 or more officers with stop authority, while medium and small agencies are those with 25 to 99 and less than 25 officers with stop authority, respectively. Lists identifying the tier into which an agency falls can be found at https://www.oregon.gov/cjc/stop/.

as a single instance of police-citizen contact that can be assessed for the presence or absence of discriminatory behavior by a law enforcement official. Within the time it takes to execute and conclude a single stop, however, there are numerous opportunities where racially disparate treatment could or might be present. Beyond the initial decision to stop a driver or pedestrian, race could be a factor in the decision to search, give a citation, or make an arrest. This distinction is critical, because both the data and analytical techniques required to analyze the various decision points found in a single officer-initiated stop differ substantially.

The second challenge encountered by researchers is that it is often difficult to account for three alternative explanations that could possibly explain observed racial disparities found in stop data (Ridgeway 2009). The first explanation when data purports to show different stop rates by race is that *racially biased policing* drives patterns of this type. Indeed, as argued by community groups and many citizens, it very well could be that law enforcement actively seek out individuals of certain groups when engaging in traffic enforcement. The second explanation, however, challenges the first, and suggests that differences in stop rates could be attributable to *differences in driving behavior and/or offending by race*. Under this explanation, if drivers of a certain race are stopped more often than drivers of other races, it could be attributable to the fact that members of the affected groups commit traffic violations at a higher rate. If this were the case, disparities in stop rates would be legitimately tied to differences in violation frequency and thus would not result from racial animus.

The final explanation is that the *exposure to law enforcement may vary by race*, which would indicate that disparities found in stop data could be attributable to exposure or enforcement decisions, not racial discrimination. For example, members of one race could be exposed to law enforcement more often because they drive more frequently or for longer distances than members of other racial groups, which would put them at higher risk of being stopped by law enforcement. Alternatively, if the police patrol more often in areas frequented by certain racial groups, then purported racial disparities could be due to differential exposure and enforcement. This could be particularly relevant in neighborhoods with high calls for service volmen, given that law enforcement resources are more likely to be deployed in high crime areas and because localized crime trends could increase suspicion on the part of officers on patrol. The challenge for researchers, therefore, is to find suitable methods for addressing the various decision points found in a single police-citizen encounter, while also working to address the three possible explanations of racial disparities discussed above.

2.1 The Initial Decision to Stop a Citizen

Conducting analyses examining the decision to initiate a stop presents the most serious challenge of any stage of police-citizen stop data research. When law enforcement agencies collect data on stops, the recorded data only covers the encounters that occur between law enforcement and citizens. This is problematic from a research standpoint, as the means for determining whether a demographic group is treated in a disparate manner is to compare the frequency with which that group is stopped to the *expected* stop rate for the group that would exist if no discrimination was present. This comparison case, often referred to as a *benchmark*, is necessary because knowing that a law enforcement agency stops a certain percentage of people from a single group says nothing about whether the affected group is being unfairly targeted relative to their risk of being stopped. Indeed, this issue is tied directly to the third explanation for racial disparities described above—the differential exposure to law enforcement—as we would expect stop rates to mirror, or at least be very similar to, the degree to which a group is exposed to law enforcement.

Because it does not exist in the stop data itself, researchers must select a benchmark when conducting analyses examining the initial decision to stop an individual. The selection of this benchmark is a critical decision point in the research process, as the researcher must strive to find data that represents, as far as practicable, the population exposed to law enforcement when the stop is made. Failure to select an appropriate benchmark, importantly, can lead researchers to draw incorrect conclusions concerning disparities found in the data. Further complicating this issue is the fact that there are multiple benchmarks that researchers can select from, and the fact that no benchmark can easily represent the population exposed to law enforcement. In the subsections that follow, benchmarks used in past analyses of police stops data will be examined and their strengths and weaknesses will be discussed.

Finally, when making comparisons between stops data and benchmarks, researchers have relied on general rules of thumb to determine whether a disparity reaches the threshold at which the difference between reported stop rates and a benchmark can be considered robust. Traditionally, this threshold has been five percentage points, which means that if a group is stopped at a rate that is five percentage points above its share of the population, then a disparity is present that cannot be attributed to natural or random variation (Lovrich et al. 2007). For example, if Hispanics represent 10 percent of the population in a municipality, and 16 percent of all traffic stops made by the local police department involved Hispanics, then the empirical research would classify this hypothetical department as having a racial disparity.

2.1.1 Census Residential Benchmarks

The use of residential Census data for an area as a proxy estimate for that area's population at risk for encountering law enforcement is very common. The types of Census data used to create these benchmarks, however, varies significantly both in scope and complexity. The most commonly used Census benchmark compares stop rates for an aggregate area—a municipality, county, or state—to the residential population reported by the Census for that area (*see* Engel and Calnon 2004). Relatedly, Census data from smaller, disaggregated areas can be used, such as data from neighborhoods, police precincts, census blocks, or census tracts. Finally, some analyses rely on estimates of an area's driving population, which can be constructed using several types of Census data. In general, the primary strength of Census data and its related benchmarks lies in its accessibility and relative simplicity. Census data is free to access, certain programs are updated on a yearly basis, and the nature of the data permits researchers to aggregate or disaggregate it on multiple levels across multiple groups.

In spite of is accessibility, many researchers, law enforcement officials, and various other groups are highly critical of the use of residential Census data as a benchmark in stops analyses. While there are nuances to these critiques, they all center on one central argument: that residential population data does not accurately reflect the driving population or population at risk of encountering law enforcement. For example, many researchers argue that the residential population of a given area is an inappropriate benchmark for the driving population because it cannot account for daily inflows and outflows of individuals from the area under examination. These inflows and outflows can occur for numerous reasons; whether they are caused by commuters entering a city for work on a daily basis, individuals driving to an area for entertainment and shopping excursions, or the fact that the driving population in an area sitting along a major interstate will likely be impacted by flow-through traffic. Relatedly, seasonal population changes can also be problematic, whether driven by tourism during certain months or the significant changes that some municipalities with universities experience when students return to campus for classes.

In an attempt to address the issues raised by the disjuncture between residential demographic data and the driving population, some researchers have developed more complex approaches which attempt to bridge some of the gaps described above. The State of Connecticut, which is often touted as representing the cutting edge in racial profiling analyses, developed a method it argues provides a reasonable estimate of an area's driving population by more accurately accounting for daily work commuters (see Fazzalaro and Barone 2014). This approach, which builds on a similar method first developed by Northeastern University's Institute on Race and Justice for use in Delaware and Massachusetts, uses Census data to construct the demographic features of the population of individuals each feeder town or area contributes to the area under consideration. Those population estimates are then used to augment the residential population of the target area to get a better estimate of the driving population. Thus, for instance, if Census data demonstrates that two suburbs contribute work commuters to a target city's daily population, it is possible to map the demographic characteristics of the contributing suburbs onto the driving population of the target city to get a more accurate representation of the city's driving population. While promising, this approach has its drawbacks, however, as it is still difficult to account for all outside contributions to an area's driving population, such as commuting for recreation, shopping, and/or tourism.

The second major critique of residential census data as a benchmark for the driving population at risk for encountering law enforcement is that research indicates there are differences in driving patterns across age, gender, and racial/ethnic groups. This is problematic because the use of residential Census data relies on the assumption that individuals drive at rates proportionate to their share of the population in a given area. Analyses of the National Household Transportation Survey, for example, found significant racial differences in driver's license possession, the frequency of public transportation usage, and vehicle ownership rates (Engle and Calnon 2004). For example, the 2009 NHTS reported that Hispanics, African Americans, and other non-white, Non-Hispanic groups were all less likely to use private vehicles as their primary mode of transportation on a daily basis (FHWA NHTS Brief 2016). Hispanics were more likely to walk than Non-Hispanic Whites and African Americans, while African Americans were more likely than all other racial/ethnic groups to use public transportation. Thus, even if African Americans make up 5 percent of an area's residential population, research would suggest that it would be inappropriate to assume that they make up 5 percent of that area's driving population.

Third, while Census data is updated on a regular basis, researchers should proceed with caution when using these datasets for developing benchmarks for racial and ethnic demographic groups due to the presence of significant sampling error in many instances. The most accurate and reliable counts of individuals within racial/ethnic groups is found in each decennial Census, as the Census Bureau attempts to count each individual residing in the United States. In an effort to provide population data in between the decennial Census, the Census Bureau releases several types of population data, including yearly estimates at the state and county levels under the Census Population Estimates Program, as well as one and five-year American Community Survey (ACS) estimates.[2] Researchers seeking the most accurate, up-to-date population estimates should use the yearly state/county data released by the Census Bureau pursuant to the Census Population Estimates Program. This data, however, does not permit the researcher to drill down to data on entities within counties, such as cities and towns. For researchers interested in up-to-date data on cities and towns, the one and five-year ACS estimates are the only avenue, but these

[2] For further information concerning the Population Estimates Program, please use this link. For further information on the American Community Survey, please use this link.

estimates are often subject to large amounts of sampling error. In most cases, due to this error, it is advisable to use the five-year ACS data.[3]

2.1.2. Licensed Driver Data

Licensed driver data is another benchmark used in studies of traffic stops. Compared to residential population estimates, even those limited to the population of driving age, it is likely that using data on individuals with a driver's license presents a better picture of the driving population given that licensed individuals have taken at least one active step to identify themselves as a potential user of a motor vehicle. License data, however, also has some serious limitations. First, as described above, differences in driving patterns and transportation usage by race likely impacts the use of licensed driver data. Simply possessing a license is no guarantee that the individual uses it or even has access to a vehicle. Second, information on licensed drivers cannot account for other factors, including miles driven and motor vehicle trip frequency, vehicle ownership, as well as for inflows and outflows from the target area being considered (Alpert Smith, and Dunham 2004). Finally, data on licensed drivers is also more difficult to obtain than Census data. As such, it is rarely used in analyses of stops data.

2.1.3. Roadway Observational Benchmarks

Roadway observational studies offer an intriguing alternative to the creation of benchmarks using Census data as well as other data sources that act as proxies for the driving population. This approach can address many of the problematic issues described above for residential data, as direct observations of the driving population can account for driving patterns, trip frequency, and perhaps even the possible confounding effect of differential offending rates by race. Indeed, Alpert (2004: 47), argues that observational studies of drivers are "the best way to estimate the population of drivers available to be stopped" by police.

Lamberth was the first researcher to collect and examine observational driver data in the early to mid-1990s for the *New Jersey v. Soto et al.* case by observing traffic patterns in 18 sessions over a two week period at randomly selected dates, times, and locations within the State of New Jersey. Relying on the identification of drivers using a White-Black binary coding system, Lamberth's research team was able to identify the race of nearly 42,706 drivers during the data collection process and used their estimates of the driving population as the benchmark for comparison to traffic stop data obtained from law enforcement. Building on this initial study, Lamberth and others created additional observational benchmarks for subsequent litigation as well as for Washington DC Metropolitan Police (Lamberth 2006).

In spite of the attractiveness of this approach, however, the use of observational studies to construct driving population estimates presents some serious hurdles. Chief among them is cost, as studies of this type are difficult to implement, costly due to labor requirements, and time consuming (Engle and Calnon 2004). Second, related to concerns over cost, observational studies quickly become outdated as towns and cities grow, and populations shift (Fazzalaro and Barone 2014). Proponents of roadway observational studies have attempted to limit costs by observing patterns in a selected number of sample areas within a jurisdiction. While this approach does have a positive impact on cost, it presents generalizability issues. Third, it is difficult to assess the accuracy of the observations of race recorded by researchers, particularly as coding schemes become more complex and move beyond a white-nonwhite dichotomy. Indeed,

[3] For further detail on the differences between the ACS data collection programs, please use this link.

observations of individuals' racial identities by third parties, even when the target and assessor are in close proximity to one another, are often inaccurate (see Campbell and Troyer 2007, for a review).

2.1.4. Traffic Accident Data

Another approach to the establishment of driving population benchmarks is the use of traffic accident data. First pioneered in Florida in the early 2000s, researchers utilized demographic data from counts of not-at-fault drivers involved in two-car accidents to create a racial distribution of an area's driving population (Alpert, Smith, and Dunham 2004). This approach is based on the assumption that not-at-fault accidents are randomly distributed by race and should approximate the racial demographic profile of an area. More recently, other studies have utilized injury accident data, including analyses conducted by the Portland Police Bureau.[4] The assumption that accident data accurately reflects the driving population has been examined in several recent studies examining police traffic stops (Alpert at al. 2004; Lovrich et al. 2007). The research finds that traffic accident data provides a reasonable estimate of the driving population based on comparisons with observational traffic studies.

The chief drawback to the use of traffic accident data, however, is the fact that it can be difficult to obtain. While law enforcement agencies maintain records of traffic accidents, access to those records is often beyond the reach of organizations outside of law enforcement. Alternatively, other sources of data, such as accident data from state departments of motor vehicles, often does not contain the data fields required to perform analyses, such as data on race.

2.1.5. Traffic Violation Data

A limited number of studies have used data regarding the offending patterns of individuals by race as a benchmark for the driving population. This benchmark, unlike the others outlined previously, offers a different comparison group, as it moves beyond merely benchmarking the pool of at risk drivers to purportedly providing a measure of the population engaging in criminal behavior and thus at risk for being stopped by law enforcement. Studies relying on this type of benchmark generally fall into two categories: studies using data on offending rates for a general cross section of crimes, and data on traffic violations broken down by race.

As to the first type of data, while numerous state level studies have utilized criminal involvement benchmarks for both traffic and pedestrian stops, research generally considers the comparison between general criminal offending and traffic stops to be an incompatible and inappropriate (Alpert et al. 2004). The second type of data, which focuses on driving violation patterns by race, is more promising than the first. As described in the introduction, one possible explanation for disparate stop rates could be that the prevalence of traffic infractions could vary by race. If members of one racial demographic group speed or violate other traffic laws more often than members of other groups, then it would be unsurprising if they stopped at higher rates by law enforcement. Traffic violation data is collected both through direct observation and by using technologies such as red-light cameras and photo enforcement. Direct observations are collected using several approaches, including the use of stationary observation points as well as highway driving at set speeds to determine the share of drivers exceeding the posted speed limit (Lange, Blackman, and Johnson 2001). At times, direct observations are combined with camera

[4] Annual as well as quarterly reports compiled by the Portland Police Bureau are available at https://www.portlandoregon.gov/police/65520.

technologies, as in Lamberth (2006) where stationary observers were used to record driver race when speed cameras detected a traffic violation. Still other studies, including Lamberth (2006), utilized cameras alone, using pictures of drivers to identify their race, and citations have been linked with other sources of driver data to determine race when no picture was available.

While promising conceptually, to date, research examining traffic violation patterns by race are equivocal at best. First, research reports that nearly all motorists commit traffic violations. For example, studies have reported that between 93 and 98 percent of motorists engage in speeding. Furthermore, law enforcement officers can identify an infraction of some type for 94 percent of drivers they observe (Lamberth 2006). Second, while some research conducted by law enforcement reports that African Americans engage in speeding at rates higher than whites (Lamberth 2006), other studies have reported no racial difference (Alpert et al. 2004; Epp, Maynard-Moody, Haider-Markel 2014), racial differences at certain speeds but not at others (Lange et al. 2001), or that purported racial differences are likely attributable to age (Lamberth 2006).

2.1.6. Internal Law Enforcement Agency Benchmarks

A more recent, if somewhat controversial, approach to studying traffic stop patterns is to examine officer behavior against law enforcement agency level internal benchmarks. This approach compares individual offers within a single agency with colleagues patrolling in similar areas at similar times to determine whether variation in stop rates at the officer level may account for agency-level racial disparities in stop rates. To accomplish this, researchers match officers within an agency based on patrol area, shift, and other metrics such that, theoretically, expected patterns of stops by race across the matched group should be identical. Where significant differences exist between the group distribution and an officer, there is the possibility that the officer in question is stopping members of a racial group disproportionately.

The primary advantage to the use of an internal benchmark is that it is the only approach that disaggregates agency-level stop data, thus avoiding an analysis focusing solely on the agency as a whole. This can be beneficial, because most current methodologies risk overgeneralizing the extent to which racial disparities exist within an entire agency. For example, all of the other approaches described in this brief lead to the same general result—either the analysis indicates that an *agency* may be operating in a manner than produces racial disparities or it does not. Research conducted by Gonclaves and Melo (2017), however, found that approximately 20 percent of officers in the State of Florida accounted for nearly 100 percent of racially disparate traffic stops. Thus, while most benchmark approaches can merely identify a law enforcement agency as an organization possibly engaging in racially disparate behavior, internal benchmarks can specify which *officer(s)* may be engaging in such behavior. This avoids painting an entire organization in a possibly negative light and can result in more targeted interventions.

In spite of this benefit, there are also concerns about using internal benchmarks. First, similar to other approaches, internal benchmarks cannot prove that racial profiling has occurred. Thus, while differences may be found between an officer and his or her comparison group, it is impossible to prove whether these differences are attributable to racial profiling or racial animus. This is concerning because it is possible that the behaviors of an officer could be misattributed to racial profiling. Second, this approach assumes that average stop rates across similar officers are made in a race neutral way. If officers across a matched group stop members of a single race at a particularly high or low rate, however, this assumption would likely not hold. Third, internal benchmarking likely brings discomfort to members of law enforcement, as it could be used to single out officers with stop patterns that fall outside of their comparison groups. To

combat this possibility, researchers conducting internal benchmark analyses are normally blind to officers' identities in the data, only working with numeric identifiers for officers that do not provide enough information for researchers to determine the actual identities of officers in the data. At the conclusion of the analysis, any individual deemed to be different from his or her comparison group could only be identified by that individual's department, where, if the department chooses to proceed with any internal investigation, the officer can be provided with full due process.

2.1.7. The Veil of Darkness Model

As discussed throughout the previous section, benchmarks abound, yet all benchmarks have drawbacks that make their use impractical and/or inadvisable. In an attempt to avoid the issues related to benchmarks, researchers have increasingly sought out methods that avoid their use altogether. The most promising approach was developed by Grogger and Ridgeway (2006), who proposed a natural experiment that they called the "Veil of Darkness" (VOD) method. The VOD method takes advantage of natural variation in daylight and changes associated with daylight savings time (DST) to estimate the racial distribution of drivers at risk of being stopped.

In its simplest form, a VOD approach can compare the racial distribution of traffic stops made during the day to stops made at night, premised on the fact that race is more easily discerned during the daylight than at night. Indeed, Lamberth (2005) reported that while driver race could be determined in 95 percent of cases during the daylight hours (when race was assessed as a binary white-black determination), the determination of race at night required auxiliary lighting. Further, Greenwald (2001) reported that race could only be determined for 6 percent of drivers around dusk, which indicates that determining race at night is nearly impossible in many cases. According to the VOD framework, therefore, if police officers are relying on racially motivated reasons for stopping motorists, it should only be possible to do so in the daylight when a drivers' race is visible. Thus, in this simple case, if officers stop a higher proportion of non-white drivers in the day time compared to after dark, such a result can be taken as an indication that there is a racial disparity.

As described by Ridgeway (2009), however, simply comparing stop rates at night to rates during the day cannot account for possible confounders that may lead to differences in the racial distribution of drivers at different points over a 24-hour period. Hypothetically, if more African Americans drive at night compared to whites, then a direct comparison between these two times would not be appropriate because racial distributions of the driving population would be different. To account for this possibility, Ridgeway proposed using a natural experiment relying on the shift to and from daylight savings time (DST) because it permits researchers to compare stop rates at the same time of day but in different lighting, which allows the researcher to assume that the distribution of drivers will be comparable. Thus, the share of African American drivers at 6:00pm during the week before DST should be consistent with the share of drivers at the same time one week after DST—all that should change is the lighting and, consequently, the ability of a law enforcement officer to detect race when pulling a motorist over.

The chief benefit of the VOD approach is the fact that researchers do not need a benchmark. This neutralizes the need to rely on flawed proxy measures of the driving population as well as the need to spend time collecting benchmark data and constructing comparisons. Second, the VOD model can also simultaneously address several other possible confounding variables, such as clock time, day of the week, and stop location. The inclusion of these other factors is possible because the VOD approach utilizes a multivariate regression framework, which is a type of statistical model that allows a researcher to include

multiple predictor variables in a single model. This is unlike any of the benchmark approaches outlined above.

The VOD approach is considered to be the method that has come the closest to achieving a gold standard in traffic stop research. It is a widely accepted technique that does not suffer from benchmarking issues, and when it is deployed via a multivariate analysis, it provides a very strong test for racial disparities (Fazzalaro and Barone 2014). In spite of this status, however, recent research has called one of its most important assumptions into question—that driver behavior does not change due to changes in lighting. In fact, Kalinowski, Ross, and Ross (2017) do precisely that, and argue that driving behavior differs by race in the daylight versus the night. Thus, according to their study, African American motorists increase their speeds after dark due to the relative anonymity that darkness provides, and it is this change in behavior that leads to the findings reported in many VOD analyses that race is not a contributing factor in stop rates.

2.2 Post-Stop Outcomes

Unlike examinations of the decision to stop a driver, researchers studying post-stop outcomes, such as the prevalence of searches, citations, and arrests by racial group, do not face as many methodological challenges. The chief factor leading to more straightforward analyses is the fact that the benchmark issue is no longer a concern, because researcher have access to data regarding those individuals who both were and were not searched, cited, or arrested. Thus, it is relatively easy to construct the at risk group and compare it to the group who encountered one of these interventions. For example, if 10 percent of all stops involve Asian drivers, then it would be reasonable to assume that 10 percent of searches should involve Asian drivers, if searches occur in a race neutral manner.

While the presence of better benchmark data can lead to a more straightforward analysis of post stop outcomes, other concerns still present themselves in studies examining these outcomes. Even when researchers find an acceptable benchmark to compare individuals searched or arrested by the police to the pool of at risk stopped individuals, the use of simple descriptive or bivariate statistics is insufficient to establish a link between intervention patterns and their likely causes, because these basic approaches cannot account for the litany of possible confounding factors that could lead to disparities in the data. To address this shortcoming, researchers utilize several approaches, the most basic of which is to estimate models of post-stop outcomes using traditional logistic regression techniques or models designed to examine count data, including Poisson and negative binomial regression. The advantage of these models is that they are relatively easy to estimate and interpret, and they provide a means for isolating the effects of covariates (e.g., race, gender, age) while controlling for other factors. This means that the researcher can specify, net of the other factors found in the model, the statistical effect attributable to each variable of interest, which in studies of officer-initiated stops is nearly always race. In spite of the benefits of logistic, Poisson, or negative binomial regression, some researchers argue that additional efforts must be made to ensure that disparities identified in the data are robust.

2.2.1. Propensity Score Matching

In spite of the ability to control for other possible confounding factors, traditional multivariate models, including logistic, Poisson, or negative binomial regression, suffer from some serious drawbacks. As described by Ridgeway (2006), it is impossible to determine whether the results of a traditional multivariate model sufficiently account for potential confounders. This is driven by that fact that the

results of multivariate approaches are often sensitive to model form and may be significantly influenced by the inclusion (or not) of interaction terms and non-linear data transformations. According to Ridgeway, propensity score matching (PSM) models present an attractive alternative to the use of traditional multivariate modeling techniques for analyzing post-traffic stop outcomes. PSM models allow researchers to compare stops in a target group to a similarly situated comparison group. This quasi-experimental technique thus allows for an analysis of two groups of drivers who exhibit the same distribution of observed stop features (e.g., time of day, location, reason for being stopped) and, by design, will only differ by race. The primary benefit of this approach is that it allows the researcher to control for several important confounding factors, such as the fact that minorities may be more likely to live in areas with a greater police presence.

While PSM presents a very attractive alternative to traditional multivariate analysis, it too has some drawbacks and limitations. One potential drawback is data related, as the creation of the matched groups for comparison is limited to the observed data recorded during a stop. This means that if other unobserved factors or differences exist between the group of interest and the control group, it is possible that the race estimates could be affected (Ridgeway 2006). Second, as described by King and Nielson (2016), the PSM approach, if conducted haphazardly, can do more harm than good. Finally, the PSM is more difficult to model than traditional multivariate techniques and certainly more difficult to estimate and interpret than descriptive statistics based on benchmarks.

2.2.2. Outcome Tests

Outcome tests represent another recent development in officer-initiated post-stop research. This class of methods encompasses several related approaches, including the innovative *threshold test* created by the Stanford Open Policing Project in 2017 and the related, slightly older *Knowles, Persico and Todd* (*KPT) hit rate model*. While there are important differences to these approaches, all outcome tests purport to account for differences in offending behavior across racial groups. Specifically, outcome tests seek to determine whether there is purposeful discrimination on the part of officers causing police search (or citation, or arrest) behavior rather than mere statistical discrimination tied to offending patterns (Engle 2008). Thus, outcome tests seek to determine whether, when faced with a decision to search a minority versus non-minority driver, an officer is more likely to search the minority driver even if the likelihood of a successful search is lower than it would be for a non-minority individual.

Outcome tests have a long history, as they were first used over fifty years ago to study racial differences in the granting of loans by banks (Becker 1957). Becker argued that if banks granted loans to minority applicants in a race neutral fashion, then it would be logical to assume that successful outcomes—measured by repayment rates—would be identical across different racial groups. If, however, minorities repaid their loans at a higher rate than whites did, it would suggest that lenders were not funding loans in a race neutral way, as minority applicants would then be held to a higher standard than non-minorities. When applied to traffic stops, if police officers search minorities and non-minorities in a race neutral way, then the discovery of contraband (i.e., a successful search outcome) should be nearly identical between these two groups. If, however, the discovery of contraband is substantially lower in one group compared to another, then it is possible to infer that the group is being searched more often than warranted because officers are applying a different, lower threshold for searching members of one group compared to another (Tiller, Engle, and Cherkauskas 2010).

Outcome tests examining post-stop outcomes have become very popular among researchers, in the judiciary during racial profiling lawsuits, and among law enforcement professionals. These approaches are touted as clear-cut statistical solutions that provide easily interpretable results. Further, proponents argue that they do not suffer from many of the drawbacks that plague traditional multivariate models (discussed above) and they purport to separate out intentional versus statistical discrimination.

While outcome tests are widely accepted by many groups and stakeholders concerned about racial discrimination in officer-initiated post-stop analyses, there are also some serious critiques. First, while the results are easily interpreted, the statistical model itself is complex and difficult to explain to laypersons. Second, the assumptions underlying the various types of outcome tests are not without criticism from researchers and scholars. As discussed by Engel (2008), one of the implicit assumptions underlying outcome tests is that law enforcement officers have near perfect knowledge or foresight of criminality when making search decisions. Put another way, it is assumed that officers know that members of a certain group possess contraband at a specific rate, which justifies searching members of that group. Relatedly, these tests also assume that all officers will respond similarly to the same contextual information. Both of these assumptions, according to Engle (2008) are highly questionable. The first assumption forms the foundation of much of economic theorizing and has often been criticized by scholars from various disciplines as being unrealistic. The second assumption has been called into question by research that reports that differences in demographic characteristics, experiences and training, work assignments, management and oversight, and personal attitudes can affect officers' behaviors and decision-making (see Engle 2008: 24-25 for more than a dozen studies reporting these findings).

Finally, studies utilizing the myriad variants of the outcome test also often assume that when it comes to search decisions, officers have complete discretion and that the decision to search a stopped individual only focuses on discovering contraband. In reality, however, discretion varies significantly. Some searches are mandatory under agency policies, whether they are searches conducted during an arrest or administrative searches when vehicles are impounded.[5] Further, even among discretionary searches, there are different levels of discretion applied. If an officer views contraband in plain sight upon stopping a car, or smells the odor of drugs, the amount of discretion to search is different compared to searches based on reasonable suspicion. Finally, consent searches also present problems, as at least part of the decision to search is in the hands of the motorist and thus outside of the officer's discretion. In fact, the inclusion of consent searches has been deemed so problematic by some researchers it has been suggested that only non-consent discretionary searches can be included in outcome tests.

3. Developing a Research Approach for Analyzing Oregon STOP Data

Due to the complexities involved in a single officer-citizen interaction, the great degree of variation in techniques and approaches used to analyze traffic stops, and the fact that each approach to analyzing this type of data has its own strengths and weaknesses, the selection of an appropriate analytical technique is challenging. Current best practice is to utilize a suite of approaches to address these issues. By utilizing multiple approaches, researchers are able to consider all aspects of a stop, from the initiation of the encounter through any searches, citations, or arrests that occur. Second, in the event the data indicates an agency may have a racial stop discrepancy, the examination of multiple data points helps to ensure that

[5] The issue of whether to include mandatory searches in analyses utilizing outcome tests is further complicated by the fact that departments vary in both their policies regarding mandatory searches as well as the frequency with which they conduct mandatory searches (Engel et al. 2005).

any analytical findings are more robust than could be achieved using a single test. Third, this has been the approach taken by the state of Connecticut, which is relevant given that the Connecticut model informed the development of the STOP program and HB 2355 in Oregon. Finally, recent studies of traffic stops in Oregon have utilized multiple analyses when examining encounters between citizens and law enforcement, including benchmarking research conducted for the Portland Police Bureau by the Criminal Justice Policy Research Institute at Portland State University (Renauer et al. 2009) as well as internal studies of police stops conducted by the Portland Police Bureau between 2013 and 2015[6] and a study examining nine years of stop data for the Corvallis Police Department (Renauer 2016).

As such, the CJC has elected to follow in the spirit of the approach taken by the State of Connecticut and the IMRP Project Team housed at Central Connecticut State University, which has employed an analytical matrix in its analysis of traffic stop data since 2014. Following the Connecticut research group, the CJC identified several guiding principles to guide the selection of the best suite of approaches for inclusion in analyses of Oregon STOP data. Techniques utilized by the CJC:

1. Must be ***evidence-based*** and ***conform to best practices*** approaches for the analysis of stops data.

2. Must provide findings that are widely ***accessible***, insofar as the selected approaches should occupy a middle ground between robust but complex statistical models with difficult to interpret and communicate findings and simpler models that, while easy to communicate, possess numerous theoretical and methodical shortcomings.

3. Must use data that are reasonably ***easy to obtain and update*** as measured by:

    a. Ease of ***obtaining***, downloading and working with data obtained from other sources (e.g., Census, other Agency or State-level data.);

    b. The ***costs*** associated with obtaining data from third parties or collecting data by the CJC; and

    c. The frequency with which data is ***updated*** by third parties or needs to be updated by the CJC.

4. Must be selected by considering each technique's ***methodological strengths and weaknesses*** identified by researchers and practice.

3.1 The Initial Decision to Stop a Citizen

As described above, there are two general approaches to studying the decision made by law enforcement to initiate a stop: those that utilize a benchmark and the veil of darkness model. As discussed at length, all benchmark approaches have significant strengths and weaknesses. Table 1 presents these strengths and weaknesses using the goals listed above as a guide. The primary strength of nearly all benchmark approaches is the accessibility of their results. For stakeholders, the comparison between the share of stops for a single demographic group and the percentage of that demographic group found in the

[6] https://www.portlandoregon.gov/police/72040

population is quite intuitive and easy to understand. Comparing across benchmarks, there is some variability regarding the degree to which the benchmark makes accessible comparisons, as the construction of some benchmarks are more complex than others. For example, while the residential population is straightforward and easy to explain, the Census driving population approach discussed above presents a much more complex approach which rests on a number of assumptions. Similarly, traffic violation data, given that it is the only benchmark that does not rely on a more traditional view of the driving population, would also be less accessible to stakeholders. The accessibility of benchmarks is not only in the simplicity of their construction (for most approaches), but also in the fact that they can be used to quickly and succinctly make comparisons across a wide variety of units. For example, a statewide comparison of stopped drivers to a selected benchmark is just as easy to construct, display, and digest as a table of comparisons for individual departments.

Table 1. Assessment of Reviewed Benchmarking Approaches

Benchmark Technique	Accessibility of Findings	Obtaining Data	Data Costs	Data Updating	Other Weaknesses
Census Residential	●	●	●	◐	○
Census Driving Population	◐	◐	●	◐	◐
Licensed Driver Data	●	○	◐	◐	◐
Roadway Observations	●	○	○	○	◐
Traffic Accident Data	●	○	○	○	●
Traffic Violation Data	◐	○	○	○	○
Internal Benchmark Data[7]	◐	○	○	○	○

Note: Rankings on a three-point scale from low (○), to (◐) medium, to high (●).

While most benchmarks score relatively high on accessibility for stakeholders, other areas of assessment are much more variable. This is certainly true concerning the other goals outlined above concerning data accessibility, cost, and updating. Census residential data are the easiest to obtain. Data is available online at https://factfinder.census.gov, which is a free, relatively easy to use web platform for selecting and downloading Census data. Indeed, any researcher who spends more than an hour on the site is likely to become competent in its use. Further, the data on the Census website are updated frequently and periodically.

Beyond the ease with which researchers can obtain and update Census data, however, there are significant weaknesses associated with the use of Census residential data. As described above, the residential population of an area may not be an accurate reflection of the driving population. In Portland, for example, only 42.6 percent of the daily working population consists of Portland residents, while the remaining 57.4 percent, which accounts for over 235,000 individuals, comes from surrounding cities and communities that would not be measured if simple population demographics were used to construct a benchmark (US Census Bureau 2018). Similarly, only 50.5 percent of workers in Salem live in Salem (or the connected areas of Keizer, Hayesville CDP, and Four Corners CDP). Beyond work commuters, tourism likely also has a significant impact on driving patterns in the state. Indeed, estimates of the non-resident tourist population in several regions of Oregon demonstrate that non-residents can make up between 4 and 27 percent of an area's driving population at different times throughout the year (Dean

[7] The collection of data identifying officers is explicitly prohibited by HB 2355. Thus, the use of any internal benchmarking approach in Oregon using data collected pursuant to the STOP program would be impossible.

Runyan Associates 2017). Thus, reliance on residential population numbers would be highly suspect simply due to work commuting patterns and tourism within many of the larger cities of Oregon.

Finally, reliance on Census data of any kind can present several challenges. The foremost concern is accuracy, as decennial Census data will not be available until after 2020, which will be several years after data collection and analysis of officer-initiated stops in Oregon has begun. In the interim, the only data available will be the yearly population estimates and ACS data. While the yearly population estimates are the most accurate non-decennial Census data (Rynerson 2018), they are limited to state-level and county-level estimates, which only accounts for 42 percent of Tier 1 reporting agencies and 30 percent of Tier 2 reporting agencies, all of which will be reporting before the next decennial census occurs.

The remaining 37 non-county Tier 1 and 2 reporting agencies represent cities and towns, which can only be analyzed using ACS data. The primary drawback to this data is that both the one-year and five-year calculations rely on sampling, and thus have sampling error. According to the Population Research Center at Portland State University, for example, when estimating the Hispanic population for Medford, the one-year ACS provides a point estimate of 13.1 percent, with a 90 percent confidence interval of +/- 3.9 percent (a range of 9.2 to 17 percent), while the five-year ACS data is more precise, as it provides a point estimate of 14.6 percent, with a 90 percent confidence interval of +/- 1.1 percent (a range of 13.5 to 15.7 percent) (Rynerson 2018). Further, internal CJC analyses comparing five-year ACS data to yearly population estimates shows significant disparities throughout Oregon, particularly in small counties, where estimates of individual racial groups can differ by as much as 50 percent. Thus, when using data of this type to determine whether racial disparities exist, the lack of precision in the ACS estimates may make it difficult to draw adequate conclusions regarding the presence of a disparity, particularly in Oregon where the size of some minority groups is rather small and fluctuates significantly depending on the source consulted.

Estimates of the Census driving population present similar benefits and challenges. While much of the component data for estimating driving populations are also accessible via the Census website and other related sites, such as https://onthemap.ces.census.gov, the construction of this benchmark requires the researcher to have some experience working with spatial data, other GIS related files, and related approaches. Costs, similar to working with residential data, are low other than accounting for the staff time that must be dedicated to constructing the benchmark. Updating falls in the middle, as the reconstruction of the driving population benchmarks can be an involved process, although if established data scripts and programs are used, updating can be streamlined. Finally, the issues associated with the use of Census data are compounded when using it as component data for the construction of the residential driving population. For example, 205 communities contribute at least ten workers to the working population in Salem (US Census Bureau 2018). If there is error traceable to demographic estimates from each of these areas, then the compounded error resulting as the researcher aggregates each area's contribution to the Salem working population could rise to an unacceptable level.

Licensed driver data, traffic accident data, and traffic violation data all require the researcher to obtain data from other agencies, such as the state Department of Motor Vehicles (DMV), Department of Transportation (DOT), or individual law enforcement agencies. This can present challenges when agencies are not willing to share data or when complex interagency data sharing agreements must be negotiated. Costs for these data can be higher than other sources as well, as some agencies charge flat fees for data requests or an hourly rate when compiling data for other organizations. These challenges are multiplied if regular updating is required. Finally, at least in Oregon, while it may be possible to obtain

licensed driver data from the DMV or accident data from ODOT, this data does not contain the most important variable necessary for these analyses: race. Oregon DMV data does not contain a value for driver race. Similarly, while ODOT publishes yearly crash numbers by county and for municipalities with populations over ten thousand people, it does not report the racial demographics for accidents.

Roadway observations have the steepest data acquisition costs, as field studies must be deployed to collect the data directly. As described previously, this has proven to be costly, and other states have determined that this approach is simply not feasible for statewide programs aimed at analyzing officer-initiated stops due to the logistical issues involved and monetary costs. This issue also raises concerns for keeping data up to date, as roadway observation studies can quickly become outdated as areas grow and traffic patterns shift. These issues are particularly concerning and relevant to Oregon. First, the feasibility of collecting data has been called into question in small states, such as Connecticut. In Oregon, the resources needed to conduct observational studies would be staggering in comparison, as Oregon is approximately eighteen times larger than Connecticut geographically. Second, the need to update roadway data would be particularly acute in Oregon, as it is one of the fastest growing states in the U.S. (Leins 2017), having grown by nearly one million people (approximately 25 percent) in the past two decades. Relatedly, Oregon is also experiencing significant demographic shifts, as the population growth of Hispanics has outpaced this group's growth in much of the U.S. Since 2000, for example, while Hispanic population growth has been approximately 50 percent nationwide, Oregon has seen a 72 percent increase (Parks 2016). Taken together, these patterns suggest that roadway observational studies would be expensive to implement and require frequent updates, which would further compound cost issues.

Roadway observation data would also likely suffer from inaccuracies in Oregon. As described above, the determination of race for this type of data relies on observations of individuals' racial identities by third parties. Research demonstrates that even when the target and assessor are in close proximity to one another, even just a few feet during an interview, racial identifications are often inaccurate (Campbell and Troyer 2007). If an interviewer in the same room with an individual cannot reliable identify a subjects' race, identifications by stationary observers of drivers in fast moving vehicles are likely be very inaccurate.[8] This limitation is particularly notable for Hispanic individuals, as research demonstrates that the identification of Hispanics is difficult for both other Hispanics and non-Hispanics alike (Alpert et al. 2004). Furthermore, prior studies utilizing roadway observation technique found that in addition to the distance between the target and the observer, identification becomes increasingly difficult as driver speed increases (Lambreth 2006). Based on the foregoing, Table 1 provides a comparison of the six different benchmarking approaches discussed in this analysis. As shown in Table 1, while census residential data earns high marks for accessibility and on the three measures of data availability, it is the weakest when it comes to other methodological concerns. The other five approaches present various concerns, with traffic violation data presenting the most serious issues. Indeed, following the investigation into these approaches, it would appear that perhaps the most prudent course of action would be avoiding the use of benchmarks all together. Taking this approach, however, ignores the most important strength of benchmarks, which is the accessibility of their findings for stakeholders. Thus, while these approaches have numerous drawbacks, as an initial descriptive analysis of officer-initiated stops in Oregon, the CJC believe that the use of benchmarks would be beneficial.

[8] Lambreth, in his 2006 study, describes how attempts at observing race from a stationary point were quite difficult on a roadway where automobiles traveling 56 mph triggered a citation and thus an observation by researchers.

Therefore, if a single benchmark approach is to be used (or a suite of benchmarks), it is necessary to identify the strongest one(s) for inclusion in the analysis of Oregon officer-initiated stop data. As discussed, Census residential data is the easiest to interpret, obtain, and update, but it comes with numerous methodological concerns. CJC believes, however, that some of these concerns can be overcome. First, given that one data element included in the data collection effort in Oregon is information on the residency of the individual who is stopped by the police,[9] it would be possible to include benchmark comparisons between Census residential information and data for stops limited to citizens of the area being analyzed. Second, concerning data accuracy, for the state and for counties the more accurate one-year estimates can be used so that only cities and towns will utilize the less accurate ACS data. Further, once data collection has been fully implemented across all law enforcement tiers in 2021, each Oregon law enforcement agency will have reported a full year of data, prior demographic comparisons using yearly estimates and ACS data can be compared with the results of the 2020 Census, which will provide the most accurate benchmark data possible.

Relatedly, following the best practices of Connecticut (Fazzalaro and Barone 2014), CJC will also build and pilot residential driving samples following the method prescribed by the Connecticut research group. At this time, however, CJC remains uncommitted as to the inclusion of these results in the final analyses, as it requires time to investigate the degree to which the approach utilized by Fazzalaro and Barone (2014) approximates the driving population of different Oregon communities given the sampling error found in its component population estimates.

Beyond the ability of the CJC to address some of the shortcomings of Census residential data or driving population data, the use of these approaches are justified for other reasons as well. Chief among them is legitimacy, as layperson stakeholders will likely expect analyses of possible racial disparities utilizing population benchmarks. Given that this has been the traditional approach and the fact that it is easy to understand and its conclusions are accessible, to leave the benchmark approach out of the analyses would be risky and could be viewed as a means for criticizing the conclusions. If, on the other hand, benchmarks are used descriptively as a means for providing an initial reference point, these data points could be used to set the stage for the more complex analyses that follow.

Due to the drawbacks identified for all benchmarks, the primary analytical approach that will be utilized to study the initial decision to stop an individual will be the Veil of Darkness model. As discussed above, the VOD model takes advantage of natural variations in lighting to test whether stop rates differ during the day versus after dark or during different periods surrounding shifts to and from daylight savings time. The beauty of this approach is that there is no need for benchmarks. Further, it is easy to address different lighting conditions that may be influenced across different latitudes and longitudes across the state, as well as across different times of year when days are longer or shorter, as eligible stops can be coded to account for these differences before estimating the models. In addition, other predictors can be included in these models, which provides the opportunity to further isolate race as a predictor of stop rates. Finally, while the concerns raised by Kalinowski, Ross, and Ross (2017) may be valid, the VOD still remains the most highly respected, tested approach to analyzing racial disparity patterns during the initial stop window (Fazzalaro and Barone 2014). Thus, while a benchmark approach will be used to start the

[9] HB 2355 explicitly mandates that law enforcement agencies collect data on a number of factors concerning the stop as well as specific demographic characteristics of the stopped individual. Residency status, however, was not included in HB 2355. In discussions leading up to the collection of data in Oregon, however, the stakeholder groups tasked with implementing the HB 2355 data collection elected to include residency status as one of the data elements.

conversation about possible disparities in the stop data for initial decisions to stop drivers and/or pedestrians, the VOD approach will provide a more statistically sound, robust test of each submitting law enforcement agency.

3.2 Post-Stop Outcomes

Fortunately, post-stop outcomes do not rely on benchmarks, which tends to make the selection of analyses of the latter stages of an officer-initiated stop easier. Relying on the goals and principles outlined in Section 3, the CJC plans to utilize both propensity score matching techniques as well as at least one variant of the outcome test to examine post-stop outcomes. The CJC selected these approaches because both are viewed by researchers and practitioners as robust, sound tests for examining searches, arrests, and citations. As such, they are evidence based and considered examples of current best practices in the literature. Second, because these approaches do not rely on benchmarks, there is no requirement that CJC obtain outside data from third parties, which means that concerns about obtaining data, data costs, and updating are relatively small and limited to ensuring that data is correctly and consistently submitted to the CJC by law enforcement agencies pursuant to the requirements of HB 2355. Finally, the primary weaknesses of both PSM models and the suite of outcome tests is that they are complex and thus require more time and care to build, test, and refine. This complexity encompasses the concerns regarding the construction of the analytical samples discussed above for outcome tests, and CJC will take care to ensure that different samples will be analyzed and sensitivity tests will be used to examine the results to confirm that the appropriate samples are being utilized.

4. Conclusion

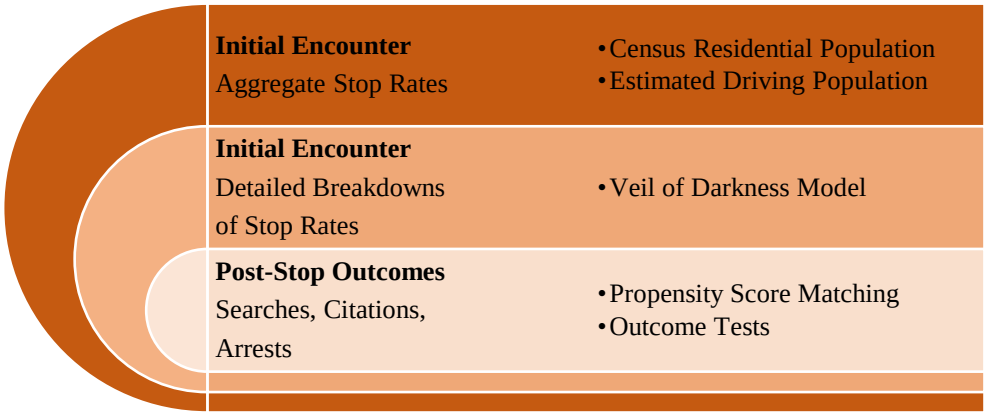

Figure 1 is provided to illustrate the multi-modal approach described in the foregoing sections of this briefing. As discussed, the initial police-citizen encounter will be examined using two classes of statistical approaches, beginning with aggregate comparisons of benchmarks of stop data before moving on to the more complex, but methodologically sound, Veil of Darkness approach. Post-stop outcomes will be examined using propensity score matching models and one or more variants of the outcome test. CJC believes that this combination of approaches best fit the goals and principles identified in Section 3 of this briefing and will result in the most complete analysis of stop data in Oregon.

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CITY OF MILWAUKIE

CITY OF MILWAUKIE BIPOC LISTENING SESSION

This session was held via Zoom beginning at 6:00 PM on August 20, 2020

Facilitators: Casey Layton, Milwaukie Resident

Community Members: Hamid Bennett
Chris Chio
Ernesto Dominguez
Bryan Fuentes
Carmen Gelman
Corey Hester
Bryan Izquierdo
Lorena Rousseau
Pamela Singh
Sabina Spicer

City Representatives: Lisa Batey, City Councilor
Wilda Parks, City Councilor
Ann Ober, City Manager
Luke Strait, Police Chief
Brenna Cruz, Events Coordinator
Dan Harris, Administrative Specialist II

Note: The information presented here constitutes summary of the listening session only. Statements made by individual participants have been attributed to those participants by using the term participant in place of their names in order to preserve their anonymity. The use of participants below has grouped individual responses when a majority of the group expressed, identified, and/or supported the statements being made either verbally or using non-verbal forms of expression.

Introduction and Procedural Matters

Ann Ober, City Manager, made opening remarks concerning the purpose of the meeting. She indicated the intention of city staff and elected officials to listen rather than speaking. She stated that the event was being documented in this set of notes. She invited the participants in the meeting to apply to the Milwaukie Leadership Academy in order to actively address the concerns they had about the way city departments operate and informed the attendees that the city would be hiring an Equity Manager.

Casey, the discussion facilitator opened the discussion with personal introductions and an icebreaker question about their ideal careers. All participants reported having ties to the Milwaukie community. All participants but one reported being residents of the city, some for multiple decades. After listening to the responses to the icebreaker, Casey remarked that there was a through-line in the career interests of people wanting to help others and create things.

Overall Climate of the City of Milwaukie

Sharing of a significant positive and/or negative experience living in the City of Milwaukie. Assessments and feelings of safety, and biggest concerns living in the City of Milwaukie.

Experiences:

- The Black Lives Matter Ally Sit-In in June received very positive feedback across the community, as the amount of people present provided overwhelming support and solidarity to the Black, Indigenous, people of color (BIPOC) community.
- Participant described growing up in Milwaukie and talking to school administration with friends about racist harassment and feeling that the administration did not take the issue seriously. He was told by school officials to "let it go" or "laugh at it". He described his friends having to defend themselves against racist gangs and the results of that conflict having made local news. He said that he and his brother had proved themselves as athletes and become familiar with white community members and some police.
- A participant described moving to Milwaukie in the late 1970s and finding it to be much different from where she had lived in the Bay Area. She said there were three Brown girls in her high school, two of them being her sister and herself. She mentioned that having left and returning to Milwaukie twelve years ago, she felt the city was more diverse than when she was younger. The participant stated that she was glad to see the diversity. She welcomed people to ask her respectfully about her ethnicity. She was glad to see Black Lives Matter signs and described a positive experience she had had recently when a Milwaukie Police officer waved at her and said hello while driving by. She said that the interaction had made her feel seen.
- Participant also described a negative experience that he thought had been handled well. He spoke about finding a swastika painted on a rock in Spring Park. He said the city staff, including the Mayor and a City Council Member had responded quickly, going out to the park to clean up the graffiti and the very next week passed a City Council resolution denouncing hate.
- Participant noted the way that small gestures, including the land acknowledgement statement at council meetings, the purchase of food from a business owned by a person of color for the equity discussion meetings, and the use of pronouns in email signatures blocks made him feel more welcome. Participant also described having flown a

rainbow flag from his home, and a young girl who was trans telling her mother that she felt safe and welcomed because of the flag.

- A discussion emerged while a participant shared the recent activities, they had been doing in the community to go through the process of painting an intersection in their neighborhood with LGBTQIA+ symbolism, and symbols that gesture the solidarity of the BIPOC community. They expressed concerned over feedback they received from neighbors with messages of hate as a response to this project. The participant expressed concern that the hate would escalate if the project moved forward and neighbors would respond to supportive volunteers with acts of violence, and use of force by openly carrying guns and other weapons in the intersection as an act of protest or response to the intersection painting.

Recommendations:

- Community members expressed challenges they faced with meeting procedural requirements for intersection mural paintings and suggest lowering the approval requirement threshold to make the process easier to obtain approval from the community.

Requests:

- Evaluate community neighborhood projects and ordinances to develop checks and balances that allows neighbors to display supportive and positive art like the one described without running the risk of allowing negative expressions like a KKK flag.

City Governance and Services

Knowledge about community meetings (NDAs, Boards & Commissions, City Council Meetings), or where to get information about these meetings

Experiences:

- Participant said that he had become involved in his NDA because he, and his family members, had received judgmental looks while walking in the neighborhood. The participant stated that his partner had the police called on him just for walking down the street and they joined the NDA to meet more people and to be "less scary" to their neighbors. He felt welcomed by the NDA and felt that he was given an equal voice amongst the older white neighbors; acknowledging that he felt like he was not represented by the NDA leadership.

Recommendations:

- Continue to offer these meetings virtually, as this creates more opportunity for participation

Requests: N/A

Reasons or barriers to participating in these meetings

Experiences:

- Many participants expressed that they worried that they would not be welcomed in their NDAs and said that they felt as if they were expected to prove something to their white neighbors that would validate their presence and participation in these meetings. by her white neighbors to prove something.
- Participants acknowledged that there was too much value placed on titles, college degrees and that as members of an immigrant community and as women they were not treated equally.
- Participants explicitly indicated that they have not attended because they feel they would be the only person of color in the room.
- A few participants mentioned that due to recent experiences participating in their local NDA meeting, they decided to attend another NDA meeting as the people in their specific NDA meeting made them feel more welcomed. As a result, the family was bullied by the NDA leader for not attending the correct NDA that aligned with the family's address.
- Participant mentioned that the Pilot messages inviting people to the meetings, did not feel like those invitations were for her. She said that she wanted invitations from people who could tell her that the space had been made welcoming for her. She stated that she did not feel that the invitation in the Pilot felt like a real, authentic invitation.

Recommendations:

- Continue to provide meetings in virtual and call-in format
- The NDA leaders need more oversight about what they communicate and how they communicate to be more inclusive and less divisive.

Requests:

- NDA leaders should and intentionally invite people of color from the community to participate in these meetings
- Communicate that there are no educational requirements or experience needed in order to participate
- Use other methods of communication, beyond electronic communication, to invite community members to attend

Positive and negative experiences with city government and services. Discussion about city government related to racial equity and social justice issues.

Experiences:

- The participants acknowledge that they feel there is a lack of engagement to their community from the City

Recommendations:

- Assumptions made by the City regarding access to information. Participants feel that the City thinks it is reaching people, but many in the BIPOC community do not know where to go to access information
- Many members of the community do not have access to technology or internet, so this creates a lack of equity in city communications
- Establish and promote economic development for BIPOC owned businesses and business owners
- Have more community events to specifically include the BIPOC community

Requests:

- Use other forms of communication in addition to email
- Communicate in languages other than English
- Include more people of color in communications and marketing, and on the city website
- Develop equity criteria for things posted in public spaces
- The city needs more diversity in police department and city staff.

Feedback and recommendations to encourage BIPOC community members to run for office

Experiences:

- Participants acknowledge there is an economic barrier to participating in local government as they are not compensated for the time involved. Low pay for elected officials made it so that only people who were already financially secure or even wealthy could afford to do the work asked of city councilors. This create barriers for people of color to participate as many do not have jobs that allow them to take the time out of work, or personal lives that allow them to spend such a significant amount of time in official meetings, let alone campaigning for office.

Recommendations:

- Increase the stipend for council members to make participation more equitable

Requests: N/A

City Law Enforcement Breakout Session Report Back

During this breakout session, community members and the facilitator went into a separate "room" within the Zoom meeting. Members of City Council, the City Manager, and the Chief of Police stayed in the main room to give the community participants an opportunity to speak amongst themselves without the elected and appointed city leadership present.

The participants elected to have the Facilitator share the summarized version of the discussion. The Facilitator then shared the notes from the discussion and allowed the community members to add additional comments as necessary.

Perception and experience with law enforcement in the City of Milwaukie. Recommendations for the Milwaukie Police Department.

Experiences:

- Participant stated that they had no bad interactions with the MPD but said that she avoided interactions with the police generally out of a sense of fear due to experiences with other police departments.
- Participants expressed a sense of fear and anxiety when in a group setting with other people of color and around police.
- Participant stated the presence of police in their uniforms with all the equipment and weapons is very militaristic and threatening.

Recommendations:

- The hiring process should seek to hire officers that understand racial issues
- Include a community outreach person on the force that works within the community. This person would meet with different organizations and groups on a personal level, not wearing a uniform and without any weapons
- Develop a community led police accountability system
- Council and city staff need to address more than just the budget for police, but go deeper to look at the service needs of the community
- Milwaukie city officials should vocally support a nationwide database to help prevent officers who were fired by one department for misconduct from being hired by other departments

Requests:

- Milwaukie police officers need implicit bias training
- Milwaukie police officers need more diversity, hire people of color, and provide diversity training
- Milwaukie police officers need better training with de-escalation tactics and less reliance on use of force
- All training should be recurring at least on an annual basis

Closing Remarks and Procedures

Ann Ober, City Manager, informed the group that while they had been in the breakout session, she had met briefly with the other officials in the main room about the intersection painting project. She provided an alternative and stated she would reach out to stakeholders about all options for the intersection painting project.

Luke Strait, Chief of Police, stated his sincere appreciation for the work that the group had done, and for sharing their experience. He stated his readiness to act on the feedback that he had received and affirmed that the people in this group, and the BIPOC community generally are welcome in Milwaukie.

Lisa Batey, City Councilor, extended the offer to members of the group to reach out to her to take a walk or to have a cup of coffee. She thanked the group for their time and for opening their hearts.

Wilda Parks, City Councilor, expressed her thanks to the group for sharing. She extended a similar offer to walk with members of the community or to have them over to her back deck. She thanked the group again for helping the city leadership to make the city a more welcoming place. She reaffirmed that there was no intention to end this work after just this one night.

Brenna Cruz, Events Coordinator, distributed a Zoom poll to the members of the group.

Casey offered closing remarks and thanked the group for helping to change the landscape of Milwaukie.

Once the results were collected, the call was ended, and participants left the meeting.

CITY OF MILWAUKIE

CITY OF MILWAUKIE BIPOC LISTENING SESSION

This session was held via Zoom beginning at 12:00 PM on August 22, 2020

Facilitators: Levi Almuina, IZO Marketing
Claudia Cardenas, United Link Consulting
Daniel Franco, IZO Marketing
Anthony Veliz, IZO Marketing

Community Members: Edwin Arellano
Katherine Arellano
Corinn deTorres
Illya deTorres
Janis Evans
Monica Melgar
Carmen Mojica
Cindy Muñoz
Desi Nicodemus
Len Reed
Elizabeth Start
Nikki Storm

City Representatives: Angel Falconer, Council President
Mark Gamba, City Mayor
Ann Ober, City Manager
Luke Strait, Police Chief
Brenna Cruz, Events Coordinator

Note: The information presented here constitutes summary of the listening session only. Statements made by individual participants have been attributed to those participants by using the term participant in place of their names in order to preserve their anonymity. The use of participants below has grouped individual responses when a majority of the group expressed, identified, and/or supported the statements being made either verbally or using non-verbal forms of expression.

Introduction and Procedural Matters

IZO Marketing staff made opening remarks concerning the purpose of the meeting. They provided best practices for participation in the meeting and outlined the rules of conduct to create a safe, respectful environment for all participants. Daniel Franco indicated the intention of city staff to listen rather than speaking and stated that the event was being documented in this set of notes.

Claudia Cardenas opened the discussion with personal introductions and an icebreaker question about a favorite childhood memory or an impactful act of kindness participants received.

Overall Climate of the City of Milwaukie

Sharing of a significant positive and/or negative experience living in the City of Milwaukie

Experiences:

- The Black Lives Matter Ally Sit-In in June received very positive feedback across the community, as the amount of people present provided overwhelming support and solidarity to the Black, Indigenous, people of color (BIPOC) community.
- Participants acknowledged the efforts the city is currently making towards equity now and appreciate that this is happening.
- A comment was made to acknowledge the Police Chief is willing to meet with members of the BIPOC community at their homes to have open conversations and dialogue.
- Participants also mentioned a positive interaction and professionalism with Milwaukie police officers, providing support for their family during a time of duress.

Recommendations:

- Several members of the group mentioned wanting to have more community events like this to engage with the BIPOC community but have community events and spaces for them specifically.

Requests: N/A

Assessments and feelings of safety, and biggest concerns living in the City of Milwaukie

Experiences:

- Participants expressed they are hypersensitive to the White community in Milwaukie. As BIPOC community members, they have been the target of threats and derogatory comments from neighbors and while out in the community, due to their race. These interactions cause the BIPOC community to have anxiety.
- The participants expressed unease about symbolism and messaging displayed throughout the community such as Blue Lives Matter, MAGA, etc. These are triggers of fear for community members.
- Participants continued to have exchanges that the display of these symbols and negative interactions with community members, cause them to feel they are not welcomed to enjoy the same spaces and activities as the White members of the community. Participants also expressed that the bigoted and racist displays of aggression towards them are escalating due to recent events and the actions of the Trump administration emboldening local leaders.

- Participants acknowledge the judgement in the Milwaukie community that comes from using their native languages and wearing traditional clothing in public spaces.
- Concerns shared about White people in the community carrying weapons and having tensions escalate in an interaction, or the White person feeling so much anger that they will kill a BIPOC community member or member of their family.
- The participants acknowledge they did not have this level of fear when living in other states, specifically, cities in both Northern and Southern California were mentioned. The participants felt that because there were more people of color in these communities that the racist displays of behavior were not as overt.
- Concerns of people needing support or struggling with mental illness, especially downtown and near the MAX station.

Recommendations:

- How can the City attract more BIPOC community members to live in Milwaukie and have them stay?
- How can the City and community establish support groups and network of BIPOC members in Milwaukie?
- Should the City and/or community establish displays of support or acts of being an ally in the community?

Requests:

- The City needs to address crisis response and provide support for people needing help with mental illness

City Governance and Services

Knowledge about community meetings (NDAs, Boards & Commissions, City Council Meetings), or where to get information about these meetings

Experiences:

- Most participants shook their heads to indicate no knowledge or participation in these meetings.

Recommendations: N/A

Requests: N/A

Reasons or barriers to participating in these meetings

Experiences:

- For participants that are aware of these meetings they explicitly indicated that they have not attended because they feel they would be the only person of color in the room. Participants expressed that they do not feel welcomed in these meetings because of the judgement

that they receive as a people of color in these meetings, they are not treated equally.
- Until recently, take place in-person during the evenings when participants would rather be/need to be home with their families. Virtual meeting options are appreciated.
- Participants also shared that the discussions in these meetings are usually very negative, so no constructive problem-solving can happen, but rather these meetings become a place to discuss perceived 'problems' in the community.

Recommendations:
- Continue to provide meetings in virtual and call-in format
- Outreach to non-homeowners to attend

Requests:
- Specifically, and intentionally invite people of color from the community to participate in these meetings
- Communicate that there are no educational requirements or experience needed in order to participate
- Address the way NDA leaders are elected. Always voted in by current members, so opportunity for new leadership
- Use other methods of communication, beyond electronic communication, to invite community members to attend

Positive and negative experiences with city government and services

Experiences:
- None to provide, because they do not participate, or feel invited to participate
- The participants acknowledge that they feel there is a lack of engagement to their community from the City

Recommendations:
- Assumptions made regarding access to information. Participants feel that the City thinks it is reaching people, but many in the BIPOC community do not know where to go to access information
- Many members of the community do not have access to technology or internet, so this creates a lack of equity in city communications

Requests:
- Use other forms of communication beyond email
- Communicate in languages other than English. A reference was made to the 5 common languages Portland Public Schools use as a model to replicate

Discussion about city government related to racial equity and social justice issues

Experiences:
- Participant explained that they felt unsafe during a situation with Milwaukie police officers late at night when the officer came to the home inquiring about a vehicle registration. Felt that the officer in this situation was leading

with assumptions and felt fearful that the situation could and would easily escalate with violence and excessive use of police force which could turn deadly.

Recommendations:

- Build White allies
- Hire people of color to increase diversity in the City
- Hire an Equity Manager or Director
- Create opportunities to talk with Milwaukie police officers about intent vs. impact
- Promote businesses owned by BIPOC community
- Generate community awareness about equity and why it is important
- Portland Public Schools has a great immersion program for K-12, Create more immersion programs in Milwaukie public schools that extend beyond K-5 grades
- Know your audience and use more appropriate language accordingly. More common language to explain projects to residents so they can be engaged and understand better

Requests:

- Use other forms of communication beyond email
- Communicate in languages other than English. A reference was made to the 5 common languages Portland Public Schools uses as a model to emulate
- Establish community conversation program with Milwaukie police officers to build empathy
- Establish and promote economic development for BIPOC owned businesses and business owners

Feedback and recommendations to encourage BIPOC community members to run for office

Experiences:

- Participants expressed that BIPOC community does not have trust in the government system. Admitted that they do not believe this system serves them, so do not feel equitable in participating in it.
- Multiple participants expressed a lack of diversity in local government, specifically the Latinx representation.

Recommendations:

- Provide better information about how to get involved
- Establish relationship of trust and accountability with current government and the community it serves

Requests: N/A

City Law Enforcement Breakout Session Report Back

During this breakout session, community members and the facilitator went into a separate "room" within the Zoom meeting. Members of City Council, the City Manager, and the Chief of Police stayed in the main room to give the community participants an opportunity to speak amongst themselves without the elected and appointed city leadership present.

The participants elected to have a community member from each group share the summarized version of the discussion. The appointed representative then shared the notes from the discussion and allowed the community members to add additional comments as necessary.

Perception and experience with law enforcement in the City of Milwaukie. Recommendations for the Milwaukie Police Department.

Experiences:

- Participant mentioned that based on their interactions with Milwaukie police officers, they think the officers have no sympathy or respect the Black Lives Matter (BLM) movement. This participant expressed that the current Chief showing up to the BLM demonstration in June is a positive experience, but participant still sees a general lack of respect for BLM which would be expressed by opposing or dismissing the Blue Lives Matter counter movement.
- Participant stated the presence of police in their uniforms with all the equipment and weapons is very militaristic and threatening.
- Participant mentioned that their how daughter is interested in being part of law enforcement and is concerned of the impact being a people of color will have in this endeavor and the impact this will have on personally have on her emotionally and psychologically.
- Multiple participants mentioned that Milwaukie police officers operates in a way that they take other complaints made against the BIPOC community more valid, and does not equitably try to investigate the situation, but instead operates with the presumption the person is guilty and tries to find the reasoning to support this decision. Reasonable explanations provided to officers are not taken seriously.

Recommendations:

- The hiring process should seek to hire officers that understand racial issues
- Include a community outreach person on the force that works within the community. This person would meet with different organizations and groups on a personal level, not wearing a uniform and without any weapons
- More conversations with the BIPOC community, have officer in plain clothes and no weapon ride along with a BIPOC community member to experience the community from their perspective
- Develop a citizen review process of police officers and officers being hired from other locations to know if they are

involved in investigations, harassment, shootings, etc. so community has a better understanding of the officer's record and background
- Provide public access and/or insights to police budgets
- Know your audience, learn how to communicate with the community not from a position of authority, but a position of educating
- Acknowledgement that in certain situations, the officer does not always need to have a weapon with them, start developing a practice of leaving the weapon out of community interactions

Requests:
- Milwaukie police officers need implicit bias training
- Milwaukie police officers need more diversity, hire people of color, and provide diversity training
- Milwaukie police officers need better training with de-escalation tactics
- Milwaukie police officers need more training and support to address houseless community and provide access to services

Specific questions for the Milwaukie Police Chief

- What is the profile of a good/hirable police officer in the city of Milwaukie?
- What is the relationship with Milwaukie police officers and Metro transit police?
- Is there a necessity for officers to always have firearms or other weapons on them?

Advice and recommendations for the city and law enforcement representatives to make the citation process more equitable

Experiences:
- A participant brought up a specific experience mentioning that they did not have access to childcare and needed to bring dependents to court; one of the children has developmental disabilities. The participant stated that the judge and bailiff reordered the schedule of the day to place this participant as the last appearance because children were present and were perceived to be disruption to court. The participant was placed in a separate room and ordered to stay there until they were summoned for court with their dependents. The participant conveyed that based on this decision they were being punished based on their circumstance and not shown empathy or compassion. The participant also emphasized the impact on the children to be in a room all day rather than expediting the

court appearance of the participant so they would not impact the court proceedings.

Recommendations:

- Develop alternatives to fines. Community service alternatives that are not financially devastating
- Provide a Community Liaison that is available to help answer questions to develop better understanding of the process
- Be empathetic to situations surrounding childcare and any dependents present

Requests:

- Provide access to information in multiple languages
- Provide translation services throughout entire process, citation, court, etc.

Closing Remarks and Procedures

Ann Ober, City Manager led the closing remarks. Mentioning that the intention of city staff and elected officials was to listen rather than speaking or responding during the session. She stated that the event was being documented in this set of notes, and the process the attendees would receive and be able to review the notes. She mentioned and encouraged the participants in the meeting to apply to the Milwaukie Leadership Academy in order to actively address the concerns they had about the way city departments operate and informed the attendees that the city would be hiring an Equity Manager.

These remarks were followed by statements provided by Council President Falconer and Mayor Gamba to express gratitude to the participants. Both acknowledged that these discussions were the beginning steps towards fulfilling the equity goal of Milwaukie and that both would endeavor to continue to reflect internally on issues of racial and social justice to move the City forward. Both Mayor Gamba and Council President Falconer also expressed that they are available to meet with the public and reaffirmed their commitments to their constituents that they want to hear from them and would continue to encourage dialogue.

The Police Chief, Luke Strait, also provided a closing statement of gratitude for the participants and an acknowledgement that he will take the responses and information shared to continue to develop training for Milwaukie officers to support the community.

Brenna Cruz, Events Coordinator, distributed a Zoom poll to the members of the group.

Once the results were collected, the call was ended, and participants left the meeting.

RS 7. B.
9/15/2020
Presentation

Council Briefing on Equity Goal & Policing

AGENDA

Overview

Police

- Police Policy Update – Steve Schuback, Attorney/Partner, peck rubanoff hatfield, P.C.
- Use of Force Overview – Chief Luke Strait, Milwaukie Police Department

General Equity – Ann Ober, City Manager

- Staff Trainings
- Equity Program Manager
- Listening Sessions

Council Input

Already covered this evening

- STOPS Data – Ken Sanchagrin, JD PhD, Interim Executive Director, Oregon Criminal Justice Commission

POLICE UPDATE

Definitions

- Self-initiated activity – The officer generates it
- Dispatched calls – Came through 911 or non-emergency
- Police Report – Formal written report regarding police activity
- Arrests – A person was taken to jail or cited and released at the scene for a crime
- Behavioral Health Unit – H3S clinicians who assist police with calls involving mental health
- "STOPS" data – Mandatory demographic reporting for all optional STOPS made by police
- Use of Force – Defined as "The Application of physical techniques **or tactics**, chemical agents or weapons to a person"…
- Lexipol – A national consulting company which provides comprehensive, state specific policies, based on national best practice. Lexipol also provides daily training bulletins related to policy and practice.

Criteria for Use of force

- Use of Force – Our policy requires reporting on incidents which only involve the **threatened of use of force**, consistent with the #8cantwait initiative.

- Therefore, many incidents we report on can be very minor and often don't involve injury or strikes of any kind.

- "Officers will only use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Factors used to assess our use of force

- Immediacy and severity of the threat to officers
- Seriousness of the suspected offense or reason for the contact
- Officer / subject factors (age difference, size difference, strength, skill, exhaustion, number of officers involved, number of suspects, etc.
- The effects of drugs or alcohol
- The subjects' mental state
- The proximity of weapons
- The degree to which the subject has been restrained or their ability to resist
- The availability of other options and the possible effectiveness
- Training and experience of the officer
- The potential for injury to the officer, the subject, or innocent people nearby
- Is the person resisting arrest or attempting to escape
- The risk and consequences of successful escape

Officer Responsibility in Use of Force

Policy 300 – "Officers will use only that amount of force reasonably necessary given the facts and circumstances perceived by the officer at the time…"

Officers notify a supervisor as soon as possible following an event if:

- There was a **visible injury**.
- A reasonable officer would conclude the individual may have experienced **more than momentary discomfort.**
- The subject of the use of force **complained of injury** or continuing pain.
- The subject indicates an **intent to pursue litigation**.
- Any application of the **taser**.
- An individual was **struck** or kicked.
- An individual **alleges** any of the above occurred.
- If the subject was **forced to the ground** while being arrested.
- The Officer must complete the police report and use of force report, thoroughly documenting incident.

Sergeant responsibility in use of force

- Sergeant will **Respond** to the scene if possible.
- Obtain the facts about what happened from **officers, witnesses and suspects**.
- Ensure the subject force was used upon is **examined, treated, photographed**.
- If possible, conduct a separate **interview** with the person force was used upon.
- If possible, **record** that interview.
- Attempt to identify any relevant **witnesses** to the incident.
- Review and **approve** all related police **reports**.
- The sergeant should assess compliance with policy and the techniques used.
- Evaluate all circumstances, statements and evidence related to the incident and **report their findings to command staff for review**.

Data, January – December 2019

- 27,774 Total police incidents (includes dispatched calls and stops)
- 4,983 Police Reports
- 716 total Arrests (average 59 per month)
- 54 documented Use of Force Reports – approximately two-tenths of 1% of our total police contacts
- Less than 1% of our arrests result in a use of force

Calls Related to Mental Health

- March – August 2020, 771 total
- Of the 771, 162 resulted in formal written reports
- 39 of the 162 resulted in transport to the hospital
- 2 of the 162 resulted in transport to jail
- Crisis Intervention Training has been required for over ten years.

#8CANTWAIT INITIATIVE

A project by Campaign Zero, based on the premise that more restrictive use of force standards and policies will reduce police use of force.

1. Require De-escalation – Met recommandation, Policy 300, Graham V. Connor applied
2. Duty to Intervene – Met recommendation, this policy previously existed
3. Ban Chokehold – Met recommendation, modified this policy
4. Require Warning Before Shooting – Met this requirement, policy already existed
5. Bans Shooting at Moving Vehicles – Met this requirement, unless necessary to preserve life
6. Exhaust Alternatives Before Shooting – Met this requirement in policy and training
7. Require "Use of Force Continuum" – This is somewhat dated terminology. The current state and national standard is based on the United States Supreme Court Case, Graham V Conner, requiring an "Objective Reasonableness" standard be used to train and evaluate police use of force. The Department of Justice also removed the Continuum model in 2012.
8. Comprehensive Force Reporting – Met or exceed this requirement

General Update

- PD Training – All Police Department Employees have received Implicit Bias Training from Fair and Impartial Policing.
- Remaining city employees and police management have received Diversity, Equity and Inclusion training. One training remains for some new employees and those who had a conflict with previous dates.

- Equity Program Manager is expected to be in place by October 31.

Listening Sessions

- What did Council hear in the listening sessions?
- What themes stood out to you in the review of the notes?

Overarching Council Questions

- The goal change resolution adopted on August 18 includes several statements on the purpose of the equity, inclusion, and justice goal. Are there any additional purpose statements missing?
- - What outcomes (not tactics) is Council trying to reach through this goal? Would Council prefer to wait until the equity program manager is in place before outlining the desired outcomes?

QUESTIONS?

- General Equity – Ann Ober, City Manager
  - obera@milwaukieoregon.gov
- STOPS Data – Ken Sanchagrin, JD PhD
  - Interim Executive Director
    Oregon Criminal Justice Commission
    ken.sanchagrin@oregon.gov
- Use of Force – Chief Luke Strait
  - Milwaukie Police Department
  - straitl@milwaukieoregon.gov

RS Agenda Item 8

Public Hearings

CITY OF MILWAUKIE

RS 8. A.
9/15/2020

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Sept. 1, 2020

Reviewed: Luke Strait, Chief of Police, and
Ryan Burdick, Police Captain

From: Tim Salyers, Code Compliance Coordinator

Subject: **Protest of Abatement at 12550 SE 43rd Avenue**

ACTION REQUESTED

Council is asked to determine whether a nuisance exists at the above-referenced property.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

September 17, 2019: Council adopted Ordinance 2180, which updated Milwaukie Municipal Code (MMC) 15.04.180 Dangerous Building Code. The property located at 12550 SE 43rd Avenue was discussed during the public testimony part of the hearing for adoption of the updated ordinance.

ANALYSIS

Abatement Procedures

MMC 8.04.170 through 8.04.210 provides the process for nuisance abatement within the city. MMC 8.04.170A provides that "[u]pon determination by the City Manager that a nuisance … exists, the City Manager shall … cause a notice to be posted on the premises … directing the owner or person in charge of the property to abate such nuisance."

This section requires the owner or person in charge of the property to comply with the notice of abatement within ten days or to file an appeal to Council. On August 31, the owner of the property filed an appeal. If Council determines that a nuisance does exist, MMC 8.04.180D requires that the property be brought into compliance within ten days after the hearing. The new date for compliance after the appeal hearing would be Friday, September 25, 2020.

Property Overview

On June 10, 2018, the house at 12550 SE 43rd Avenue was badly burned by a fire and remains unoccupied. This property, Tax Lot ID 1S2E31CC00904, is within Milwaukie city limits and the owner is listed as Thomas Equities by the Clackamas County Tax Assessor. The owner of Thomas Equities is Lowell Wittke, who filed the appeal in this matter. For the purposes of this action, Thomas Equities and Lowell Wittke are collectively referred to as the "owner."

Compliance Actions

The following actions were taken by the city's code compliance coordinator unless otherwise stated. In addition, there were multiple contacts between staff and the owner that are not listed below.

- Between June 2018 and September 2019, there were numerous contacts with the owner regarding the property and its condition. Two citations were issued related to the debris

and junk that remained on the property after the fire. The owner did not dispute that the house was damaged by fire. Clackamas County Fire District #1 (CCFD#1) performed an investigation and provided city staff photos of the site. See Attachment 3.

- On June 25, 2019, staff received an email that the Milwaukie Police Department (MPD) had been called to the property regarding suspicious activity. Police officers reported that bullet casings had been found on the property.
- On September 20, 2019, staff posted a notice at the property that the building had been declared a dangerous building under MMC 15.04.180C (4) due to the presence of unsafe conditions. While staff was at the property to post the dangerous building notice, the owner was present and expressed support for the notice as a way to prevent people from going into the structure.
- On January 21, 2020, as required by MMC 15.04.180E, staff sent a letter to the owner and Bank of America (the mortgage holder) providing notice that repair or demolition of the structure was required within 60-days (March 21). The notice was sent via certified mail. The owner received and signed for the certified letter on January 23. Bank of America received and signed for the letter on January 24.
- On March 19, the house was deemed an abandoned structure under MMC 15.04.180G because the unsafe condition had not been abated within 180 days of being declared a dangerous building.
- On April 6, staff mailed Citation #235232 to the owner for a violation of MMC 15.04.180H(2). The citation was issued due to the presence of the dangerous building on the property. The citation was sent via certified mail and was received by Mr. Wittke's son, Jason Wittke, on April 8.
- The owner appeared in municipal court on June 10 to address the citation. Municipal Court Judge Kimberly Graves ordered that the nuisance be abated or that the owner coordinate with the city on otherwise resolving the citation, and required the owner to return to court on June 24.
- On June 16, staff was contacted by engineer Mariola Sullivan on behalf of the owner about the required abatement. Ms. Sullivan consulted with building department staff to identify what was required to abate the nuisance.
- On June 24, the nuisance had not been abated nor the citation otherwise resolved, so the Judge ordered the owner to return to court on July 8.
- At the July 8 hearing, the matter was set for trial.
- On July 9, Ms. Sullivan informed staff that the owner had not retained her services.
- On August 12, the owner failed to appear at trial and the Judge ordered that the fine of $19,000 be paid.
- On August 21, staff posted a notice to abate at the property and sent a copy to the owner via certified mail. The certified letter was received and signed by Jason Wittke on August 27.
- On August 31, the owner filed this appeal and the city recorder scheduled the Council hearing for September 15 as required by code.

BUDGET IMPACT

The city's abatement budget totals $15,000 for fiscal year 2020-2021. Expenses for this abatement project are difficult to determine but would most likely exceed the entire annual budget. If declared a nuisance, the total cost of abatement would depend on what work is required to fully abate the nuisance.

If no nuisance is declared and if the property remains in violation, costs will be hard to estimate due to continued city employee time spent on pursuing the ongoing violations and complaints related to this property.

WORKLOAD IMPACT

If Council declares the property a nuisance, staff will reinspect the property on September 28. If violations are still present, staff will hire a contractor and obtain a warrant for the abatement. Once a contractor is hired, staff would supervise the contractor on site. After the nuisance has been abated, staff will report to Council if the abatement costs have not been paid by the owner and seek Council approval for a lien to be placed against the property. Placing a lien on the property would result in the current code compliance case to be closed.

If no nuisance is declared and if violations continue, the workload will be hard to estimate due to continued city employee time required to pursue the ongoing violations. Additional citations, limited to a maximum of $1,000 per day, would result in the owner being liable for additional fines until the violations are remedied.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

The city manager, police chief, police captain of operations, and building official concur with the abatement process and this report.

STAFF RECOMMENDATION

Staff recommends that Council declare the property a nuisance.

ALTERNATIVES

Council could determine that the property is not a nuisance.

ATTACHMENTS

1. Abatement Protest received August 31
2. Abatement Notice dated August 21
3. CCFD#1 Investigation Photos from June 2018

RECEIVED BY EMAIL ON AUGUST 31, 2020
BY THE OFFICE OF THE CITY RECORDER

8/29/2020

RE: 12550 SE 43rd Ave. Milwaukie, Clackamas County, Oregon

Determination of Nuisance Made Abatement Ordered

County Clerk,

I feel that at this time I need to appeal this abatement. I honestly did not intend to leave the structure at this address vacant and unrepaired for this length of time. I am 75 years old and semi-retired, and since the fire, I have spent a great deal of time working on the other two properties next door to this address in order to keep them up to your community standards. I built all three of these residences and felt great pride in them.

I have a property manager on site who is monitoring any criminal or other activity on this property.

I am applying for a building permit for this home, and hired a construction supervisor for this project which we will performed with utmost speed.

Sincerely,

Thomas Equities, Lowell Wittke

CITY OF MILWAUKIE
NOTICE TO ABATE

Pursuant to Milwaukie Municipal Code, Section 8.04.170, the City of Milwaukie hereby gives:

Thomas Equities
And/or
Any other owner or person in charge of this property.

Notice that nuisances exist on the property located at:

12550 SE 43rd Ave,
Milwaukie, Clackamas County, State of Oregon

The nuisances on this property include a dangerous building caused by fire remaining longer than 180 days after posting therefore an abandoned structure and therefore violate Milwaukie Municipal Code Section 15.04.180G and 15.04.180.H.2.

The nuisance on this property MUST be abated within ten (10) days of the date of this notice. If the nuisance is not abated within that ten (10) day time period, the City may abate the nuisance and the cost of abatement shall be a lien against the property.

The owner or other person in charge of this property may protest this notice to abate to the City Recorder within ten (10) days from the date of this notice.

This notice is dated the 21 **day of August 2020.**

City of Milwaukie

Determination of Nuisance Made and Abatement Ordered by:

Ann Ober
City of Milwaukie

Attachment 3

June 2018

Attachment 3

Scott Stauffer

From: sue_bob@comcast.net
Sent: Thursday, September 10, 2020 4:08 PM
To: OCR
Subject: HEARING ON BURNED STRUCTURE ON SE 43RD AVE, MILWAUKIE, OR

This Message originated outside your organization.

Mayor, City Manager & Milwaukie City Council,

I am providing you some thoughts and facts regarding the property owned by Lowell Wittke at 12550 SE 43rd Avenue. This property burned extensively in the Summer of 2018 to the degree it was not livable again. The residents of Acer Woods Housing Development is comprised of 23 homes and located close to this structure. The back of this burned structure faces the North Ridge Condominium's which are located on SE Freeman Way. I have been a homeowner on SE 43rd Avenue for 28 years and saw the burned house built about 20 years ago, how it has been maintained, the type of occupants it has housed, health and property issues this structure has caused to this neighborhood. Mr. Wittke, owner of this property, also built two other homes next to the burned structure at the same time.

For almost 15 years, Mr. Wittke has had numerous code violations on his 3 properties. These homes were placed into the Section 8 Federal Housing Program so that he would be provided a specific amount of guaranteed income from these 3 properties. Because of Mr. Wittke's lack of character, concern to maintain his properties and the lack of more stringent rules by the Section 8 Housing Program, all the properties have been trashed in various ways inside and outside. Mr. Wittke has permitted the occupants to park inoperable vehicles, garbage and household appliances remain outside for extended periods of time. Residents in his properties have appeared to be on drugs and subjecting minor children to emotionally and sanitary living conditions. In addition, several years ago the Milwaukie Police visited these properties on a frequent basis.

The burned structure that is currently on his property has gravely affected the property values of the Acer Woods Housing Development and the North Ridge Condo's. In the last 2 years since the house burned there were inoperable vehicles stored for months, trash, furniture and contents of the burned house remaining on the outside of the property. These conditions have caused a breeding ground for rodents and rats to appear on Mr. Wittke's properties in addition to the nearby properties. In fact, two of the Acer Woods properties have had to hire an exterminator for rat infestation issue in the last year. Finally, the continued smell of smoke from the burned timber and contents of the burned house has been terrible and a health hazard.

I am requesting on the behalf of myself and neighbors that the burned structure can be demolished and the structure be removed as soon as possible. It has been extremely difficult dealing with the issues of Lowell Wittke's properties for almost 20 years. The support of Code Enforcement, Mayor, City Manager and the Milwaukie City Council is our last source of assistance to solve the burned house issues. Your help is greatly appreciated.

Sincerely,

Bob & Sue Richardson

Scott Stauffer

From: Tim Salyers
Sent: Friday, September 11, 2020 9:49 AM
To: david.t.mullins@gmail.com
Cc: OCR
Subject: Re: The burned structure on SE 43rd Avenue Code Enforcement

Thank you Mr. Mullins for your email and clarification via phone that you would like this to be part of the record for the hearing on 9/15/2020.

Sent from my iPhone

> On Sep 11, 2020, at 9:09 AM, David T Mullins <david.t.mullins@gmail.com> wrote:
>
> This Message originated outside your organization.
>
> Dear Mr. Salyers,
>
> I am contacting you regarding the burned structure on SE 43rd Avenue in my neighborhood.
>
> The property needs to be demolished. It has affected the property values in our area, inoperable vehicles, sacks of garbage, trash that have been around the structure , the fact that this structure has been a breeding ground for rodents, rats and transients to move into it.
>
> In addition, we don't want it to be a flop house for homeless moving down from Portland.
>
> Thank you for your efforts to clean up this property.
>
> --
> David T Mullins
> david.t.mullins@gmail.com
> 4202 SE Northridge Dr
> Milwaukie, OR 97222
> 971-337-0882 Mobile / Text
>

Scott Stauffer

From: Kevin Stahl <kevinmstahl@gmail.com>
Sent: Friday, September 11, 2020 3:08 PM
To: OCR
Subject: Protest of Abatement at 12550 SE 43rd Ave

This Message originated outside your organization.

To whom it may concern,

I am writing regarding the burned structure on SE 43rd Ave. The structure needs to be removed from the property. The structure devalues the surrounding homes with the large volume of trash, inoperable vehicles, and burned exterior. This a human health concern with it being a breeding ground for rodents. This property has constant traffic coming and going from the location. I personally have had to clean up trash and items left behind from transient persons seen at the property. This has become a safety concern for the surrounding homeowners in the neighborhood.

It is of my opinion that the owner of the property has been given ample allowances to address the condition of the property. There has been no change in its condition in that time. I urge the city council to make the necessary steps to ensure that the property owner complies with the rules and regulations of a property owner within the City of Milwaukie.

I appreciate your consideration of my grievance.

Sincerely,

Kevin Stahl

12374 SE 43rd Ave

Milwaukie, OR 97222

(503)799-5580

kevinmstahl@gmail.com

Scott Stauffer

From: Scott Stauffer
Sent: Friday, September 11, 2020 5:09 PM
To: _City Council; Tim Salyers
Subject: FW: City Council Meeting

Good Afternoon – please see the comment below regarding Tuesday's abatement protest. It will be included in the meeting record.

SCOTT STAUFFER
City Recorder
he • him • his
p: 503.786.7502
City of Milwaukie

From: Susanna Pai <susiepai@yahoo.com>
Sent: Friday, September 11, 2020 3:28 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Fw: City Council Meeting

This Message originated outside your organization.

My family & I agree with what Ms Sue Richardson said below. Please update us with the progress. Your help is greatly appreciated.

Very truly,
Susanna Pai
12251 SE 42nd Ct,
Milwaukie, OR 97222

----- Forwarded Message -----
From: sue_bob@comcast.net <sue_bob@comcast.net>
To: 'Susanna Pai' <susiepai@yahoo.com>; "davidmichaelis@outlook.com" <davidmichaelis@outlook.com>; "kevinmstahl@gmail.com" <kevinmstahl@gmail.com>; "pawpa1roth@gmail.com" <pawpa1roth@gmail.com>; "diane@zaske.com" <diane@zaske.com>; "johnwlitt@msn.com" <johnwlitt@msn.com>; 'David and Rose Mullins' <david.t.mullins@gmail.com>; "lizacherokee@yahoo.com" <lizacherokee@yahoo.com>; "momartist@yahoo.com" <momartist@yahoo.com>; "willcorti@aol.com" <willcorti@aol.com>; "ajbaranick@yahoo.com" <ajbaranick@yahoo.com>; "nci@reagan.com" <nci@reagan.com>; "wvccgolf@live.com" <wvccgolf@live.com>; "danparkk08@gmail.com" <danparkk08@gmail.com>
Sent: Wednesday, September 9, 2020, 10:41:29 AM PDT
Subject: FW: City Council Meeting

HOA MEMBERS:

I received the attached email today from Tim Salyers, Code Enforcement Officer, regarding the status of the burned structure on SE 43rd Avenue. Code Enforcement and the Milwaukie City Council have been working on getting the structure either remodeled by the owner so that is livable or have the structure torn

down. This process has been slow and has taken about 2 years. The Milwaukie City Council is giving the public an opportunity to voice their opinions on how this structure has affected their neighborhood etc. **It is very important that you send in your comments before the next Milwaukie council meeting next Tuesday, Sept. 15th.** I would make comments you have regarding how the burned property has affected the property values in our area, inoperable vehicles, sacks of garbage, trash that have been around the structure , the fact that this structure has been a breeding ground for rodents, rats and transients to move into it. I would very firm on wanting the burned structure removed from the property as soon as possible. I am sure you know how to express all the headaches that the burned structure and the other two surrounding homes have been for about 15-20 years.

Please send your comments and questions to ocr@milwaukieoregon.gov. It is extremely important to address this issue to the Milwaukie City Council if we as a neighborhood want to maintain our property values, live near properties that do not have inoperable cars that are stored on properties, trash, furniture, garbage and transients move into our area.

Your participation is appreciated.

Bob & Sue Richardson

HOA Member

From: Tim Salyers <salyerst@milwaukieoregon.gov>
Sent: Wednesday, September 9, 2020 8:11 AM
To: sue_bob@comcast.net
Subject: City Council Meeting

https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-284

I am posting the property today regarding the hearing, but wanted to keep you informed.

It may be easier to provide public comment in writing via email prior to the hearing.

Follow the instructions on the webpage.

Any follow up questions about the hearing please contact ocr@milwaukieoregon.gov.

Tim Salyers, CEP

Code Compliance Coordinator

o: 503.786.7409

City of Milwaukie

3200 SE Harrison St • Milwaukie, OR 97222

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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**.

Scott Stauffer

From: Nancy Watt <nlwatt1@aol.com>
Sent: Saturday, September 12, 2020 8:48 PM
To: OCR
Subject: Re; The burned out structure on 43rd Avenue

This Message originated outside your organization.

I own the home at 12489 SE 43rd Avenue, right across the street from the burned out home and the two other structures. This home burned at least two years ago. Nothing has been done. I see it from my living room every day. It is such an eye sore as well as the other two structures. Vehicles are parked by the burned out building every day, as well as all kind of garbage and trash. The fence has never been repaired. There are broken tree branches alongside the yellow house that have been there for a number of months. There have been bags of garbage and other debris outside the pink house on the corner and is still going on . Garbage attracts all kinds of rodents and is such a stench. We have put up with the mess of the pink house as long as the last woman lived there

The fence along 43rd behind the yellow house is in need of sad repair. The big tree beside the yellow house is rotten and if a strong wind blew from the right direction my house would be in great danger. It should come down and a small one could be put in its place.

This area is such an eye sore to the neighborhood and downgrades all of the property in the area. This has gone on too long. In looking at the burned out house from the driveway of the condos to the North, I cannot see how the structure could be repaired safely for someone to live there. It should be torn down

I am sick and tired of this whole mess and it is past time for some action to take place.

Sincerely,

Nancy Watt
12489 S E 43rd Avenue
Milwaukie, OR 97222 6012
593 654 4315

Nancy Watt
nlwatt1@aol.com

Scott Stauffer

From: Scott Stauffer
Sent: Tuesday, September 15, 2020 10:09 PM
To: Scott Stauffer
Subject: 9/15 RS 8 A Zoom Chat Log

From Tim Salyers to All panelists and attendees: 07:59 PM
scott can we do a sound check please?

From Me to All panelists: 08:03 PM
Tim checking, checking...

From Jason Wittke to All panelists: 08:24 PM
I'm sorry. Mom's phone was logged in, and it was in the same room.

From Councilor Kathy Hyzy (she... to All panelists: 08:25 PM
Thanks, Jason.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
p: 503.786.7502 f: 503.786.7540
City of Milwaukie
10722 SE Main St • Milwaukie, OR 97222