

Tiburon OKs summer Main Street closures

Plan to boost outdoor dining, retail amid coronavirus to run July 3 through Labor Day

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Amid a strong showing of support from the community, Tiburon's lower Main Street will be closed to cars on weekends this summer to encourage physically distant outdoor dining and retail during the coronavirus pandemic.

But how long it lasts will rest on the behavior of visitors.

The Town Council voted unanimously at its June 17 teleconference meeting to approve the one-block closure of Main Street between Fountain Plaza and the traffic circle near the entrance to the Main Street Parking Lot from Friday afternoons to 8 p.m. Sundays beginning July 3, the first day of a long holiday weekend.

The "slow street" weekends, as such programs have been dubbed around the nation, would run through Labor Day, Sept. 7.

The council could extend the program — October summers are a Bay Area norm,

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Police move toward '8 Can't Wait' reforms

Guidelines to update use-of-force protocols seek to curb violence amid nationwide protests against racial injustice, police brutality

be heard

Tiburon Mayor Alice Fredericks and Vice Mayor Holli Thier ask: "What do you see as needed immediate change? What actions do you see local government taking that effectively address needed change? What can we take on as a community to shift structural racism?"

- **Tiburon:** Email the Town Council at town@townoftiburon.org, Fredericks at afredericks@townoftiburon.org, Thier at hthier@townoftiburon.org and Police Chief Michael Cronin at mcronin@tiburonpd.org.
- **Belvedere:** Email the City Council at clerk@cityofbelvedere.org, Mayor Nancy Kemnitzner at nkemnitzner@cityofbelvedere.org, Vice Mayor James Campbell at jcampbell@cityofbelvedere.org and Police Chief Jason Wu at jwu@cityofbelvedere.org.

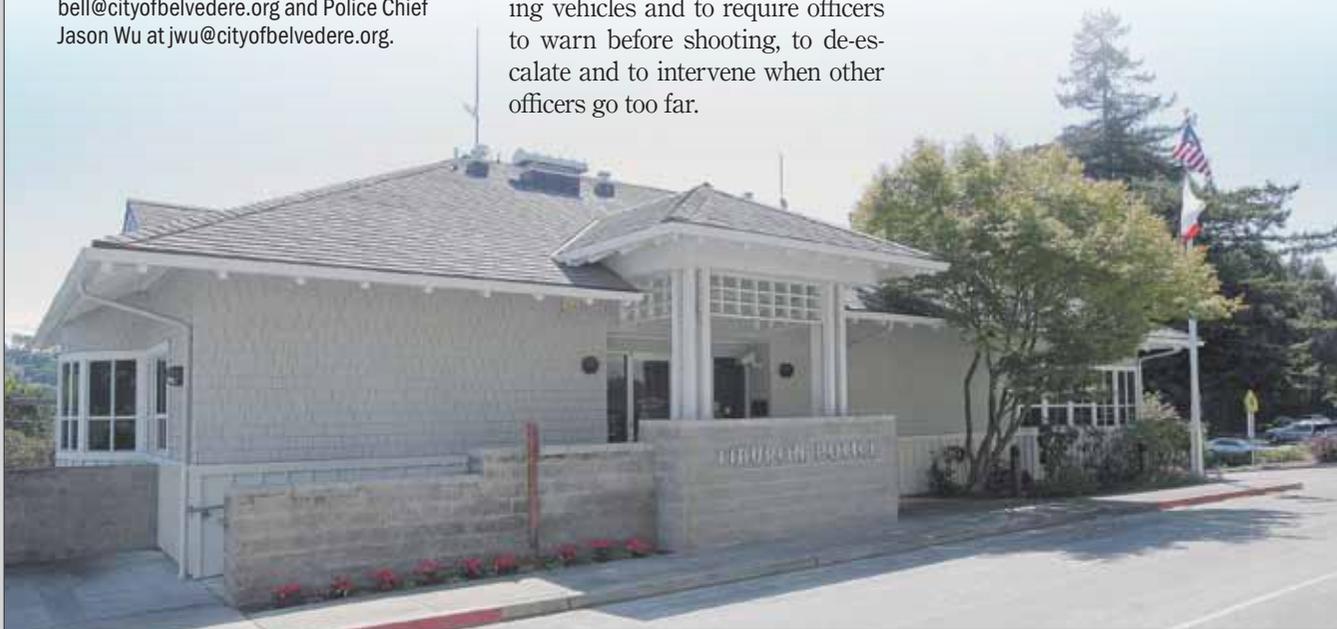
By **HANNAH WEIKEL** | hweikel@thearknewspaper.com

AS THE MEMORIAL DAY KILLING of George Floyd by Minneapolis police sparked nationwide protests to reform and defund police departments, Tiburon and Belvedere officials are examining first-step changes to their own use-of-force policies under the guidelines of the growing "8 Can't Wait" movement.

Tiburon Police Chief Michael Cronin on June 12 released a matrix on the town's website that outlines changes to the department's existing use-of-force policies to align — in part — with the campaign's eight-point plan, which seeks to ban chokeholds and shooting at moving vehicles and to require officers to warn before shooting, to de-escalate and to intervene when other officers go too far.

In several cases where the guidelines ask departments to "require" or "ban" actions, however, Tiburon's and Belvedere's policies still leave considerable room for officer discretion — including the use

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coronavirus roundup

Marin issues guidelines for salons, gyms, indoor dining and education

Tiburon sees new cases while county wins variance to move faster, offers more refined data

By **KEVIN HESSEL**
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Marin public-health officials have announced residents can now join 12-person "social bubbles" and added that indoor dining, hair salons and barbershops, nail salons, hotels, motels and short-term rentals can resume operation this month, alongside gyms and fitness studios.

The indoor activities firing up June 29 will coincide with the reopening of additional outdoor activities as part of Marin's sector-by-sector reopening of the economy amid the coronavirus pandemic. The guidelines to be issued this week will include the use of picnic areas and barbecues at public parks, as well as campgrounds, RV parks and other outdoor vehicle-based activities like drive-in movies, officials said.

The county has also announced guidelines for reopening schools in the fall, with kids in class five days a week.

Meanwhile, Tiburon saw at least two new COVID-19 cases, registering the town for the first time on the county's geographic case maps, and

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of carotid restraints, a “sleeper hold” that cuts off blood flow to the brain and is being banned across California and the nation.

Nonprofit Campaign Zero, which developed 8 Can’t Wait, asserts adoption of the policies can dramatically reduce the number of deaths in police custody, but the organization’s larger goal is to defund and demilitarize police, end “broken windows” policing strategies and increase community oversight and representation as components of addressing further underlying factors of racial injustice, including investment into housing, education, jobs, living wages and restorative justice to reduce mass incarceration.

In addition to the use-of-force updates for Tiburon police, Cronin said the entire department last week completed a two-hour racial-bias training program, and all officers will be participating in additional sensitivity training in the coming months.

In Belvedere, Police Chief Jason Wu said he is in the process of reviewing his department’s use-of-force policy in coordination with City Manager Craig Middleton; they will present their findings, along with any policy changes, to the City Council at its July 13 meeting.

Wu said he’s “pretty confident” his department’s policies and training already adhere to the 8 Can’t Wait recommendations, despite the fact that the department allows officers to shoot at moving vehicles and use carotid restraints — both of which the campaign would ban.

Both Belvedere and Tiburon develop their policies from Lexipol, a public-safety policy tool that creates customized policy manuals for law-enforcement agencies. Those policies are then vetted by a group of attorneys based on what’s lawful in that state and considered best practice.

Both chiefs said their officers rarely use force when making an arrest and both noted arrests are infrequent in their communities.

While arrests may be few and far between on the Tiburon Peninsula, of the 231 people arrested in Tiburon between 2013 and 2018, 10 percent were Black, according to the FBI’s Crime Data Explorer — more than 10 times the rate of Tiburon’s Black population, which was 0.9 percent in the 2010 U.S. Census. Some 86 percent of those arrested were white, compared with 88 percent of the population.

In Belvedere, of the 14 people arrested between 2013-2018, 100 percent were white.

Cronin said Tiburon’s disparity is due to arrests of people from “all over the Bay Area” who travel into Tiburon to commit crime. He said he’s never had an issue with Tiburon officers unjustly stopping or arresting minorities but has asked his officers on “more than one occasion” to be extra sensitive about that issue.

“I’m acutely aware of encounters between minorities and police officers,” Cronin said in

an interview. “I emphasize to officers that in those circumstances, the people we are stopping or encountering are far more fearful of the police than a white male may be ... and we have to be sensitive to that.”

Eight that ‘can’t wait’

The 8 Can’t Wait reforms have been shared widely in the weeks following the death of George Floyd, a 46-year old Black man who died May 25 after a white Minneapolis police officer knelt on his neck for more than 8 minutes. Floyd was handcuffed and lying face down in the street at the time. The official and independent autopsy reports ruled the death a homicide, and all four officers who took part in the arrest have since been fired, arrested and charged.

In the weeks since Floyd’s death, protesters have gathered and marched in cities and towns across the U.S. to show solidarity for the Black Lives Matter movement and demand systemic police reforms.

Floyd’s death had followed the March killing of 26-year-old Breonna Taylor, an emergency medical technician who was shot eight times by plain-clothes Louisville, Ky., police who raided her apartment in a no-knock search warrant; police reportedly tied the apartment to a drug suspect already in custody, but no drugs were found there. Jogger Ahmaud Arbery, 25, was chased down in February by a retired Georgia cop and his son, who allegedly shot Arbery three times over supposed recent burglaries, though none had been reported in the area for months; the case didn’t surface nationally until May, when a video of the shooting went viral and arrests were made. Since then, Rayshard Brooks, 27, was killed by an Atlanta police officer June 12 after police found him sleeping in his car. Brooks failed a breathalyzer test and resisted arrest, stealing a Taser during the scuffle. Brooks ran away and was shot in the back from 20 feet.

Campaign Zero, the group that formulated 8 Can’t Wait, says the eight policies are designed to bring about “immediate change” in police departments, meaning they can be implemented quickly and at no cost.

Scores of law-enforcement agencies across the country have responded to the reforms, whether on their own or due to pressure from the public, and many have adopted some or all of the more restrictive use-of-force measures.

DeRay Mckesson, co-founder of Campaign Zero, has said the movement began in 2014 amid protests in Ferguson, Mo., following the police shooting of an 18-year-old Black man named Michael Brown. Since then, he said, community officials have failed to hold police departments accountable and bring about policy changes to prevent deaths at the hands of police.

“We have had a failure of local leaders to be courageous in standing up against the police,” Mckesson told NBC Los Angeles in an interview earlier this month. “They have

learn more

The town of Tiburon announced June 12 that “the Police Department’s use-of-force policy has ... been reviewed and recently modified to address some of the concerns raised by the 8 Can’t Wait campaign” and posted a matrix of those changes online.

- **Read the Tiburon announcement:** arkn.ws/8announce.
- **Read the Tiburon police policy manual:** arkn.ws/TibPDmanual.
- **Read the use-of-force modifications matrix:** arkn.ws/Tib8CantWait.
- **Read the Belvedere police policy manual:** arkn.ws/BelPDmanual.
- **Learn more about the 8 Can’t Wait campaign:** 8cantwait.org.

not cut budgets, they have not cut responsibilities and they certainly have not increased any type of accountability.”

Drawing on policies from police departments in progressive metropolitan areas like Seattle; San Francisco; Washington, D.C.; and Philadelphia, Campaign Zero has formed a model use-of-force policy for law-enforcement agencies to use. It states the mission of a police department should be to protect and serve all individuals, to preserve human life by minimizing physical harm and reliance on use of force and to conduct police duties without prejudice.

According to Campaign Zero, enacting all eight policies can reduce police violence by up to 72 percent for departments that had none of the policies, based on a review of police policies and data in 97 of the 100 largest U.S. cities that showed departments with more restrictive use-of-force policies have fewer police-involved deaths. The average department had three of the eight policies in place, the group found, and overall violence would be incrementally reduced with the implementation of each policy.

Campaign Zero organizers say the measures are meant to be part of a larger effort to reform policing.

Still, some activists have criticized the campaign, from calling the data and methodology into question to saying policy updates are “an easy way out” for public officials and police departments to make small changes without addressing underlying issues. Critics say the policies don’t go far enough and that policing in the U.S. cannot be reformed and instead must be dismantled and defunded.

Supporters of defunding police departments say they’d instead like most, if not all, police funds to be directed to social services for mental health, domestic violence and homelessness, and 911 dispatchers could choose to send clinicians — such as youth-development experts, public-health practitioners, mental-health professionals or conflict mediators, rather than armed police, for crisis intervention.

Such a program, called Cahoots, already exists in Eugene, Ore., while a similar plan

is already in motion in Minneapolis, where a majority of the City Council has pledged to entirely disband the police force following Floyd’s death. San Francisco Mayor London Breed earlier this month released a plan for reform that would, among other things, remove officers from responding to noncriminal activities, instead replacing them with trained, unarmed professionals, a plan supported by Police Chief Bill Scott.

In places like Tiburon and Belvedere, for instance, most calls that summon police are nonviolent, yet at \$3.67 million, the largest share or roughly 30 percent of the town’s \$12.6 million operating budget goes to police — more than Public Works, at \$2.2 million; town administration, at \$1.9 million; or community development, at \$1.5 million. Similarly in Belvedere, funding for the Police Department is roughly twice any other department at roughly \$1.9 million, versus about \$1.1 million for Public Works and \$1 million each for general administration and building and planning.

Civil-liberties groups and lawmakers are also turning their attention to “qualified immunity,” a legal protection that keeps police officers and other government officials from being held personally liable in civil lawsuits unless their actions violated already-established legal precedents. In California, all police are protected under qualified immunity.

Some would like to end qualified immunity because they say it’s been used to protect police from being held accountable in excessive force and civil-rights-violation cases.

Data compiled by Reuters found that since 2005, courts have shown an increasing tendency to grant immunity to police in excessive-force cases.

Last week, the U.S. Supreme Court declined to hear several cases dealing with aspects of qualified immunity. Lawmakers on the left and right are now considering police-reform legislation that could restrict qualified immunity, though the White House has said it would not support a bill that removes the protection for police.

Cronin responds to calls for reform

Earlier this month, Tiburon Mayor Alice Fredericks and Vice Mayor Holli Thier issued a joint statement announcing that Police Chief Michael Cronin would review his department’s policies to “ensure our officers are protecting and serving in safe and respectful ways.”

In the statement, they said the Town Council had asked Cronin to provide information about local police training and practices and to post that information on the town’s website within a week.

On June 12, Cronin responded to the town’s request with a matrix outlining several changes he had made to the department’s use-of-force policy based on issues raised by the 8 Can’t Wait campaign.

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Budget, *continued from page 27*

That included halving the litigation deductible reserve from \$50,000 to \$25,000 and cutting an additional \$20,000 in spending for outside document scanning. The staff had previously cut \$10,000 from that expense in the current fiscal budget. The work was part of a multiyear project to scan old documents so the town can eventually eliminate the paper files.

Other cuts included reducing contingency funds in the administrative department budget by \$15,000; reducing the contingency funds in the legislative support budget by \$1,000; reducing outside plan-check contracting by \$10,000; and reducing the holiday lighting expense by \$7,500.

Councilmember Jon Welner called the changes “sensible.”

“It’s a nice balance of relatively minor cuts and reclassification of expense,” he said.

Councilmember Jack Ryan asked if Chanis

or other city managers in Marin had adjusted the transient-occupancy tax and sales-tax projections for the coming fiscal year.

Tiburon is projecting a sharp decrease — 34 percent — in the category of taxes that includes sales, property transfer and transient occupancy, or hotel, taxes, due to the coronavirus-related economic shut down.

Chanis said he had had those discussions. “Nothing has changed in the last two weeks that would change our projections,” he said. “We feel comfortable not adjusting

those figures upward.”

Councilmember David Kulik commended the year-after-year habit of fiscal conservatism that has kept town operations lean and its reserves high.

“It allows us to offer a level of service that can weather storms,” he said.

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Even with the changes, the department's policy doesn't satisfy all of the suggested reforms and continues to rely on the officer's discretion to determine the amount and type of force used in a given situation.

The suggested policies:

- **Ban chokeholds, strangleholds and all other types of neck restraints.**

Cronin said the Tiburon department's policy only allows the use of the carotid restraint, which is different from chokeholds in that they restrict blood flow through the neck as opposed to airflow.

However, if used improperly, carotid holds can cut off oxygen supplies to the brain or cause strangulation. A carotid knee hold led to Floyd's death in Minneapolis, according to autopsy reports.

The neck hold has recently been banned by police agencies in San Francisco and San Diego, and the Marin County Sheriff's Office. Meanwhile, California Gov. Gavin Newsom and Attorney General Xavier Becerra have joined the call asking for police departments across the state to prohibit the move.

In an interview June 22, Cronin said the department's thinking on carotid restraints is evolving.

"We are watching what other agencies, including the state, are doing and may ultimately prohibit it completely."

Until then, Cronin has reclassified its use as a "deadly force application," similar to Los Angeles' reclassification, meaning the hold now has the same restrictions as the use of a firearm and can only be used when an officer believes there's an imminent threat to their life.

Previously, any Tiburon officer who had been trained on the proper application of the carotid hold was permitted to use it in circumstances where it "reasonably appeared necessary."

Cronin said the carotid hold is rarely, if ever, used by officers in Tiburon, but he preferred to keep the option available to officers in a "life-threatening physical confrontation" where the officer is unable to access their gun or other weapons.

"There may be an extreme circumstance where that's an option of last resort for an officer whose life is in imminent danger," Cronin said.

- **Require officers to de-escalate situations, where possible, by communicating, maintaining distance and otherwise eliminating the need to use force.** The 8 Can't Wait campaign calls for departments to require officers to attempt to de-escalate a situation before any use of force and to consider other factors, like medical conditions, developmental disability and language barriers that may add to an individual's failure to comply with police orders

Although Cronin said de-escalation is an "implicit" theme in the department's use-of-force policy, he has added new language clarifying the department's stance.

"No good police officer goes into a situation with the intention to use force," Cronin said.

The addition said officers should, when time and circumstances permit, take action to reduce the immediacy of the threat so "more time, options and resources are available to resolve the situation." It notes the goal of de-escalation is to "reduce or eliminate the necessity to use physical force."

- **Require verbal warning in all sit-**



Police agencies around the nation, including the Tiburon and Belvedere police departments and the Marin County Sheriff's Office, are updating their use-of-force policies based on the 8 Can't Wait campaign guidelines issued by police-reform nonprofit Campaign Zero.

uations before using deadly force. The 8 Can't Wait policy would require officers to issue a verbal warning and to have a "reasonable basis" to believe that the warning was heard and understood by the individual prior to using deadly force against them.

Tiburon's policy does not require a warning before shooting unless the subject is running away. However, Cronin said officers are trained to always identify themselves as police and, when possible, to give a warning before any use of force.

- **Exhaust all other means before shooting or using deadly force.** Under the 8 Can't Wait policy, officers would be required to "exhaust all reasonable alternatives to the use of deadly force, including de-escalation, other reasonable means of apprehending the suspect, defending themselves or others."

While the Tiburon policy does not expressly require officers to exhaust all other means before shooting, it does require officers to use "only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time."

The policy provides a list of factors to consider when determining the reasonableness of force, including immediacy and severity of the threat to officers or others, proximity of weapons, the subject's mental state or capacity and the availability of other options and their possible effectiveness.

"Using deadly force is the absolute last resort ... when all other things have been exhausted," Cronin said.

- **Duty to intervene and stop excessive force by other officers.**

Tiburon's policy fully satisfies the 8 Can't Wait recommendation to require officers to intervene and stop excessive force used by another officer, and to report those incidents immediately to a supervisor.

Three other officers stood by or also held Floyd down in the Minneapolis incident, despite a police policy change in 2016 requiring they intervene.

According to Tiburon's "duty to intervene" policy, an officer must immediately step in when they observe another officer using force that is "clearly beyond" that which is "objectively reasonable" in that circumstance. The officer is then required to promptly report their observations to a supervisor.

- **Ban shooting at moving vehicles in all cases.**

Tiburon policy continues to allow officers to shoot at moving vehicles in "the most extreme circumstances," despite its inherent risk.

The department's policy begins with the caveat that "shots fired at or from a moving vehicle are rarely effective." It says officers should move out of the path of a car instead of shooting at it. Shots should only be fired at a moving vehicle when the officer "reasonably believes" there are not other means available to avert a threat.

Tiburon officers are prohibited from shooting at any part of a vehicle in an attempt to disable it.

Cronin said he could only recall two instances in his 45-year law-enforcement career when officers shot at a car; once during an armed bank robbery when the suspects attempted to run an officer down in the street and another on a country road when the driver shot at an officer.

Cronin said he's less inclined to remove options for officers with the departments policies and more inclined to add restrictions if necessary.

"I can't predict every circumstance an officer will be in, but in those rare circumstances that an officer would need to shoot at a car, I don't want to put them in the position that their actions would be outside the company policy and subject to legal action as a result," he said.

- **Require "force continuum" that limits the types of force and weapons used to respond to specific types of resistance.**

Tiburon's use-of-force policy does not include an explicit force continuum. Instead, it relies on the officer's discretion to determine what level of force is appropriate in a given situation.

However, the policy does require officers to consider lesser means of force before using physical tactics like pain-compliance techniques and carotid restraints.

According to the National Institute of Justice, a use-of-force continuum generally has many levels, and officers are instructed to respond with a level of force that's appropriate to the situation at hand.

Continuums typically start with the officer's presence, which in itself can be considered a use of force. They then escalate from verbal commands to grabs and holds to use of police weapons to gain control of a situation. Lethal force is considered a last resort when a suspect poses a serious threat.

- **Require officers to report each time they use force or threaten to use force against a civilian.**

Every time they use force, Tiburon police officers are required to turn in a comprehensive report that includes an explanation of why the officer believed the use of force was reasonable under the circumstances.

Supervisors are also required to review each use of force to ensure officers are adhering to the use-of-force policy and training.

Furthermore, all data regarding officer-involved shootings and use of force that results in serious bodily injury is reported to the California Department of Justice as required by state law.

Cronin said he reads every police report written by his officers and is aware of any application of force.

"There are very few incidents — we use very, very little force," Cronin said, adding that the most recent use of force by a Tiburon officer was "putting hands on" to get someone into handcuffs during an arrest.

Belvedere awaits department's response

At its June 8 meeting, the Belvedere City Council called on Wu, the city's police chief, to review the department's use-of-force policy and training regimen and present his findings at the council's next meeting in July.

Middleton, the Belvedere city manager, will be reviewing the policies in concert with Wu. He said he wants to make sure the department's policies reflect what is "wanted and needed" in Belvedere.

"Specifically with the use of force, there may be some things we just don't need in our policy," Middleton said, adding that "a lot of people are looking into these different types of (neck) holds."

Middleton said the policy review would be informed by changes made by other police departments as well as the 8 Can't Wait recommendations.

Belvedere Mayor Nancy Kemnitzer said she's in the process of educating herself on policing issues that have led to the calls for reform and would wait to hear what Wu presents the council next month before commenting on Belvedere police policy.

"There may be changes, but I won't know until we have the report and we can see what the use-of-force policy says," she said in an interview.

Belvedere's policy is nearly identical to Tiburon's in that it allows carotid restraints and shooting at moving vehicles, and it doesn't have specific language about a use-of-force continuum or de-escalation.

According to Wu, Belvedere police specialize in "community policing," which focuses on serving the unique needs of residents. He said Belvedere officers rarely resort to using force and that the department regularly reviews its use-of-force policy.

"I think it's important to realize ... we have a long history of lawful use of force," Wu said. "Just because we have something on the books doesn't necessarily mean we are going to use it."

Still, Wu said, he's willing to making reforms based on the 8 Can't Wait guidelines.

"As long as it's best practice and lawful and in the best interest of the community and the police officers, I'm open to making changes," Wu said.

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