



OAKLAND POLICE COMMISSION REGULAR MEETING AGENDA

August 10, 2023

5:30 PM (Open Session: 6:30 PM)

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department to ensure its policies, practices, and customs conform to national standards of constitutional policing, and to oversee the Office of the Inspector General, led by the civilian Office of Inspector General for the Department, as well as the Community Police Review Agency (CPRA), led by the Executive Director of the Agency, which investigates police misconduct and recommends discipline.

**Please note that Zoom links will be to observe only.
Public participation via Zoom is not possible currently.**



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PUBLIC PARTICIPATION

The Oakland Police Commission welcomes public participation. During this time of transition back to in-person meetings, we are currently prohibited from implementing hybrid meetings. Please refer to the ways in which you can observe and/or participate below:

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link <https://us02web.zoom.us/j/89973850663> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled “Joining a Meeting”
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 or +1 669 444 9171 or +1 719 359 4580 or +1 253 215 8782 or +1 346 248 7799 or +1 646 931 3860

Webinar ID: 899 7385 0663

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting By Phone.”

Use of Zoom is limited to observing, public comment will not be taken via Zoom

PROVIDE PUBLIC COMMENT IN PERSON:

- Public comment on each agenda item will be taken. Members of the public wishing to comment must fill out a speaker card for each item they wish to comment on. Speaker cards will be accepted up until Public Comment for each item begins. Please submit your cards to the Chief of Staff before being recognized by the presiding officer.
- Comments must be made on a specific agenda item covered in the meeting that the comment was submitted for, and that item must be written on the speaker card, or they will be designated open forum comments.
- Comments designated for open forum, either intentionally or due to the comments being outside of the scope of the meeting's agenda/submitted without a including a written agenda item, will be limited to one comment per person.

E-COMMENT:

- Please email written comments to opc@oaklandcommission.org. E-comments must be submitted at least **24 hours** prior to the meeting with the agenda item to which it pertains. Open Forum comments are limited to one per person.



OAKLAND POLICE COMMISSION

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August 10, 2023

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I. Call to Order, Welcome, Roll Call and Determination of Quorum

Chair Tyfahra Milele

Roll Call: *Vice Chair Jordan; Commissioner Rudolph Howell; Commissioner Jesse Hsieh; Commissioner Regina Jackson; Commissioner Marsha Peterson; Alternate Commissioner Karely Ordaz; Alternate Commissioner Angela Jackson-Castain*

II. Closed Session (approximately 5:30-6:30 p.m.)

The Police Commission will take Public Comment on the Closed Session items.

THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION AND WILL REPORT ON ANY FINAL DECISIONS DURING THE POLICE COMMISSION'S OPEN SESSION MEETING AGENDA.

CONFERENCE WITH LEGAL COUNSEL

EXISTING LITIGATION (Government Code Section 54956.9(d)(1))

Delphine Allen et al., v. City of Oakland, et al.

N.D.Cal No, 00-cv-4599-WHO

III. Open Forum Part 1 (2 minutes per speaker, 15 minutes total)

Members of the public wishing to address the Commission on matters that are not on tonight's agenda but are related to the Commission's work should submit a speaker card prior to this item. Comments regarding agenda items should be held until the agenda item is called for discussion. Speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2. ***This is a recurring item.***

IV. Discussion and Possible Approval of DGO D-22 Personal Relationship Disclosure

Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 4](#))

- a. Discussion
- b. Public Comment
- c. Action, if any

V. Discussion and Possible Approval of IAD 23-01 General Operating Procedures

Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 5](#))

- a. Discussion
- b. Public Comment
- c. Action, if any



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5:30 PM (Open Session: 6:30 PM)

- VI. Discussion and Possible Approval of TB V-T.01 Internal Investigation Procedure Manual**
Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 6](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- VII. Discussion and Possible Approval of CID PP 23-02 Recusal Process**
Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 7](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- VIII. Discussion and Possible Approval of CID PP 23-01 Investigative Training Program**
Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 8](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- IX. Discussion and Possible Approval of DGO M-04.1 Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel**
Following up on our May 25, June 22, July 13, and July 27 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a discussion on all the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process for a possible vote to approve by the Police Commission. ([Attachment 9](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- X. Discussion and Possible Approval of Investigative Recusal Form ([Attachment 10](#))**
- a. Discussion
 - b. Public Comment
 - c. Action, if any



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- XI. Discussion and Possible Approval of Reviewer Recusal Form ([Attachment 11](#))**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XII. Community Police Review Agency (CPRA) Update**
- Per Oakland Municipal Code §2.46.040, CPRA Executive Director Mac Muir will provide a monthly written report on the CPRA at the August 10 Commission meeting, in light of the August 24 meeting cancellation. In addition to a written report, Commission leadership has requested an update to the Commission in an effort to ensure transparency and publicly available information. ***This is a recurring item.*** ([Attachment 12 - Supplemental](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XIII. Discussion and Possible Approval of a Formal Request to the City of Oakland for a Broadened Definition of “Serious Incident” to Address Lack of a Clear City Administrator Protocol for Serious Incident Notifications to OPC Chair, IG, and CPRA Director ([Attachment 13](#))**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XIV. Discussion and Possible Approval of an Immediate Invitation to the Monitor for Regular Closed Session Briefings to the Police Commission and Its Direct Reports on the Status of Compliance Issues to Address Lack of City, Monitor, and IMT Coordination with Police Commission and CPRA**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XV. Discussion on Implementation of a Standard Practice to Address Lack of City, Monitor, and IMT Coordination with OPC and CPRA with Confidential Files and Records**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XVI. Discussion and Possible Direction of Commission Counsel to Work with City and OPD to Create Improved System of Managing Requests for Confidential Records and Files**
- a. Discussion
 - b. Public Comment
 - c. Action, if any



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- XVII. Report Back on Bey Letter to Court Monitor ([Attachment 17 — Supplemental](#))**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XVIII. Discussion and Possible Approval of Supervised Release Policy Impact Study and Funding**
Vice Chair Jordan will lead a discussion on the proposal of completing a Supervised Release Policy Impact Study. ([Attachment 18 — Supplemental](#))
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XIX. Preliminary Discussion on Possibility of Hybrid Commission Meetings and Request for Rules Ad Hoc Committee to Provide Recommendation ([Attachment 19](#))**
- a. Discussion
 - b. Public Comment
 - c. Action, if any
- XX. Committee Reports**
Representatives from Ad Hoc Committees will provide updates on their work.
This is a recurring item. ([Attachment 20](#))
- **Negotiated Settlement Agreement “NSA” (Commissioners Hsieh and Milele)**
This Ad Hoc Committee is tasked with: (1) Representing the Commission in all deliberations and discussions with other City of Oakland stakeholders pertaining to the Sustainability Period and efforts to resolve Court oversight; (2) Reviewing the status of OPD compliance with NSA Tasks 5 (investigations) and 45 (racial disparity in discipline) and make recommendations as to any policies that may be required to achieve compliance in these areas, including the review and assessment of the January 18, 2023 policy recommendations of Clarence, Dyer & Cohen, LLP; and (3) Recommend policies and actions required to ensure that the constitutional policing mandated by the NSA continue beyond the Sustainability Period.
 - **Racial Profiling (Full Commission)**
This Ad Hoc Committee is tasked with developing a policy to address racial profiling in OPD.
 - **Staff Evaluations: IG, CPRA (Commissioners Jordan and Howell)**
The mission of this Ad Hoc is to establish the criteria upon which the Inspector General and CPRA Executive Director will be evaluated by the Police Commission.
- a. Discussion
 - b. Public Comment
 - c. Action, if any



OAKLAND POLICE COMMISSION

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XXI. Upcoming/Future Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. ***This is a recurring item.*** ([Attachment 21](#))

- a. Discussion
- b. Public Comment
- c. Action, if any

XXII. Open Forum Part 2 (2 minutes per speaker, 15 minutes total)

Members of the public wishing to address the Commission on matters that were not on tonight's agenda but are related to the Commission's work should submit a speaker card prior to the start of this item. **Persons who spoke during Open Forum Part 1 will not be called upon to speak again without prior approval of the Commission's Chairperson.** ***This is a recurring item.***

XXIII. Adjournment

NOTICE: In compliance with the Americans with Disabilities Act and Equal Access Ordinance, for those requiring special assistance to access the videoconference meeting, to access written documents being discussed at the Discipline Committee meeting, or to otherwise participate at Commission meetings, please contact the Police Commission's Chief of Staff, Kelly Yun, at kyun@oaklandca.gov for assistance. Notification at least 72 hours before the meeting will help enable reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids, or services.



DEPARTMENTAL GENERAL ORDER

D-22: Personal Relationship Disclosure Policy

Effective Date: DD MMM YY

Coordinator: OPD Human Resources Division

COMMAND INTENT

This policy is designed to identify and mitigate actual and perceived conflicts of interest inherent in personal relationships between members.¹ The policy does so by requiring disclosure of certain personal relationships between members and providing guidance in the event actual or perceived conflicts of interest arise. These protections are intended to ensure an individual member cannot unfairly benefit, gain an advantage, or suffer a disadvantage, as compared to another, strictly due to a personal relationship.

A. DEFINITIONS**A - 1. Cohabitant Relationship**

Any relationship where a member shares a residence with another member. This includes non-romantic roommates.

A - 2. Consensual Romantic Relationship

Any consensual sexual or romantic relationship with another member.

A - 3. Close Friendship

A non-family, non-romantic relationship wherein the two parties are more than acquainted and who have participated together in non-departmental social events or are privy to private details in one another's personal or family lives.

Examples may include, but are not limited to, having visited one another's homes for social functions, having traveled together, or having spent more than passing time in the company of each other or each other's families.

A - 4. Cronyism

Participating in any employment decision that may contain an actual or perceived conflict of interest, such as one involving a close friend, business partner or professional, political, or commercial relationship, that would lead to preferential treatment or compromise the appearance of fairness.

A - 5. Outside Business Relationship

Members who, in addition to serving as a member of the Oakland Police Department, are also an independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture, or other transaction, in

¹ A member refers to all OPD employees, sworn or professional staff.

cooperation with another Department member, where either of the Department member's annual interest, compensation, investment, or obligation is greater than \$250.

A - 6. Familial Relationship

Includes relationship by blood, adoption, marriage, domestic partnership, foster care with cohabitation, and includes parents, grandparents, great-grandparents, grandchildren, great-grandchildren, children, foster children, uncles, aunts, nephews, nieces, first cousins, second cousins, siblings and the spouses or domestic partners of each of these relatives and cohabitants. This definition includes any relationship that exists by virtue of marriage or domestic partnership, such as in-law and step relationships, which are covered to the same extent as blood relationships.

A - 7. Supervising Members

Any Department member who performs supervision of one or more subordinate members.

A - 8. Supervision²

Supervision is authority, direction, control, or influence, including being in the same chain of command, and the ability to participate in decisions about terms and conditions of employment of one or more other members.

A - 9. Subordinate Members

A Department member who is subject to the temporary or ongoing direct or indirect authority of a department supervisor.

B. DISCLOSURE OF PERSONAL RELATIONSHIPS³

B - 1. Personal Relationships between Supervisors and Subordinates

Under circumstances detailed below, the Department requires disclosure of personal relationships between supervisors and subordinates. Personal relationships include the following:

- Familial relationship
- Outside business relationship
- Consensual romantic relationship

² Oakland Municipal Code (OMC) Chapter 2.40 definition of "Supervision."

³ These reporting requirements and prohibitions on supervision are required for all City employees and pursuant to Oakland Municipal Code (OMC) Chapter 2.40 and Administrative Instruction (AI) 72.

This reporting procedure is a separate from required recusal process during a Criminal Investigation and Internal Affairs investigation.

B - 2. Timeline for Disclosure

All supervising members must disclose to the Human Resources Manager their personal relationships, as defined above, with existing members no later than 30 days from the effective date of this policy, and annually thereafter.

Additionally, any subordinate member in a relationship, as defined above,, as listed in Section B-1, with a supervising member must disclose to the Human Resources Manager their personal relationships no later than 30 days from the effective date of this policy, and annually thereafter.

B - 3. New Relationships

As new personal relationships, as listed in B-1, arise, members must disclose said relationships to the Human Resources Manager within 30 days of their inception.

B - 4. Penalties for Failure to, or Delay In, Disclosing Relationships

Any member who fails to disclose, or unnecessarily delays disclosure of, a relationship, as defined above, with another Department member is subject to discipline consistent with current Manual of Rules Section 314.39 – Performance of Duty⁴ and the discipline matrix.

B - 5. Failure to report relationships, including cohabitant and romantic relationships involving supervision.⁵

Any member who becomes involved in one of the listed relationships with a subordinate or with a supervisor and who willfully and deliberately fails to disclose their relationship as directed in this policy shall be subject to discipline.

C. SUPERVISORS AND SUBORDINATES

C - 1. Prohibited Permanent Assignments

⁴ 314.39 PERFORMANCE OF DUTY – All members and employees shall perform their assigned duties and responsibilities as required or directed by law, Departmental rule, policy, or order by a competent authority. Each member and employee is accountable for the exercise of delegated authority, and shall not conceal, divert or mitigate their true culpability. - Failure to perform duties as required or directed by law, Departmental rule, policy, or order.

⁵ OMC 2.40.050, City of Oakland Administrative Instruction (AI) 72

With limited exception⁶, a member at any rank shall not directly supervise a member with whom they **currently, or have previously**, possessed:

- a consensual romantic relationship,
- an outside business relationship,
- a **familial** relationship.

Additionally, with limited exception, a member at any rank shall not directly supervise a member with whom they **currently** possess:

- a cohabitant relationship.

C - 2. Mitigation of the Potential for the Relationship to Affect the Workplace

Following receipt of information establishing a prohibited supervisory assignment exists, the Department's Human Resources Manager, in consultation with the Office of the City Attorney, will work with the Deputy Chief overseeing the bureau wherein the relationship exists to make arrangements to mitigate any influence the relationship may have upon those engaged in the relationship, as well as for other members working in or around those in the relationship. Options for mitigation may include reassignment or redistribution of supervisory responsibilities.

The Chief of Police or designee may transfer either or both members to avoid actual or perceived conflicts of interest, undue emotional stress, and the potential for assertion of marital privilege provisions in the California Evidence code by affected members.

C - 3. Waiver

When the Department deems it operationally important for both parties in a relationship to be assigned to the same chain of command, the Department may seek a waiver from the City Administrator. Even with an approved waiver, mitigation measures must be instituted to limit the potential for the relationship to adversely impact the members, co-workers, work product, and the Department itself.

C - 4. Emergency Exceptions and Responsibilities

If emergency circumstances require the temporary assignment of members in violation of these defined prohibitions, both the supervising and subordinate members are responsible for deferring matters pertaining to the involved subordinate member to a different supervising or commanding member as soon as possible.

D. CRONYISM

⁶ As explained in section C-3 Waiver.

D - 1. Personnel Assignments and Promotions

Any supervisor with decision-making authority (or influence upon the decision-making process) over promotion or assignment of personnel within the Department shall recuse themselves from any process during which a member with whom they have a relationship, as defined above, is being considered for promotion or assignment. The involved commander shall defer authority and influence over the decision and shall not participate in discussions.

D - 2. Third Party Reporting Requirement

A member who becomes aware that a supervisor or subordinate has attempted to influence employment or supervisory decisions or has attempted to change the terms and conditions of employment of any individual with whom that person has a relationship, as defined above, shall report that attempt to the Internal Affairs Division, per *DGO M-03: Complaints Against Departmental Personnel or Procedures*.

D - 3. Penalty for Participating in or Failing to Report Cronyism

Any member who participates in, witnesses and fails to disclose, or unnecessarily delays disclosure of cronyism in action is subject to discipline consistent with current Manual of Rules sections and discipline matrix.

E. PEER ASSIGNMENT RESTRICTIONS

E - 1. Prohibited Permanent Assignments

With limited exception, members of the same rank who currently possess a consensual romantic relationship, an outside business relationship, a familial relationship or a cohabitation relationship are subject to the following restrictions:

- The members may not work closely⁷ together.
- In the event both parties in the relationship are thus assigned, every reasonable effort must be made to reassign one of the members.
- Members in the above-specified relationships shall not ride in the same vehicle while conducting enforcement or investigative duties, or where they may reasonably be required to transition into conducting enforcement or investigative duties.⁸

E - 2. Members' Responsibilities

In the event members find themselves working closely with someone with whom they have a relationship, as defined above, they shall make their circumstances known to their supervisor as soon as practical.

⁷ "Closely" means within the same squad. (For example: District 4, B side, Swing shift, or CID – Burglary Section)

⁸ Exceptions may include members assigned to a training activity or attending ceremonial events.

E - 3. Supervisor Responsibility

Upon notification of a relationship, as defined above, among their assigned squad, a supervisor shall make every reasonable effort to comply with the restrictions enumerated in E-1.

E - 4. Emergency Exceptions and Responsibilities

If emergency circumstances require the temporary assignment of members in violation of these defined prohibitions, the members shall notify their assigned supervisor.

The supervisor who becomes aware of the personal relationship is responsible for mitigating the actual or perceived conflict of interest and facilitating the re-assignment of one or both members for the duration of the emergency circumstance.

F. CONFIDENTIALITY

It is the desire of the Department to respect and uphold the privacy rights of its members. Information concerning declared personal relationships shall be treated as confidential, disclosed only on a right-to-know, need-to-know basis, and if disclosed at all, only with enough information to guarantee avoidance of an actual or perceived conflict of interest.⁹

F - 1. Human Resource Manager Responsibilities

The Department's Human Resource Manager is responsible for the collection of information concerning personal relationships between supervisor and subordinates. Such information will be preserved for the duration of the members' employment.

F - 2. Human Resource Manager as Reference Prior to Personnel Movement

The Department's Human Resource Manager shall be consulted by the Chief of Police, or designee, prior to personnel assignments, changes or amendments, to ensure actual or perceived conflicts are not created via such personnel movement.

F - 3. Human Resources Manager Deconfliction Power

The Department's Human Resource Manager shall be responsible for coordinating with the parties involved in the personal relationship in identifying and implementing alternate arrangements.

F - 4. Secured Location

⁹ Example: The HR Manager may indicate to the Chief of Police a certain officer has an actual or perceived conflict of interest if transferred into an assignment, but under no circumstance should the HR manager disclose the nature of the personal relationship or the identity of the other party in said relationship.

The personal relationship disclosure form shall be kept in a secured location, accessible only by the Department's Human Resource Manager or designee.

In no case shall the record be disseminated via email, uploaded to a cloud-based server, or otherwise made susceptible to release beyond the Human Resources Manager or designee.

F - 5. Document Retention

Once the member has concluded their employment with the Oakland Police Department, the member's personal relationship disclosure form(s) shall be retained for five years before being destroyed.

No form shall be deleted while any request for the form is pending, including but not limited to a public records request or litigation hold request.

By order of,

Darren Allison
Acting Chief of Police

Date Signed: _____

APPENDIX A



****CONFIDENTIAL INFORMATION****
PERSONAL RELATIONSHIP
DISCLOSURE FORM

In accordance with the Department General Order D-22: Personal Relationship Disclosure Policy, supervisors must complete, sign and submit this form to the Human Resource Manager no later than 30 days from the development of a personal relationship with a subordinate, and again annually. Members involved in a personal relationship with a supervisor must also complete, sign and submit this form to the Human Resource Manager no later than 30 days from the development of the personal relationship with a supervisor, and again annually.

Member's Information

Name: _____ Title / Position: _____
 Department: _____ City of Oakland Email Address: _____
 Phone: _____ Cell Phone: _____
 Office Location: _____ Supervisor's Name: _____

<i>Current or Former: Consensual Romantic, Outside Business, Familial Relationship</i>	Name of Other Member

Member's Signature _____ Date _____

**Oakland Police Department
Internal Affairs Division**

Policy 23-XX (Formerly 21-01)

**Effective Date:
DD MMM 23**

Internal Affairs Policy and Procedure Manual

NSA Tasks: 1, 2, 3, 4, 7, 10, 13, 45

Index as: IAD General Operating Procedures

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OAKLAND POLICE DEPARTMENT INTERNAL AFFAIRS DIVISION
INTERNAL AFFAIRS DIVISION MISSION STATEMENT

The Internal Affairs Division (IAD) performs a critical function within the Oakland Police Department (OPD). Its job is to maintain the integrity and values of the OPD by conducting fair, impartial, and objective investigations of all allegations that an OPD employee has committed misconduct or that OPD policies or procedures themselves are flawed.

There is an absolute right for any community member to file a complaint if he/she feels wronged by an employee or policy of the OPD. The complaint may be written or oral, with or without use of the official IAD complaint form, which is available on the OPD website. There is no time limit to file a complaint. The IAD commits to handling all complaints fairly through procedures that are clear and transparent to all involved.

By doing its job properly, the IAD intends to build trust and respect between its two constituencies – the community and the police. Where a complaint leads to officer discipline or correction of a defective OPD policy, both the community and the police benefit. Reform, narrow or far-reaching, may occur. Even where no actual change results from a complaint, the IAD process may give the OPD insight into how it is perceived by the public and may provide an important opportunity to reach out to the community, explain a policy, bridge gaps in communication, or – at a minimum – demonstrate empathy with someone who has had a negative encounter with the OPD.

Police work is often difficult and complex. To the staff of the Internal Affairs Division, the OPD encourages you to assist those needing your help with heartfelt enthusiasm, knowing that you are fulfilling the mandate of the IAD.

DRAFT

INTERNAL AFFAIRS DIVISION

INTERNAL AFFAIRS DIVISION COMMANDER

Rank: Captain of Police
Immediate Supervisor: Deputy Chief of Police, Bureau of Risk Management¹
Immediate Subordinates: Intake and Administrative Section Commander, Division Level Investigations Section Commander/Manager, and Investigations Section Commander
Primary Responsibilities: Manage all aspects of the Internal Affairs Division; to include investigations of all complaints against OPD personnel; Manage the Force Investigations Section

AUTHORITIES

Acceptance or Rejection of Advice from the OCA

The IAD Commander is the sole authority within the Division who may decline or reject legal advice or advice regarding investigative sufficiency from the Office of the City Attorney (OCA). The IAD Commander is the sole authority within the Division who may adjust the time period for review of reports of investigation by the OCA, based on the nature, scope, complexity of the investigation, and availability and necessity of IAD and OCA staff, as set forth in TB V-T.1 subject to the time requirements under government code 3304. Internal Investigations Procedures. The IAD Commander shall confirm any adjustments for review in writing.

Authorize the viewing of Body Worn Camera (BWC) video

The IAD commander or his designee have the authority to authorize a subject member to view their BWC video, provided it will not adversely affect the investigation, pursuant to the provisions of DGO I-15.1. The IAD Commander/designee may consult with the CPRA in its evaluation of whether allowing a subject member to review their BWC video may adversely affect the investigation. Authorization shall be documented in the Chronological Activity Log of the current database system.

Authorize the completion of an investigation with a summary finding

The IAD Commander or his/her designee has the authority to authorize an IAD investigation to be completed as a summary finding, or other investigative format as enumerated in DGO M-3. The authorization shall be documented in the current database system.

Authority to administratively close an IAD investigation

The IAD Commander has the authority to administratively close an IAD investigation in accordance with DGO M-03. This shall be documented in the current database system.

Authorize certain significant changes to an ROI

Requests for significant changes to an ROI must be routed through the investigating member's assigned Captain of Police. The Captain must review and approve the content underpinning the request before submitting it to the IAD Commander to concur or dissent. In the absence of the IAD Commander, only the Bureau of Risk Management Deputy Chief, the Assistant Chief and the Chief of Police may authorize the significant changes to the ROI (IAD and Division-level

¹ Although the BRM DC is the IAD Captain's immediate supervisor, the IAD Captain has direct access to the Chief and is not prevented from bypassing the BRM DC and meeting directly with the Chief as necessary.

investigations): (1) removing or changing MOR violation allegations, and (2) removing members or downgrading members from subjects to witnesses.

The IAD Commander's approval or decent of such changes shall be communicated via email back to the requesting investigator and their chain of command. The communication of the approval or disapproval shall also include a reminder to the investigating member to include documentation of the decision in the ROI and a copy of the CAL and of the email in the physical case file.

DUTIES AND RESPONSIBILITIES

Administer the Division

The IAD Commander's administrative duties and responsibilities include, but may not be limited to, the following:

- Oversee the daily operation of the Division and ensure all complaints are received, processed, investigated, and reviewed in accordance with controlling state laws and Departmental policy.
- Ensure the Division's workload is monitored.
- Notify the Chief of Police of instances where complaints and/or workloads exceed staffing capability and discuss recommendations for mitigating the issue.
- Approve and monitor the Division budget, overtime, purchases, and contracts.
- Prepare, administer and forward annual performance appraisals for section commanders of the Division in accordance with the provisions of DGO B-06, Performance Appraisals; and Quarterly Personnel Assessment System (PAS) Meetings in accordance with DGO D-17, PAS Reports.
- Ensure mandated training and cross-training for IAD personnel is conducted and documented.
- Ensure all existing and new members to the IAD comply with DGO E-3.1.
- Ensure Annual Report for IAD is completed for inclusion in the Departmental Annual Report.

Oversee Case Intake and Processing

The IAD Commander ensures that cases are accepted, processed, and assigned a disposition properly by doing the following:

- Approve any DLI or IAD investigation which has been administratively closed.
- Ensure all voluntarily withdrawn cases are reviewed by the IAD Section Commander assigned to the case at the time it is withdrawn.
- Review tracking reports of all open cases, including tolled investigations.
- Review the Daily Intake Report.
- In accordance with DGO M-03, notify the Chief of Police, Assistant Chief of Police, City Administrator, and Monitoring Team of a complaint in intake that is high-profile. Examples of high-profile incidents include, but are not limited to: the arrest of any OPD member; a complaint of a serious nature as to require some form

of immediate action (e.g., emergency suspension, administrative leave, temporary reassignment, etc.); any Class 1 MOR allegation against a professional staff manager or sworn commander; or misconduct likely to generate unusual public interest (e.g., alleged criminal conduct, serious injury, death, etc.).

Oversee and Review Internal Investigations

The IAD Commander exercises oversight and command over Internal Investigations by doing the following. Additional duties and responsibilities regarding this aspect of the IAD Commander's responsibilities may arise.

- Participate directly in an internal investigation if directed by the Chief of Police.
- Review and approve/deny requests to downgrade a subject officer to a witness officer. Any such actions must be documented in the case's chronological log.
- Review all completed IAD and DLI investigations, including administrative dispositions, for appropriateness. Reviews should ensure impartiality, fairness, and thoroughness by examining, among other things, adherence to Training Bulletin V-T.1, quality of and adherence to investigative plans, correct application of the standard of proof, credibility assessments, promptness and quality of interviews (e.g., avoiding leading questions and resolving inconsistencies), and analysis of the evidence.
- Review and approve/deny requests for a Summary Finding.
- Review and approve/deny requests to view Body Worn Camera footage pursuant to DGO I-15.1.
- Review and approve/deny requests to remove, amend or change allegations during an investigation.
- Ensure that investigative timelines are adhered to pursuant to DGO M-03.
- Ensure that Skelly packets are assigned to Skelly Officers in a timely fashion.
- Coordinate with Community Police Review Agency (CPRA) Executive Director for any independent parallel investigation that goes to the Skelly process to ensure concurrences are memorialized.
- Respond to OIS/Level 1 investigations and coordinate IAD investigation.
- During Level 1 Investigation callouts, communicate with the Chief of Police, Assistant Chief of Police and Monitoring Team.
- Provide an oral report to the COP within 72 hours of Level 1 incidents (DGO K-4), and additional briefings as appropriate or directed by the COP. Assure an IAD notetaker documents the briefing and saves the notes on the IA server similar to the notetaking that occurs at IAD/OCOP Weekly Meetings.
- For IAD callouts, initiate IAD Callout Team and notify CPRA Executive Director, and, when applicable, ensure Peer Support responds to the scene per DGO B-17 Crisis Intervention Team.
- Prepare Administrative Leave Letterhead and ensure the appropriate Commander/Manager serves notice.
- For high profile cases, including any report of felony or serious misdemeanor by a

sworn officer reported under DGO M-4.1, assure that monthly briefings are conducted with the COP. Assure an IAD notetaker documents the briefing and saves the notes on the IA server similar to the notetaking that occurs at IAD/OCOP Weekly Meetings.

Confer with Other Department and City Personnel Regarding IAD Activities

The IAD Commander is the ultimate point of contact for other bodies within the City regarding the activities of the IAD. While it is impossible to delineate all the different communications the IAD Commander may have with internal staff, the following must be completed:

- Meet daily for Executive Staff meeting facilitated by the Chief of Police.
- Meet on a weekly basis with the Chief of Police, Executive Staff and a representative of the OCA to, at minimum, discuss the following:
 - Ongoing and completed investigations;
 - Matters of discipline and recommendations;
 - Emerging legal issues that impact internal investigations;
 - §3304 Government Code tolling cases; and
 - Other cases or issues identified by the IAD Commander;
- Create an agenda for the above weekly meetings and file these agendas to memorialize the meetings.
- Brief, at minimum, the Chief of Police, and the Assistant Chief of Police and/or the appropriate Deputy Chief(s), on complaint trends, risk management, and personnel issues as well as any actions taken.
- Review all completed cases which have a Sustained finding, along with any other cases identified by the IAD Commander, with the Chief of Police for final disposition and approval.
- Prior to case presentation to the Chief of Police, obtain review from the Deputy Chief in the investigator's chain of command for cases with recommended **sustained** findings for allegations that could result in termination (i.e., has T as a possible consequence, considering 2nd and 3rd offenses, on the Discipline Matrix which includes MORs for obedience to laws felony/serious misdemeanor and DUIs, and use of force), or allegations of violations of obedience to laws misdemeanor/infraction.²
- For cases involving **not sustained** recommended findings for allegations that could result in termination or allegations of violations of obedience to laws misdemeanor/infraction, obtain review from the Deputy Chief of the Bureau of Risk Management.
 - Deputy Chief reviews are not reinvestigations of the cases, they are intended to be a review to ensure recommended findings are supported by the evidence and that investigation policies and procedures were followed.
- Upon approval of the findings, ensure the Chief of Police signs all required documents. The Chief shall read any ROI that the Chief signs. At a minimum, the

Chief shall read and sign any ROIs involving a recommended finding of **sustained** that could result in termination, or a recommended finding of sustained for obedience to laws misdemeanor/infraction.

- Notify the Chief of Police, Assistant Chief, City Administrator, Deputy Chief(s)/Deputy Director, OPOA President, Personnel Manager, Human Resources, City Attorney's Office, Police Commission Chair, CPRA Director, Inspector General, and Monitoring Team if a member is placed on Administrative Leave.
- Notify the Chief of Police or Assistant Chief of Police whenever a member receives a Sustained finding for a Manual of Rules violation which may constitute *Brady*ⁱ information;
- Confer with the Bureau of Investigations Deputy Chief regarding the referral of complaints to or from the Criminal Investigation Division (CID) in accordance with DGO M-4.1. Referrals of criminal investigations from CID to IAD require a briefing of, and approval from, either the Chief or Assistant Chief of Police. The briefing will be an official meeting and documented by an IAD Notetaker who will follow the guidelines matching the weekly IAD/OCOP Meeting.
- Provide a monthly briefing to the City Administrator and Monitoring Team about issues pertinent to the IAD, including but not limited to active investigations of serious misconduct and pending discipline.
- Coordinate with the CPRA Executive Director on all cases which involve an independent parallel investigation.
- Ensure that public complaints that CPRA is charter-mandated to investigate are reported to the CPRA Executive Director CPRA within 24 hours of IAD intake. Notify the Executive Director of the CPRA as soon as possible, but within no more than 72 hours after learning about, any allegations of "serious incidents" as defined by OMC 2.45.075, and any allegations involving any "high profile" incidents as defined herein. Prior to entering into a contract with a third-party individual or firm to conduct an internal investigation for the Department, the IAD Commander shall report such proposal to the Executive Director of CPRA and Police Commission Chair and explain the nature of the case, subjects, and allegations.
- Ensure that any contracts between the Department and any third-party individual or firm to conduct an internal administrative investigation for the Department includes a provision mandating that the third-party share with the Executive Director of CPRA and Police Commission Chair any initiating and updated misconduct allegations, initiating and updated named subjects and witnesses, and any other relevant procedural information requested by CPRA with the understanding that CPRA will not request the type of detailed information that may compromise the integrity of CPRA's ability to conduct its own independent parallel investigation.
 - To the extent the third-party investigator is a law firm and OCA is responsible for drafting the contract, OPD will request that OCA include a similar provision in the contract.
- Ensure the Executive Director of the CPRA has access to Vision.

INVESTIGATIONS SECTION

INVESTIGATIONS SECTION COMMANDER

Rank: Lieutenant of Police
Immediate Supervisor: Internal Affairs Division Commander
Immediate Subordinates: Investigators (Sergeant of Police); Administrative Support (Administrative Assistant II)
Primary Responsibilities: Manage all cases that are investigated within IAD; Coordinate with the Office of the City Attorney (OCA) and the Community Police Review Agency (CPRA); Manage the Force Investigations Section (FIS).

DUTIES AND RESPONSIBILITIES

Manage all IAD Investigations:

The Investigations Section Commander is responsible for managing the investigations conducted within IAD. Effective management of IAD investigations requires taking an active role at various points in the investigation, and close supervision of the assigned IAD Investigator. Some of the duties include, but are not limited to, the following:

- Conduct an initial review of all cases received from the IAD Intake and Administrative Section Commander.
- Review investigative plans, interview questions, and interviews of witnesses with investigative staff, as needed, and in every investigation that includes the following “Serious Allegations”:

 - Allegations for which the minimum presumed discipline for a first offense is a 30-day suspension, demotion, and/or termination.
 - Allegations that require some form of immediate personnel action, such as emergency suspension, administrative leave, or temporary reassignment.
 - An allegation that an OPD employee or member committed a felony or misdemeanor.
 - An allegation involving retaliation, discrimination, or harassment in violation of Administrative Instruction 71.
 - An allegation that an OPD employee or member used his/her position for personal gain.
 - An allegation involving misconduct likely to generate unusual public interest.
 - Any other allegation that, at the discretion of the IAD Commander or Investigative Section Commander overseeing the investigation, warrants consultation with the Office of the City Attorney (OCA) prior to investigative interviews.

Ensure that the OCA is notified and involved in strategic discussions prior to all subject and witness officer interviews involving investigations of serious allegations, as defined above. See next section for guidance on consultation with OCA.

- Conduct a review of completed IAD investigations, direct appropriate revisions, and forward reviewed investigations to the IAD Commander.
- Reviews should ensure impartiality, fairness, and thoroughness by examining, among other things, adherence to Training Bulletin V-T.1, quality of and adherence to investigative plans, correct application of the standard of proof, credibility assessments, promptness and quality of interviews (e.g., avoiding leading questions and resolving inconsistencies), and analysis of the evidence.
- Consult with the IAD Investigator and advise the IAD Commander when a subject officer should be downgraded to a witness officer. The IAD Commander retains sole authority to downgrade a subject officer to a witness, and any such action taken shall be documented in writing in the Chronological Activity Log (CAL).
- In cases where the CPRA is conducting a parallel investigation, IAD needs to coordinate with the CPRA Director prior to the case presentation with the Chief or the closure of an investigation with no sustained findings to ensure that CPRA and OPD are in concurrence on the final findings.
- In cases where the complainant has voluntarily withdrawn their complaint, review the circumstances of the withdrawal to ensure Departmental policy and procedures were followed. This action shall be documented in the CAL.
- Advise the IAD Commander of any unusual incidents or other complaints likely to generate unusual public interest.
- Along with the IAD Commander, provide updates of any IAD investigations to the City Administrator as directed, including representing Internal Affairs during meetings with the CPRA.
- Review and approve in writing all requests to view BWC by members related to IAD Investigations, and forward to the IAD Commander for final approval per DGO I-15.1 Receive, review, and, if endorsed, forward requests for Summary Finding to the IAD Commander for approval.
- Consider the use of Administrative Warrants to assist in investigations if legally and strategically viable. (OCA should be consulted prior to the pursuit of any Administrative Warrant.)
- Review and approve/deny requests to amend or change allegation during an investigation (only the IAD Commander has the authority to remove an allegation).

Office of the City Attorney (OCA) Coordination

Due to the nature of the cases investigated by the IAD Investigations Section, and pursuant to TB V-T.1, consultation with OCA is required in investigations involving serious allegations, at the direction of the IAD Commander, or in instances where legal counsel is needed. Consultation activities include, but are not limited to, the following:

Sending investigative plans, witness and subject questions, and a completed draft (investigated

with a recommended finding) of the Report of Investigation (ROI) to the Office of the City Attorney (OCA) for legal review. Investigations will be submitted for the attorney's review at least 30 calendar days before the date on which IAD intends to present the case to the Chief of Police or his/her designee for approval. The IAD Commander has the discretion to shorten the review period based on the nature, scope, or complexity of the investigation, or the availability of IAD and OCA staff. Any authorization to reduce OCA review time must be done in writing. In either instance, IAD shall provide the OCA with an expected date for case presentation to the Chief of Police. OCA's internal policy is to complete their review within 10 calendar days of receipt.

- Ensure that substantive comments and feedback analysis from OCA are addressed, and that they remain in the draft of the Report of Investigation for review and discussion with the IAD Investigator and IAD Commander.

Community Police Review Agency (CPRA) Coordination:

Pursuant to The Charter of the City of Oakland, Section 604(g), in any public complaint that is investigated by both agencies, agreement or disagreement with the findings must be established between the Chief of Police and Executive Director prior to adjudication.

- In instances where the IAD Investigator and CPRA Investigator come to the same finding(s), and where those findings are other than Sustained, the IAD Investigation can be closed and processed upon receipt of written concurrence with the findings from the CPRA Executive Director.
- In instances where the IAD Investigator and CPRA Investigator come to the same finding(s), and where one or more of those findings are Sustained, the case can be scheduled for presentation to the Chief of Police upon receipt of written concurrence with the findings from the CPRA Executive Director.
 - The CPRA Executive Director and the CPRA Investigator are permitted – but not required – to attend the case presentation to the Chief of Police.
 - When the case is later presented to the Chief of Police for a discipline determination, the Executive Director's presence at that meeting shall be requested. Whether at the meeting or in some manner consistent with the Charter, agreement or disagreement between the Executive Director and the Chief of Police on the proposed discipline must be established.
- In instances where the IAD Investigator and CPRA Investigator come to different findings, the case shall be scheduled for presentation to the Chief of Police to establish agreement or disagreement between the Executive Director and the Chief of Police on the finding(s).
 - The CPRA Executive Director and the CPRA Investigator should be present at the case presentation to the Chief of Police to present their finding(s).
 - The IAD Investigator and the Investigations Section Commander shall attend the meeting to present their finding(s) to the Chief of Police.
- If, after presentation and discussion between the Chief of Police and the Executive Director, there is disagreement on either the finding(s) or proposed discipline, the case shall be submitted to a Discipline Committee pursuant to The Charter of the City of Oakland, Section 604(g)(2).

INTERNAL AFFAIRS INVESTIGATOR

Rank: Sergeant of Police
Immediate Supervisor: Investigations Section Commander
Immediate Subordinates: None
Primary Responsibilities: Investigate allegations of misconduct; Complete Reports of Investigation (ROI); Coordinate with the Office of the City Attorney (OCA) and the Community Police Review Agency (CPRA)

DUTIES AND RESPONSIBILITIES

Internal Affairs Investigators are responsible for completing investigations assigned to the Internal Affairs Division. The nature, scope, and investigative steps can vary between cases. However, there are tasks that are consistent throughout most investigations. These tasks include, but are not limited to, the following:

Investigate Allegations of Misconduct

Investigators shall follow the investigative procedures enumerated in Training Bulletin V-T.1, which provides more specific details on how to conduct an Internal Affairs investigation, IAD Investigators should complete the following tasks to ensure a fair, impartial, thorough, and timely investigation:

- Upon being assigned an investigation, determine if there are any conflicts that necessitate a recusal from the investigation.¹
- Review all materials contained in both the case file and the electronic file in the current database system.
- Ensure all allegations of misconduct are accurately identified.
- Identify evidence at risk of spoiling, potential witnesses, potential physical evidence, relevant policies, and any additional potential Manual of Rules (MOR) violations pursuant to Training Bulletin V-T.1.
- Develop an investigative plan and discuss the plan with the Investigations Section Commander and, when needed, the Office of the City Attorney (OCA).
- Prepare for and promptly conduct fact-finding witness and subject interviews. When preparing for an interview, Investigators should determine relevant polices, practices, and trainings associated with the misconduct; key questions that need to be answered; and any gaps in timelines.
In conducting interviews, resolve any inconsistencies and avoid exculpatory leading questions.
- If there is reasonable suspicion to believe a member is in possession of evidence or items that contain evidence (e.g., a member's personal cellular phone) of member misconduct for which a member is being administratively investigated, the Department reserves the right to demand the member produce, from their personal device, the evidence for use in the administrative investigation and proceedings.
 - Any such demand for such information must be documented in writing with a recitation of facts giving rise to reasonable suspicion that the evidence sought is contained therein.

¹ Relationships requiring consideration for recusal can be found in CID P&P 23-02.

- Any such demand must also be reasonably tailored to the allegation(s) being investigated. Finally, any such demand must be accompanied by an admonition that the evidence and information produced may not be used against the member producing the information in a criminal proceeding but may be used against the member in an administrative proceeding.

The demand for evidence on a personal device must be reviewed and endorsed by the investigator's first level supervisor and then approved by the IAD Commander prior to the request being made.

- Requests for significant changes to the ROI must be routed through the investigating member's assigned Lieutenant of Police. The Lieutenant must review and approve the content underpinning the request before submitting it to the IAD Commander to concur or dissent. In the absence of the IAD Commander, only the Bureau of Risk Management Deputy Chief, the Assistant Chief and the Chief of Police may authorize the significant changes to the ROI (IAD and Division-level investigations): (1) removing or changing MOR violation allegations, and (2) removing members or downgrading members from subjects to witnesses.
- The IAD Commander's approval or dissent of such changes shall be communicated via email back to the requesting investigator and their chain of command. The communication of the approval or disapproval shall also include a reminder to the investigating member to include documentation of the decision in the ROI and a copy of the CAL and of the email in the physical case file.

Complete a Report of Investigation (ROI)

Once all interviews have been conducted and available evidence has been gathered, the Investigator shall prepare a Report of Investigation (ROI) for inclusion in the case file. The ROI shall follow the most recent version of the ROI template (TF-3507) or the ROI Summary Finding template (TF-3508), and shall minimally include the following:

- The issue in question (i.e. the alleged misconduct);
- The policy, procedure, or law that the alleged misconduct violated;
- An analysis of the evidence;
- An assessment of the credibility of all witnesses and subjects;
- A finding based on the preponderance of evidence;
- Express memorialization using the guidance in the ROI template of any of the following revisions: (1) removing or changing MOR violation allegations, (2) downgrading members from subjects to witnesses, (3) changing conclusions of credibility assessments, and (4) changing recommended findings;³ and

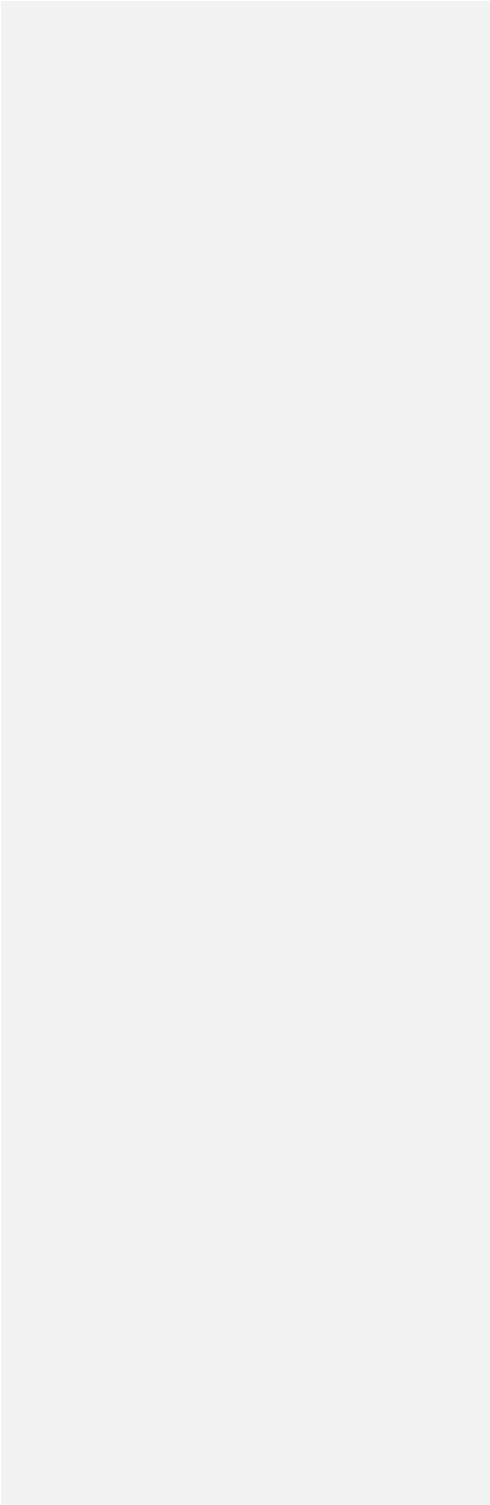
Compilation of all documents and evidence relevant to the investigation along with administrative materials, including, but not limited to, a Complaint Investigation Report (CIR) with findings and a closeout letter.

Barring extenuating circumstances or extensive investigations, reasonable efforts shall be made to complete investigations within 180 days pursuant to DGO M-3.

Office of the City Attorney (OCA) Coordination

Due to the nature of the cases investigated by the IAD Investigations Section, consultation with OCA is required in investigations involving allegations enumerated in Training Bulletin V-T.1, at the direction of the IAD Commander, or in instances where legal counsel is needed. Consultation activities include, but are not limited to, the following:

³ Note that IAD commander must approve any downgrade from subject to witness, and any removal of an MOR allegation. Authorization for changes must therefore be obtained, documented in writing in an email, and kept in the file and noted on the chron log.



- Sending investigative plans, witness and subject questions, and a completed draft (investigated with a recommended finding) of the Report of Investigation (ROI) to the Office of the City Attorney (OCA) for legal review. Investigations will be submitted for the attorney's review at least 30 calendar days before the date on which IAD intends to present the case to the Chief of Police or his/her designee for approval. OCA's internal policy is to complete their review within 10 calendar days of receipt.
- Ensure that substantive comments and feedback analysis from OCA are addressed, and that they remain in the draft of the Report of Investigation for review and discussion with the IAD Investigator and IAD Commander.

Community Police Review Agency (CPRA) Coordination:

Pursuant to The Charter of the City of Oakland, Section 604(f)(2), the CPRA has the same access to all Department files and records as the Internal Affairs Division. As such, the Department shall grant direct access to the IAD Vision database to the CPRA Director. The Department shall also make every reasonable effort to respond to the CPRA's requests for files and records within ten (10) days and the transfer of any materials to CPRA shall be documented in the Chronological Activity Log in the current case management database. When OPD and CPRA are conducting parallel investigations, coordination with CPRA should include, but is not limited to, the following:

- Provide all evidentiary materials, including recorded interviews, as requested.
- Submit or accept interview questions, depending on which agency is conducting the interview.
- Notify CPRA investigator of proposed timing for interviews and, upon request, coordinate joint agency interviews.
- Notify CPRA of any proposal to add or remove allegations and/or subject officers.

INVESTIGATIONS SECTION ADMINISTRATIVE SERGEANT/ANALYST

Rank: Sergeant of Police/Admin Analyst II
Immediate Supervisor: Internal Affairs Investigations Commander
Immediate Subordinates: None
Primary Responsibilities: Responsible for supporting the Investigations Section

DUTIES AND RESPONSIBILITIES

The Investigations Section Administrative Sergeant/Analyst serves as support mechanism for the daily operations in the Investigations Section. The duties are varied and include, but are not limited to, the following:

Case Tracking

- Maintain a tracking document for all cases assigned to the Investigations Section.
- Cross reference the Community Police Review Agency (CPRA) case list and identify cases assigned to the Investigations Section that have parallel investigations with CPRA.
- Coordinate with IAD Administrative Section and retrieve all new cases assigned to the Investigations Section.

Weekly IAD Meeting Preparations

- No later than two-days prior to the IAD meeting with the Chief of Police, prepare an agenda for the meeting, to include all cases being presented at the meeting. Distribute an electronic copy of the agenda to the appropriate stakeholders and upload a final version of agenda to the IAD server.
- No later than two-days prior to the meeting, send out an email reminder to all presenters with the meeting date, time, and location.

Weekly IAD Meeting Chief of Police Presentations

- Serve as notetaker for the meeting. Assures each completed note document contains a disclaimer outlying that the meetings events were not verbatim but completed to the best of knowledge.
- Notetaker endorses the meetings notes and sends a PDF Copy to the IAD Commander, Investigations Section Commander, DLI Section Commander/Manager, and the Intake and Administrative Section Commander, to include uploading to the IAD server.
- Ensure all attendees sign an Attendance Roster for each individual case presented and upload the signed rosters to the IAD server.

Criminal Investigations DGO M-04.1 Meeting (OCOP, IAD, CID) and Any Other High Profile or Serious Incident Briefing to Chief

- Serves as notetaker for any meeting where the Chief is briefed on the substance of ongoing internal investigations; similar to the procedures of the Weekly IAD Meeting.

Case Closures

- Review closed case files to ensure all required documents are signed and in case file (e.g. CIR, ROI, Closeout Letter, etc.). Ensure that investigator has uploaded all recorded statements to the server prior to final closure.

- For cases with Sustained findings, create the pre-discipline documents. Forward the completed pre-discipline folder to the IAD Commander for signatures and distribution. Pre-discipline documents include the following:
 - Copy of signed ROI
 - Copy of signed CIR
 - Copy of CIR Index for the sustained officer
 - Last two (2) years of performance appraisals for the sustained officer
 - Memo from IAD Commander directing the pre-discipline to be completed by a specified date, typically two weeks after the sustained finding by the Chief of Police.
- Complete intent to discipline paperwork from returned pre-discipline conference. Forward completed paperwork to the IAD Commander for signatures. Task the recipient of the intent to discipline paperwork in the tasking/database system.
- For cases that qualify for a Skelly Hearing (Refer to TB V-T.04 Due Process Hearings for further information), update the IAD Skelly Tracking sheet after the IAD Chief meeting. Ensure all new Skelly-eligible cases are assigned a Skelly officer. Forward a copy of the tracking sheet to the IAD Commander, the Investigations Section Commander, and the Administrative Section Supervisor.
- Prepare Skelly Packets for qualifying cases that originate in the Investigation Section and, upon completion, forward to the Administrative Section Supervisor for review.

Additional duties, as needed

- Coordinate with the UOF coordinator on FRB/EFRB cases that are being investigated by IAD; and when there is a parallel CPRA investigation, also coordinate with CPRA.
- Submit requests for transcripts for investigators and monitor status of transcripts.
- Handle document requests for IAD Investigations section. All CPRA document requests shall be completed within 10 days of request. If there is a circumstance preventing the request from being completed notify the Investigations Commander of the delay.
- Complete special projects for the IAD Commander and Investigations Section Commander, as needed.
- Review the Arbitration update received by the City Attorney's Office. Update any changes on the weekly agenda.
- Complete the retaliation report and send to OCA representative for review.
- Update the Callout Schedule as needed and ensure that schedule is sent to the Patrol Desk.
- Monthly, complete a Vehicle Inspection Checklist for all Department vehicles assigned to the Investigations Section.

FORCE INVESTIGATION SECTION

Rank: Sergeant of Police
Immediate Supervisor: Investigations Section Commander
Immediate Subordinates: None
Primary Responsibilities: Investigation of all Level 1 force incidents, Level 1 vehicle pursuit incidents, allegations of criminal conduct by sworn members, and other incidents as directed by the IAD Commander or Chief of Police.

TRAINING, SELECTION, AND ADMINISTRATION***Selection***

The IAD Commander and the Investigations Section Commander are responsible for selecting the investigators for the Force Investigation Section (FIS). FIS investigators must be a Sergeant of Police and have prior IAD investigations experience. The following qualifications are desirable, but not required:

- At least one-year IAD investigative experience.
- Prior Criminal Investigation Division experience (preferably Homicide).
- Proficient in PowerPoint, MS Word and Adobe PDF.
- Experience completing Level 2 Use of Force investigations
- Strong working knowledge of Graham v Connor and Departmental policies associated with force.

Training

New FIS investigators will be assigned a secondary investigator to act as a training investigator. The secondary investigator will be a senior member of the FIS team and will assist the new investigator with their investigation(s). All new investigators assigned to the FIS shall complete training in the following areas prior to or within six months of their assignment:

- Human behavior in high stress and deadly force encounters (e.g. Force Science Institute's certification course).
- Basic Investigator Course (e.g. ICI Core Investigations course)
- Interviewing (e.g. Behavior Analysis Training Institute's Cognitive Interview and Statement Analysis course).
- Officer-involved shootings (e.g. courses certified by California Commission on Peace Officer Standards and Training).
- Ongoing training provided by the Office of the City Attorney (OCA).
- Any training that will enhance the effectiveness of the investigators. This training is subject to the approval of the IAD Commander.

Standby Status of FIS Investigators

Personnel assigned to the FIS are "standby" investigators who are entitled to "standby pay" in accordance with the provisions of the current MOU. FIS investigators are assigned a

Department take-home vehicle to use to respond to all call outs. If an investigator is going to be unavailable for callout for more than four consecutive days, their vehicle shall be returned to the Investigations Section Commander for reassignment until the investigator returns to “standby” status. Personnel from the Investigations Section may be used as “standby” investigators to supplement existing FIS personnel, or to cover for the absences of FIS personnel. The decision on case assignment will be the responsibility of an IAD Commander.

Call-Out Procedures

Upon notification of an incident designated for investigation by the FIS, the Investigations Section Commander shall contact the FIS investigators to initiate the FIS callout. All FIS members shall respond to the location designated by the Investigations Section Commander within one and a half hours from the time they are notified of the callout. The Investigations Section Commander shall determine if additional IAD Investigators are to be called out based on the incident circumstances.

ROLES AND RESPONSIBILITIES

Scene Responsibilities:

Scene management of a FIS investigation is of the utmost importance. The coordination between CID, Patrol, and CPRA is required to ensure a thorough investigation is conducted. Below are the responsibilities for the members of the FIS while on scene of an FIS investigation.

- The Investigations Section Commander shall respond to the scene and take command of the administrative investigation, and shall ensure the following:
 - Notify and brief the IAD Commander;
 - Notify and brief the Executive Director of the CPRA. Coordinate with the CPRA Director in the response of the CPRA investigator.
 - Coordinate with the CID Commander assigned to the investigation of the incident to include, but not limited to:
 - Ensure all subject and witness members are separated and sequestered
 - Conduct walkthrough of scene
 - Ensure all witnesses are identified
 - Ensure that all BWC videos have been locked down by CID or the Technology Department.
 - When appropriate, coordinate with IT unit to ensure that Field Based Reporting (FBR) reports are locked down with restricted access.
 - Ensure all subject(s) are interviewed. If there is a disagreement between the FIS and CID on which subjects should be interviewed the Assistant Chief will have the final decision.
 - The FIS Lieutenant will ensure that subject officers’ Departmental phones be taken for investigative review in conjunction with the Criminal Investigations Division (CID) commander.
 - Assess the need for additional FIS investigators to be called out.

- Monitor the follow-up investigation and ensure it is handled in accordance with this policy and other relevant policies (e.g. DGO K-4).
- The assigned FIS investigator(s) shall respond to the incident scene and conduct the appropriate investigation, which shall include but is not limited the following;
 - Confer with the Criminal Investigations Division (CID) Commander and/or CID investigators regarding:
 - Scene security;
 - Crime scene processing plan;
 - Canvass for additional witnesses, as necessary;
 - Ensure that a 3D scan is completed of the incident scene; and
 - The completion of all other necessary investigative steps as outlined in DGO K-4, DGO J-4 and any other relevant policy.
 - Participate in a briefing and walk-through with the CID Commander and/or CID investigators.
 - Conduct a thorough review of all documents to be included in the Use of Force, Pursuit, or In-Custody Death Report packet to ensure completeness, accuracy, and quality.
 - Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - The original reason for police presence on the scene;
 - The circumstances that resulted in the use of force;
 - The precipitating act(s) leading to the use of force; and
 - A detailed description of the force used.
 - How or if it was deescalated/resolved
 - Obtain additional details or clarification when incomplete or inadequate reports are discovered.
 - Coordinate with the assigned Deputy District Attorney and other investigator(s), as appropriate, such as Coroner's Office.
 - Interviews
 - Monitor or review interviews of involved member(s) and witnesses by the CID investigators. IAD investigators shall not participate in the CID interviews of involved personnel.
 - Investigators shall consult with the CID Commander prior to interviewing a suspect in a homicide or serious violent felony as it relates to an administrative investigation.
 - Complete the Level 1 Incident Checklist.

Follow-up Investigation:

- The Investigations Section Commander shall:
 - Ensure the IAD Commander and Chief of Police are updated on the status of all FIS investigations on a weekly basis, or as deemed necessary by the IAD Commander.
 - Review all summaries of CID interviews of witnesses and coordinate with investigators to determine if a follow-up interview is required. Ensure interview summaries are forwarded to OCA for review.
 - Review witness and subject member questions. Ensure questions are forwarded to OCA for review.
 - Ensure that in the case of a subject interview of a Command level member that an equal rank Commander from IAD is the second on the interview.
 - Review pertinent witness interviews and all subject interviews for thoroughness and investigative sufficiency.
 - In the event where a Command Officer is a subject in the investigation the FIS Lieutenant or the IAD Commander shall conduct the analysis to determine a finding.
- The OCA, in conjunction with the Investigations Section Commander, will provide counsel and advice on matters involving case planning and interview schedules, and conduct legal review of FIS reports.
- The FIS Investigator shall:
 - Within the first business day after the incident, the FIS investigator shall meet with the IAD commander, Investigations Section Commander, and the OCA to conduct a briefing on the following:
 - The circumstances of the incident;
 - Use of Force/In-Custody Death Report preparation; and
 - Any concerns or issues that were observed.
 - Within 72 hours, prepare a briefing for the Chief of Police to include the following:
 - Summary of the incident
 - Identified subject members
 - Investigative timeline
 - Potential issues
 - Follow-up investigative steps
 - Establish a weekly meeting with the OCA for investigation updates.
 - Establish an investigative timeline and task tracking sheet for investigation.
 - Update the tracking sheet on a weekly basis and provide it to the Investigations Section Commander, the IAD Commander, and OCA.

- Review all interviews conducted by CID and provide a summary to the Investigations Section Commander and OCA representative for review to determine if a follow-up interview is needed.
- Draft questions for witness/subject interviews and forward for review to the Investigations Section Commander and OCA.
- Conduct interviews of all witnesses and subjects.
- Conduct a canvass of incident location.
- Coordinate with CID investigator on the status of the CID investigation and ensure that all CID investigative material are delivered to IAD.
- If required, consult with OCA on obtaining an administrative subpoena for any evidence.
- The FIS investigator shall contact the CPRA investigator assigned to the investigation to facilitate requests for the following on a regular basis:
 - Documents
 - Evidence
 - Witness/Subject questions
 - Coordination of interviews

All requests from the CPRA shall be completed within 10 Calendar days, and the transfer of any materials to CPRA shall be documented in the Chronological Activity Log in the current case management database.

Report Preparation and Review:

- The assigned FIS investigator shall:
 - Prepare the appropriate Level 1 Use of Force (UOF) or In-Custody Death (ICD) report specifically designated for use by the FIS investigator.
 - Assemble the appropriate report packet to contain:
 - A **copy** of the CID Follow-Up Investigation Report (336-201), if completed; **AND**
 - Items identified in the Level 1 Incident Checklist (TF-967f);
 - A printed Chronological Activity Log as entered in the IAD database;
 - The appropriate investigative checklist;
 - A **copy** of the appropriate Offense Report, if prepared; and
 - **Copies** of ancillary documents, if available (e.g., statements, Details, CAD purge, CAD audio, available medical information obtained, and photographs).
 - Ensure that required information is reported to personnel responsible for the UOF database **within 24 hours of the incident**.

- Ensure all recorded statements from involved personnel, witnesses, and the subject of the use of force, taken by IAD investigators, in a UOF/ICD investigation are included in the investigative file.
- Submit the UOF/ICD Report packet for review through the IAD chain-of-command to the IAD Commander and the OCA **within 60 days of the incident**, unless extended by the IAD Commander.
- FIS Command Review: The Investigations Section Commander shall review the UOF/ICD Report packet **within 15 calendar days** of the completion of the investigation. This includes the following:
 - Review report packet for completeness, accuracy, and quality, and return any reports that are incomplete or inadequate;
 - Ensure the report evaluates and documents, when appropriate, whether the use of force was in compliance with Departmental policy.
 - Ensure the report evaluates and documents any training, tactical, supervision, and other risk management issues; and
 - Order further investigation or additional investigative resources when necessary;
- OCA Review
 - Upon completion of the review and endorsement of the investigation by the Investigations Section Commander, forward to the OCA representative assigned to the case at least 30 days prior to the date the case is planned for presentation to the Chief or submission to an FRB or EFRB, as applicable. OCA's internal policy is generally to complete the review within 10 calendar days, or provide written notice to IAD regarding any extensions of the review time-period.
- IAD Commander Review: The IAD commander shall review the UOF/ICD Report packet within 10 calendar days of the completion of the OCA review. This included, but is not limited to, the following:
 - Ensure the report evaluates and documents, when appropriate, whether the use of force was in compliance with Departmental policy.
 - Ensure the report evaluates and documents any training, tactical, supervision, and other risk management issues; and
 - Order further investigation or additional investigative resources when necessary;
 - The IAD Commander shall notify the CPRA Executive Director of the completion of the investigation.

Executive Force Review Board Participation:

- The Investigations Section Commander shall:
 - Designate a presenter of the IAD UOF/ICD Report investigation and coordinate the EFRB presentation with the CID.
 - Ensure the UOF/ICD Report packet is provided to the EFRB in accordance with DGO K-4.1, Force Review Boards.
 - Ensure Officer Involved Shooting is reported to the California Department of Justice URSUS¹ reporting system. URSUS website link: <https://portal.doj.ca.gov/>

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¹ California Department of Justice Use of Force Incident Reporting (CA Assembly Bill (AB) 71), requires every law enforcement agency in the State of California to report all incidents of police shootings and occurrences where

an officer or civilian is seriously injured or dies as a result of a use of force. (Effective January 2016).

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INTAKE AND ADMINISTRATIVE SECTION

INTAKE AND ADMINISTRATIVE SECTION COMMANDER

Rank: Lieutenant of Police
Immediate Supervisor: Internal Affairs Division Commander
Immediate Subordinates: Intake Supervisor (Sergeant of Police); Administrative Support Supervisor (Police Records Supervisor)
Primary Responsibilities: Administer the Intake and Administrative Sections; Manage and review the intake of all complaints against OPD personnel; Manage all records and reporting related to IAD investigations; Manage the discipline process for all IAD investigations.

DUTIES AND RESPONSIBILITIES:

Administration of the Intake and Administrative Sections

The Intake and Administrative Section Commander is responsible for the day-to-day function of the section. This includes, but is not limited to, the following:

- Supervising section personnel.
- Managing the section's workload.
- Overseeing work assignments throughout the Section.

Manage and Review All Complaints:

The Oakland Police Department accepts all complaints regardless of their origin, and each complaint is processed through the Intake Section. Regardless of the final disposition of a complaint, it must be reviewed by the Intake and Administrative Section Commander. The process includes, but is not limited to:

- The Intake Officer/Technician processes the complaint and makes a disposition recommendation.
- The case is then reviewed by the Intake Supervisor, who also makes a disposition recommendation and forwards it to the Intake and Administrative Section Commander for review.
- The Intake and Administrative Section Commander then reviews the case and makes the final decision of the disposition of the case, taking into consideration the following:
 - Administrative Closure: ensure that the circumstances comply with policy criteria for administrative closure, including but not limited to: service complaints, withdrawn complaints, chronic complainants, and no MOR violations.
 - Open Investigation: review the details of the complaint to ensure all allegations of misconduct are identified; assess the seriousness of the allegations and complexity of the investigation and route the case in one of two directions:

- **Investigations Section:** Cases involving a Class I allegation, or cases involving Class II allegations with multiple subject officers (typically more than 5), or cases that are high-profile in nature are forwarded to the Investigations Section Commander for review and assignment.
- **Division Level Investigation:** Cases that are not sent to the Investigations Section Commander are distributed as a Division Level Investigation (DLI).

Once the Intake and Administrative Section Commander completes their review, the Control Files are forwarded to an IAD Police Records Specialist for processing.

- This process should reasonably occur within forty-five calendar days.

Records Management and Statistical Reporting:

The Internal Affairs Division is the Custodian of Record for all IAD investigations. Additionally, IAD regularly generates reports – both standardized and ad hoc – for a variety of stakeholders including the IAD Commander, Chief of Police, Office of Inspector General (OIG), and the Monitoring Team.

- **Records Management:** Although this is the primary responsibility of the Administrative Support Supervisor, the Intake and Administrative Commander must ensure that records are maintained in accordance with policy and statutes. This includes, but is not limited to, on-site records, off-site records, and digital records.
- **Statistical Reporting:** In conjunction with the Administrative Support Supervisor, produce the following reports:
 - **Biweekly Compliance Reports:** On a biweekly basis, forward a standardized report to OIG with information on complaints and sustained cases during the reporting period, as well as YTD comparisons of the same. Cases that missed the 180-days timeline are also reported.
 - On a rotating schedule, the Biweekly Compliance Report contains the results of audits based on IAD-related NSA Tasks.
 - **Yearly Report:** Standardized report for inclusion in the yearly OPD Annual Report
 - **Ad Hoc Reports:** Periodic requests are made for reports based on IAD data.

Discipline Process Management:

The Administration Section is responsible for producing most documents related to the discipline process. Pre-Discipline files, Notices of Intent to discipline, and Skelly files, as well as the tracking for all discipline cases, are under the purview of the Intake and Administrative Section Commander. Most of these tasks are completed by Internal Affairs Police Records Specialists and the Administrative Support Supervisor.

INTAKE SUPERVISOR

Rank: Sergeant of Police
Immediate Supervisor Intake and Administrative Section Commander
Immediate Subordinates: Police Intake Technicians; Intake Officers (Sworn); Pitchess Officer (Sworn)
Primary Responsibilities: Review all new complaints processed by IAD; handle urgent matters coming from the OCOB and the field; coordinate resources for special projects by the IAD Commander; manage work schedules for Police Intake Technician and Officers

DUTIES AND RESPONSIBILITIES***Reviewing Incoming Complaints:***

- The case is reviewed by the Intake Supervisor for accuracy of allegations, relevant documents and evidence. Ensure subject members are notified of the complaint.
- The Intake Officer/Technician processes the complaint and makes a disposition recommendation before forwarding to the Intake Supervisor.
- During case review the Intake Supervisor reviews for the following:
 - Informal Complaint Resolution (ICR): If the complainant elected to resolve the complaint via ICR, check the subject member's supervisory note file entries and their CIR Index to ensure the case is eligible for ICR before submitting the case to the IAD Commander. If a case is ineligible for ICR, return the case to the Intake Officer or Technician to prepare the case for Open Investigation.
 - Open Investigation: Review the complainant's statement to ensure all allegations are identified; ensure evidence and relevant policies are included. Return cases to the Intake Officer or Intake Technician for additional work if needed.
 - Administrative Closure: Review the complainant's statement to ensure there are no missed allegations of misconduct. Return cases to the Intake Officer or Intake Technician for additional work if needed.

Additional Duties:

- Review IAD Communications Daily Incident Log and IAD Communications Complaint Referral Logs (aka IBC Logs) to ensure there are no issues that need addressing (high profile, serious allegations, self-reported off duty).
- Review the IAD Communications Complaint Referral Logs to ensure entries are appropriate.
- Notify City Human Resources of any allegations in violation of Administrative Instruction (AI) 71.
- Manage cases in Intake by completing a weekly Intake Unit Report. The report is submitted to the IAD Commander.

- Ensure staffing coverage for the next week's Intake is in place.
- Ensure any upcoming Complaint Unit activations are staffed and confirmed.

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INTAKE ADMINISTRATIVE OFFICER

Rank: Police Officer
Immediate Supervisor: Intake Supervisor
Immediate Subordinates: None
Primary Responsibilities: Manage the tracking and listing of several different databases where administrative benchmarks are documented

DUTIES AND RESPONSIBILITIES:

Ongoing duties include, but are not limited to, the following:

- **Track City Vehicle Collisions:** The Intake Administrative Officer (IAO) tracks City vehicle collisions involving Departmental personnel. A sustained finding is added to all city-vehicle collisions which have been determined to be preventable. The file is forwarded directly to the IAD Intake/Administrative Commander for review and pre-discipline.
- **Maintain a Chronic Complaint List:** The IAO maintains a list of persons who continually make frivolous or plainly unsubstantiated complaints.
- **Process Out of Compliance Pursuits and Uses of Force:** The IAO receives a Vehicle Pursuit packet or Use of Force packet which have been determined by the Training Division/Department Safety Committee or Force Review Board as Out of Compliance. Process the case and adds a sustained finding before forwarding to the IAD Commander for review.
- **Audit the Daily Intake Report:** The IAO audits the IAD Daily Intake Report for any external citizen complaints made against sworn members and forwards the Complaint Investigation Report (CIR) for each complaint to the Community Police Review Agency (CPRA) within one business day pursuant to the City Charter.
 - The IAO reconciles the IAD Communications Daily Incident Log with the IAD Daily Intake Report to ensure each complaint is assigned a case number and tasked to an Intake Officer or Intake Technician as a deliverable.
- **Forward Certain Complaints to CPRA:** The IAO forwards certain complaints to the CPRA as required by the City Charter.
- **Process Legal Claims forwarded by OCA:** The IAO receives copies of legal claims forwarded by the Office of the City Attorney (OCA). Legal claims are reviewed for alleged MOR violations and the IAO conducts a preliminary inquiry. Ensures data is entered in to the IAD case record.
- **Handle Special Projects as Directed:** The IAO is tasked with handling special projects by the IAD Commander, to include, but not limited to: generating reports of statistics, auditing specific IBC log entries as directed by the Intake Supervisor or Commander, or any other task directed by the IAD Commander.
- **Closing Error Records:** The IAO checks the IAD database and closes any case record opened in error.

- **Complete After-Action Reports:** The IAO completes the after-action report for any Complaint Unit activations.
- **Assist Intake Staffers:** Meet with each Intake Staffer to go over any case issues, problems, and goals.

Monthly:

- Audit Open Intakes for IA Admin Report.
- Ensure every case in Intake listed (without a “Date in Review”) is in the possession of the Intake staffer.
- Ensure no cases are missing from the report.
- Ensure each case in Intake listed as “In Review” is either with the Intake Sergeant or Lieutenant.
- Ensure IAD Communications Daily Incident Log Audit is up to date and properly maintained.
- Ensure Complaint Unit Activations Folder is up to date and maintained.
- Ensure Chronic Complainant Log is up to date and maintained.
- Save the Complaint Line Transfer Log to the server file.

INTAKE OFFICER/POLICE INTAKE TECHNICIAN

Rank: Police Officer/Police Intake Technician (PIT)
Immediate Supervisor: Intake Supervisor
Immediate Subordinates: None
Primary Responsibilities: Assist with the function of the Physical IAD Offices; Receive and process complaints received directly through IAD; process complaints received by field personnel; prepare preliminary inquiries to be sent out for investigation.

DUTIES AND RESPONSIBILITIES:***Assist with the Function of the Physical IAD Offices:***

- Perform opening duties:
 - Review the IAD Communications Daily Incident Log.
 - Check for duplicate complaints before opening a new case.
 - Distribute the IAD Communications Daily Incident Log and IBC logs to other members of IAD Intake and the IAD Commander.
 - Transfer the 24-hour IAD Hotline from Communications Division back to IAD.
- Perform closing duties:
 - Complete the IAD Daily Intake Report and distribute to IAD Intake personnel.
 - Transfer the 24-hour IAD Hotline to Communications Division and document it on the transfer log.

Receive and Process Complaints:

- Intake new complaints (via in-person, telephone, email, written correspondence, or any other source) and complete Preliminary Inquiries (PI) within timeline and by priority.
 - Interview the complainant(s)
 - Attempt to associate the complaint to an incident.
 - Attempt to identify the subject member(s) and witnesses.
 - Obtain all reports and documents associated to the incident.
 - Obtain all relevant recordings.
 - Ensure all allegations of misconduct are accurately identified.
 - Make a case file recommendation prior to submitting to the Intake Supervisor for review.

Process Complaints Received by Field Personnel:

- Ensure Field Preliminary Inquiries are received in 21 days and document in CAL, with notification to Intake Sergeant if not.

Prepare Preliminary Inquiries for Assignment:

- Review PI for accuracy and completeness. Include evidence or policies missing from the PI packet. Make a case file recommendation before submitting the case to the Intake Supervisor for review.
- Complete additional tasks if returned by the Intake Supervisor for more work.
- Ensure that all case material is kept in the control file, saved to the server and never left in other areas or the workspace.

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PITCHESS OFFICER

Rank: Police Officer
Immediate Supervisor: Intake Supervisor
Immediate Subordinates: None
Primary Responsibilities: Respond to Pitchess motion subpoenas, Brady requests, and Giglio inquiries as appropriate; ensure IAD complaint forms are available at specified locations; assist with the Intake process of complaints and completion of Skelly Packets

DUTIES AND RESPONSIBILITIES:***Responding to Pitchess Motion Subpoenas:***

Prepare court documents related to Pitchess motion subpoenas and appear in court. Pitchess Officer reviews the complaint history for all officers listed on the subpoena and determines which complaints apply, based on the categories outlined within the subpoena. If a motion is granted by the presiding judge, the documents are presented in chambers by the Pitchess Officer.

- The Pitchess Officer maintains a running log of subpoenas that have been served to IAD with details and results of the Pitchess motion court hearing.
- The Pitchess Officer notifies the officers of the motion that has been filed.
- The Pitchess Officer responds to court subpoenas in Alameda County, as well as other counties.
- The Pitchess Officer prepares and provides material ordered by the presiding judge to defense attorneys.

Responding to Brady Inquiries/Requests:

The Pitchess Officer receives Brady inquiries from District Attorney offices requesting exculpatory information that may or may not exist within an officer's personnel folders.

- The Pitchess Officer researches the officer's complaint history and responds to the Brady requests, verifying whether exculpatory evidence exists.
- The Pitchess Officer maintains a log of Brady requests that have been received for each fiscal year.

Responding to Giglio Inquiries:

The Pitchess Officer receives Giglio inquiries from the United States Attorney's Office requesting exculpatory and impeachment information that may or may not exist within an officer's personnel file.

- The Pitchess Officer researches the officer's complaint history and responds to the Giglio inquiry, verifying whether or not responsive information exists.
- The Pitchess Officer maintains a log of Giglio requests that have been received for each fiscal year.

Additional Duties:

- The Pitchess Officer is responsible for ensuring the availability of IAD complaint forms at specific locations throughout the City of Oakland that include:
 - Police Administration Building
 - Eastmont Precinct
 - High Street and Fruitvale Police substations
 - Department of Human Resources
 - CPRA Office
 - City Clerk's Officer
 - 237 East 18th Street
 - 388 9th Street
- The Pitchess officer assists with the Intake process and preliminary investigations of complaints filed as outlined in Intake Officer/Police Intake Technician responsibilities.
- The Pitchess officer assists with the preparation of Skelly packets for officers receiving discipline. The Pitchess Officer redacts certain information from the investigative complaint process of certain cases that involve a Skelly packet.
- The Pitchess Officer assists with the duties of the IAD Intake Administrative Officer when the Administrative Officer is on leave.

ADMINISTRATIVE SUPPORT SUPERVISOR

Rank: Police Records Supervisor
Immediate Supervisor: Intake and Administrative Section Commander
Immediate Subordinates: Police Records Specialists
Primary Responsibilities: Custodian of Record for all Internal Affairs records; IAD Database and Server Administrator; Schedule, assign, supervise and evaluate assigned staff; Interpret policies and regulations regarding release of documents; Oversee maintenance of various files, logs and reports for compliance with departmental and legal requirements; Train Police Records Specialists in correct procedures, rules and regulations to comply with state and federal laws; Compile bi-weekly, monthly, quarterly, annual statistical reports, Manage Discipline notifications, Public Records Requests, and other work performed; Interpret data and prepare additional reports as required. Assist in preparation of a section budget; control expenditures

DUTIES AND RESPONSIBILITIES:

Manage and Train IAD Administrative Staff:

- Schedule, assign, supervise and evaluate assigned staff.
- Direct staff in providing information to the public and Department personnel on the discipline process.
- Oversee data entry and removal of data from the IAD database.
- Interpret policies and regulations regarding release of documents.
- Monitor staff's maintenance of various files, logs, and reports for compliance with departmental and legal requirements.
- Train Police Records Staff in correct procedures, rules and regulations to comply with state and federal laws.
- IAD staff must be familiar with policies and regulations regarding release of documents.

Compilation and Preparation of Reports:

- Prepare and analyze complex reports. Conduct statistical analysis of complaints by and against the Oakland Police Department; develop graphs and charts and other special reports as needed.

Biweekly Compliance Reports

On a biweekly basis, forward a standardized report to OIG with information on complaints and sustained cases during the reporting period, as well as YTD comparisons of the same. Cases that missed the 180-days timeline are also reported.

- On a rotating schedule, the Biweekly Compliance Report contains the results of audits based on IAD-related Negotiated Settlement Agreement (NSA) Tasks.

Annual Management Report for Internal Affairs Division

This annual report is included in the yearly OPD Annual Report. The report contains the role and function of the unit, an Organizational Chart, the number authorized positions and the number of

filled positions, significant accomplishments, challenges encountered, number of civil suits filed, arrests of agency members, number of restraining orders filed against agency members.

IAD Case Summary Report

This monthly report is forwarded to the Office of Inspector General (OIG). This report is a summary of all complaints with an approved finding within the period requested.

Subject Employee Report

This monthly report is forwarded to the Office of Inspector General (OIG). It includes all Subject Employee Information, the status of the case, violation, all findings for discipline, and the synopsis of the complaint.

State of California Annual Report of Citizens' Complaints Against Peace Officers

This report is completed annually and is forwarded to the State of California, Criminal Justice Statistics Center. The report for total complaints, non-criminal misdemeanor, felony, total racial and identifying complaints by type; race or ethnicity, nationality, gender, age, religion, gender identity or expression, sexual orientation, mental disability, and physical disability.

Department of Justice Fiscal Year Annual Report

The annual report is forwarded to the Manager of the OPD Research and Planning Training Division and contains the number of instances an approved written notice was given to a peace officer within 1 year of discovery, that they may face disciplinary action after an investigation. The number of instances written notice was given to a peace officer that the department had imposed discipline. The number of times OPD provided the citizen written disclosure of the investigative results within 30 days of disposition.

Termination Report

Monthly report is forwarded to the IAD Captain and is an analysis of race, job classification for individuals that have been terminated or the discipline recommendation is termination.

Comparison Report

Monthly report, this eight-year comparison report chronicles complaints, the number of complaints received year to date, percentage of complaints received by quarter, number of allegations by performance of duty, Use of Force, Conduct Towards others, Department Property and Equipment, all others, Disposition of individual allegations, and discipline for sustained cases.

Discipline Tracking Sheet

Weekly report, forwarded to key stakeholders including the Chief of Police, IAD Command staff and tracks individual cases in the following:

o Skelly Process

A Skelly hearing is offered to employees when the recommended discipline is dismissal, demotion, fine, or suspension. (Refer to TB V-T.04 Due Process Hearings for further information.) The duties involved in facilitating the Skelly process include, but are not limited to, the following:

- Oversee the distribution of Skelly Hearing Material.
- Discipline – Monitoring imposed discipline.
- Direct the preparation of various disciplinary documents, including

- agreements, contracts and correspondence; prepare and coordinate the preparation of documents for court filings.
- Compile and disseminate new rules and changes in the laws related to assigned work.

CPRA Division/Departmental Liaison

Requests for documents throughout the agency. (e.g. request for surveillance videos that were collected and logged as evidence, Crime Reports, photos etc.)

Hiring Manager

- Work with human resources to fill open positions
- Assist in the development of IAD case management system and applications.
 - Establish business processes and rules
 - Workflow
 - Data validation
 - User acceptance

Manage Division and Section Fiscal Operations:

- Payroll
- Accounts payable and receivable
- Purchase orders
- Review and development of fiscal policies and procedures and handling of funds.
- Review and approve invoice payment from vendors.
- Assist in preparation of a section budget; control expenditures.
- Direct the development of goals, objectives, policies and procedures; the implementation of goals, objectives, policies, procedures and work standards.
- Respond to inquiries and resolve complaints related to division matters; interpret and explain laws and procedures.
- Assign/monitor work and re-allocate work as needed.

INTERNAL AFFAIRS POLICE RECORDS SPECIALISTS

Rank: Police Records Specialist
Immediate Supervisor: Administrative Support Supervisor
Immediate Subordinates: None
Primary Responsibilities: Process all IAD files, to include scanning to the server, building investigative files, and closed case processes; track discipline; compile Skelly materials; reception duties during business hours

DUTIES AND RESPONSIBILITIES:***Processing IAD Files:***

- Close cases in database.
 - Combine investigative file and the control file.
 - Update IAD database.
- Send CIR notifications to subject employees.
 - When a case comes to a finding other than sustained, advise the employee of the findings.

Additional Duties:

- Complete documents requests from Community Police Review Agency and the Office of the City Attorney.
- Division payroll coordinator.
 - Ensure time and attendance policies are followed.
- Field Training Officers Open & Closed IAD cases report.
 - Monthly report to FTO Unit. Updates FTO coordinator of any pending IAD cases associated with Field Training Officers, both open and closed cases.
- Complete and forward vehicle inspections report to fleet coordinator.
- Store, order, and issue supplies.
- Create Requisitions and Purchase Orders.
- Scan case files and uploading CD's to server.
- Complete Public Records Requests.
- Create investigative files
 - Upon receipt of the control file copy content place in investigative folder and distribute to IAD Investigative Unit or out as a Division Level Investigation.
- Coordinate the retrieval and storage of case files with off-site storage facility.
- Perform reception duties:
 - Answer and direct telephone calls.

- Greet visitors.
- Distribute informational material and explain the complaint process to the public.
- Respond to phone requests.
- Distribute incoming mail/complaint memos/returned mail.
- Receive cases from various bureaus.
 - Note in the IAD database the case was received.
 - Forward to the IAD Administrative Assistant II.
- Contact for copy machine maintenance and statistical data requests.
- Locate and correct errors in internal data systems.
- Draft Close-Out Letters:
 - Type disclosure of the investigative results and forward to the Complainant.
- Create Pre-Discipline report folder.
 - Gather all appropriate documents and forward to the subjects Captain.
- Create City Vehicle Collision Cases file.
 - Gather all appropriate documents and forward to the subjects Captain.
- Log Recusal forms.
- Retrieve/file case files.
- Create folders for background checks.
 - Background investigators from outside agencies come to the IAD to review an individual's personnel file. IAD makes the IAD files available.
- Process certified mail/confirmation receipts.
 - ***Discipline Documents***
Send to the representative union of the disciplined member, persons no longer employed with the City, and to the disciplined member's attorneys via certified mail.
- Update Discipline Tracking Sheet.
 - ***Discipline Tracking Sheet***
Weekly report, forwarded to key stakeholders including the Chief of Police, IAD Command staff and tracks individual cases in the:
 - Skelly Process - A Skelly hearing is offered to employees when the recommended discipline is dismissal, demotions, fine, or suspension. This meeting affords the employee their due process right to pre-disciplinary discovery of the materials upon which the discipline is based. A *Skelly* hearing ensures that an employee is informed of the allegations, has an opportunity to refute the allegations, and has an opportunity to mitigate the

allegations or rehabilitate their standing with the employer prior to the imposition of any actual disciplinary action.

- Discipline Conference – To ensure that discipline is imposed in a fair and consistent manner. Internal investigations which result in a sustained finding are submitted to the Discipline Officer for a disciplinary recommendation. The Discipline Officer convenes a meeting with the Deputy Chief or designee in the affected chain-of-command for a confidential discussion of the misconduct, including the mitigating and aggravating factors and the employee's overall performance. The COP may direct the Discipline Officer to prepare a Discipline Recommendation without convening a Discipline Conference.
- Prepare and forward correspondence including, Discipline Letters, Administrative Leave Letters, Skelly results, regarding discipline.
- Schedule Skelly hearings.
- Respond to questions from employees about the Skelly process.
- Copy and send Skelly CDs to all required individuals.
- Review Skelly Hearing Summary Reports for final discipline.
- Process:
 - Settlement agreements
 - Grievances and arbitration results
 - Sustained results from Executive Force Review Board and Force Review Board hearings

DIVISION LEVEL INVESTIGATIONS
SECTION

DIVISION LEVEL INVESTIGATIONS (DLI) SECTION COMMANDER/MANAGER

Rank: Lieutenant of Police/Police Services Manager
Immediate Supervisor: Internal Affairs Division Commander
Immediate Subordinates: Division Level Investigations (DLI) Coordinators; Division Level Investigations Section Analyst
Primary Responsibilities: Review, Approve, and Forward Division Level Investigations; Coordinate review of certain cases by the chain-of-command Deputy Chief; Coordinate the presentation of DLIs to the Chief of Police; Liaison with the CPRA Executive Director on the closure of DLIs; Monitor DLI timeline compliance

DUTIES AND RESPONSIBILITIES:

Review, Approve, and Forward Division Level Investigations

The primary task for the DLI Section Commander/Manager is to review, approve, and forward to the Captain of IAD all DLIs. Key tasks include but are not limited to:

- Ensure that the DLI Coordinator has reviewed each Report of Investigation (ROI) for content, clarity, and investigative sufficiency.
- Ensure all allegations of misconduct are accurately identified and any additional potential Manual of Rules (MOR) violations.
- Reviews should ensure impartiality, fairness, and thoroughness by examining, among other things, adherence to Training Bulletin V-T.1, quality of and adherence to investigative plans, correct application of the standard of proof, credibility assessments, promptness and quality of interviews (e.g., avoiding leading questions and resolving inconsistencies), and analysis of the evidence.
- If there is reasonable suspicion to believe a member is in possession of evidence or items that contain evidence (e.g., a member’s personal cellular phone) of member misconduct for which a member is being administratively investigated, the Department reserves the right to demand the member produce the evidence for use in the administrative investigation and proceedings.
 - Any such demand for such information must be documented in writing with a recitation of facts giving rise to reasonable suspicion that the evidence sought is contained therein.
 - Any such demand must also be reasonably tailored to the allegation(s) being investigated.
 - Any such demand must be accompanied by an admonition that the evidence and information produced may not be used against the member producing the information in a criminal proceeding but may be used against the member in an administrative proceeding.
 - The demand for evidence on a personal device must be reviewed and endorsed by the investigator’s first level supervisor and then approved by the IAD Commander prior to the request being made.
- Consider the use of Administrative Warrants to assist in investigations if legally and strategically viable. (OCA should be consulted prior to the pursuit of any Administrative Warrant.)

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- Review and approve/deny requests to amend or change allegation during an investigation (only the IAD Commander has the authority to remove an allegation).
- Ensure that each ROI contains findings that are supported by evidence and analysis.
- Once reviewed, sign each ROI memorializing approval of the findings.
- Present the findings in each ROI to the IAD Commander for approval.
 - For cases with findings other than Sustained, forward the case to the DLI Section Analyst for processing to closure.
 - For cases with Sustained findings, coordinate the presentation of the case to the Chief of Police for review and approval (see below for further).
 - For cases that are also being investigated by the Community Police Review Agency (CPRA), regardless of findings, liaison with the CPRA Executive Director for concurrence and closure (see below for further).

Coordinate and Ensure Review of Certain DLIs by the Chain-of-Command or Bureau of Risk Management Deputy Chief

Prior to case presentation to the Chief of Police, obtain review from the Deputy Chief in the investigator’s chain of command for cases with recommended **sustained** findings for allegations that could result in termination (i.e., has T as a possible consequence on the Discipline Matrix which includes MORs for obedience to laws felony/serious misdemeanor and DUIs, and use of force), or allegations of violations of obedience to laws misdemeanor/infractioⁿ.

Additionally, regardless of findings, the Deputy Chief of BRM must review and approve the following cases:

- Not Sustained findings involving allegations which, if Sustained, could have resulted in termination.
- Involving allegations of violations of obedience to laws misdemeanor/infractioⁿ.
- Management Level Liaison (MLL) cases initiated by notification from the District Attorney’s Office or the Public Defender’s Office.
- Involving allegations investigated under DGO M-4.1- Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel.

Coordinate the Presentation of DLIs to the Chief of Police

DLIs that involve a Sustained finding must be presented to the Chief of Police for approval. Additionally, regardless of findings, the Chief of Police must review and approve the following cases:

- Not Sustained findings involving allegations which, if Sustained, could have resulted in termination.
- Involving allegations of violations of obedience to laws misdemeanor/infractioⁿ.
- Management Level Liaison (MLL) cases initiated by notification from the District Attorney’s Office or the Public Defender’s Office.
- Involving allegations investigated under DGO M-4.1- Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel.

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 <#>For cases involving **not sustained** recommended findings for allegations that could result in termination or allegations of violations of obedience to laws misdemeanor/infractioⁿ, or any Management Level Liaison (MLL) case that is initiated by notification from the District Attorney’s Office or the Public Defender’s Office, obtain review from the Deputy Chief of the Bureau of Risk Management.¶

Moved (insertion) [1]: DLIs that involve a Sustained finding must be presented to the Chief of Police for approval. Additionally, r

Key tasks include but are not limited to:

- Schedule the case for presentation at the weekly IAD Meeting with the Chief of Police. This includes notifying the Investigations Section Administrative Sergeant/Analyst to include the case on the meeting agenda.
- When scheduling the case for presentation, consideration should be given to the following:
 - The 180 date
 - The 3304 date
 - The DLI Investigator's availability
 - The CPRA Executive Director and Investigator's availability (when applicable).
- Ensure the DLI Investigator is notified and available on the date and time of the meeting to present the case.
 - In instances where the DLI Investigator is not available, the reviewing DLI Coordinator should be assigned to present the case to the Chief of Police.
 - In instances where the DLI Investigator has not previously presented a case to the

Moved up [1]

Chief of Police, provide or facilitate training on the meeting format and best practices for presentation.

- In advance of the meeting, ensure the Internal Affairs Police Records Specialist has prepared a Pre-discipline packet.
- During the meeting, provide the Chief of Police with information or clarity related to the case, and support to the DLI Investigator, when needed. Upon approval of the findings, ensure the Chief of Police signs all required documents. The Chief shall read any ROI that the Chief signs. At a minimum, the Chief shall read and sign any ROIs involving a recommended finding of sustained that could result in termination (i.e., has T as a possible consequence on the Discipline Matrix, which includes MORs for obedience to laws felony/serious misdemeanor and DUIs, and use of force); or a recommended finding of sustained for obedience to laws misdemeanor/infraction.
- All track changes and versions created during the course of the DLI Coordinator's review will be saved on the IAD server.
- Ensure express memorialization using the guidance in the ROI template of any of the following revisions: (1) removing or changing MOR violation allegations, (2) downgrading members from subjects to witnesses, (3) changing conclusions of credibility assessments, and (4) changing recommended findings.⁵

Liaison with the CPRA Executive Director on the Closure of DLIs

Pursuant to The Charter of the City of Oakland, Section 604(g), in any public complaint that is investigated by both agencies, agreement or disagreement with the findings must be established between the Chief of Police and Executive Director prior to adjudication.

- In instances where the DLI Investigator and CPRA Investigator come to the same finding(s), and where those findings are other than Sustained, the DLI can be closed and processed upon receipt of written concurrence with the findings from the CPRA Executive Director.
- In instances where the DLI Investigator and CPRA Investigator come to the same finding(s), and where one or more of those findings are Sustained, the case can be scheduled for presentation to the Chief of Police upon receipt of written concurrence with the findings from the CPRA Executive Director.
 - The CPRA Executive Director and the CPRA Investigator are permitted – but not required – to attend the case presentation to the Chief of Police.
 - When the case is later presented to the Chief of Police for a discipline determination, the Executive Director's presence at that meeting is required to establish if there is agreement or disagreement between the Executive Director and the Chief of Police on the proposed discipline.
- In instances where the DLI Investigator and CPRA Investigator come to different findings, the case shall be scheduled for presentation to the Chief of Police to establish agreement or disagreement between the Executive Director and the Chief of Police on the finding(s).

⁵ Note that IAD commander must approve any downgrade from subject to witness, and any removal of an MOR allegation. Authorization for changes must therefore be obtained, documented in writing in an email, and kept in the file and noted on the chron log.

- The CPRA Executive Director and the CPRA Investigator should be present at the case presentation to the Chief of Police to present their finding(s).
- The DLI Investigator (or a DLI Coordinator) shall attend the meeting to present their finding(s) to the Chief of Police.
- If, after presentation and discussion between the Chief of Police and the Executive director, there is disagreement on either the finding(s) or proposed discipline, the case shall be submitted to a Discipline Committee pursuant to The Charter of the City of Oakland, Section 604(g)(2).

Monitor DLI Timeline Compliance

DGO M-3 requires that 85% of investigations be completed within 180 days of complaint. Strategies for ensuring compliance with the 180-day timeline include, but are not limited to:

- Coordination with BFO Administration to ensure that timelines and due dates are accurately documented and communicated to the chain of command responsible for the DLI.
- Maintenance of a tracking mechanism, independent of the current database system.
- Establishing an IAD due date for cases prior to the 180-day date to allow sufficient time for review, and coordination with CPRA and presentation to the Chief of Police when needed.

DIVISION LEVEL INVESTIGATIONS (DLI) COORDINATOR

Rank: Sergeant of Police
Immediate Supervisor Division Level Investigations Section Commander
Immediate Subordinates: None
Primary Responsibilities: Review Division Level Investigations; Case presentation; Liaison between DLI Investigators and IAD; Liaison between CPRA Investigators and DLI Investigators and/or IAD

DUTIES AND RESPONSIBILITIES:***Review Division Level Investigations***

The primary responsibility for the DLI Coordinator is to review/edit DLI's from the field. The key tasks for reviewing a DLI are as follows:

- Upon receiving a DLI for review, check the 180 date and 3304 date and determine the urgency based on those dates. From there, start your review by completing a DLI checklist to ensure all the necessary documents are present in the case file. If they are not present, contact the DLI Investigator and acquire the documents for the file and put a hard copy in the case file. After the checklist is complete, ensure that the CIR in the case file matches the CIR in the database, and make sure the allegations investigated in the ROI/Summary Finding match the CIR in the database. If they don't match, determine why they don't match (check the Chronological Activity Log) and determine what needs to be done to make them match.
- Upon initial review of the DLI, ensure that the subject members and MOR violations are accurately reflected in the Complaint Investigation Report (CIR).
- The DLI Coordinator shall identify areas of concern, provide the Investigator with guidance on how to reach investigative sufficiency, and return it to the Investigator via their chain of command.
- Reviews should ensure impartiality, fairness, and thoroughness by examining, among other things, adherence to Training Bulletin V-T.1, quality of and adherence to investigative plans, correct application of the standard of proof, credibility assessments, promptness and quality of interviews (e.g., avoiding leading questions and resolving inconsistencies), and analysis of the evidence.
- Review and Edit the Report of Investigation (ROI) for content and clarity. Minor changes including formatting errors, writing/spelling errors, and small content deficiencies should be handled by the DLI Coordinator, who will then ensure that the Investigator concurs with the changes. DLIs requiring more substantive edits or additional investigation should be sent back to the DLI Investigator to complete. The DLI Coordinator shall identify areas of concern, ensure any additional potential MOR violations, provide the Investigator with guidance on how to reach investigative sufficiency, and return it to the Investigator via their chain of command.

- Ensure express memorialization in the ROI using the guidance in the ROI template of any of the following revisions approved by the IAD Commander: (1) removing or changing MOR violation allegations, (2) downgrading members from subjects to witnesses, (3) changing conclusions of credibility assessments, and (4) changing recommended findings.⁶

Case Presentation:

Lieutenant presentation

- Once a case has been reviewed/and or edited and approved by the DLI Investigator if it was edited, the case is brought to the IAD Administrative Lieutenant for presentation. The DLI Coordinator presents the case and discusses each allegation of misconduct along with the relevant evidence that led to the recommended findings. Be prepared to answer questions regarding investigative sufficiency, evidence, and credibility assessments. If the Lieutenant agrees with the recommended findings, the Lieutenant will sign both the printed copy of the ROI/Summary Finding, and the CIR and the case is ready for Captain presentation.

Captain Presentation

- Once a case has been presented to and approved by the IAD Administrative Lieutenant, the DLI Coordinator will present the case to the IAD Captain. The presentation should be the same as the presentation to the Lieutenant. If the IAD Captain agrees with the recommended findings, he/she will sign the printed copy of the ROI/Summary Finding and the CIR. If the Captain disagrees with the findings, discuss strategy to resolve disagreement.
 - For cases involving a finding other than Sustained, this is the conclusion of the presentation process and the case is ready to be closed.
 - For cases involving a sustained finding. Coordinate a Chief's presentation date with the IAD Administrative Lieutenant and the DLI Investigator for the DLI Investigator to present the case to the Chief of Police.

Chief's Presentation

- Occasionally the DLI Investigator will not be available for the case presentation of a sustained finding to the Chief. When this occurs, the DLI Coordinator who reviewed the file will present the case to the Chief.

Liaison between DLI Investigators and IAD

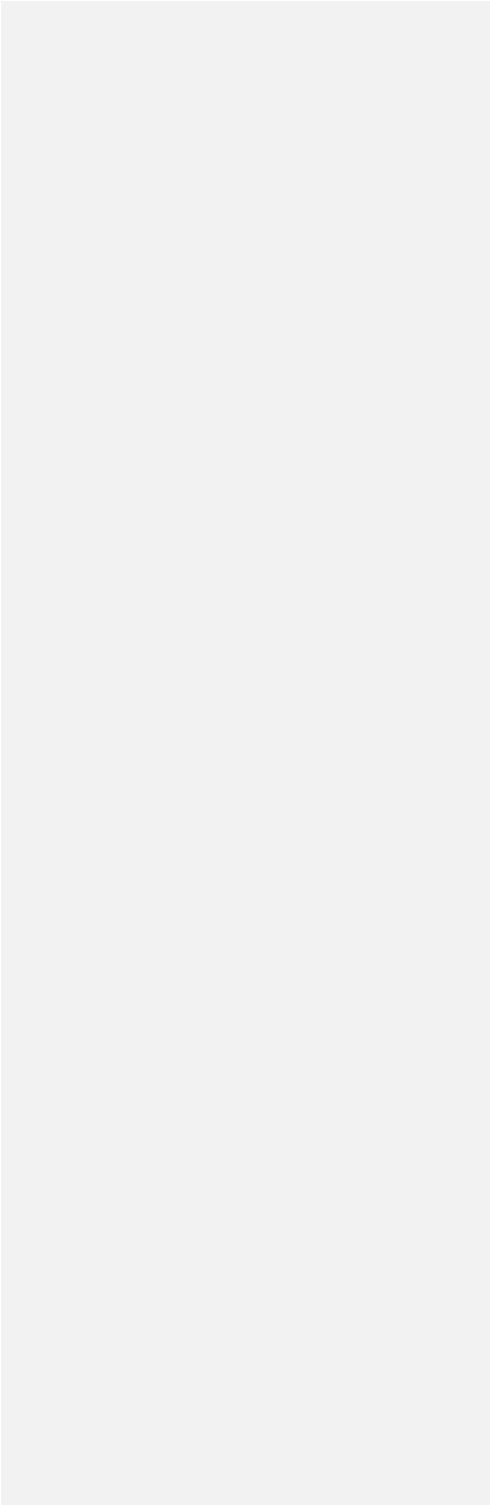
This primarily consists of answering questions and providing guidance to DLI Investigators while they are working on the investigation. However, it may include: facilitating requests to add, remove, or amend allegations or subject members; noticing subject members of allegations; and acting as a liaison between the DLI Investigator and the Office of the City Attorney (OCA), or the Community Police Review Agency (CPRA).

Liaison between DLI Investigators and CPRA Investigators

⁶ Note that IAD commander must approve any downgrade from subject to witness, and any removal of an MOR allegation. Authorization for changes must therefore be obtained, documented in writing in an email, and kept in the file and noted on the chron log.

Division Level Investigations can also be under investigation by the CPRA. The DLI Coordinator may need to act as a liaison between the two agencies and/or provide information in accordance with current statutes. Pursuant to the Charter of the City of Oakland, Section 604(f)(2), the CPRA has the same access to all Department files and records as the Internal Affairs Division, and the Department shall make every reasonable effort to respond to the CPRA's requests for files and records within ten (10) days, and the transfer of any materials to CPRA shall be documented in the Chronological Activity Log in the current case management database. Coordination with CPRA may include, but is not limited to, providing all evidentiary materials as requested, including recorded interviews.

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DIVISION LEVEL INVESTIGATIONS SECTION ANALYST

Rank: Administrative Analyst II
Immediate Supervisor: Division Level Investigations Section Commander
Immediate Subordinates: None
Primary Responsibilities: Track all open investigations and timelines; maintain all tolling cases; monitor DLI Section caseload

DUTIES AND RESPONSIBILITIES:***Track open investigations and timelines:***

The primary responsibility for the Administrative Analyst II is to track the timeliness of DLI case submissions and reviews by sending reminders to investigators and warnings to BFO and IAD commanders so the latter can intervene or assist when necessary to ensure a case is submitted on time to meet 180 date and 3304 deadlines.

- Track progress of all DLI cases including opening of cases, assignments to BFO personnel for investigation, due dates, tolled cases, case review, and closure of cases.
 - Crosscheck data with data in the current database system. Coordinate data with BFO 1 and 2 Administrative Sergeants. Track opening and closing of cases in IAD Investigations Section. Coordinate case details with CPRA investigators.
 - Track receipt of cases from investigators.
 - Manage DLI coordinators caseloads by assigning cases for review and noting which cases are sent back to the investigator for additional work.
 - Send reminders to investigators and their chain of command notifying them of upcoming due dates, missed due dates, missing documents, etc.
 - Produce a weekly report on DLI cases past the 180-date detailing which are tolled, which are being reviewed by the DLI coordinators, and which are still out in the field.
 - Manage tolled cases. Track commencement of tolling required paperwork, extensions, work restrictions, and conclusion of tolled cases. Query CID Captain and Medical Unit for updates on criminal case investigations and employee conditions causing cases to toll. Notify investigators when they may resume their investigations. Notify CPRA when tolling is completed.
 - Close cases in the current database system including ensuring proper CIR signatures and notification to the IAD command if the case was a CPRA case. Complete data entry in Tracking section, Chronological Log, and Tasks.
 - Occasional research for Internal Affairs Division Commanders.

ADDITIONAL REFERENCES

IAD Flow Charts

Investigation Flow Chart w/CPRA: Page 45 Disciplinary Process Flow Chart w/CPRA

Policies - Names:

<u>DGO K-3</u>	Use of Force
<u>DGO K-4</u>	Reporting and Investigating the Use of Force.
<u>DGO J-4</u>	Pursuit Driving
<u>DGO K-4.1</u>	Force Review Boards
<u>TB V-T.1</u>	Internal Investigation Manual
<u>RWM U-1</u>	Use of Force Report
<u>CID P&P</u>	Criminal Investigation Unit
<u>DGO M-03</u>	Complaints Against Departmental Personnel or Procedures
<u>DGO M-03.1</u>	Informal Complaint Resolution Process
<u>DGO M-03.2</u>	Community Police Review Agency (CPRA)
<u>DGO M-03.3</u>	Integrity Testing
<u>TB V-T</u>	Departmental Discipline Policy w/ Discipline Matrix Appendix
<u>TB V-T.01</u>	Internal Investigation Manual
<u>TB V-T.02</u>	Internal Investigation and Discipline Appendices
<u>TB V-T.03</u>	Reporting Misconduct
<u>TB V-T.04</u>	Due Process Hearings
<u>DGO B-02</u>	Voluntary Termination, Discharge, Unpaid Leave, Mandatory Leave
<u>DGO E-01</u>	Department Subpoena Service
<u>DGO E-02</u>	Warrant Service on Department Personnel
<u>DGO E-03</u>	Civil Action Proceedings
<u>DGO M-04</u>	Coordination of Criminal Investigations
<u>DGO M-04.1</u>	Criminal Investigations Involving Active Law Enforcement, or a Member or Employee of the Department

Oakland City Charter, Article VI
 Oakland City Ordinance CMS (Measure LL)
 Department Manual of Rules
 IAD Policy and Procedures 05-01 thru 05-04
 Communications Division Policy and Procedure C-1
 OPOA MOU
 City of Oakland MOU (Local 21 & 790)

Forms and Booklets:

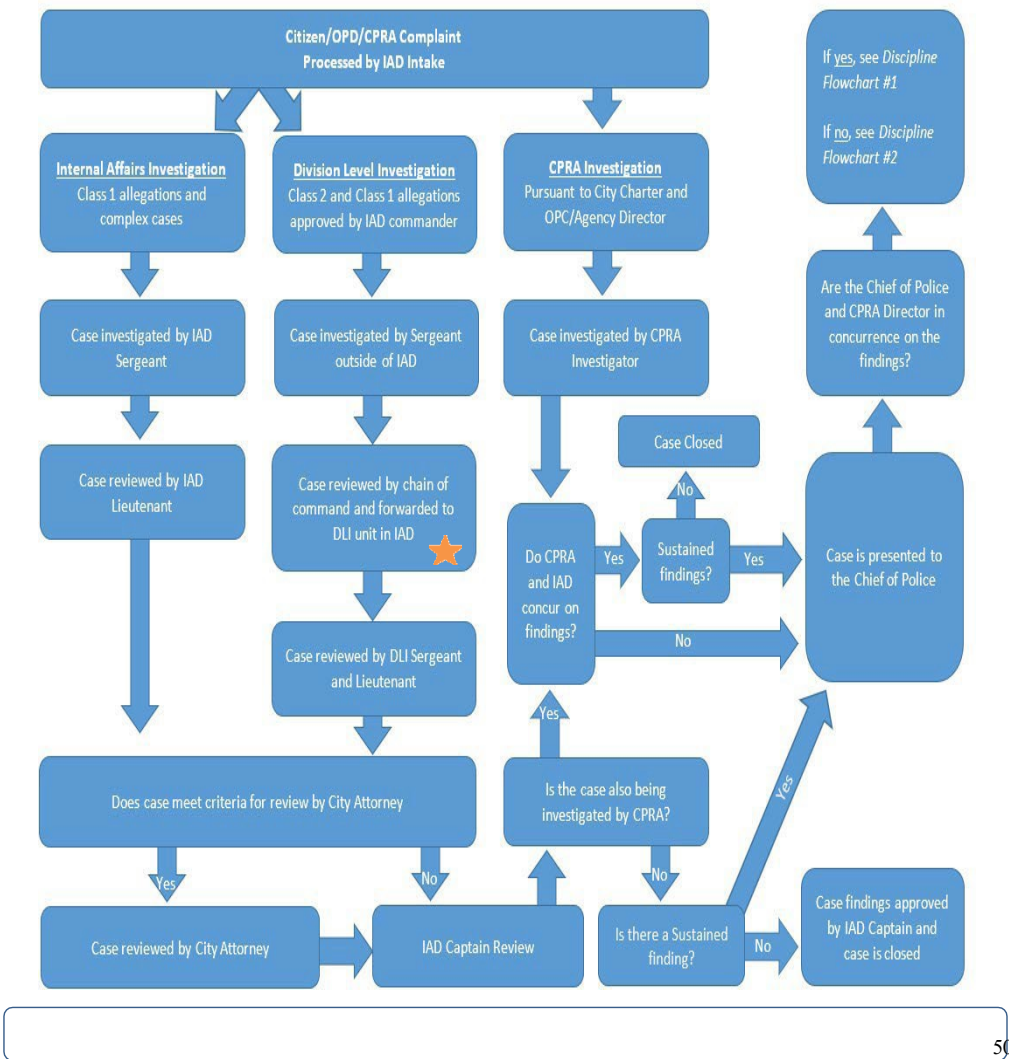
Police Officer's Bill of Rights (POBR)
 AI 71 Equal Opportunity/Anti-Discrimination/Non-Harassment Policy
 City of Oakland Ethics Resource Guide
 City of Oakland Whistleblower Ordinance
 Your Guide to Filing a Complaint Against the Police (TF-3208)
 Acknowledgement of Rights and Obligations Pursuant to Penal Code Section 148.6 and Notice and Releases (TF 3039a)
 Complaint Form (TF-3039b)

Informal Complaint Resolution and Agreement (TF-3132)
Acknowledgement of Rights and Obligations (TF-722)
Skelly Recommendation Template (TF 3412)
Swanson Report (1&2)

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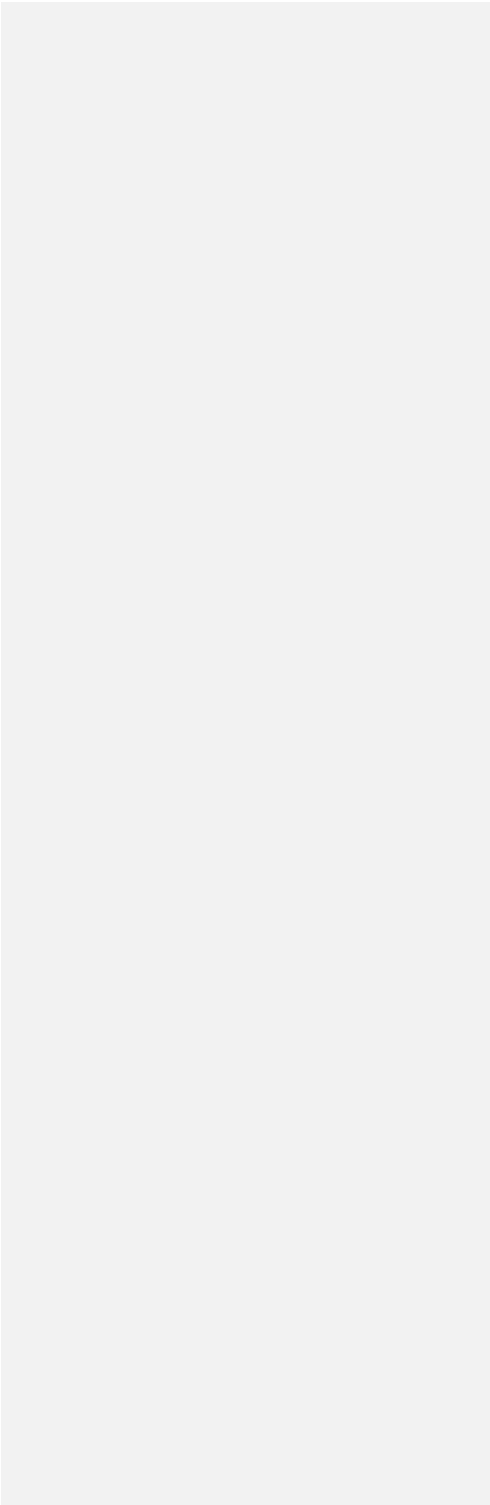
FLOWCHARTS

IAD INVESTIGATIONS WORKFLOW

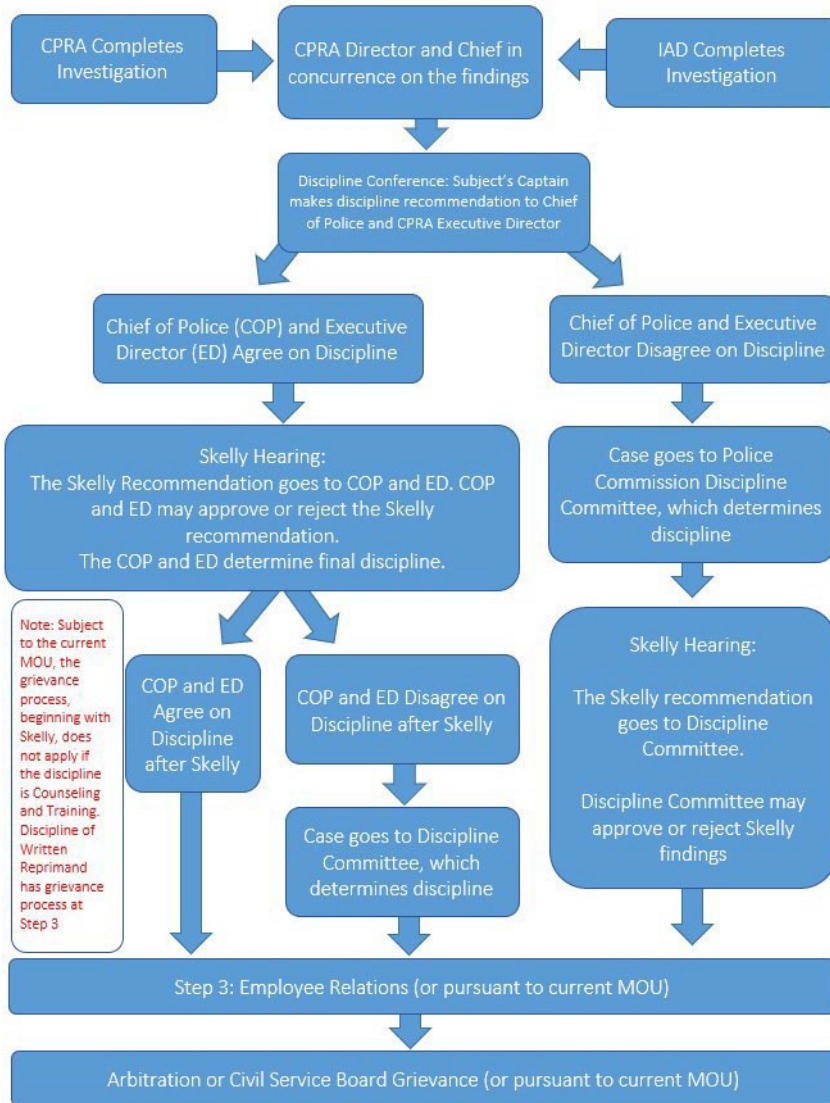


★ The chain of command includes the investigating sergeant's lieutenant and captain. For circumstances listed in TB V-T.01, the investigator's Deputy Chief or the Deputy Chief of the Bureau of Risk Management will also be included in the review.

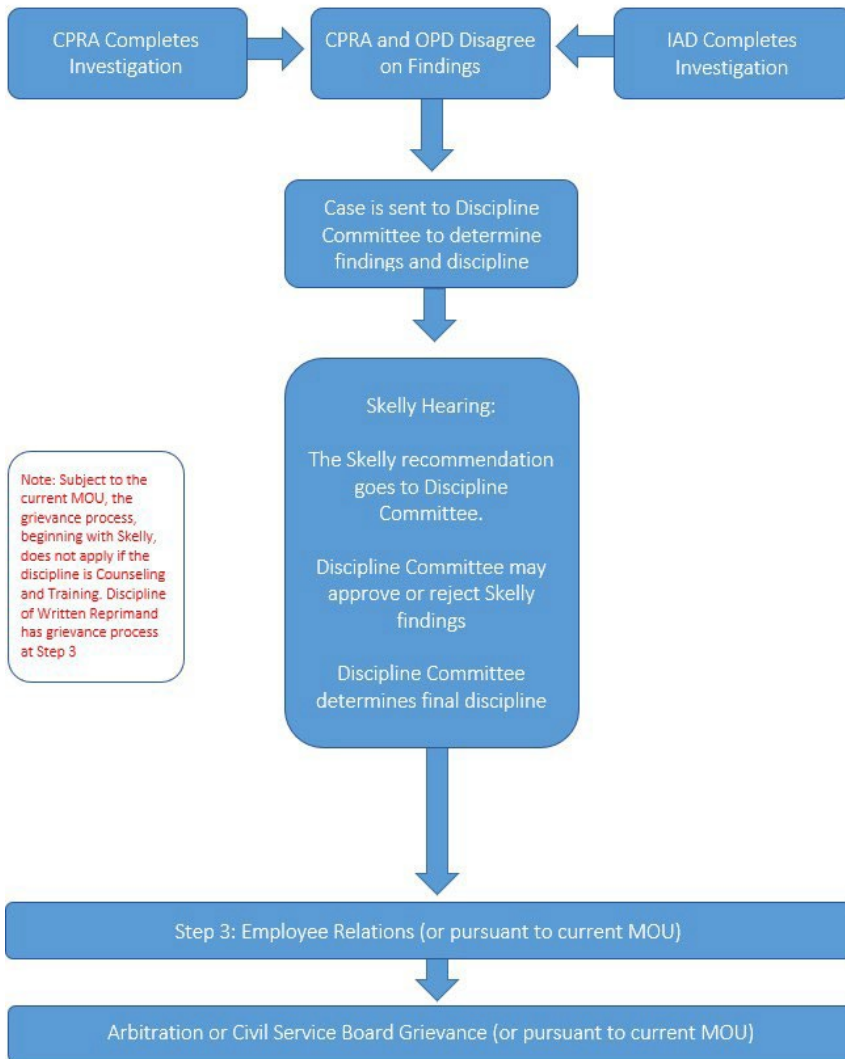
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Discipline Flowchart #1 – OPD and CPRA Agree on Findings



Discipline Flowchart #2 – OPD and CPRA Disagree on Findings



GLOSSARY

<p>180 Date: Investigations shall be completed, reviewed, and approved by the IAD commander within 180 days of the IAD Intake Date.</p>
<p>3304 Date: Refers to Section 3304 of the Public Safety Officers Procedural Bill of Rights Act, which states that “no punitive action...shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency’s discovery by a person authorized to initiate an investigation...”. For OPD, the “3304 Start Date” for internal investigations begins on the date of the complaint, or the date a member of the Department authorized to initiate an investigation became aware – or reasonably should have been aware – of any act, omission, or other allegation of misconduct, whichever is earlier. The “3304 End Date” occurs 364 calendar days after the 3304 Start Date.</p>
<p>Administrative Closure: An administrative disposition indicating that an investigation or allegation cannot come to a normal investigative conclusion (finding). Reasons for Administrative Closure include, but are not limited to: allegations that do not rise to the level of an MOR violation; the complaint lacks specificity and the complainant is unwilling or unable to provide further clarification necessary to investigate the complaint; the subject is not employed by OPD at the time of the incident; or the complaint is limited to a California Vehicle Code citation and/or tow. Refer to DGO M-03 for an exhaustive list of circumstances in which an Administrative Closure is authorized.</p>
<p>Brady: In <i>Brady v. Maryland</i> (1963), the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defense any “material,” “favorable” evidence whether or not the defendant has requested discovery of the evidence. Evidence is favorable if it is either exculpatory and helps the defendant, or if it is damaging to the prosecution.</p>
<p>BWC: Body Worn Camera. A device worn on the uniform of field personnel capable of recording audio and video.</p>
<p>Bureau: The first subordinate organizational unit within the Department</p>
<p>CAL: Chronological Activity Log. A VISION-generated record of user actions that provides the ability for users to create manual entries into the CAL. Examples of CAL entries include, but are not limited to: investigation updates, reviews and approvals, and workflow progress.</p>
<p>CIR Index: Complaint Investigation Report Index Log. A report, generated by VISION, which lists the entire IAD complaint history for a member of the Department. Information in this report include the case number, date of the complaint, alleged Manual of Rules violations, an abstract of the allegations, and the findings.</p>
<p>CIR: Complaint Investigation Report. An informational report, generated by VISION, which contains pertinent details of a given IAD investigation. Information in the report includes, but is not limited to: case number, complainant information, date and location of the incident, date of complaint, 180-days and 3304 dates, a summary of the complaint, and the involved (subject) personnel. At the conclusion of an IAD investigation, the findings are added to the CIR and the reviewing chain of command signs it.</p>
<p>Closeout Letter: A letter mailed by Internal Affairs to a complainant informing them of the disposition of the complaint investigation, including the allegations and the findings.</p>
<p>CNR: Complaint Notification Report. A report, generated by VISION, which is sent to subjects of an IAD investigation. Information in this report include the case number, date of</p>


<p>the complaint, location of incident, alleged Manual of Rules violation(s), and an abstract of the allegation(s). Unlike the Complaint Investigation Report (CIR) this report does not include confidential information such as identifying information on the complainant or other subject members. At the beginning of the investigation, this report is sent to the subject member and their chain of command to inform them of the allegations. At the conclusion of the investigation, the report is again sent to the subject member informing them of the findings.</p>
<p>CPRA: Community Police Review Agency. The investigative body of the Oakland Police Commission. Refer to DGO M-3.2 and Section 604 of the Oakland City Charter for authorities and responsibilities.</p>
<p>Division: All units directly supervised or reporting to the Chief of Police, the Assistant Chief, or a Deputy Chief of Police.</p>
<p>DLI: Division Level Investigation. A formal investigation into allegations of misconduct that is conducted outside the Internal Affairs Division. DLIs are subject to the same investigative requirements as those conducted by IAD investigators. DLIs, typically, involve only Class II allegations of misconduct; however, investigations involving Class I allegations may be sent out as a DLI upon approval of the IAD Commander.</p>
<p>EFRB: Executive Force Review Board. The EFRB is convened to analyze and assess the factual circumstances during and proximate to all: Level 1 Use of Force (UOF) incidents and investigations; In Custody Death incidents and investigations; Vehicle Pursuit Related Death incidents and investigations; or UOF incidents, investigated administratively and/or criminally by the Department or outside law enforcement agency, at the direction of the Chief of Police; and establish concluding recommendations to the Chief of Police from those circumstances.</p>
<p>FBR: Field-Based Reporting. A computerized method of writing police reports using mobile data terminals (MDT) and authorized Departmental computers.</p>
<p>Findings Defined:</p> <ul style="list-style-type: none"> • Exonerated: The investigation disclosed a preponderance of evidence to determine that the alleged conduct occurred, but it was in compliance with law and/or Department rules, regulations, or policies. • Not Sustained: The investigation did not disclose a preponderance of evidence to determine whether the alleged conduct occurred. • Sustained: The investigation disclosed a preponderance of evidence to determine that the alleged conduct did occur, and that it was in violation of law and/or Department rules, regulations, or policies. • Unfounded: The investigation disclosed a preponderance of evidence to determine that the alleged conduct did not occur.
<p>FRB: Force Review Board. The FRB is convened to analyze and assess the factual circumstances during and proximate to all Level 2 Use of Force (UOF) incidents and to establish concluding recommendations to the Chief of Police from those circumstances. (DGO K-4.1)</p>
<p>Garrity: In <i>Garrity v. New Jersey</i> (1967) 87 S.Ct.616, 385 U.S. 493 - Police Officers are not relegated to a watered-down version of constitutional rights and administratively coerced statements may not be used in criminal proceeding.</p>

<p>Giglio: In <i>Giglio v. United States</i>, (1972), the United States Supreme Court extended the prosecution's obligations under <i>Brady</i> to require the disclosure of not only exculpatory evidence but of impeachment evidence as well. Evidence that impeaches a government witness is an example of favorable evidence that damages the prosecution and thus, if material, it must be disclosed under <i>Brady</i>.</p>
<p>High Profile Incidents: Examples of high-profile incidents include, but are not limited to, the arrest of any OPD member; a complaint of a serious nature as to require some form of immediate action (e.g., emergency suspension, administrative leave, temporary reassignment, etc.); any Class 1 MOR allegation against a professional staff manager or sworn commander; or misconduct likely to generate unusual public interest (e.g., alleged criminal conduct, serious injury, death, etc.).</p>
<p>IAD Commander: Any Commander/Command Officer holding the rank of Lieutenant or higher that is assigned to the Internal Affairs Division.</p>
<p>“The” IAD Commander: At OPD, a Commander/Command Officer is a member of the Department holding the rank of Lieutenant or higher. References in this document to <i>the</i> IAD Commander are referring specifically to the Captain of IAD</p>
<p>IAD Communications Daily Incident Log: A daily log, maintained by the Communications Division, documenting misconduct complaints received by field personnel or Communications staff. This serves as a tracking and notification mechanism for complaints received by the Department outside of IAD.</p>
<p>IAD Daily Intake Report: A daily report generated by IAD at the close of business which captures all cases opened by IAD that day. This report includes complaints from the IAD Communications Daily Incident Log, as well as complaints received by IAD.</p>
<p>IBC: Informational Business Card. The informational Business Card is designed to be provided to community members by OPD members. The card contains all necessary information to file a complaint through OPD or the CRPA. The card has space for the issuing member to write their serial number and the incident number to ensure the citizen has the information should they request it, or later decide to file a complaint.</p>
<p>IBC Log: Informational Business Card Log (also known as the Complaint Referral Log). A daily log, maintained by the Communications Division, documenting incidents where an IBC has been issued by field personnel. The log contains information including which member issued the IBC, who the IBC was issued to, and the reason the card was issued.</p>
<p>ICR: Informal Complaint Resolution. A process that may be used to informally address service complaints or alleged acts of Class II misconduct against Departmental personnel that do not indicate a pattern of misconduct. The intent of the ICR process is to expedite the resolution of less serious types of complaints against members.</p>
<p>Lubey Hearing: An at-will member or probationary employee has no property interest in employment. However, such a member/employee suffers a deprivation of a liberty interest if the member/employee is discharged for reasons that impose stigma or that are likely to limit future employment opportunities. For that reason, a probationary member/employee who is terminated for reasons that could result in such consequences is entitled to a post-termination “name-clearing” hearing. <i>Lubey</i> Hearings are conducted in the same way as <i>Skelly</i> hearings.</p>

(TB V-T.4)
Lybarger: Lybarger v. Los Angeles (1985) 40 Cal.3d 822 - Whenever potential exists for criminal charges, accused officer must be advised of Miranda plus fact that answers may be compelled and such answers are limited to scope of administrative investigation.
Monitoring Team: Pursuant to the Negotiated Settlement Agreement (NSA) in the case of <i>Delphine Allen, et al., vs. City of Oakland, et al.</i> , in the United States District Court for the Northern District of California, the Court appointed an Independent Monitor to oversee OPD's progress in achieving compliance with the NSA. The team consists of the Independent Monitor and their support staff.
MOR: Manual of Rules. A document designed to provide additional specificity to the standards of conduct embodied in the law enforcement officer's Code of Ethics and the Department's Policies and Statement of Values.
Notice of Intent (letter): This letter is signed by the Chief of Police informing the member that the Chief intends to impose discipline resulting from a sustained allegation of misconduct. The notice of the proposed discipline must be provided to the subject member or employee within one year of the discovery of the violation, unless qualified exemptions exist pursuant to <i>Government Code Section 3304(d)</i> .
OCA: Office of the City Attorney
OIS: Officer Involved Shooting
OPOA: Oakland Police Officers' Association. Labor union representing sworn members of the Oakland Police Department.
Preponderance of Evidence: The standard of proof in internal investigations is "preponderance of evidence" rather than the criminal standard of "beyond a reasonable doubt." Preponderance of the evidence has been described as a "slight tipping of the scales of justice" or "more than 50 percent" or "more likely than not."
Pitchess: A <i>Pitchess</i> motion is the procedural method established by the California Supreme Court in <i>Pitchess v. Superior Court</i> (1974), and later codified in Cal. Pen. Code §§ 832.5, 832.7, and 832.8, that allows for discovery of otherwise privileged personnel records in California. Typically, a <i>Pitchess</i> motion is brought by a criminal defendant in order to discover evidence in the arresting officer's personnel file that is relevant to the defendant's ability to defend against a criminal charge.
Pre-Discipline (process): Upon approval of a sustained finding in an internal investigation, unless the Chief has waived the process, the IAD shall provide a printed copy of the subject's five (5) year disciplinary history, his/her two most recent performance evaluations, the Complaint Investigation Report (CIR) and the Report of Investigation (ROI) for the current case. The documents shall be forwarded to the sustained member's Captain. Since the chain of command is more familiar with the conduct of subordinate personnel, they can provide the Chief of Police with input regarding any mitigating and/or aggravating circumstances that are

<p>germane, along with a discipline recommendation to ensure a better-informed decision is made in determining the appropriate discipline. The sustained member's Captain shall prepare the appropriate Pre-Discipline Report (PDR) for each sustained case, and the Chief of Police or designee shall utilize the PDR in determining the appropriate discipline. NOTE: The Chief of Police maintains the authority to bypass the chain of command and impose discipline without a Pre-Discipline Report.</p>
<p>Preliminary Inquiry: A Preliminary Inquiry (PI) shall be completed on all complaints upon receipt by a supervisor or IAD intake personnel. The purpose of the PI is for the assigned investigator to do a preliminary investigation within 14 calendar days of receiving the complaint and come to one of four recommendations as to how the complaint should be handled: (1) Further Investigate; (2) Handle at Supervisor Level; (3) Administrative Closure; (4) Summary Finding. Further information on Preliminary Inquiries, including minimum investigative steps that must be taken, can be found in DGO M-03.</p>
<p>Recusal Form: The purpose of this form is to disclose any relationship where it is clear that the nature of the relationship could be perceived to compromise the investigative process and document the circumstances. For every IAD investigation, the investigator must fill out a Recusal Form either disclosing such a relationship, or affirmatively declaring that such a relationship does not exist, nor that the investigator was directly involved in the incident under investigation. This form must be completed prior to the start of an investigation and submitted to the investigator's first-level supervisor for review. Defined relationships requiring consideration for recusal can be found in CID P&P 23-02.</p>
<p>ROI: Report of Investigation. The report completed by the investigator at the conclusion of an Internal Affairs Investigation or Division Level Investigation.</p>
<p>Section: A functional unit that may be a sub-unit of a bureau or division. It may be commanded by any rank, depending on its size, the nature and importance of its function.</p>
<p>Serious Incidents: Serious Incident shall mean a Department sworn employee-involved shooting, death or serious bodily harm caused by the action and/or inaction of a Department sworn employee, in-custody death, and/or on-duty or off-duty criminal conduct of a sworn Department employee which rises to the level of a felony or serious misdemeanor.</p>
<p>Serious Misdemeanor: shall mean any misdemeanor crime that, if convicted, could preclude active law enforcement personnel, or a sworn employee of the Department, from successfully fulfilling the responsibilities of their job classification. Examples include those crimes that involve violence, intimidation, threats, sexual offenses, theft, dishonesty, possession of drugs, purchase, ownership or possession of a firearm in violation of California Penal Code section 12021(c)(1), and those crimes where bias based on any legally protected characteristic is a motivating factor.</p>

<p>Skelly Hearing: The federal and state constitutions prohibit deprivation of life, liberty, and property without procedural due process. Courts have found that a member/employee’s permanent civil service job is defined as “property.” Accordingly, an employer seeking to deprive a civil service employee of pay must provide notice of the proposed discipline and an opportunity to respond at a pre-termination hearing. The hearing is not a full trial-type hearing. There is no right to representation by counsel, or to confront or cross-examine witnesses. A member/employee may instead choose to respond in writing and forego a hearing. <i>Skelly v. State Personnel Board</i> (TB V-T.4)</p>
<p>Subject Officer/Member: A member of the Department against whom allegations of misconduct are made.</p>
<p>Summary Finding: A Summary Finding is an abbreviated internal investigation in which a finding can be reached without conducting a full, formal internal investigation because the correct finding can be determined with little or minimal follow-up based on the existing documentation, evidence, statements, and crime information data (e.g., Offense Report, Use of Force Report, video or digital recordings, complainant’s statement, radio purge, LRMS records).</p>
<p>VISION: The Department’s personnel assessment system, which is a database that consolidates human resource and performance data for all employees to be used for monitoring employee behavior/performance. Additionally, several administrative investigations are completed within the VISION environment, including IAD and DLI investigations.</p>
<p>Witness Officer/Member: A member of the Department who witnessed, or may have witnessed, an incident in which misconduct is alleged to have occurred.</p>

<h1 style="margin: 0;">TRAINING</h1>		<h1 style="margin: 0;">BULLETIN</h1>
<p>Effective Date: DD MMM 23</p>		<p>Index Number: V-T.1 Alpha Index: Internal Investigation Manual Internal Investigation Procedures</p>
<p>“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”</p>		

**PART III
INTERNAL INVESTIGATION PROCEDURE MANUAL**

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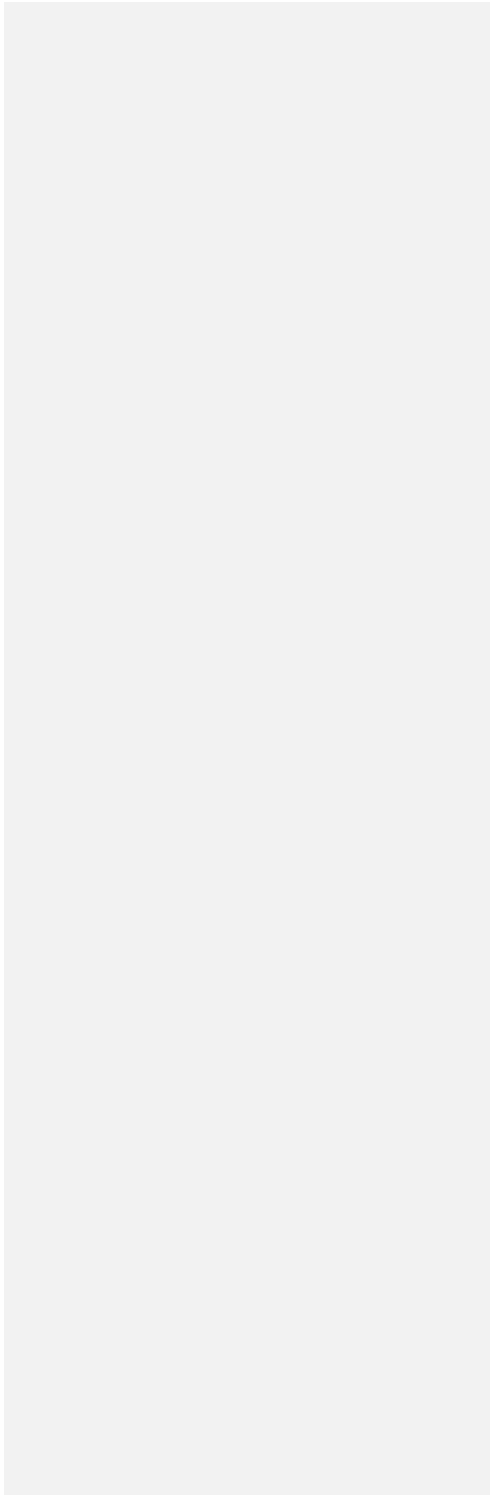


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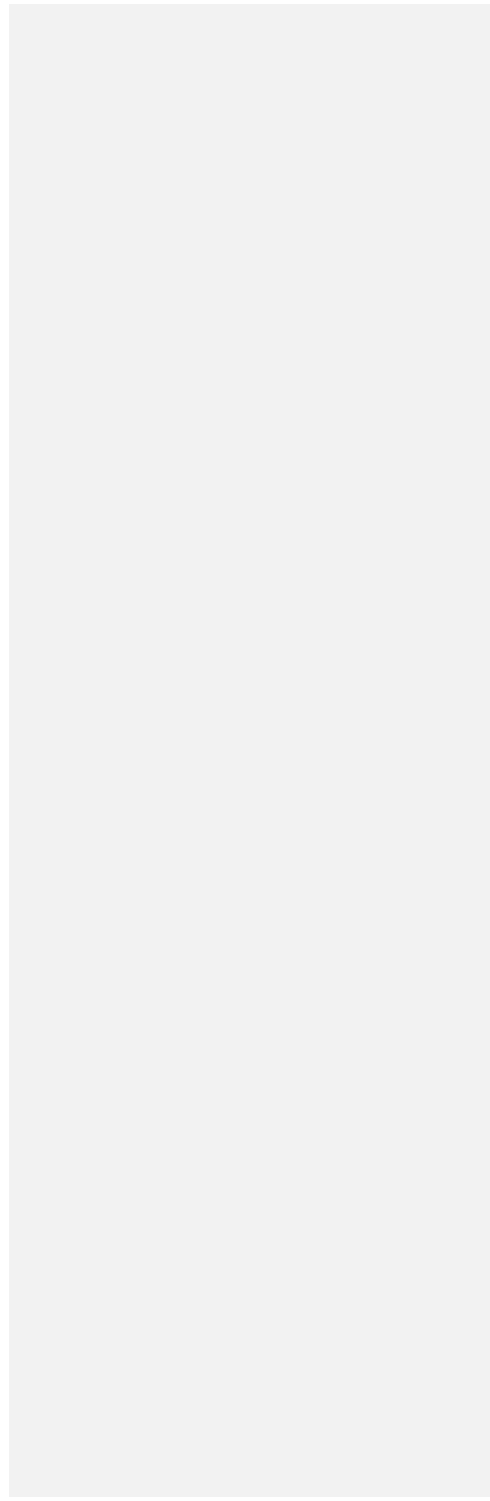
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Oakland Police Department
 Training Bulletin V-T.1, Internal Investigations

Effective Date:
 DD MMM 23


REVISION RECORD

The page numbering format has been revised to facilitate updating and tracking revisions to publications contained in this policy.

When a minor revision is made to a publication, the 'Revision Number' will be indicated on the Special Order and shall be accompanied by the updated page(s). The 'Revision Date' and 'Reference Page Number(s)' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'.

When it is necessary to make a major policy or content revision, the publication shall be rewritten in its entirety. The 'Revision Number' and 'Revision Date' shall be indicated on the new Order. The 'Revision Date' shall be recorded in the appropriate box on the same line as the indicated 'Revision Number'. The term 'NEW' shall be recorded in the 'Reference Page Number(s)' box to indicate the promulgation of a new order.

Revision Number	Revision Date	Reference Page Number(s)	Revision Number	Revision Date	Reference Page Number(s)
1	26 Jun 08	NEW	16		
2	26 Mar 18	Multiple	17		
3	DD MMM 23	Multiple	18		
4			19		
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TRAINING		BULLETIN
Effective Date: DD MMM 23		Index Number: V-T.1 Alpha Index: Internal Investigation Manual Internal Investigation Procedures
“Department Training Bulletins shall be used to advise members of current police techniques and procedures and shall constitute official policy.”		

INTERNAL INVESTIGATION PROCEDURES

The purpose of this Training Bulletin is to set forth departmental policy and procedures to enable personnel to conduct an accurate, complete, and timely internal investigation. Additionally, Internal Affairs Division (IAD) investigators shall comply with the provisions of IAD Policy and Procedures Manual, 23-01.

A. Complaints

1. Departmental General Order (DGO) M-3, COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES sets forth department policy and procedures for the following:

- a) Value statement;
- b) Definitions;
- c) Receiving complaints;
- d) Processing complaints;
- e) Due dates and timelines;
- f) Investigation of complaints;
- g) Review of investigations;
- h) Due date extensions and requests;
- i) General policy.

2. DGO M-3.1, INFORMAL COMPLAINT RESOLUTION PROCESS sets forth departmental policy and procedures for initiating, administering, and reviewing the appropriateness and resolution of the Informal Complaint Resolution process to resolve service complaints or Class II violations that do not indicate a pattern of misconduct.

B. Case File Management

1. A Control and Investigative File shall initially contain the following:

- a) A completed Complaint Form (TF-3039b).
- b) Investigative files sent for division-level investigation shall include an IAD Administrative Memorandum containing instructions and the due date.
- c) Any offense reports and ancillary documents, when available.
- d) A Chronological Activity Log (CAL), documenting all investigative steps and events that have been completed.



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- e) Miscellaneous documents related to the investigation or related issues.
- f) An envelope marked “CONFIDENTIAL – DO NOT COPY” for documents such as criminal history printouts or emails eligible for “Attorney/Client Privilege.”
- g) Recusal Form (IAD Form – 13)
- h) Investigator Notes Declaration (IAD Form – 11)

2. The IAD Administrative Section is responsible for maintaining the Control File throughout the investigation.

The investigator is responsible for maintaining the Investigative File throughout the investigation and forwarding the completed investigation to the IAD Administrative Section.

3. Additional Documents

As miscellaneous documents are accumulated throughout the investigation, they are added to the case file.

- a) Original documents, copied documents, and evidence are added and maintained in the Investigative File and include items such as:
 - 1) Photographs of the complainant, subject member, other involved personnel, witnesses, and location/scene of the incident;
 - 2) Storage media for audio/video files or documents;
 - 3) Diagrams of the scene and other locations;
 - 4) Witness list, including addresses and phone numbers;
 - 5) Medical treatment records;
 - 6) Criminal history;
 - 7) Email communications; and
 - 8) Handwritten or typed investigative notes.
- b) All documents and evidence are to be delivered to IAD with the Investigative File at the conclusion of the internal investigation and merged with the Control File.

C. Assignment of Investigations

The assignment of a complaint as an internal investigation or an Informal Complaint Resolution shall be performed in accordance with the provisions of DGO M-3 and DGO M-3.1.

D. Recusal Process

An investigator shall recuse him/herself from conducting an internal investigation if he/she was directly involved in the incident or if any of the following conditions exist between any of the involved parties which might lead to a perception of bias, such as:

Familial Relationship

Includes relationship by blood, adoption, marriage, domestic partnership, foster care with cohabitation, and includes parents, grandparents, great-grandparents, grandchildren, great-grandchildren, children, foster children, uncles, aunts, nephews, nieces, first cousins, second cousins, siblings and the spouses or domestic partners of each of these relatives and cohabitants. This definition includes any relationship that exists by virtue of marriage or domestic partnership, such as in-law and step relationships, which are covered to the same extent as blood relationships.

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Cohabitant Relationship

Any relationship where a member shares a residence with another member. This includes non-romantic roommates.

Outside Business Relationship

Members who, in addition to serving as a member of the Oakland Police Department, are also an independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture, or other transaction, in cooperation with another Department member, where either of the Department member's annual interest, compensation, investment, or obligation is greater than \$250.

Consensual Romantic Relationship

Any consensual sexual or romantic relationship with another member.

Close Friendship

A non-familial, non-romantic relationship wherein the two parties are more than acquainted and who have participated together in non-departmental social events or are privy to private details in one another's personal or family lives. Examples may include but are not limited to having visited one another's home(s) for social functions, having traveled together, or having spent more than passing time in the company of each other or each other's families.

Close work relationship

A non-familial, non-romantic relationship wherein the two parties are more than acquainted, who have participated routinely and closely in departmental actions and are privy to private details in one another's personal or family lives

Directly involved in the incident, as defined in DGO M-3.

1. The investigator shall review the investigative file after assignment.
2. Prior to the start of an internal investigation:
 - a) The investigator shall disclose any relationship where it is clear that the nature of

the relationship could be perceived as compromising the investigative process.

- 1) If yes, the assigned investigator shall recuse him/herself from the investigation and document the circumstances on the Recusal Form (IAD Form - 13).
 - 2) If no, the assigned investigator shall document this fact on the Recusal Form.
- b) Upon completion of the Recusal Form, the first-level superior shall meet with the investigator to jointly review the Recusal Form.
- c) The first-level superior shall determine whether it is clear that the nature of the relationship could be perceived to compromise the investigative process.
- 1) If yes, the first-level superior shall approve reassignment of the investigation and document the decision on the Recusal Form.
 - 2) If no, the first-level superior shall approve the assignment and document the decision on the Recusal Form.
 - 3) The investigator's first level superior shall ensure the Recusal Form is completed and signed and forwarded to IAD prior to the start of the investigation.
 - 4) IAD shall retain the form in the Control File.

E. Investigation Preparation

Investigators shall conduct a thorough, impartial, fact-finding investigation; take recorded statements from all relevant persons; gather, preserve, and examine physical evidence; and collect other information pertinent to the investigation.

1. Investigator Responsibilities

- a) The assigned investigator shall review the Internal Affairs Intake Checklist and ensure all items listed on the checklist are enclosed. Contact the IAD Administrative Sergeant if any item is missing.
- b) Ensure the CAL indicates that the complainant was furnished with:
 - 1) A copy of *Your Guide to Filing a Complaint Against the Police* (TF-3208);



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- 2) A copy of the Complaint form (TF-3039b); and
 - 3) A copy of any statement (upon request).
- c) Ensure the complainant has been contacted to determine the nature, scope, and severity of the complaint, and to identify potential witnesses and/or evidence.
- d) Examine the allegations and identify issues.

Review the allegation(s) and documents contained in the case file and complete an analysis to confirm each allegation and identify other potential *Manual of Rules* (MOR) related issues to be addressed in the investigation, such as:

- 1) Was the complaint investigated to the extent reasonably possible to determine whether the allegation(s) could be resolved?
 - 2) Was the member on duty when the alleged misconduct occurred?
 - 3) Do the allegations match the complaint narrative?
 - 4) Are there any MOR violations not identified or addressed?
 - 5) Has criminal misconduct been discovered?

If there is evidence of possible criminal misconduct, the investigator shall immediately or as soon as practical, make the proper notifications in accordance with the provisions of DGO-M-04.1.
 - 6) What are the probable motives of any of the persons involved in the complaint or incident?
 - 7) What are the likely defenses or excuses?
 - 8) Are there potentially unidentified witnesses?
 - 9) Are unnamed members or employees involved?
- e) Prepare a list of questions to ask persons to be interviewed based on this analysis.
- f) Plan interviews and develop investigative strategies early in the investigation by determining days off and vacation schedules of the complainant, potential witnesses, and the subject(s) of the investigation.
- g) If during the internal investigation, the investigator locates additional witnesses (obtained independently from a Lybarger statement) that may be used in a criminal proceeding, he/she shall contact the appropriate CID investigative unit and provide only follow-up contact information.
- g) Additional information obtained in civil litigation shall be incorporated into an internal investigation and provided to the Office of the City Attorney (OCA) on a case-by-case basis. Additional information obtained during an internal investigation relating to civil litigation shall be provided to the OCA on a case-by-case basis.
- h) Contact the OCA to ascertain and request depositions, as necessary.

2. Examination of the Scene

If the investigator determines that an examination of the scene of the alleged misconduct or other locations is required, the examination shall include the following, when appropriate:

- a) Gathering and securing any physical evidence discovered;
- b) Becoming familiar with the layout of the scene;
- c) Identifying specific locations of witnesses and members;
- d) Returning to the scene at the same time of day the incident occurred to determine:
 - 1) Lighting conditions;
 - 2) Weather;
 - 3) Traffic patterns; and
 - 4) Character of the area (business, residential, industrial, etc).
- e) Taking photographs and/or video of the scene; and
- f) Canvassing for additional witnesses
 - 1) Canvass the scene and surrounding area for additional witnesses.
 - 2) Document any contacts made even if the contact indicates they have no knowledge of the incident.

3. Evidence Gathering

The following resources are queried and examined for information and evidence as soon as possible after an incident resulting in an IAD call-out:

- a) Communications Division Computer Aided Dispatch (CAD) printout for the time period during which the incident occurred.
- b) Mobile Display Terminal (MDT) for car-to-car transmissions for the time period.
- c) Radio Talk Group recordings and purges.
- d) Phone bills of departmental cellular phones for the time period during which the incident occurred.
- e) Body Worn Camera.

4. Requests for Medical and Laboratory Records

- a) Obtain all related medical records as soon as possible in cases where the medical condition of a complainant, witness, or subject is of importance.
- b) The release of medical records requires a signed release from the patient. Seek and obtain signatures for medical releases early in the investigation to allow adequate time for receipt and analysis of the documents.
- c) Members may be ordered to take medical or laboratory examinations when:



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- 1) The evidence sought is pertinent to the investigation;
 - 2) The evidence is easily degraded or destructible;
 - 3) Supervisory or command approval has been obtained;
 - 4) An attempt was made to obtain cooperation or consent;
 - 5) The procedure is medically safe, and not uncomfortable or undignified, and involves little or no bodily intrusion; or
 - 6) The appropriate warrant, if required, has been obtained.
- d) Members may be ordered to:
- 1) Be photographed; or
 - 2) Participate in a physical line-up.
- Note:** Consent is preferred but not required.
- e) Investigators conducting a physical line-up shall ensure that complainants and witnesses:
- 1) View the line-up without hearing what other witnesses or complainants are saying or discussing;
 - 2) Are instructed on how to indicate whether or not they were able to identify anyone (printed on the Line-up Card (TF-657));
 - 3) Are advised that the person sought may or may not be among those in the line-up and not to discuss the line-up with anyone else. Emphasize that it is equally important to clear a person not responsible as it is to identify the person responsible.
 - 4) The composition of the participants in a line-up (physical and or photographic) must be similar but not so similar in appearance as to confuse the viewer.
- f) Members shall not be required to submit to a strip search, and/or a test for alcohol, narcotics, or drugs, unless there is probable cause supported by specific facts.
- g) Members shall not be required to submit financial disclosure statements for examination pursuant to Government Code Section 3308 unless:
- 1) Such information is obtained or required under state law or legal procedure;
 - 2) The information tends to indicate a conflict of interest with respect to the performance of official duties;
 - 3) The information is necessary to determine whether to assign the person to a specialized unit where bribes or inducements may be offered in accordance with the provisions of Departmental General Order E-3.1,
DEPARTMENT NOTIFICATION COMPLIANCE
VERIFICATION.

- 4) Through a voluntary submission by the subject;
 - 5) In response to a subpoena; or
 - 6) In cooperation with another investigative unit.
- h) The examination of a member's locker or storage space owned or leased by the Department may occur under any of the following circumstances:
- 1) Pursuant to a valid search warrant, or
 - 2) In lieu of a valid search warrant, one of the following conditions must exist:
 - (a) When there has been notification that a search will be conducted;
 - (b) In the presence of the person assigned to the locker or storage space; or
 - (c) With consent of the person assigned to the locker or storage space.

F. Interviews

1. Background Research

- a) Learn as much as possible about the person to be interviewed. Familiarity with detailed background information will assist in:
 - 1) Establishing facts regarding the credibility of the person being interviewed; and
 - 2) Obtaining the facts related to the investigation.
- b) It is not unusual for those being interviewed to inadvertently reveal critical information. The ability to recognize the significance of such comments and to capitalize on them often results from thorough research and familiarity with background information.
- c) Additional Information
 - 1) Prior crime and arrest reports through the Records Management System (RMS);
 - 2) Public records such as credit reports; and
 - 3) Appropriate law enforcement databases in accordance with the provisions of TB V-C.2, AUTOMATED INFORMATION SYSTEMS.

These records may have a direct impact on the interview and investigation. Background research for interviews is not considered a "Need to Know" or "Right to Know" circumstance; therefore, caution must be exercised.

2. Preparing for the Interview

- a) Consultation with Commander/Manager and OCA



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Determine whether review of interview questions by the Commander or Manager is necessary pursuant to Section H, above. With the Commander or Manager, determine if consultation with OCA is required pursuant to Section I.

b) Location of Interview

- 1) Conduct interviews with Departmental personnel at a Departmental facility in a private and comfortable location.
- 2) Make every effort to conduct interviews with non-departmental subjects at a convenient location.

c) Order of Interviews

The order of interviews is frequently controlled by the circumstances of the investigation and the type of complaint. As a general rule, interviews should be conducted in the following order:

- 1) Complainant (Interviewed as soon as possible, usually during the intake or processing phase.);
- 2) Private person witnesses;
- 3) Employee witnesses;
- 4) Sworn witnesses;
- 5) Subject member or employee.

Maintaining this interview order (1 through 4) usually provides sufficient background information prior to the interview with the subject member.

d) Required Member Interviews

Except in cases of summary findings as provided in DGO M-03, all members who are subjects, witnesses, or were present at the scene of the alleged misconduct, shall be interviewed. All summary finding approvals shall be documented in the body of the report as well as in the CAL.

e) Scheduling

- 1) Conduct interviews in person unless circumstances prevent it. Phone interviews should be the last resort.
- 2) Determine witness and subject availability and schedule appointments for interviews in advance.
- 3) Don't rush an interview. When an interview is expected to be prolonged, plan for multiple sessions. Conducting multiple interviews will allow the investigator to address any inconsistencies or to clarify information from a previous interview.
- 4) Interviews of Departmental personnel should be conducted during their regular working hours whenever possible. Schedule interviews with private persons when convenient for the person being interviewed.

f) Recording Interviews

- 1) All interviews shall be recorded (tape or digital), with minimal “off the record” discussions.
- 2) When going “off the record,” the interviewer shall denote the date and time and the reason for suspending the recorded interview (e.g., for human needs or a request from the representative).
- 3) If a private person (complainant or witness) refuses to allow the interview to be recorded, explain a recording is needed to preserve the accuracy and nature of the complaint. Appropriately document a refusal to record the statement and proceed with the interview and take a written statement.
- 4) Members are obligated and required to cooperate and answer questions truthfully under penalty of insubordination.
- 5) Do not combine interviews with one another on the same side of a cassette tape or on a digital recorder without indexing. Use one side of a cassette for each separate distinct interview or index each interview on a digital recorder.
- 6) Label recordings
 - (a) Immediately after using each side of a cassette or when the entire cassette tape has been used, clearly mark the cassette with the IAD case number, the date of the interview, the name of the person interviewed on each side, and the name of the primary investigator. The anti-erase tabs shall be removed from the cassette after each side is recorded.
 - (b) If a digital recorder is utilized, the audio file shall be stored and/or transferred to a recordable CD or DVD disk and labeled in the same manner as cassette tapes. Transfer of the audio file to a compact disk soon after the recording is critical to avoid data loss from computer hard drives or data chips.
- 7) Interviews shall be transcribed at the request of the subject of the investigation, the complainant, command staff, investigator, the Office of (OIG), or any authorized authority.
- 8) All recordings shall be merged into the Internal Affairs case file which shall be permanently retained.
- 9) Investigators may routinely provide a copy of the interview recording to the interviewee.
- 10) A member or his/her representative may utilize their own recording device during their interview.
- 11) Avoid conducting an interview in a location where loud background noise is present.
- 12) Test the recorder before beginning the interview and have extra batteries on hand.



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3. Investigative Approach to Conducting Interviews
 - a) Conduct interviews separately.
 - b) Be respectful, courteous, and professional at all times.
 - c) Gather facts.
 - d) Be willing to accept whatever the person being interviewed has to say.
 - e) Do not make threats, intimidate, or coerce.
 - f) Ask a person being interviewed to explain inconsistencies, discrepancies and conflicts with physical evidence or other witness statements.

4. Representation During Interviews
 - a) Ensure that every interviewee has read and signed the AB-301, Acknowledgement of Rights and Obligations form (TF-722) because officers (members, and Reserve Officers) and police department employees have a right to representation during an interview when he/she reasonably believes that the interview will result in disciplinary action (Government Code Section 3300 et seq.).

NOTE: Although Government Code Section 3300 et seq. applies only to sworn personnel, the City of Oakland extends these rights to all police department members.
 - b) Interviewers shall ensure that representatives do not interfere with the interview process and admonish representatives when necessary.

5. Defining Interview Objectives and Preparing a Question List
 - a) Before beginning an interview, have a clear understanding of the interview objectives. A typical interview will have one or more of the following objectives:
 - 1) To identify additional subjects and/or witnesses;
 - 2) To clarify allegations or information;
 - 3) To resolve any discrepancies and inconsistencies in statements or information; and
 - 4) To obtain information on motive or alibi.
 - b) A question list is a “road map” to the interview.
 - 1) Arrange questions in chronological order;
 - 2) Make the list easy to read using bullet points or short questions;
 - 3) Highlight key questions;
 - 4) Allow plenty of room to make notes or add questions in the margin;
 - 5) If present, give the secondary investigator a copy of the list for his/her use during the interview;

- 6) Check off questions as they are covered in the interview; and
 - 7) Review the list before concluding the interview and ensure that all the essential questions have been covered.
- c) Secondary Investigator
- In the event a secondary investigator is utilized during the interview, he/she shall:
- 1) Document the answers in his/her notes;
 - 2) Document the need for additional questions/follow-up;
 - 3) Ensure the notes are shared with the primary investigator; and
 - 4) Include the notes in the case file.
6. General Strategies for Questioning
- a) The primary investigator conducts the interview. The secondary investigator only engages in questioning as needed.
 - b) Try to interview private person witnesses alone. The presence of others may make it difficult for the investigator to get to the truth of the matter. If a witness insists on having another person present during the interview, advise the other person that he/she is only an observer and is not to participate in the interview. In no case should the observer be a witness to the incident being investigated.
 - c) Questions should initially be open-ended and non-leading. Use follow-up questions to obtain admissions and denials.
7. Beginning the Interview
- a) Begin the interview by stating:
 - 1) The date, time and the place of the interview;
 - 2) The name and role of each person present in the room;
 - 3) Explain the purpose of the interview;
 - 4) Advise each interviewee if they are a witness or subject officer/employee;
 - 5) Ensure that the subject or witness interviewee has read and understood the TF-722 and that the interviewee has signed and dated the form.
 - 6) For subject officers, if there is no representation present, have the interviewee acknowledge the right to representation and that the interviewee is choosing to proceed without representation.
 - 7) The interview is being recorded.
 - b) Allow the person being interviewed to describe what happened in his/her own words, without interruption.



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- c) When a statement is made regarding others, prompt the interviewee to identify and describe each person by name, age, height, weight, race and other physical characteristics, whenever possible.
- d) Diagrams are often useful during an interview. Allow the interviewee to draw his/her own diagram to avoid claims that a prepared diagram influenced his/her story. Have the document signed and dated by the person drawing it, and include these documents in the case file.
- e) Cover each allegation and all relevant issues with each subject and witness. The following questions may be asked during the interview, when applicable:

(Explain why or why not)

- 1) What did you observe? (Or other similar open-ended question.)
- 2) Who did it?
- 3) Who was there when it happened?
- 4) Where were you when the incident happened?
- 5) Did you see any other person who may have seen or heard what happened?
- 6) Did it (the specific allegation) happen?
- 7) Did you do it?
- 8) Could the act have occurred without your knowledge?

8. Complainant Interviews

- a) Address each allegation in the original complaint during the complainant interview.
- b) Ensure the complainant has no additional allegations before the interview is concluded. Avoid leading questions. The complainant should merely be asked if he/she has anything else to add.
- c) When practical, examine any injuries and have photographs taken, even if the injury is not visible or readily apparent.
- d) Establish and document the reason for any delays in reporting the incident.
- e) Attempt to confirm existing or obtain additional witness names, addresses and telephone numbers.
- f) Determine the availability of the complainant for follow-up interviews.
- g) Attempt to establish the complainant's motive for making the complaint by asking questions such as:
 - 1) Why are you here today?
 - 2) What is your motive for making this complaint?
 - 3) What do you want done as a result of your complaint?
- h) Document when a complainant or private person witness is unavailable for an interview, fails to appear for a scheduled interview, or simply refuses to be interviewed. When attempting contact, document due diligence before eliminating the interview.
- i) At the conclusion of an interview, the complainant should be asked if he/she has

any questions or has anything to add that is pertinent to the investigation, but has not been addressed in the interview.

9. Member and Employee Witnesses Interviews

- a) Members shall be required to read and sign the Acknowledgement of Rights and Obligations Form (TF-722) prior to the interview.
- b) At the conclusion of each interview session, the member interviewed shall be ordered not to disclose any of the information discussed in the interview except to his or her representative or attorney. The investigator shall advise the person interviewed that a failure to adhere to the order may result in a separate charge of insubordination.

10. Subject Interviews

- a) Provide the member with a summary of the complaint as documented on the Complaint Investigation Report (CIR) prior to any interviews. The subject shall not be allowed to read the complaint itself or to review any witness statements prior to the interview. There is no legal requirement to provide investigative materials to the subject prior to the interview. (Pasadena Police Officers' Association v. City of Pasadena (1990) 51 Cal. 3d 564.)
- b) The investigator shall comply with the provisions of the Public Safety Officers' Procedural Bill of Rights Act, Government Code Section 3300 et seq. when interviewing officers (member, Ranger, or Reserve Officer) and Oakland Police Department members.

NOTE: Although Government Code Section 3300 et seq. applies only to sworn personnel, the City of Oakland extends these rights to police department employees.
- c) A member who has received a Complaint Notification letter may have a representative (e.g., legal counsel, steward, friend, relative, co-worker, etc.) of their choice present at all times during any interview.

There is no restriction who can be a representative except that the representative cannot be a party to the same investigation.
- d) Ensure the Acknowledgement of Rights and Obligations Form (TF-722) has been read and signed by the subject before the interview.
- e) The representative:
 - 1) May observe all aspects of the interview to ensure that the provisions of the Public Safety Officers' Procedural Bill of Rights Act are met.
 - 2) May not interfere with the interview but may raise points of objection.
- f) The interviewer shall note any objections that are not resolved and include those objections in the Report of Investigation.
- g) The interview must be conducted at a reasonable hour, either while on duty or during normal waking hours unless the seriousness of the investigation requires otherwise.
- h) The nature of the investigation, name and rank of the interviewing officer(s), and all other persons to be present during the interview must be disclosed to the person to be



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- interviewed prior to the interview.
- i) No more than two investigators may ask questions during the interview, and only for a reasonable period of time, taking into consideration the seriousness and complexity of the investigation.
 - j) All persons shall be allowed to attend to their physical necessities.
 - k) No one shall be subjected to offensive language, threatened with punitive action or promised a reward.
 - l) The person interviewed has the right to bring a recording device and record all aspects of the interview.
 - m) If, prior to or during the interview, it is determined that the person being interviewed may be charged with a criminal offense, the investigator shall immediately terminate the interview and make the proper notification in accordance with the provisions of DGO M-4.1.
 - n) When it appears the subject member may be charged with a criminal offense, or if the subject invokes his or her Fifth Amendment rights, the subject shall, prior to providing a statement, be informed of their constitutional rights (Miranda) and be provided a Lybarger advisement. A Lybarger advisement consists of an order requiring the officer to answer questions, the threat of discipline for non-compliance, and the promise that the statement will not be used against the officer in any criminal and/or civil proceeding.¹ A Miranda and Lybarger exemplar is located in Training Bulletin V-T.2, reference page IV-9.17.
- NOTE:** Civilian Members are not included as a protected class under *Lybarger*, however, the City of Oakland affords civilian employees the same protections.
- o) All subject interviews are to be concluded by asking the subject if there is anything else he/she would like to add or comment on.
11. The Office of the City Attorney shall be consulted regarding any legal issues concerning investigations or interviews.

G. Command Responsibilities

- 1. Commanders and Managers overseeing internal investigations shall review investigative plans and interview questions in cases involving any of the below allegations:
 - a) Allegations for which the minimum presumed discipline for a first offense is a 30-day suspension, demotion and/or termination;
 - b) Allegations that require some form of immediate personnel action, such as emergency suspension, administrative leave, or temporary reassignment;
 - c) Allegations that an OPD employee or member committed a felony or serious misdemeanor;
 - d)
 - e) An allegation involving retaliation;
 - f) An allegation involving discrimination or harassment which would constitute

¹ *Lybarger v. Los Angeles* (1985) 40 Cal.3d.822

a violation of City of Oakland Administrative Instruction 71 or DGO D-20, ANTI-DISCRIMINATION AND HARASSMENT;

- g) An allegation that an OPD member used his or her position for personal gain;
- h) An allegation involving misconduct likely to generate unusual public interest; or
- i) Any other allegation that, at the discretion of the Commander or Manager overseeing the internal investigation, warrants consultation with the Office of the City Attorney (OCA) prior to investigative interviews.

The Commander or Manager shall spot-check recorded interviews when any of the above allegations are part of an investigation.

2. Completed investigations shall be reviewed by the Lieutenant and Captain, consisting of:
 - a) Ensure that the Executive Summary (TF-XXXX) is completed and all information is supported by the ROI.
 - b) Grammatical review
 - c) Completeness
 - 1) All necessary interviews were completed.
 - 2) All evidence was obtained.
 - 3) All evidence was reviewed.
 - 4) All investigative steps were completed.
 - d) The evidence supports the findings.
 - e) TB V-T.01 and IAD P&P were followed.
3. For cases with recommended sustained findings for allegations that have termination within the discipline range per the Discipline Matrix or allegations of violations of obedience to laws misdemeanor/infraction, the Bureau Deputy Chief in the investigator's chain of command will also review.
 - a) These reviews will minimally consist of a review of the Report of Investigation.
 - b) Ensure that the Executive Summary (TF-XXXX) is completed and all information is supported by the ROI.
4. All changes to the ROI during the review process shall be documented through the Track Changes function in Microsoft Word. These tracked changes shall not be removed/accepted until the ROI is sent to the DLI Coordinator, who will save a copy of all Track Changes, before beginning the IAD review process. At the end of the IAD review process, a copy of the IAD Track Changes shall be saved before removing/accepting the tracked changes.
 - a) These copies which include the Patrol review Track Changes and the IAD review Track Changes shall be retained on the IAD server.



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H. Consultation with the Office of the City Attorney

1. Investigative Plans and Interviews: Department members investigating any of the allegations listed in Section G, subsection 1, above, shall consult with the OCA prior to scheduling interviews. Such consultation shall include the opportunity to review investigative plans and interview questions.

If any of the allegations listed in Section G, subsection 1, are discovered after interviews have already been conducted, IAD shall confer with the OCA before scheduling additional interviews.

2. Reports of Investigation: Any investigation sent to the OCA for "Attorney Review" must be completed in its entirety (including a recommended finding) and shall be submitted for the attorney's review at least 30 calendar days before the date on which IAD intends to present the case to the Chief of Police or his/her designee for approval. The IAD Commander has the discretion to shorten the review period based on the nature, scope, complexity of the investigation, and available and necessary IAD and OCA staff. Any request for a shortened review period must be made in writing. In either instance, IAD shall provide the OCA with an expected date for case presentation to the Chief of Police.
3. Deletion of OCA Comments: If OCA staff provides comments in a draft report of the investigation, only the OCA or IAD Commander can delete such comments.
4. Ongoing Consultation with the OCA: Nothing in this policy shall prevent Department members from seeking advice or assistance from the Office of the City Attorney at any time during an investigation. Personnel should seek advice from the OCA as necessary during an internal investigation.

I. Use of Lie Detection Screening Devices

1. No member or private person shall be compelled to submit to an examination by a lie detection or truth verification device against his/her will.

In appropriate cases, members and private persons may be offered an opportunity to submit to a lie detection screening device incident to an internal investigation. However, if a member refuses the test, no record shall exist indicating an examination was offered and declined, and no disciplinary action may be taken as a result of the refusal. Departmental policy and procedures are enumerated in DGO I-12, LIE DETECTION SCREENING DEVICE.

2. In cases where the integrity of the Department is questioned or where there is direct conflict between subject and witness statements, a polygraph or Computerized Voice Stress Analysis (CVSA) examination may be offered to a member or private person with prior approval from the IAD Commander and in accordance with the provisions of DGO I-12 and Government Code Section 3307.
3. A polygraph/CVSA may only be offered after IAD has concluded their initial interview.
4. The results of a polygraph/CVSA examination administered to a member, employee, or private person who elects to take an examination may be reflected in the investigator's report.

J. Locker/Storage Space Searches

No member may have his/her locker or other assigned storage space searched, except in his/her presence,

or with his/her consent, unless a valid search warrant has been obtained or the person has been notified that a search will be conducted. These requirements shall only apply to Departmental lockers or other storage areas that are owned or leased by the City of Oakland.²

K. Demand for Evidence on a Personal Device

- L. If there is reasonable suspicion to believe a member is in possession of evidence or items that contain evidence (e.g., a member's personal cellular phone) of member misconduct for which a member is being administratively investigated, the Department reserves the right to demand the member produce, from their personal device, the evidence for use in the administrative investigation and proceedings.

Any such demand for such information must be documented in writing with a recitation of facts giving rise to reasonable suspicion that the evidence sought is contained therein. Any such demand must also be reasonably tailored to the allegation(s) being investigated. Finally, any such demand must be accompanied by an admonition that the evidence and information produced may not be used against the member producing the information in a criminal proceeding but may be used against the member in an administrative proceeding.

1. The demand for evidence on a personal device must be reviewed and endorsed by the investigators first level supervisor and then approved by the IAD Commander prior to the request being made.

M. Administrative Dispositions

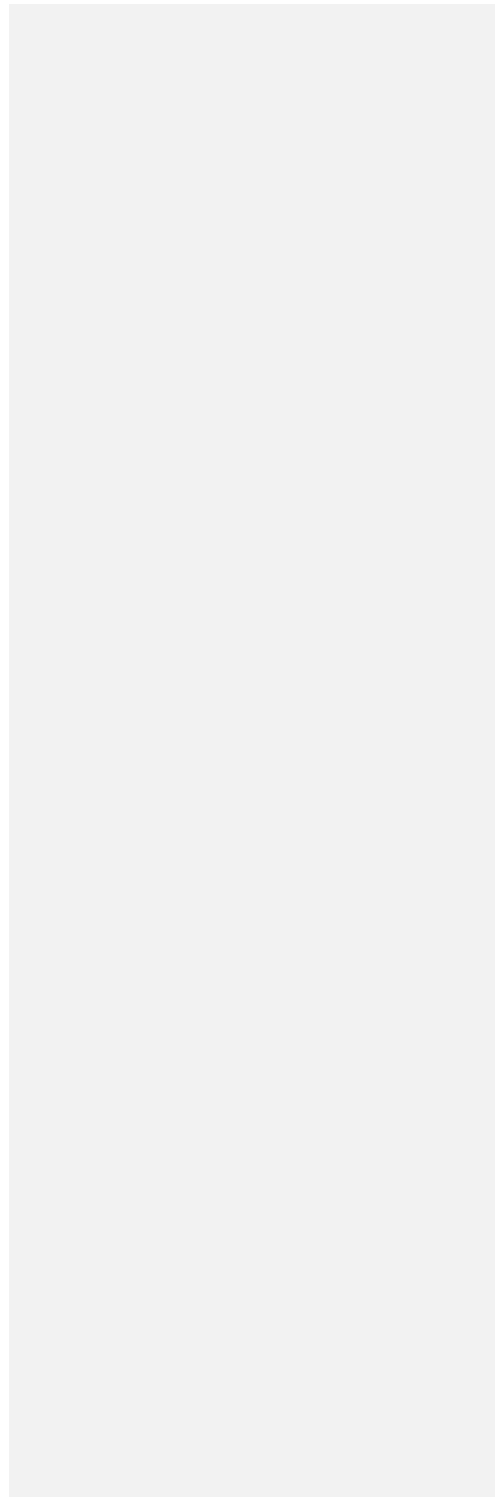
Administrative Dispositions shall be utilized and approved by the IAD Commander in accordance with the provisions of DGO M-3. Administrative Dispositions shall be entered in the IAD Complaint Database.

N. Summary Findings

A Summary Finding is an abbreviated internal investigation in which a finding can be reached without conducting a formal internal investigation because a finding can be determined with no or minimal follow-up and based on the existing documentation, evidence, statements, and crime information data (e.g., Offense Report, Use of Force Report, video or digital recordings, complainant's statement, radio purge, LRMS records).

1. A Summary Finding shall not be used if the evidence supports a sustained finding.
2. A Summary Finding Memorandum shall be prepared to document when an investigator concludes there is adequate information to determine a complaint finding from any of the following:
 - a) Interviews,
 - b) Statements taken,
 - c) Evidence collected,
 - d) Available supporting documents.
3. The investigator shall consult with and receive authorization from their division

² Government Code Section 3309 Governs the search of storage space or lockers, consent, and search warrant requirements.





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commander³ or Bureau Chief when there is no need to conduct additional interviews or take additional statements from subject members and/or witnesses (including members of the public and members of OPD) to determine if there is a preponderance of evidence.

4. All investigators shall seek approval from an IAD Commander **BEFORE** preparing a Summary Finding Memorandum. Approval shall be documented in the body of the report as well as in the Chronological Activity Log.
5. A Summary Finding Memorandum shall be forwarded for review and approval in the same manner as a normal internal investigation enumerated in accordance with the provisions of DGO M-03.
6. Credibility assessments shall be completed for all persons interviewed. Factors to consider when assessing credibility include, but are not limited to, the following:
 - a) The demeanor of the interviewee while giving testimony and the manner in which he/she testifies;
 - b) The extent of the interviewee's capacity to perceive, to recollect, or to communicate details;
 - c) The extent of the interviewee's opportunity or location to perceive the incident;
 - d) The existence of bias, interest, or other motive;
 - e) Consistency of statements given;
 - f) Verification of facts; and
 - g) Admission of untruthfulness.

Such credibility assessment shall be performed in all Preliminary Inquiries (PIs) that have been approved for summary finding.

O. Report of Investigation

1. Investigators prepare and include a Report of Investigation (ROI) in the case file once all interviews have been conducted and available evidence has been gathered.
The ROI shall follow the most recent version of the ROI template (TF-3507) or the ROI Summary Finding template (TF-3508).
2. Investigators will, with the Commander or Manager, determine if the draft Report of Investigation will be sent to the OCA for review pursuant to Section G, subsection 1.
3. Credibility assessments shall be completed for all persons interviewed to include but not be limited to the following:
 - a) The demeanor of the interviewee while giving testimony and the manner in which he/she testifies;
 - b) The extent of the interviewee's capacity to perceive, to recollect, or to communicate details;

³ In OPD, "division commander" is synonymous with the rank of Captain. Watch commanders and section commanders are NOT division commanders.

- c) The extent of the interviewee's opportunity or location to perceive the incident;
- d) The existence of bias, interest, or other motive;
- e) Consistency of statements given;
- f) Verification of facts; and
- g) Admission of untruthfulness.

P. Recommended Findings

Once the investigation has been concluded, a recommended finding shall be made concerning each allegation, included in the Report of Investigation, and forwarded for administrative review (division-level only).

Findings are categorized as follows:

- 1. Unfounded
- 2. Exonerated
- 3. Sustained
- 4. Not Sustained

Q. Downgrade/Removal of Subject Status

The request to remove or downgrade a Subject to a Witness will be made via email, to the IAD Commander, with an explanation and endorsement through the investigators chain of command to include the Lieutenant and Captain. The IAD Commander's approval or disapproval email shall be saved in the investigative file, documented in the Chronological Activity Log (CAL) and ROI. In the absence of the IAD Commander, only the Bureau of Risk Management Deputy Chief, the Assistant Chief and the Chief of Police may authorize the removing members or downgrading members from subjects to witnesses.

R. Changes in Allegations and Subject Personnel

- 1. Discovery of Class I violations
 - a. If a division level investigator discovers an additional allegation rising to the level of a Class I violation, the investigator shall advise the IAD Commander of the circumstances surrounding the new allegation.
 - b. The IAD Commander, in consultation with the Chief of Police, determines whether the investigation will be transferred to IAD.
 - c. The investigative files are retained by the division-level investigator and not returned to IAD until directed to do so by the IAD Commander.
- 2. Personnel conducting an internal investigation shall notify IAD Commander, via email within 24 hours whenever one of the following circumstances occurs:
 - a. A member is added as a subject.
 - b. A *Manual of Rules* allegation is added.



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3. The request to make changes to the following will be made via email, to the IAD Commander, with an explanation and endorsement through the investigators chain of command to include the Lieutenant and Captain. The IAD Commanders approval or disapproval shall be documented in The Chronological Activity Log (CAL) and ROI.
 - a. removing or changing MOR violation allegations,
 - b. downgrading members from subjects to witnesses,

S. **Addenda Capturing Disagreements in Findings**

Upon completion of an IAD investigative report (including DLI, IAD ROI and Summary Finding) it will be reviewed through the investigator's Chain of Command.

The reviewing Chain of Command will minimally include the investigator's first line commander (Lieutenant or equivalent) and Division Commander (Captain or equivalent). Additionally, the investigator's Bureau Commander (Deputy Chief or equivalent) will be required to review the investigative report under the following circumstances:

- > Investigations with other-than-sustained findings (not sustained, exonerated or unfounded) into Manual of Rules violations wherein the potential discipline, had the finding been sustained, contains Termination on the spectrum per the Department's Discipline Matrix.
- > Investigations with other-than-sustained findings into Manual of Rules violations for Obedience to Laws.
- > Investigations resulting in a recommended Sustained finding.

If the investigation was a Division Level Investigation, once the investigator's chain of command reviews the report, the case will be forwarded to the DLI Section of the Internal Affairs Division for review by a DLI Coordinator, the DLI Unit Lieutenant, and IAD Captain for final approval.

Should any of the Commanders involved in the review process, including the DLI Coordinator, Captain, Deputy Chief, or Chief disagree with the original Recommended Findings the following shall occur:

1. Discuss the disagreement with the initial investigator to determine whether they agree with the reasoning and are willing to make the requested change to their investigation. If the investigator agrees to make these changes, both the investigator and the reviewing supervisor shall document in an email their concurrence on these changes and a brief explanation regarding the basis for the changes. This is to make clear whether the changes were the product of discussion and agreement by the investigator rather than the result of an order from a commanding officer. The email shall be retained in the case investigative file and noted on the CAL.
2. If the initial investigator does not agree with the reviewer's requested changes, then the reviewer shall draft an addendum documenting the disagreement(s) with any recommended findings and the basis for any disagreement.
3. Completion of an Addendum

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- a. An addendum will serve as documentation of the reasons for disagreement with the recommended finding including any supporting facts and evidence (e.g., BWC footage, policy, training, and law).
- b. The addendum shall accompany and be part of any case review by a Deputy Chief or presentation to the Chief.
- c. Prior to a presentation to the Chief of Police, any case file that includes an addendum shall be reviewed by the Deputy Chief for completeness and adherence to policy and law. The Deputy Chief should be prepared to support the recommended findings or the alternative finding documented in the addendum

when the case is presented to the Chief. If any reviewer has a third, different recommended finding not reflected in the ROI or addendum, that reviewer shall discuss possible changes with the reviewer that prepared the addendum and, if there remains disagreement, the reviewer should prepare an addendum documenting the reasons for their alternative recommended findings.

- d. During the presentation to the Chief, the presenter shall present to the Chief the recommended findings as well as any addenda recommending alternative findings.
- 4. The Chief will make the final determination on the finding(s) which shall be documented in the CIR and signed off on by the Chief.
- 5. A disagreement about findings will not be considered a MOR violation if the investigation and prepared ROI is thorough and based on facts. Differences in opinion can be expected periodically and should not be discouraged, as this will create discussion and result in a better overall investigation.

T. Administrative Review

Before finalization of an IAD investigative report (including DLI, IAD ROI and Summary Finding) it will be reviewed through the investigator's Chain of Command.

Reviewer Recusal

The first line supervisor is responsible for including the REVIEWER RECUSAL FORM (TF-XXXX) in the investigative file, and prior to reviewing the investigation, filling out the relevant line(s) declaring themselves to have no actual or perceived conflicts of interest with subjects or witnesses in the case.

The REVIEWER RECUSAL FORM (TF-XXXX) must then be included with the investigative file and filled out appropriately by each link in the chain of command as it progresses through the review phase. Any reviewing supervisor or commander with a relationship, as delineated above, to a subject or witness shall not participate in the review process of the case.

The reviewing Chain of Command will minimally include the investigator's first line commander (Lieutenant or equivalent) and Division Commander (Captain or equivalent).

The investigator's Bureau Commander (Deputy Chief or equivalent) will be required to review the investigative report under the following circumstances:

- > Investigations with Not Sustained findings into Manual of Rules violations wherein the potential discipline, had the finding been sustained, contains Termination on the spectrum per the Department's Discipline Matrix.
- > Investigations with other-than-sustained findings into Manual of Rules violations for Obedience to Laws.
- > Investigations resulting in a recommended Sustained finding.

Division-Level Investigations

If the investigation was a Division Level Investigation, once the investigator's chain of command reviews the report, the case will be forwarded to the DLI Section of the Internal Affairs Division for review by a DLI Coordinator, the DLI Unit Lieutenant, and IAD Captain before final approval may be granted.

Internal Affairs Division Investigations

Deputy Chief of BRM

In addition to above listed requirements for Bureau Commanders (Deputy Chief or equivalent), the BRM Deputy Chief will also review the following for all cases, Department-wide:

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The Deputy Chief in the investigator's chain of command shall also review for completeness, accuracy, and adherence to policy prior to presentation to the Chief of Police any ROI.¶
¶ where there is a sustained finding for allegations that have termination (considering 2nd and 3rd offenses) within the discipline range per the Discipline Matrix¶ where there is a sustained finding for obedience to laws misdemeanor/infraction, Internal Affairs Division

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➤ Any investigation initiated from a Management Level Liaison (MLL) referral (allegation of misconduct from the Alameda County Superior Court, or any higher court, a District Attorney's Office or a Public Defender's Office) regardless of finding.

➤ Any allegation which was also investigated under DGO M-04.1: Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel, regardless of finding.

Chief of Police

All sustained cases will be presented to the Chief, or an Acting Chief in the absence of the Chief of Police, for final approval. The Chief of Police will also review the following:

➤ Any investigation initiated from a Management Level Liaison (MLL) referral (allegation of misconduct from the Alameda County Superior Court, or any higher court, a District Attorney's Office or a Public Defender's Office) regardless of finding.

➤ Any allegation which was also investigated under DGO M-04.1: Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel, regardless of finding.

U. Investigation Integrity and Confidentiality

All internal investigations shall be conducted lawfully and in accordance with Departmental policy and prevailing laws. All investigators shall gather, analyze and include exculpatory evidence for consideration as part of the adjudication process.⁴

⁴ Penal Code Section 135.5 (enacted in 1998) Reads any person who knowingly alters, tampers with, conceals or destroys relevant evidence in any disciplinary proceeding against a public safety officer, for the purpose of harming the officer, is guilty of a misdemeanor.

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The contents of internal investigations are confidential by law. In state actions, the requesting authority must file a *Pitchess* motion with the court showing good cause for the release of personnel records.⁵ At the request of the Office of the City Attorney, the court will conduct an in-camera review of the documents requested to determine what, if any, documents shall be disclosed. In federal matters, the requesting authority must submit a *Henthorn* motion establishing good cause for the disclosure of records.⁶ The *Henthorn* process is akin to the *Pitchess* procedure referenced above.

Upon completion of the IAD investigation and issuance of a final report by IAD when the recommended finding is sustained, the subject member shall have access to the underlying data on which the report is based, including all recorded interviews, transcripts, and investigator's notes.

V. Personnel File Entries

No comment adverse to the interest of a member shall be entered in that person's personnel file unless the subject first has the opportunity to read and sign the document containing such comment. If the subject refuses to sign the document, that fact shall be noted on the document and dated by the person entering the notation. In addition to existing appeal procedures, a subject may, within 30 days, file a written response to any adverse comment entered in his/her personnel file. This right is extended to former members as well. Such written response shall be attached to the document containing the adverse comment.⁷

However, the Department need not comply with the aforementioned procedure if local rules provide officers with greater protections, such as an administrative appeal hearing.⁸

Internal investigation files and material contained therein are considered personnel files⁹ and shall be maintained and subject to confidentiality protection provided by statute and Departmental directives.

W. Feedback

The IAD Commander or his/her designee shall provide feedback to the internal investigator regarding the quality and disposition of the investigation.

⁵ *Pitchess v. Superior Court* 11 Cal.3d 531, 537, 538, 113 Cal.Rptr.897 Provides when a criminal defendant seeks information from a peace officer's personnel records concerning prior complaints, a motion showing good cause i.e., a plausible factual justification for disclosure must be submitted to the court.

⁶ *US v. Henthorn* 931 F.2d 29 (2001) The Ninth Circuit held that government has a duty to make a pretrial examination of the personnel files of testifying law enforcement officers for Brady material (any evidence the government finds that tends to establish the innocence of the accused).

⁷ *Government Code Section 3305 and 3306* Govern the entry of adverse comments and the response thereto.

⁸ *Crupi v. City of Los Angeles* (1991) The police department was not obligated to follow rules set forth in *Government Code Sections 3306 and 3306* if local rules provided "greater protections."

⁹ Penal Code Section 832.8, Personnel Records.

Oakland Police Department
Bureau of Investigation:
Policy and Procedures Manual
Policy 23-02 (formerly 09-01)

Effective Date:
X Mar 23

Index as: Criminal Investigations Division (CID) Recusals

The purpose of this document is to set forth bureau procedures for ensuring criminal investigation assignments do not compromise investigative integrity, real or perceived.

I. DEFINITIONS

Cohabitant Relationship

Any relationship where a member shares a residence with another member. This includes non-romantic roommates.

Consensual Romantic Relationship

Any consensual sexual or romantic relationship with another member.

Close Friendship

A non-family, non-romantic relationship wherein the two parties are more than acquainted and who have participated together in non-departmental social events or are privy to private details in one another's personal or family lives.

Examples may include but are not limited to having visited one another's home(s) for social functions, having traveled together, or having spent more than passing time in the company of each other or each other's families.

Close Work Relationship

A non-family, non-romantic relationship wherein the two parties are more than acquainted, who have participated routinely and closely in departmental actions and are privy to private details in one another's personal or family lives.

Examples may include but are not limited to having been assigned as patrol or investigative "adam" partners within the past 5 years.

Familial Relationship

Includes relationship by blood, adoption, marriage, domestic partnership, foster care with cohabitation, and includes parents, grandparents, great-grandparents, grandchildren, great-grandchildren, children, foster children, uncles, aunts, nephews, nieces, first cousins, second cousins, siblings and the spouses or domestic partners of each of these relatives and cohabitants. This definition includes any relationship that exists by virtue of marriage or domestic partnership, such as in-law and step relationships, which are covered to the same extent as blood relationships.

Outside Business Relationship

Members who, in addition to serving as a member of the Oakland Police Department, are also an independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture,

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or other transaction, in cooperation with another Department member, where either of the Department member's annual interest, compensation, investment, or obligation is greater than \$250.

II. **POLICY**¹

- a. It is the responsibility of all investigators to disclose any relationship with any involved party (witness, suspect, victim, etc.) wherein the nature of the relationship could be perceived to compromise the investigative process of a criminal investigation, and to document the circumstances and to recuse oneself from participation therein.
- b. An investigation shall, upon first level supervisor approval, be reassigned if any of the following conditions exist:
 - i. Family relationship;
 - ii. Outside business relationship;
 - iii. Romantic relationship;
 - iv. Close friendship;
 - v. Close work relationship (as determined on a case-by-case basis).

III. **CRIMINAL INVESTIGATIONS OF NON-DEPARTMENTAL PERSONNEL and/or NON-SWORN LAW ENFORCEMENT SUBJECTS:**

- a. Upon initial assignment to an investigation and review of the preliminary facts of the case, assigned investigator(s) shall declare whether they should be recused. The investigator's declaration is accomplished by inserting the appropriate language into their case notes (or currently available case management system):
 - i. If none of the above-listed relationships exist, the investigator shall utilize the following language in their case notes:
 - a. **Non-Recusal Statement:** I am not directly involved in the incident and do not have a family, outside business, romantic, close friendship, or close work relationship with any of the involved parties which will, or could be perceived to, compromise the investigative process.
 - ii. If one or more of the above-listed relationships exist, the investigator shall:
 1. Select one of the following (a. or b.) to document in their case notes, along with an explanatory narrative:
 - a. **Recusal Statement:** I was directly involved in the incident. (Describe in Declaration Narrative); or
 - b. **Recusal Statement:** I have a relationship with one or more of

¹ The section is consistent with provisions of Internal Affairs related policies on recusal.

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- the involved parties which could be perceived to compromise the investigative process. (Describe in Declaration Narrative)
2. The investigator shall meet with their first line commander, who shall decide whether the investigator's disclosure should result in reassigning the investigation.
 3. The commander shall memorialize the decision, in writing, by making their own entry in the case notes or otherwise attaching said decision to the record of investigation.
- b. If, at any time during an investigation, an investigator recognizes the involvement of a person with whom they have a personal relationship, as delineated above, the investigator shall update the case file with a new recusal statement and shall notify their supervisor of the potential conflict of interest before taking any further investigative action.

IV. CRIMINAL INVESTIGATIONS OF DEPARTMENTAL PERSONNEL and/or SWORN LAW ENFORCEMENT SUBJECTS:

- a. Upon assignment to a criminal investigation of a Department employee or a sworn law enforcement subject², prior to participating in the investigation, *all assigned and assisting* CID investigators shall declare whether they should be recused.
- b. Personnel shall complete an INVESTIGATIVE RECUSAL FORM (TF-XXXX) wherein they disclose whether there is a relationship which might reasonably lead to a perception of bias, real or perceived, and shall submit the form to the first-line commander overseeing the primary investigator on the case.
- c. The first line commander shall make a decision as to whether the perception is justified and reassign the investigation, if necessary. The commander shall memorialize the decision, in writing, on the INVESTIGATIVE RECUSAL FORM (TF-XXXX) and will deliver said form to the assigned investigator.
- d. The assigned investigator shall retain the INVESTIGATIVE RECUSAL FORM(S) (TF-XXXX) in the investigative case file.
- e. It is the shared responsibility of the investigative chain of command to ensure any recused personnel do not participate in the investigation, or that their participation is mitigated so as to not directly affect or engage with the party with whom they have an identified relationship.
- f. If, at any time during an investigation, an investigator recognizes the involvement of a person with whom they have a personal relationship, as delineated above, the

² This recusal standard applies to not only cases typically categorized under DGO M-4.1, but also to Level 1 Use of Force investigations.

Oakland Police Department
Bureau of Investigation

Policy 23-02
X Mar 23

investigator shall update the case file with a new INVESTIGATIVE RECUSAL FORM and shall notify their supervisor of the potential conflict of interest before taking any further investigative action.

V. RECUSAL RESPONSIBILITIES OF SUPERVISORS AND COMMANDERS OVER CRIMINAL INVESTIGATIONS

- a. Criminal investigation case supervisors and commanders are subject to the same expectations of recusal as investigators.
- b. **Overseeing an Investigation:** At the earliest reasonable opportunity,³ and in all instances prior to making any command level decisions about assignment of the investigations, the commanders and supervisors of the investigation must consider the recusal standards of the Department and shall recuse themselves from participation in the event an actual or perceived conflict exists.
- c. In the event recusals are made along the investigative chain of command, a substitute supervisor or commander should be identified and held to the same recusal consideration before being assigned to oversee the investigation.
- d. Supervisors and Commanders must fill out the INVESTIGATIVE RECUSAL FORM (TF-XXXX) and provide it to the primary investigator to maintain in the case file.
- e. **Reviewing an Investigation:** Upon completion of an investigation and submission through the chain of command, the first line supervisor is responsible for including the REVIEWER RECUSAL FORM (TF-XXXX) in the investigative file, and prior to reviewing the investigation, filling out the relevant line(s) declaring themselves to have no actual or perceived conflicts of interest with subjects or witnesses in the case.
- f. The REVIEWER RECUSAL FORM (TF-XXXX) must then be included with the investigative file and filled out appropriately by each link in the chain of command as it progresses through the review phase. Any reviewing supervisor or commander with a relationship, as delineated above, to a subject or witness shall not participate in the review process of the case.
- g. **Re-assignment of Recused Investigators:** In the event an assigned investigator discloses an actual or perceived conflict of interest with a subject or witness in the case, they are required to notify their chain of command. The chain of command, upon receipt of such disclosures, shall convene to identify a different investigator to:
 - i. Replace the recused investigator, if necessary; and
 - ii. Identify what new assignment, if any, the recused investigator may receive.

³ For example, once learning the identity of the subject(s) and witness(es) in an investigation.

**Oakland Police Department
Criminal Investigation Division (CID)
Policy and Procedures Manual
Policy 23-01**

**Effective Date:
22 May 2023**

Index as: Investigative Training Program for Criminal Investigators

The purpose of this directive is to set forth policy and procedures for the CID Investigative Training Program.

Members assigned to the CID will be required to attend a series of mandated training courses within a specified timeline.

Members assigned to the Force Investigation Team (FIT) will be required to attend a series of mandated training courses within a specified timeline.

The following training courses are designed to provide members with the fundamental skills needed to conduct thorough and complete criminal investigations applicable to their specialized assignment(s). These training courses represent the minimum number of courses required of all members assigned to the CID and to specialized assignments.

If the courses listed above are not completed within the required timelines, the CID Commander shall write a memorandum to the Deputy Chief of the Bureau of Investigations explaining the circumstances surrounding non-compliance. **In the memorandum, the CID Commander shall provide a recommended course of action to address the non-compliance (e.g., issue Supervisory Note File entry, initiate misconduct complaint process, no action necessary).** The Deputy Chief of the Bureau of Investigations will ensure the training is completed and the investigator shall be reassigned to a non-investigative role until the training is completed.

- A. Investigators shall attend the following investigative courses within twelve (12) months of their transfer to the CID:
 - 1. Basic Criminal Investigation Course
 - 2. Interview and Interrogation Course
 - 3. Basic Search Warrant Course
 - 4. Cognitive Bias Training Course

- B. Investigators shall attend the following additional investigative courses within twenty-four (24) months of assignment to the CID:
 - 1. Advanced Criminal Investigation Course
 - 2. Electronic Surveillance Course

3. Crime Scene Investigation Course

- C. Investigators tasked with conducting homicide investigations shall attend the following investigative courses within twelve (12) months of assignment to the Homicide Section:
1. Homicide Investigation Course
 2. Cognitive Interviewing Course
- D. Investigators tasked with conducting Level 1 Use of Force Investigations shall complete the following courses within twelve (12) months and no more than eighteen (18) months of being assigned to the team.
1. Force Science Course (40 Hours)
 2. Officer Involved Shooting Course (40 Hours)
 3. Internal Affairs Investigations Course (24 Hours)
 4. Use of Force Certification (40 Hours)
 5. Certified Use of Force (AB 392) Training (4 Hours)
 6. California DOJ SB 1506 – Investigation Procedural Guidelines:
<https://oag.ca.gov/system/files/media/AB%201506%20Investigation%20Procedural%20Guidelines.pdf>
- E. It is recommended that investigators continue to develop as investigators and take courses that will benefit them in becoming subject matter experts in their relevant areas. Investigators shall attend at least eight (8) hours of continual development training courses every eighteen (18) months. Below are a few recommended courses for consideration.
- POST Homicide Investigation Course (80 Hours),
 - POST Internal Affairs Investigations Course (24 Hours),
 - Human Performance Training Institute - Force Dynamics Course (24 Hours),
 - Crime Scene Investigation Course (24 Hours),
 - Cognitive Bias Training Course (24 Hours),
 - POST Cognitive Interviewing Course (24 Hours)
 - POST Officer Involved Shooting Course (40 Hours),

It is also recommended that investigators become members of different associations. Below are some suggested links, courses, and associations that CID investigators should consider for membership opportunities relevant to criminal investigator training.

- California Homicide Investigators Association: <https://www.chia187.com/>

BOI Policy 23-01
Investigative Training Program – Criminal Investigator

Effective Date:
22 Feb 2023

- California District Attorneys Association: <https://www.cdaa.org/>
- Outside Agency Training Requirements for Officer Involved Shooting (OIS) incidents

Approved by

Drennon Lindsey
Deputy Chief of Police
Bureau of Investigations

Date Signed: _____

DRAFT



DEPARTMENTAL GENERAL ORDER

M-04.1: Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel

Effective Date: XX May 23

Coordinator: Criminal Investigation Division

The purpose of this policy is to mandate and set guidelines and requirements for reporting criminal misconduct involving Department members and outside sworn law enforcement personnel as well as conducting and coordinating criminal investigations involving members of the Oakland Police Department.

COMMAND INTENT

It is the policy of the Oakland Police Department to investigate allegations of criminal activity involving members of the Department and sworn law enforcement personnel employed by outside agencies. For criminal misconduct that occurred in the City of Oakland, the Oakland Police Department shall investigate and prepare criminal cases for appropriate clearance or submission to a prosecutor. Additionally, the Department shall ensure that personnel are held accountable through an investigative process that is fair, timely, and thorough.

A. DEFINITIONS**A - 1. Member**

As provided in Policy 103, a member is any person employed or appointed by the Oakland Police Department, including full-time officers, reserve officers, professional staff, and volunteers.

A - 2. Reasonable Suspicion

From the totality of the circumstances, there is a specific, articulable, and objective basis for suspecting criminal activity. There must be specific facts beyond the mere allegation of criminal misconduct.

B. NOTIFICATION REQUIREMENTS**B - 1. Notification Requirements of All Members**

Notifications shall be made whether on-duty or off-duty. When any member other than the Chief of Police¹ has reasonable suspicion that any member of the Department is involved in a felony or misdemeanor, they shall, as soon as practical, and in all cases within 24 hours, make the following notifications via phone or email as specified in the following sections.

¹ The Chief of Police may become aware of criminal misconduct committed by a member of the Oakland Police Department executive team (which includes the BOI Deputy Chief and IAD Commander), CID Commander, or other Department member that may require alternate avenues of reporting and/or investigation (e.g., directly to the District Attorney) to ensure the integrity of the investigation. The timeline requirement, however, still applies.

B-2. Members Assigned to the Internal Affairs Division

Members assigned to the Internal Affairs Division (IAD) shall contact the IAD Commander. If the IAD Commander cannot be reached, the member shall contact an IAD Lieutenant.

B-3. Members Assigned to the Criminal Investigation Division

Members assigned to Criminal Investigation Division (CID) shall contact the CID Commander. If the CID Commander cannot be reached, the member shall contact the Bureau of Investigations (BOI) Deputy Chief.

B-4. All Other Members

All other members shall contact an on-duty Watch Commander. If an on-duty Watch Commander cannot be reached by phone, the Communications Division Supervisor shall be called at 510-777-8801 to request a return call from an on-duty Watch Commander.

Exemption: If notifications to the CID and IAD Commanders have already been completed by the member (i.e., Lieutenant, Captain, and/or Deputy Chief made the notification), the member is exempted from the Watch Commander notification requirement.

B-5. Misconduct Allegations Not Rising to the Level of Criminal Misconduct

Allegations not rising to the level of reasonable suspicion of criminal misconduct shall be reported to IAD and administratively investigated in accordance with Departmental General Order (DGO) M-03.

C. INITIAL RESPONSIBILITIES OF NOTIFIED PERSONNEL

C - 1. Watch Commander Responsibilities

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the Watch Commander shall attempt to determine the identity of the member and the jurisdiction of the alleged criminal misconduct. The Watch Commander shall provide such information to the CID Commander and shall maintain strict confidentiality at all times.

1. Determine the identity of the member;
2. Obtain details of the alleged criminal misconduct;
 - Do not interview the subject or witness members.
 - Avoid engaging in conversations with subject members that could pose potential violations of their protected rights.

- Do not take overt action that could interfere with, or undermine the integrity of, the investigation.
- 3. Determine jurisdiction of the alleged criminal misconduct;
- 4. Contact Communications Division to make confidential and non-specific entry onto the IAD Daily Incident Log which includes obtaining an IAD Computer Aided Dispatch (CAD) incident number;
- 5. Provide all obtained information via phone and email to the CID and IAD Commander;
- 6. Maintain a strict confidentiality at all times.²

C - 2. IAD Commander and Lieutenant Responsibilities

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the IAD Commander or IAD Lieutenant shall attempt to determine the identity of the member and the jurisdiction of the alleged criminal misconduct. The IAD Commander or IAD Lieutenant shall ensure the information is shared with the CID Commander and shall maintain strict confidentiality at all times.

- 1. Ensure a preliminary inquiry is initiated regardless of whether the criminal conduct occurred within Oakland;
- 2. Determine the necessity for an investigative callout;
- 3. Confer with the Bureau of Risk Management (BRM) Deputy Chief; and
- 4. Confer with CID Commander for all criminal matters both within the City of Oakland and outside jurisdictions.

C - 3. CID Commander Responsibilities³

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the CID Commander shall immediately:

- 1. Determine if the alleged criminal misconduct occurred within the City of Oakland;
- 2. Assign an investigator and direct a preliminary investigation if the alleged criminal misconduct occurred within the City of Oakland;
- 3. Determine the necessity for an investigative callout;
- 4. Confer with the Bureau of Investigations (BOI) Deputy Chief;
- 5. Contact the appropriate jurisdiction if the alleged criminal misconduct occurred outside the City of Oakland; and

² The Watch Commander may become aware of criminal misconduct committed by a member of the Oakland Police Department executive team, CID Commander, or other Department member that may require alternate avenues of reporting and/or investigation to ensure the integrity of the investigation. The Watch Commander should remain conscientious about not notifying a known involved member in the alleged criminal misconduct.

³ Additional detailed requirements for CID Commander responsibilities are codified in CID P&P 19-01.

6. Contact the Internal Affairs Division (IAD) Commander.

D. RESPONSIBILITIES OF THE BOI DEPUTY CHIEF

D - 1. Initial Responsibilities

Within 24 hours of being briefed on the alleged criminal misconduct by a member, the BOI Deputy Chief or designee shall prepare and forward a summary of the allegation(s) via email⁴ to the Chief of Police, Assistant Chief of Police, Chief of Inspectors of the Alameda County District Attorney's Office, Office of the City Attorney, Chair of the Police Commission, Police Commission Inspector General, Executive Director of the Community Police Review Agency (CPRA), BRM Deputy Chief and IAD Commander. If the alleged criminal misconduct occurred in another jurisdiction, the BOI Deputy Chief or designee shall additionally contact the appropriate law enforcement agency and/or district attorney's office that has jurisdiction for that agency.

Notifications from the BOI Deputy Chief should include the following information, when known:

1. The date(s) of the alleged criminal activity;
2. The date of arrest, if any;
3. Whether the alleged criminal activity occurred in Oakland or in another jurisdiction;
4. The criminal investigating or reporting agency, if other than OPD;
5. A brief description of the criminal activity and/or statute(s) allegedly violated (e.g., DUI, VC 23152); and
6. The rank of the member (e.g., "officer" or "lieutenant").

Such notifications shall be made whether or not the alleged misconduct occurred during the course and scope of employment. e.g., On March 1st, 2023, OPD was notified that an OPD Lieutenant was arrested on February 28th, 2023, by ACSO for auto burglary, 459 PC in Hayward that allegedly occurred on February 25, 2023.

D - 2. Post Preliminary Investigation Responsibilities

The BOI Deputy Chief shall review and evaluate the preliminary investigation, and if there is reasonable suspicion of criminal misconduct involving a felony or misdemeanor, take the additional following actions:

1. Ensure the incident is logged in the Tracking Sheet;
2. Confer with the Chief of Police;
3. Identify the best course of action, including whether another agency is to conduct the investigation; and

⁴ The email notification shall be documented in the Investigation Action Report (IAR) and Tracking Sheet. A copy of the email shall be uploaded and kept on the CID confidential server.

4. Evaluate each circumstance as a case-by-case basis to decide whether additional notifications are required. The initial notification may be sufficient.

D - 3. Criminal Investigation Responsibilities

If the Department is going to conduct the criminal investigation, the BOI Deputy Chief shall confer with the CID Commander to discuss the proposed investigative plan which may include, but is not limited to, the following determinations:

1. If there is probable cause for an arrest;
2. Whether to assign Department investigators to conduct a criminal investigation; and
3. The need for a joint criminal investigation with an outside agency.
4. Ensure the recusal process is followed per Bureau of Investigation Policy and Procedures 23-02.

If the Department is **not** going to conduct the criminal investigation, the BOI Deputy Chief shall direct the CID Commander to:

1. Make a notification to the appropriate law enforcement agency and/or district attorney's office that has jurisdiction for that agency of the circumstances surrounding the criminal activity unless the initial notification comes from another law enforcement agency with jurisdiction over the alleged criminal activity. Document this notification in the Tracking Sheet;
2. Forward supporting documentation and document this forwarding in the Tracking Sheet; and
3. Act as the liaison with the outside agencies.

D - 4. High Profile Case Updates

Officer-involved shootings, in-custody deaths, and any criminal investigation into a Department member is considered a high-profile case and updates shall be provided to the Assistant Chief and Chief of Police at least once a month, at a routinely scheduled meeting.

In cases including other allegations of on duty officer use of force or misconduct, a briefing is not required unless there is reasonable suspicion that such acts were committed and constitute a felony or misdemeanor. The Chief of Police can request regular high-profile updates on any case.

The meetings shall consist of a presentation of criminal investigation updates by the BOI Deputy Chief. If the BRM Deputy Chief will be presenting updates for IAD high profile cases at the same routinely scheduled monthly meeting, the BOI Deputy Chief and any other CID personnel will leave the meeting prior to the BRM Deputy Chief presenting updates for IAD high profile cases.

The BOI Deputy Chief or designee is responsible for providing verbal updates relevant to the progress of the criminal process to the Assistant Chief and Chief of Police. The BOI Deputy Chief will ensure that high profile case updates are updated on the Tracking Sheet. The CID Commander and BOI Deputy Chief shall ensure that any substantive directives are documented on the Investigative Action Report (IAR).

E. CID INTERNAL INVESTIGATIVE PROCEDURES

E - 1. CID Investigation Command

The CID Commander shall direct the criminal investigation.

E - 2. Fairness and Confidentiality of Investigations

Departmental investigators shall conduct the criminal investigation in a manner consistent with Department policy and procedures and ensure the confidentiality of all investigations.

E - 3. Separation of CID / IAD Investigations

The criminal investigation and administrative investigation are separate investigations. All evidence and products from the criminal investigations are available for use in the administrative IAD investigation. However, to protect members' rights, the criminal investigator shall not obtain or use information obtained by IAD.

E - 4. Updates on Investigation Progress

The investigator shall update the CID Commander on a bi-weekly basis with the progress of the investigation. .

E - 5. Timeline for Investigations

Criminal investigations shall be completed within 90 days unless otherwise extended up to 30 days in writing by the BOI Deputy Chief. If an extension is approved, it shall be documented in the IAR and Tracking Sheet. There is no limit on the number of extensions.

E - 6. Closure of Investigations

The Chief of Police shall approve the disposition of any CID investigation of member criminal misconduct. The CID Commander shall ensure such approval is documented in the IAR and the Tracking Sheet.

E - 7. Notifications of Investigation Closures

The CID Commander shall provide email notification of the closure of the CID investigation to the Assistant Chief of Police, Chief of Police, BOI Deputy Chief, BRM Deputy Chief, Chief of Inspectors of the Alameda County District Attorney's Office, Office of the City Attorney, Chair of the Police Commission, Police Commission Inspector General, Executive Director of the Community Police Review Agency (CPRA), and IAD

Commander. This email notification shall be documented in the IAR and the Tracking Sheet.

F. ADDITIONAL OVERSIGHT AND REPORTING FOR CID INVESTIGATION

F - 1. CID Commander Oversight Responsibilities

The CID Commander shall ensure the investigation is proceeding in accordance with Departmental policy and provide oversight, guidance, and resources necessary for the timely completion of the investigation.

F - 2. Briefing of the BOI Deputy Chief

The CID Commander shall brief the BOI Deputy Chief regarding the status and progress of all investigations on a bi-weekly basis.

F - 3. Review of Investigations

The CID Commander and BOI Deputy Chief shall review the investigation before submission to the District Attorney's Office for charging consideration.

F - 4. Briefing of the Assistant Chief and Chief of Police

The BOI Deputy Chief shall notify the Assistant Chief of Police and the Chief of Police on the status and resolution of all investigations every 30 days.

F - 5. Maintenance of Secure Investigation Files

The Records Division Manager shall maintain secure files of completed investigations involving members of the Department. These files are stored in a secured location and are only accessible by the Records Division Manager.

G. CRIMINAL MISCONDUCT BY OUTSIDE SWORN LAW ENFORCEMENT PERSONNEL

G - 1. Notification Requirements of Members

When any member has reasonable suspicion that a sworn law enforcement officer employed by another agency is involved in a felony or misdemeanor, the member shall immediately notify an on-duty Watch Commander via phone and email unless the member possesses information that reasonably suggests that the law enforcement officer's agency is already aware of the criminal activity. If an on-duty Watch Commander cannot be reached by phone, the Communications Division Supervisor shall be called at 510-777-8801 to request a return call from an on-duty Watch Commander.

G - 2. Watch Commander Responsibilities

If the alleged criminal misconduct occurred within the City of Oakland, the Watch Commander shall:

1. Attempt to determine the identity of the outside sworn law enforcement officer, the details of the alleged criminal misconduct, and contact information for the reporting entity.

2. Ensure steps are taken by on-duty personnel to identify a crime scene and assess the immediate necessity to preserve it and related evidence.
3. Notify the CID Commander.

If the criminal misconduct occurred in another jurisdiction, the Watch Commander shall:

1. Attempt to determine the identity of the outside sworn law enforcement officer, the details of the alleged criminal misconduct, and contact information for the reporting entity.
2. Notify the law enforcement agency where the conduct occurred and the employing agency of the outside sworn law enforcement officer.
3. Notify the Oakland Police Department Chief of Police through the chain of command.

G - 3. CID Commander Responsibilities

If the criminal misconduct occurred within the City of Oakland, the CID Commander shall:

1. Direct, or designate a CID Section Commander (Lieutenant), to oversee a preliminary criminal investigation;
2. Determine the necessity for an investigative callout;
3. Confer with the Bureau of Investigations (BOI) Deputy Chief;
4. Notify the officer's employer of any ongoing investigation or arrest;
5. Within 24 hours, provide email notification of the CID investigation to the Assistant Chief of Police, Chief of Police, BOI Deputy Chief, Chief of Inspectors of the Alameda County District Attorney's Office, and Office of the City Attorney. This email notification shall be documented in the IAR and Tracking Sheet, and a copy of the email shall be kept on the CID confidential server.

By order of,

Darren Allison
Interim Chief of Police

Date Signed: _____



Prior to the start of the investigation, this Recusal Form shall be completed and forwarded to:

- IAD for internal administrative investigations
- CID for criminal cases involving an OPD member

OAKLAND POLICE DEPARTMENT
Investigative Recusal Form
TF-xxxx (02/23)

Investigator's Name (Printed)	Serial No.	First-Level Superior (Printed)	Serial No.
Case Number			

Requirement:
 An investigator shall disclose and document in the Declaration Narrative the circumstances of any relationship where the nature of the relationship could be perceived to compromise the investigative process. Upon completion of the Recusal Form, the appropriate first-level superior shall meet with the investigator to jointly review this form. The first-level superior shall determine whether the nature of the relationship could be perceived to compromise the investigative process. Document the decision in the Review Narrative.

An investigation shall, upon first level supervisor approval, be reassigned if any of the following conditions exist, such as:

- Familial relationship;
- Outside business relationship;
- Romantic relationship;
- Close friendship;
- Close work relationship such that the reviewer cannot remain impartial in the assessment of the work product (to be determined on a case-by-case basis).

Deleted: y

Declaration: I have checked the appropriate response.

I was directly involved in the incident. (Describe in Declaration Narrative)

I have a relationship with one or more of the involved parties which could be perceived to compromise the investigative process. (Describe in Declaration Narrative)

I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.

Investigator's Signature	Date:
--------------------------	-------

Declaration Narrative:

First-Level Superior Review:
 I have met with the investigator and made the following determination:

Reassigned (Detail reason below) Not reassigned

Review Narrative:

First-Level Superior's Signature	Date:
----------------------------------	-------

For CID Only: The members listed below met to discuss assignment of the case to the investigator, including recusal considerations.

Meeting Date/Time:	List Names/Serial # of Meeting Attendees	BOI DC:
Captain:	Lieutenant:	Investigator (1):
		Investigator (2):



Prior to the review of an IAD or CID investigation, this Recusal Form shall be read and signed. The form shall remain with the investigative packet.

**OAKLAND POLICE DEPARTMENT
Investigation Review
Recusal Form
TF-xxxx (02/23)**

Case Number	
<p>Requirement: All reviewing members shall disclose and document the circumstances of any personal relationship where the nature of the relationship could pose an actual or perceived conflict of interest or otherwise compromise the investigative review process. If you were involved in the incident or have a below-categorized relationship with one of the involved parties, check the appropriate box, do not review the case, and return it to the last reviewer before coordinating with your chain of command to identify an alternate. The review of an investigation shall be reassigned if any of the following conditions exist between a reviewing/approving supervisor and any party in the investigation. Examples:</p> <ul style="list-style-type: none"> • Familial relationship; • Outside business relationship; • Romantic relationship; • Close friendship; • Close work relationship such that the reviewer cannot remain impartial in the assessment of the work product (to be determined on a case-by-case basis). 	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	
Reviewer's Signature & Serial #	Date:
<input type="checkbox"/> I was directly involved in the incident. <input type="checkbox"/> I have a relationship with one or more of the involved parties. <input type="checkbox"/> I am not directly involved in the incident and do not have any relationship with any of the involved parties which could be perceived to compromise the investigative process.	

Deleted: y



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
July 2023 Completed Investigations

Page 1 of 4
 (Total Completed = 15)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding/Conclusion
AL	22-0850	7/5/2022	7/3/2023	7/6/2023	Subject 1	Use of Physical Force - Level 3	Unfounded
						Use of Physical Force - Level 3	Unfounded
	22-0871	7/08/2022		7/08/2023	Subject 1	Use of Physical Force	3304 Violation
JS	22-0872	5/31/2022	7/6/2023	7/9/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	Not Sustained
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	Not Sustained
CES	22-0884	7/11/2022	7/7/2023	7/12/2023	Subject 1	Use of Physical Force - Level 4	604(g)3
						Performance of Duty - General	604(g)3
CES	22-0877	7/08/2022	2/1/2023	7/08/2022	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
CJ	22-0904	7/15/2022	7/15/2023	7/14/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
	22-0912	7/18/2022	7/17/2023	7/17/2023	Subject 1	Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	3304 Violation
						Use of Physical Force	3304 Violation
						Truthfulness	3304 Violation
						Conduct Toward Others - Harassment and Discrimination / Race	3304 Violation
	22-0919	7/11/2022	1/6/2023	7/18/2023	Subject 1	Performance of Duty - General	See below ⁱ
CES	22-0945	6/10/2022	7/25/2023	7/26/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
						Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
						Performance of Duty - General	Unfounded



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
July 2023 Completed Investigations

Page 2 of 4
 (Total Completed = 15)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding/Conclusion
						Conduct Toward Others – Demeanor	Unfounded
CJ	22-0984	4/14/2022	1/24/2023	7/27/2023	Subject 1	Performance of Duty – General	See below ⁱⁱ
CES	22-0974	7/30/2022	7/29/2023	7/30/2023	Subject 1	Refusal to Accept or Refer a Complaint (Intentional)	604(g)3
					Subject 2	Refusal to Accept or Refer a Complaint (Intentional)	604(g)3
CES	22-0977	7/30/2021	7/25/2023	7/26/2023	Subject 1	Performance of Duty – General	Exonerated
						Use of Physical Force	Unfounded
						Use of Physical Force	Unfounded
						Custody of Prisoners	Unfounded
					Subject 2	Use of Physical Force	Unfounded
						Use of Physical Force	Unfounded
						Custody of Prisoners	Unfounded
					Subject 3	Use of Physical Force	Unfounded
	22-1025	7/21/2022	7/29/2023	7/29/2023	Subject 1	Performance of Duty – General	3304 Violation
						Use of Physical Force	3304 Violation
JS	22-1048	8/13/2022	7/26/2023	8/12/2023	Subject 1	Use of Physical Force - Level 4	Exonerated
						Conduct Toward Others - Harassment and Discrimination / Race	Not Sustained
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	Not Sustained
						Truthfulness	Not Sustained



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
July 2023 Completed Investigations

Page 3 of 4
 (Total Completed = 15)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding/Conclusion
SH	23-0922	6/1/2023	7/24/2023	6/1/2024	Subject 1	Conduct Toward Others - Demeanor	See below ⁱⁱⁱ

Finding Definitions:

Sustained: The act(s) alleged by the complainant occurred and constituted misconduct.

Exonerated: The act(s) alleged by the complainant occurred. However, the act(s) were justified, lawful, or proper.

Unfounded: The act(s) alleged by the complainant did not occur.

Not Sustained: The available evidence can neither prove nor disprove the act(s) alleged by the complainant.

Additional Definitions:

No Jurisdiction: The Subject Officer of the allegation is not a sworn member of the OPD.

No MOR Violation: The alleged conduct does not violate any department rule or policy.

Service Related: The allegation pertains to the level of service provided by the Department as opposed to the misconduct of a single sworn officer.

3304 Violation: Cases not completed before the statutory deadline under California law.

604(g)3 Adjudication: If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that in investigations of Level 1 uses of force, sexual misconduct or untruthfulness, the Commission must approve the Agency's decision by a majority vote. If the Agency chooses not to close its investigation, imposition of final discipline shall be delayed until the Agency's investigation is completed and the Agency makes its findings and recommendations for discipline. The Agency shall notify the Chief of its final decision regarding how and whether it will proceed within seven (7) days of the Chiefs notice of completion of his or her investigation.

ⁱ Initially, this case was determined to have included a "mandated" allegation, was assigned to a staff member, and was included on the June 2023 Pending Case List (published for the July 27, 2023, Police Commission meeting). Upon supervisory review, the CPRA found that this allegation had been miscategorized. Therefore, it is being removed from the Pending Case List.

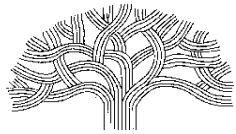


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
July 2023 Completed Investigations

Page 4 of 4
(Total Completed = 15)

ⁱⁱ Initially, this case was determined to have included a “mandated” allegation, was assigned to a staff member, and was included on the June 2023 Pending Case List (published for the July 27, 2023, Police Commission meeting). Upon supervisory review, the CPRA found that this allegation had been miscategorized. Therefore, it is being removed from the Pending Case List.

ⁱⁱⁱ Initially, this case was determined to have included a “mandated” allegation, was assigned to a staff member, and was included on the June 2023 Pending Case List (published for the July 27, 2023, Police Commission meeting). Upon supervisory review, the CPRA found that this allegation had been miscategorized. Therefore, it is being removed from the Pending Case List.

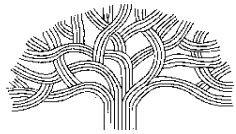


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of July 2023
(Sorted by One-Year Goal)

Attachment 12
Page 1 of 9
 (Total Pending = 209)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-0040	01/15/2022	01/18/2021	01/15/2022	Investigator	KT	07/14/2022	Tolled	Use of Force	1	1	1	Use of Force
21-1558	12/24/2021	12/28/2021	12/24/2021	Investigator	Unassigned (ED)	06/22/2022	Tolled	Use of Force	1	1	4	Use of Force, Miranda, Performance of Duty
22-0622	05/25/2022	05/25/2022	05/25/2022	Investigator	JS	11/21/2022	Tolled	Use of Force	1	1	1	Use of Force
22-0796	06/26/2022	06/26/2022	06/26/2022	Investigator	JS	12/23/2022	Tolled	In-Custody Death; Truthfulness	1	2	23	Unauthorized pursuit; Truthfulness; Obedience to Laws; Reports and Bookings; Compromising Criminal Cases; Interfering with Investigations; Reporting Violations; General Conduct; Performance of Duty; BWC
22-1379	10/17/2022	10/17/2022	10/17/2022	Investigator	JS	04/15/2023	Tolled	Pursuit	1	1	1	Use of Force
22-0997	07/13/2022	08/03/2022	08/03/2022	Investigator	WA	01/30/2023	08/02/2023	Truthfulness	1	1	3	Truthfulness, Demeanor
22-0998	08/05/2022	08/04/2022	08/05/2022	Investigator	CES	01/31/2023	08/03/2023	Use of Force	1	1	4	Use of Force
22-1009	08/05/2022	08/09/2022	08/05/2022	Investigator	WA	02/01/2023	08/04/2023	Sexual Harassment	1	2	3	Conduct, Performance of Duty
22-1081	08/07/2022	08/09/2022	08/07/2022	Investigator	JS	02/03/2023	08/06/2023	Discrimination	1	1	2	Discrimination, Demeanor
22-1026	08/08/2022	08/10/2022	08/08/2022	Investigator	KT	02/04/2023	08/07/2023	Use of Force	1	1	1	Use of Force
22-1047	08/13/2022	08/16/2022	08/13/2022	Investigator	Unassigned (MM)	02/09/2023	08/12/2023	Racial Discrimination	1	2	2	Racial Discrimination
22-1075	08/18/2022	08/23/2022	08/18/2022	Investigator	WA	02/14/2023	08/17/2023	Racial Discrimination; Use of Force	1	2	6	Racial Discrimination; Use of Force
22-1084	08/20/2022	08/23/2022	08/20/2022	Investigator	CES	02/16/2023	08/19/2023	Use of Force	1	1	2	Use of Force/Performance of duty
22-1081	08/20/2022	08/23/2022	08/20/2022	Investigator	WA	02/16/2023	08/19/2023	Use of Force	1	1	1	Use of Force
22-1090	08/22/2022	08/23/2022	08/22/2022	Investigator	JS	02/18/2023	08/21/2023	Use of Force	1	1	1	Use of Force
22-1102	08/23/2022	04/19/2023	08/23/2022	Investigator	KT	02/19/2023	08/22/2023	Failure to obey laws				
22-1105	08/23/2022	08/25/2022	08/23/2022	Investigator	WA	02/19/2023	08/22/2023	Racial Discrimination	1	2	4	Racial Discrimination/False arrest
22-1106	08/23/2022	08/25/2022	08/23/2022	Investigator	CES	02/19/2023	08/22/2023	Use of Force	1	1	1	Use of Force
22-1110	08/24/2022	08/26/2022	08/24/2022	Investigator	Unassigned (AL)	02/20/2023	08/23/2023	Harassment	1	1	1	Harassment/Discrimination
22-1109	07/12/2022	08/26/2022	08/25/2022	Investigator	Unassigned (AL)	02/21/2023	08/24/2023	Discrimination	1	1	4	Discrimination
22-1138	08/30/2022	08/31/2022	08/30/2022	Investigator	JS	02/26/2023	08/29/2023	Use of Force	1	2	4	Use of Force, Demeanor
22-1145	08/31/2022	09/02/2022	08/31/2022	Investigator	Unassigned (AL)	02/27/2023	08/30/2023	Harassment	1	2	4	Racial Harassment, Demeanor

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). "Other" indicates the case does not include any such allegations.

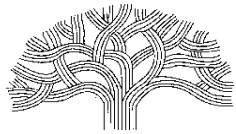


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of July 2023
(Sorted by One-Year Goal)

Attachment 12
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 (Total Pending = 209)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1212	09/02/2022	09/16/2022	09/02/2022	Investigator	WA	03/01/2023	09/01/2023	Use of Force	1	4	5	Use of Force, Performance of Duty, Refusal to Provide Name or Serial Number
22-1159	09/02/2022	09/12/2022	09/02/2022	Investigator	JS	03/01/2023	09/01/2023	Use of Force	1	1	1	Use of Force
22-1160	09/03/2022	09/12/2022	09/03/2022	Investigator	CES	03/02/2023	09/02/2023	Use of Force	1	2	3	Use of Force/False arrest
22-1169	09/03/2022	09/12/2022	09/03/2022	Intake	CES	03/02/2023	09/02/2023	Discrimination	1	5	4	Discrimination, Performance of Duty, Demeanor
22-1171	09/05/2022	09/12/2022	09/05/2022	Investigator	WA	03/04/2023	09/04/2023	Use of Force	1	3	6	Performance of Duty, Use of Force
22-1190	09/09/2022	09/16/2022	09/09/2022	Investigator	Unassigned (AL)	03/08/2023	09/08/2023	Use of Force	1	2	3	Use of Force
21-1114	09/22/2021	09/22/2021	09/22/2021	Investigator	JS	03/22/2022	09/08/2023	Use of Force	1	3	3	Use of Force
22-1194	09/10/2022	09/10/2022	09/16/2022	Investigator	Unassigned (AL)	03/09/2023	09/09/2023	Use of Force	1	1	2	Use of Force, Demeanor
22-1193	09/11/2022	09/16/2022	09/11/2022	Investigator	Unassigned (MM)	03/10/2023	09/11/2023	Discrimination	1	1	2	Discrimination, Performance of Duty
22-1210	11/09/2018	09/14/2022	09/14/2022	Investigator	Unassigned (ED)	03/13/2023	09/13/2023	Use of Force	1	1	1	Discrimination
22-1213	09/14/2022	09/16/2022	09/15/2022	Investigator	Unassigned (ED)	03/14/2023	09/14/2023	Harassment	1	1	1	Harassment
22-1217	09/16/2022	09/16/2022	09/16/2022	Investigator	Unassigned (AL)	03/15/2023	09/15/2023	Harassment	1	1	2	Harassment, Performance of Duty
22-1083	09/17/2022	09/20/2022	09/17/2022	Investigator	Unassigned (MM)	03/16/2023	09/16/2023	Racial Profiling	1	1	1	Racial profiling
22-1241	09/21/2022	09/22/2022	09/21/2022	Investigator	JS	03/20/2023	09/20/2023	Harassment	1	1	1	Harassment
22-1257	09/23/2022	09/28/2022	09/23/2022	Investigator	Unassigned (ED)	03/22/2023	09/22/2023	Use of Force, Racial Harassment	1	2	3	Use of Force, Racial Harassment
22-1258	09/25/2022	09/28/2022	09/25/2022	Investigator	Unassigned (AL)	03/24/2023	09/24/2023	Discrimination	1	3	3	Discrimination
22-1301	10/02/2022	10/05/2022	10/02/2022	Investigator	JS	03/31/2023	10/01/2023	Use of Force	1	1	1	Use of Force
22-1327	10/03/2022	10/06/2022	10/04/2022	Investigator	Unassigned (AL)	04/02/2023	10/03/2023	Use of Force	1	1	4	use of Force/Performance of duty
22-1345	10/08/2022	10/12/2022	10/08/2022	Investigator	Unassigned (MM)	04/06/2023	10/07/2023	Use of Force, Racial Harassment	1	1	2	Use of Force, Racial Harassment
22-1357	10/11/2022	10/14/2022	10/14/2022	Investigator	Unassigned (ED)	04/09/2023	10/10/2023	Harassment	1	1	1	Harassment
22-1364	10/11/2022	04/17/2023	10/11/2022	Intake	JS	04/09/2023	10/10/2023	Sexual misconduct	1	1	1	Sexual misconduct

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). "Other" indicates the case does not include any such allegations.

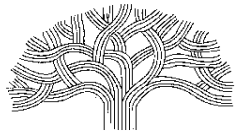


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of July 2023
(Sorted by One-Year Goal)

Attachment 12
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 (Total Pending = 209)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1617	10/11/2022	12/07/2022	10/11/2022	Intake	Unassigned (FC)	04/09/2023	10/10/2023	Use of Force	1	1	3	Use of Force, Demeanor, No MOR Violation
22-1380	10/13/2022	10/19/2022	10/13/2022	Investigator	JS	04/11/2023	10/12/2023	Use of Force	1	2	1	False Arrest, Use of Force
22-1372	09/05/2022	10/19/2022	10/14/2022	Investigator	Unassigned (MM)	04/12/2023	10/13/2023	Truthfulness	1	1	1	Truthfulness
22-1375	06/27/2022	10/19/2022	10/14/2022	Intake	KC	04/12/2023	10/13/2023	Truthfulness	1	1	2	Truthfulness/Performance of duty
22-1387	10/17/2022	10/19/2022	10/17/2022	Investigator	Unassigned (ED)	04/15/2023	10/16/2023	Use of Force, Discrimination	1	3	3	Use of force, Discrimination
22-1402	10/21/2022	10/26/2022	10/21/2022	Investigator	Unassigned (AL)	04/19/2023	10/20/2023	Discrimination	1	1	4	Discrimination, Performance of Duty
22-1465	10/27/2022	11/08/2022	10/27/2022	Investigator	Unassigned (AL)	04/25/2023	10/26/2023	Discrimination	1	2	6	Discrimination, Performance of Duty, Demeanor
22-1436	10/29/2022	11/02/2022	10/29/2022	Investigator	JS	04/27/2023	10/28/2023	Use of Force	1	1	4	Use of Force, Performance of duty
22-1442	10/31/2022	11/02/2022	10/31/2022	Investigator	JS	04/29/2023	10/30/2023	Gender Harassment	1	2	6	Gender Harassment
22-1482	11/08/2022	11/09/2022	11/08/2022	Intake	Unassigned (FC)	05/07/2023	11/07/2023	Use of Force	1	1	1	Use of Force
22-1493	11/09/2022	11/16/2022	11/09/2022	Investigator	Unassigned (ED)	05/08/2023	11/08/2023	Racial Harassment	1	2	2	Racial Harassment
22-1500	11/11/2022	11/16/2022	11/11/2022	Investigator	JS	05/10/2023	11/10/2023	Use of Force	1	2	2	Use of Force
22-1518	11/14/2022	11/17/2022	11/15/2022	Investigator	WA	05/14/2023	11/15/2023	Use of Force	1	1	1	Use of Force
22-1533	11/17/2022	11/22/2022	11/17/2022	Intake	Unassigned (FC)	05/16/2023	11/16/2023	Racial/Gender Discrimination	1	2	4	False Arrest, Racial/Gender Discrimination
22-1537	11/18/2022	11/22/2022	11/18/2022	Investigator	Unassigned (AL)	05/17/2023	11/17/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-1546	11/18/2022	11/22/2022	11/19/2022	Investigator	Unassigned (ED)	05/18/2023	11/18/2023	Use of Force	1	2	6	Use of Force, False Arrest, Demeanor
22-1542	11/18/2022	11/22/2022	11/18/2022	Intake	KC	05/17/2023	11/18/2023	Truthfulness	1	1	4	Truthfulness, False Arrest, Performance of duty, Service complaint
22-1550	11/19/2022	11/22/2022	11/19/2022	Intake	Unassigned (FC)	05/18/2023	11/18/2023	Racial Harassment	1	1	1	Racial Harassment
22-1539	11/20/2022	11/22/2022	11/20/2022	Investigator	CES	05/19/2023	11/19/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1547	11/20/2022	11/22/2022	11/20/2022	Intake	KC	05/19/2023	11/19/2023	Use of Force	1	1	3	Use of Force, False Arrest, Demeanor
22-1558	11/06/2022	11/23/2022	11/22/2022	Intake	KC	05/21/2023	11/21/2023	Use of Force	1	1	4	Use of Force, Performance of Duty, Demeanor

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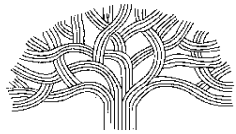


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of July 2023
(Sorted by One-Year Goal)

Attachment 12
Page 4 of 9
 (Total Pending = 209)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1560	11/22/2022	11/30/2022	11/24/2022	Investigator	WA	05/23/2023	11/23/2023	Use of Force	1	1	3	False Arrest, Care of Property, Use of Force
22-1562	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Use of Force	1	1	2	Use of Force, Performance of duty
22-1565	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Racial Discrimination	1	1	2	Racial Discrimination, Performance of Duty
22-1578	11/29/2022	11/30/2022	11/29/2022	Intake	KC	05/28/2023	11/28/2023	Use of Force	1	4	8	Use of Force, Performance of Duty
22-1592	11/30/2022	12/02/2022	11/30/2022	Investigator	Unassigned (AL)	05/29/2023	11/29/2023	Use of Force	1	1	1	Use of Force
22-1607	12/03/2022	12/07/2022	12/03/2022	Intake	Unassigned (FC)	06/01/2023	12/02/2023	Use of Force, Age Discrimination	1	1	2	Age Discrimination, Use of Force
22-1605	12/03/2022	12/07/2022	12/03/2022	Intake	KC	06/01/2023	12/02/2023	Use of Force	1	1	1	Use of Force
22-1601	06/01/2022	12/07/2022	12/04/2022	Intake	KC	06/02/2023	12/03/2023	Use of Force	1	1	1	Use of Force
22-1604	12/03/2022	12/07/2022	12/04/2022	Intake	Unassigned (FC)	06/02/2023	12/03/2023	Use of Force	1	1	2	Performance of Duty, Use of Force
22-1613	12/05/2022	12/07/2022	12/05/2022	Intake	KC	06/03/2023	12/04/2023	Use of Force	1	1	1	Use of Force
22-1615	03/26/2022	12/07/2022	12/06/2022	Intake	Unassigned (FC)	06/04/2023	12/05/2023	Use of Force	1	1	1	Use of Force
22-1660	12/13/2022	12/16/2022	12/13/2022	Investigator	JS	06/11/2023	12/12/2023	Use of Force	1	1	2	Use of Force
22-1657	12/13/2022	12/16/2022	12/15/2022	Investigator	Unassigned (ED)	06/12/2023	12/13/2023	Use of Force	1	2	4	Use of Force, Performance of Duty
22-1656	12/14/2022	12/16/2022	12/15/2022	Intake	SH	06/12/2023	12/13/2023	Use of Force	1	1	3	Use of Force, Sexual Assault, Performance of Duty
22-1664	12/15/2022	12/21/2022	12/15/2022	Intake	KC	06/13/2023	12/14/2023	Use of Force	1	1	1	Use of Force
22-1684	12/19/2022	12/21/2022	12/19/2022	Investigator	CES	06/17/2023	12/18/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1710	03/11/2022	12/23/2022	12/23/2022	Investigator	Unassigned (AL)	6/20/2023	12/22/2023	Reports and Bookings	1	4	15	Reports and Bookings
22-1701	12/25/2022	12/28/2022	12/24/2022	Intake	KC	06/22/2023	12/23/2023	Use of Force	1	1	2	Use of Force, False Arrest, Demeanor
22-1731	12/29/2022	12/29/2022	01/03/2023	Investigator	CES	06/02/2023	12/28/2023	Use of Force	1	1	2	Performance of Duty, Use of Force
22-1730	12/30/2022	01/05/2023	01/03/2023	Intake	SH	06/28/2023	12/29/2023	Use of Force	1	1	2	Use of Force. Performance of Duty
23-0023	01/02/2023	01/02/2023	01/02/2023	Intake	SH	07/01/2023	01/01/2024	Use of Force, Racial Discrimination	1	1	4	Use of Force, Racial Discrimination
23-0014	12/18/1998	01/03/2023	01/03/2023	Intake	Unassigned (FC)	07/02/2023	01/04/2024	Sex Discrimination	1	2	2	Discrimination, Performance of Duty
23-0029	01/05/2023	01/10/2023	01/05/2023	Intake	DC	07/04/2023	01/04/2024	Use of Force	1	1	2	Use of Force, Demeanor

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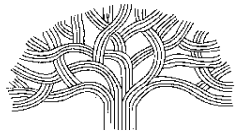


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of July 2023
(Sorted by One-Year Goal)

Attachment 12
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 (Total Pending = 209)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
23-0028	01/06/2023	01/10/2023	01/06/2023	Intake	Unassigned (FC)	07/05/2023	01/05/2024	Use of Force	1	1	2	Use of Force, Performance of Duty
23-0161	01/07/2023	01/31/2023	01/07/2023	Intake	DC	07/06/2023	01/06/2024	Discrimination	1	2	4	Discrimination, False Arrest
23-0058	01/11/2023	01/13/2023	01/11/2023	Intake	Unassigned (FC)	07/10/2023	01/10/2024	Discrimination	1	1	1	Discrimination
23-0055	01/12/2023	01/12/2023	01/11/2023	Intake	SH	07/10/2023	01/10/2024	Use of Force	1	4	4	Use of Force
23-0089	01/14/2023	01/18/2023	01/14/2023	Intake	KC	07/13/2023	01/13/2024	Racial Discrimination	1	2	4	Racial discrimination, Performance of Duty
23-0084	01/15/2023	01/18/2023	01/15/2023	Intake	Unassigned (FC)	07/14/2023	01/14/2024	Use of Force	1	1	1	Use of Force
23-0091	01/08/2023	01/18/2023	01/17/2023	Intake	DC	07/16/2023	01/16/2024	Truthfulness	1	3	3	Truthfulness
22-1684	01/18/2023	01/18/2023	01/20/2023	Intake	KC	07/17/2023	01/17/2024	Discrimination	1	3	9	Discrimination, Performance of Duty
23-0105	01/18/2023	01/20/2023	01/18/2023	Intake	KC	07/17/2023	01/17/2024	Racial Discrimination	1	3	9	Racial discrimination, Performance of Duty
21-1410	11/20/2021	11/20/2021	11/20/2021	Investigator	CES	05/19/2022	01/18/2024	Use of Force	1	14	17	Use of Force
23-0118	01/20/2023	01/25/2023	01/20/2023	Intake	Unassigned (FC)	07/29/2023	01/19/2024	Discrimination	1	1	1	Discrimination
23-0119	01/21/2023	01/21/2023	01/21/2023	Intake	SH	07/20/2023	01/21/2024	Racial Harassment	1	1	1	Racial Harassment, false arrest
23-0120	01/22/2023	01/22/2023	01/21/2023	Intake	DC	07/21/2023	01/21/2024	Use of Force	1	2	2	Use of Force
23-0182	01/23/2023	01/25/2023	01/23/2023	Intake	SH	07/22/2023	01/22/2024	Use of Force	1	1	1	Use of Force
23-0147	07/22/2022	01/27/2023	01/25/2023	Intake	DC	07/24/2023	01/24/2024	Use of Force	1	1	3	Use of Force
23-0134	01/24/2023	01/26/2023	01/25/2023	Intake	KC	07/24/2023	01/24/2024	Discrimination, Use of Force	1	1	1	Discrimination, Use of Force
23-0164	02/01/2021	01/31/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/26/2024	Discrimination	1	1	6	Discrimination, Performance of Duty
23-0173	10/11/2022	01/27/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/26/2024	Use of force	1	1	4	Use of force, Performance of Duty, Demeanor
23-0176	01/27/2023	01/31/2023	01/28/2023	Intake	SH	07/27/2023	01/27/2024	Discrimination	1	1	1	Discrimination
23-0174	04/20/2022	01/27/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/28/2024	Use of Force	1	1	5	Performance of Duty, Use of Force, Conduct towards others
23-0177	01/29/2023	01/29/2023	01/31/2023	Intake	KC	07/28/2023	01/28/2024	Use of Force	1	1	1	Use of Force
23-0194	11/30/2022	02/01/2023	01/31/2023	Intake	SH	07/20/2023	01/30/2024	Truthfulness	1	1	3	Truthfulness, false arrest
23-0548	02/06/2023	05/09/2023	04/18/2023	Intake	DC	08/05/2023	02/05/2024	Discrimination	1	1	1	Discrimination
23-0250	02/12/2023	04/26/2023	02/12/2023	Intake	DC	08/11/2023	02/11/2024	Use of Force	1	2	2	Use of force
23-0266	02/15/2023	04/27/2023	02/16/2023	Intake	KC	08/15/2023	02/15/2024	Racial Profiling	1	2	4	Racial Profiling, Performance of Duty

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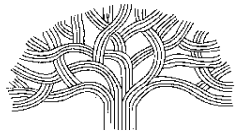


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Pending Cases as of July 2023
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Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1 -Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
23-0558	02/17/2023	02/17/2023	02/17/2023	Investigator	Unassigned (AL)	08/16/2023	02/16/2024	Use of Force	1	2	2	Use of Force
23-0300	01/25/2023	04/26/2023	02/17/2023	Intake	Unassigned (FC)	08/16/2023	02/16/2024	Use of Force	1	1	1	Use of Force
23-0315	02/19/2023	04/26/2023	02/19/2023	Intake	Unassigned (FC)	08/18/2023	02/18/2024	Racial Profiling	1	2	4	False Arrest, Racial Profiling
23-0325	02/20/2023	04/26/2023	02/21/2023	Intake	DC	08/19/2023	02/19/2024	Use of force	1	2	3	Use of force
23-0329	02/21/2023	04/26/2023	02/21/2023	Intake	DC	08/20/2023	02/20/2024	Use of force	1	1	1	Use of force, False arrest
23-0257	02/22/2023	04/26/2023	02/22/2023	Intake	DC	08/21/2023	02/21/2024	Use of force	1	2	4	Use of force
23-0358	02/22/2023	04/26/2023	02/22/2023	Intake	SH	08/21/2023	02/21/2024	Use of Force	1	1	1	Use of Force
23-0376	02/24/2023	04/26/2023	02/24/2023	Intake	SH	08/23/2023	02/23/2024	Use of Force	1	2	1	Use of Force
23-0320	02/25/2023	04/26/2023	02/25/2023	Intake	Unassigned (FC)	08/24/2023	02/24/2024	Racial Profiling	1	2	4	False Arrest, Racial Profiling
23-0258	02/26/2023	04/27/2023	02/27/2023	Intake	KC	08/26/2023	02/26/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0454	02/28/2023	05/01/2023	02/28/2023	Intake	DC	08/27/2023	02/27/2024	Use of Force	1	1	3	Use of force
23-0275	03/03/2023	04/26/2023	03/03/2023	Intake	Unassigned (FC)	08/30/2023	03/01/2024	Use of Force	1	2	2	Use of Force
23-0314	03/10/2023	04/26/2023	03/10/2023	Intake	Unassigned (FC)	09/06/2023	03/08/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0265	03/11/2023	04/26/2023	03/11/2023	Intake	Unassigned (FC)	09/07/2023	03/09/2024	Harassment	1	1	3	Harassment, Demeanor, Performance of Duty
23-0319	03/11/2023	04/26/2023	03/11/2023	Intake	Unassigned (FC)	09/07/2023	03/09/2024	Use of Force	1	2	2	Use of Force
23-0352	03/11/2023	05/02/2023	03/12/2023	Intake	KC	09/08/2023	03/10/2024	Use of Force	1	2	2	Use of Force
23-0656	03/11/2023	03/14/2023	03/11/2023	Intake	SH	09/10/2023	03/12/2024	Truthfulness	1	2	2	Truthfulness
23-0269	03/14/2023	04/26/2023	03/14/2023	Intake	Unassigned (FC)	09/10/2023	03/12/2024	Racial Profiling	1	3	3	Racial Profiling
23-0406	03/14/2023	05/01/2023	03/14/2023	Intake	SH	09/10/2023	03/12/2024	Other	1	1	1	Consumption of Intoxicants
23-0430	03/14/2023	05/01/2023	03/12/2023	Intake	DC	09/10/2023	03/12/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0357	03/14/2023	05/02/2023	03/15/2023	Intake	KC	09/11/2023	03/13/2024	Use of Force	1	2	6	Use of Force, Performance of Duty
23-0324	03/15/2023	04/26/2023	03/15/2023	Intake	Unassigned (FC)	09/11/2023	03/13/2024	Racial Discrimination	1	2	4	False Arrest, Racial Profiling
23-0334	03/20/2023	04/26/2023	03/21/2023	Intake	SH	09/17/2023	03/19/2024	Sexual Misconduct	1	6	2	Sexual Misconduct
23-0372	03/23/2023	05/02/2023	03/23/2023	Intake	KC	09/19/2023	03/21/2024	Racial Discrimination	1	2	8	Racial discrimination, Performance of Duty

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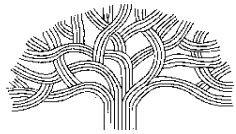


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23-0414	03/24/2023	05/01/2023	03/24/2023	Intake	SH	09/20/2023	03/22/2024	Use of Force	1	1	1	Use of Force
23-0374	03/24/2023	05/02/2023	03/25/2023	Intake	KC	09/21/2023	03/23/2024	Discrimination	1	2	4	Discrimination, Demeanor
23-0437	03/26/2023	05/01/2023	03/26/2023	Intake	DC	09/22/2023	03/24/2024	Use of force	1	2	1	Use of force
23-0417	03/26/2023	05/01/2023	03/26/2023	Intake	SH	09/22/2023	03/24/2024	Use of force	1	2	1	Use of force
23-0272	10/01/1974	03/28/2023	04/27/2023	Intake	Unassigned (FC)	09/24/2023	03/26/2024	Sexual Misconduct	1	1	1	Sexual Misconduct
23-0381	03/27/2023	05/02/2023	03/28/2023	Intake	KC	09/24/2023	03/26/2024	Discrimination	1	1	1	Discrimination
23-0442	03/31/2023	05/01/2023	03/31/2023	Intake	DC	09/27/2023	03/29/2024	Use of force	1	1	1	Use of force
23-0459	04/04/2023	04/27/2023	04/04/2023	Investigator	KT	10/01/2023	04/02/2024					
23-0469	04/05/2023	05/09/2023	04/06/2023	Intake	KC	10/03/2023	04/04/2024	Racial Discrimination	1	2	6	Racial discrimination, Performance of Duty
23-0484	04/07/2023	05/09/2023	04/06/2023	Intake	KC	10/06/2023	04/06/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0486	04/09/2023	05/09/2023	04/07/2023	Intake	KC	10/06/2023	04/07/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0522	04/13/2023	05/09/2023	04/13/2023	Intake	SH	10/10/2023	04/11/2024	Use of Force	1	2	2	Excessive force
23-0519	04/14/2023	05/09/2023	04/14/2023	Intake	SH	10/11/2023	04/11/2024	Use of Force	1	2	2	Excessive force
23-0534	04/17/2023	05/09/2023	04/17/2023	Intake	SH	10/14/2023	04/15/2024	Use of Force	1	2	1	Excessive force
23-0536	04/18/2023	05/09/2023	04/18/2023	Intake	DC	10/15/2023	04/16/2024	Use of Force	1	2	1	Excessive force
23-0569	04/21/2023	05/09/2023	04/22/2023	Intake	DC	10/18/2023	04/19/2024	Use of Force	1	2	2	Use of force
23-0585	04/21/2023	05/09/2023	04/21/2023	Intake	Unassigned (FC)	10/18/2023	04/19/2024	Use of Force	1	1	1	Use of Force
23-0586	Unknown	05/09/2023	04/21/2023	Intake	Unassigned (FC)	10/18/2023	04/19/2024	Sexual Misconduct	1	1	3	Sexual Misconduct, Custody of Prisoners, Service Complaint
23-0582	04/22/2023	05/09/2023	04/23/2023	Intake	DC	10/19/2023	04/20/2024	Use of force	1	1	1	Use of force
23-0589	04/25/2023	05/09/2023	04/25/2023	Intake	Unassigned (FC)	10/22/2023	04/23/2024	Use of Force	1	1	2	Use of Force, Conduct
23-0614	04/26/2023	04/27/2023	04/27/2023	Intake	SH	10/23/2023	04/24/2024	Racial Harassment	1	2	2	Racial Harassment, false arrest
23-0627	04/27/2023	05/02/2023	04/28/2023	Intake	SH	10/25/2023	04/26/2024	Use of Force	1	2	2	Use of force, false arrest
23-0638	04/28/2023	05/02/2023	04/28/2023	Intake	DC	10/25/2023	04/26/2024	Use of Force	1	2	1	Use of force
23-0637	04/29/2023	05/02/2023	04/29/2023	Intake	SH	10/26/2023	04/27/2024	Use of Force	1	2	2	Use of force, false arrest
23-0683	05/06/2023	05/05/2023	05/03/2023	Intake	DC	11/02/2023	05/04/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0716	05/09/2023	05/11/2023	07/07/2023	Intake	DC	11/05/2023	05/07/2024	Use of Force	1	2	1	Use of Force
23-0826	05/22/2023	07/07/2023	05/23/2023	Intake	KC	11/11/2023	05/13/2024	Use of force	1	2	8	Use of Force, Performance of duty, Demeanor
23-0718	05/09/2023	07/07/2023	05/11/2023	Intake	DC	11/12/2023	05/14/2024	Use of Force	1	1	2	Use of Force

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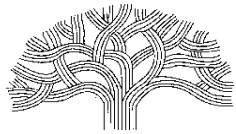


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23-0802	05/18/2023	07/07/2023	05/19/2023	Intake	DC	11/16/2023	05/18/2024	Use of Force	1	2	2	Use of Force
23-0814	05/20/2023	07/07/2023	05/23/2023	Intake	DC	11/16/2023	05/18/2024	Use of Force	1	1	3	Use of Force, Demeanor, False arrest
	23-0822	05/22/2023	07/07/2023	05/23/2023	Intake	DC	11/18/2023	05/20/2024	Use of Force	1	2	2
23-0772	05/15/2023	07/07/2023	05/15/2023	Intake	KC	11/19/2023	05/21/2024	Use of force, Discrimination	1	3	5	Use of force, Discrimination, False arrest
23-0827	05/22/2023	07/07/2023	05/23/2023	Intake	KC	11/19/2023	05/21/2024	Use of force, Discrimination	1	3	5	Use of Force, Discrimination, Performance of duty,
23-0857	05/02/2023	07/14/2023	05/24/2023	Intake	SH	11/20/2023	05/22/2024	Use of Force	2	2	2	Use of force
23-0856	05/24/2023	07/25/2023	07/25/2023	Intake	SH	11/20/2023	05/24/2024	Use of force	1	1	1	Use of force
23-0860	05/24/2023	07/25/2023	07/25/2023	Intake	SH	11/20/2023	05/24/2024	Use of force	1	2	4	Use of force, false arrest
23-0884	05/27/2023	07/14/2023	05/27/2023	Intake	KC	11/23/2023	05/25/2024	Discrimination	1	1	3	Discrimination, Sexual assault, No MOR
23-0871	05/28/2023	07/14/2023	05/28/2023	Intake	SH	11/24/2023	05/26/2024	Use of Force	1	2	2	Use of force, Performance of duty
23-0891	05/28/2023	07/14/2023	05/28/2023	Intake	KC	11/24/2023	05/26/2024	Use of force	1	1	1	Use of force
23-0892	05/28/2023	07/14/2023	05/28/2023	Intake	KC	11/24/2023	05/26/2024	Use of force	1	2	6	Use of force, False arrest, Demeanor
23-0882	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Use of force	1	2	2	Use of force, Performance of Duty
23-0878	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Discrimination	1	1	1	Discrimination, service complaint
23-0898	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Use of Force	1	2	1	Use of force, Performance of Duty
23-0897	05/28/2023	07/25/2023	07/25/2023	Intake	SH	11/24/2023	05/28/2024	Use of force	1	2	4	Use of force, demeanor
23-0916	06/02/2023	07/14/2023	06/03/2023	Intake	KC	11/30/2023	06/01/2024	Use of force	1	2	8	Use of Force, Performance of duty
23-0920	06/04/2023	07/14/2023	06/04/2023	Intake	SH	12/01/2023	06/02/2024	Use of Force	1	2	1	Use of force
23-0877	06/04/2023	07/14/2023	06/04/2023	Intake	SH	12/01/2023	06/02/2024	Use of Force	1	2	1	Use of force
23-0941	05/26/2023	08/01/2023	06/06/2023	Intake	KC	12/03/2023	06/04/2024	Use of force	1	1	4	Use of Force, Performance of duty
23-0942	06/06/2023	08/01/2023	06/06/2023	Intake	KC	12/03/2023	06/04/2024	Racial Discrimination	1	2	4	Racial Discrimination, Performance of Duty
23-0954	06/07/2023	07/14/2023	06/07/2023	Intake	SH	12/04/2023	06/05/2024	Use of Force	1	2	2	Use of force, Performance of Duty
23-0957	06/06/2023	08/01/2023	06/08/2023	Intake	KC	12/05/2023	06/06/2024	Use of force	1	2	8	Use of Force, Discrimination, Performance of duty
23-0965	06/09/2023	07/14/2023	06/07/2023	Intake	SH	12/06/2023	06/07/2024	Use of Force	1	2	2	Use of force, Performance of Duty
23-0971	06/09/2023	07/14/2023	06/10/2023	Intake	KC	12/07/2023	06/08/2024	Discrimination	1	2	4	Discrimination, Performance of duty
23-0968	06/11/2023	07/14/2023	06/12/2023	Intake	KC	12/09/2023	06/10/2024	Use of force	1	1	1	Use of force
23-0995	06/14/2023	07/14/2023	06/14/2023	Intake	KC	12/11/2023	06/12/2024	Use of force, Discrimination	1	2	8	Use of Force, Discrimination, Performance of duty, Demeanor
23-0991	10/07/2015	07/14/2023	06/15/2023	Intake	KC	12/12/2023	06/13/2024	Use of force	1	2	4	Use of Force, Performance of duty
23-0996	Unknown	07/14/2023	06/15/2023	Intake	KC	12/12/2023	06/13/2024	Use of force	1	1	1	Use of force

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23-1176	06/17/2023	08/01/2023	06/17/2023	Intake	KC	12/14/2023	06/15/2024	Racial Discrimination	1	2	2	Racial Discrimination
23-1015	06/18/2023	07/14/2023	06/19/2023	Intake	KC	12/16/2023	06/17/2024	Use of force, Discrimination	1	2	4	Use of Force, Discrimination
23-0638	06/23/2023	07/14/2023	06/22/2023	Intake	DC	12/20/2023	06/21/2024	Use of force	1	1	1	Use of Force
23-1075	06/27/2023	07/14/2023	06/27/2023	Intake	DC	12/24/2023	06/25/2024	Use of Force, Racial Discrimination	1	2	1	Use of force, Racial Discrimination
23-1069	06/27/2023	07/14/2023	06/22/2023	Intake	DC	12/24/2023	06/25/2024	Use of force	1	2	1	Use of Force, False arrest, Delay of service
23-1068	06/28/2023	07/14/2023	06/27/2023	Intake	DC	12/25/2023	06/26/2024	Use of force	1	2	1	Use of Force
23-1089	06/30/2023	07/14/2023	06/29/2023	Intake	DC	12/27/2023	06/28/2024	Racial Discrimination	1	2	1	Racial Discrimination
23-1114	07/01/2023	07/14/2023	06/29/2023	Intake	DC	12/28/2023	06/29/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0724	05/10/2023	07/07/2023	05/12/2023	Intake	DC	01/08/2024	07/10/2024	Use of Force	1	1	2	Use of Force
23-1159	07/13/2023	07/21/2023	07/13/2023	Intake	SH	1/9/2024	07/11/2024	Use of Force	1	1	1	Use of Force; Performance of Duty
23-1160	07/13/2023	07/21/2023	07/13/2023	Intake	DC	01/09/2024	07/11/2024	Harrassment	1	1	1	Harrassment; Performance of Duty
23-1233	07/24/2023	07/24/2023	08/01/2023	Intake	DC	01/20/2024	07/22/2024	Discrimination	1	2	1	Discrimination
23-1215	06/18/2023	07/24/2023	08/01/2023	Intake	DC	01/20/2024	07/22/2024	Discrimination	1	1	1	Discrimination
22-1232	07/23/2023	08/01/2023	08/01/2023	Intake	SH	01/19/2024	07/24/2024	Racial Discrimination	1	1	2	Racial Discrimination, Performance of Duty
23-1219	07/23/2023	08/01/2023	08/01/2023	Intake	SH	01/19/2023	07/24/2024	Excessive force	1	1	1	Excessive force
23-1274	07/27/2023	08/02/2023	08/03/2023	Intake	SH	01/23/2024	07/25/2024	Racial Discrimination	1	4	2	Racial Discrimination, Performance of Duty

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). "Other" indicates the case does not include any such allegations.



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 (Total Completed = 5)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding/Conclusion
JS	22-0569	5/13/2022	5/4/2023	5/14/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	604(g)3
						Conduct Toward Others – Demeanor	604(g)3
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	604(g)3
						Conduct Toward Others – Demeanor	604(g)3
JS	22-0617	5/18/2022	5/16/2023	5/24/2023	Subject 1	Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest Use of Physical Force - Level 4	604(g)3 604(g)3
ED	22-0638	5/28/2022	5/31/2023	5/28/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	604(g)3
						Conduct Toward Others – Demeanor	604(g)3
					Subject 2	Use of Physical Force - Level 4	604(g)3
					Subject 3	Use of Physical Force - Level 4	604(g)3
ED	22-0839	7/5/2022	6/29/2023	7/5/2023	Subject 1	Service Complaint	604(g)3
						Service Complaint	604(g)3
						Service Complaint	604(g)3
						Use of Physical Force - Level 4	604(g)3
CJ	22-0893	7/14/2022	6/29/2023	7/14/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	604(g)3
						Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	604(g)3



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Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding/Conclusion
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	604(g)3
						Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	604(g)3

Finding Definitions:

Sustained: The act(s) alleged by the complainant occurred and constituted misconduct.

Exonerated: The act(s) alleged by the complainant occurred. However, the act(s) were justified, lawful, or proper.

Unfounded: The act(s) alleged by the complainant did not occur.

Not Sustained: The available evidence can neither prove nor disprove the act(s) alleged by the complainant.

Additional Definitions:

No Jurisdiction: The Subject Officer of the allegation is not a sworn member of the OPD.

No MOR Violation: The alleged conduct does not violate any department rule or policy.

Service Related: The allegation pertains to the level of service provided by the Department as opposed to the misconduct of a single sworn officer.

3304 Violation: Cases not completed before the statutory deadline under California law.

604(g)3 Adjudication: If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that in investigations of Level 1 uses of force, sexual misconduct or untruthfulness, the Commission must approve the Agency's decision by a majority vote. If the Agency chooses not to close its investigation, imposition of final discipline shall be delayed until the Agency's investigation is completed and the Agency makes its findings and recommendations for discipline. The Agency shall notify the Chief of its final decision regarding how and whether it will proceed within seven (7) days of the Chiefs notice of completion of his or her investigation.

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Fourth NSA Sustainability Period Report *of the Independent Monitor for the Oakland Police Department*

Introduction

This is the fourth report of the Monitoring Team issued during the Negotiated Settlement Agreement (NSA) sustainability period in the case of *Delphine Allen, et al., vs. City of Oakland, et al.*, in the United States District Court for the Northern District of California under the direction of Judge William H. Orrick.

On May 12, 2022, the Court issued an Order placing the City into a one-year sustainability period. The Court noted, “The Negotiated Settlement Agreement (NSA) the parties executed on January 22, 2003, contemplated that federal court oversight would terminate after the defendants achieved substantial compliance with all of the provisions of the NSA and maintained that compliance for a year.” As per the May 12, 2022 Order, during the sustainability period, we report to the Court on a quarterly basis; we conduct quarterly site visits; and we have appended to the Monitoring Team a member of OPD’s Office of Internal Accountability (OIA), who serves as the Department’s NSA sustainability liaison.

As with our site visits before the sustainability period, our site visits include both compliance assessments and technical assistance. We meet with Department and City officials to receive updates on OPD’s compliance with the NSA Tasks; observe the Department’s Risk Management Meeting; discuss the status of several Departmental policies; and share our observations of misconduct investigations and use of force reports.

The Court extended the sustainability period in an Order on April 18, 2023, citing “the City’s inability to achieve full compliance.” The Order set out some new provisions for the sustainability period and reduced the number of active Tasks from 11 to five. The Court noted, “The Court is wrestling with the utility of its role in helping the City achieve constitutional policing after 20 years of monitoring compliance with the NSA. As discussed at the last Case Management Conference, much good work has been accomplished. Fundamental questions regarding the Oakland Police Department’s ability to police itself remain.”

Per the April 18, 2023 Court Order, this report covers our assessments of NSA Tasks 2; 5; 24; 25; and 45.

Fourth NSA Sustainability Period Report of the Independent Monitor for the Oakland Police Department

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Task Assessments

Task 2: Timeliness Standards and Compliance with IAD Investigations

Requirements:

Fairness to complainants, members/employees and the public requires that internal investigations be completed in a timely fashion.

- 1. On or before December 1, 2003, OPD shall develop policies regarding timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.*
- 2. Compliance with these timeliness standards shall be regularly monitored by IAD command and the Department's command staff. If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.*

(Negotiated Settlement Agreement III. B.)

Relevant Policy:

OPD most recently revised Departmental General Order M-03, *Complaints Against Department Personnel and Procedures*, on December 22, 2017.

Commentary:

Task 2.1 requires that internal investigations (IAD and Division Level) – including review, approval, findings, and discipline – be completed in accordance with the timeliness standards developed by OPD. To assess this subtask, we requested a list of all internal investigations resulting in formal findings (unfounded, sustained, exonerated, or not sustained) that were approved in January, February, and March 2023. Due to the ongoing effects of the ransomware attack on the City's systems in February, the Department is currently unable to produce the report, or list, from Vision that it has provided to us in the past. Accordingly, the list that we received was generated manually by IAD and Office of Internal Accountability (OIA) personnel, and it did not include all of the information that we normally receive for this purpose. Using the list, we segregated the cases into Class I or Class II categories. If a case involved at least one alleged Class I violation, we classified it as Class I.

At least 85% of Class I misconduct investigations and at least 85% of Class II misconduct investigations must be completed within 180 days to be considered timely. Per DGO M-03, Class I offenses “are the most serious allegations of misconduct and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution.” Class II offenses include “all minor misconduct offenses.”

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For the purposes of this assessment, we calculated the number of days between the complaint receipt date and the approval date. The complaint date is the date on which the Department first becomes aware of a complaint – whether it is lodged by a community member or internally generated. We removed from the denominator cases that were delayed due to tolling (held in abeyance in accordance with one of the provisions of Government Code Section 3304) or cases in which the Department asserted that its failure to meet the 180-day timeliness requirement resulted from delays in the Community Police Review Agency (CPRA) completing its concurrent investigations.

Of the 32 applicable Class I cases we reviewed for this assessment, 27, or 87%, were in compliance with established timelines. During our last review of Task 2, we found 88% of Class I cases in compliance with established timelines. Of the 107 applicable Class II cases we reviewed for this assessment, 102, or 95%, were in compliance with established timelines. During our last review of Task 2, we found 99% of Class II cases in compliance with established timelines.

Per DGO M-03, “In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding.” The Department was unable to provide information about the cases in our dataset that included sustained findings to us to conduct this assessment. As a result, for this reporting period, we were unable to determine the Department’s compliance with established discipline timelines. By our next report, if we are unable to determine discipline timeliness, it may affect the Department’s compliance status with this Task.

Task 2.2 requires that IAD and OPD command staff regularly monitor compliance with these timeliness standards. The primary responsibility for monitoring compliance with timeliness standards rests with IAD, whether investigations are conducted by IAD personnel or via Division-level investigation. As part of this monitoring, the IAD Commander discusses pending deadlines for key open investigations during IAD’s weekly meetings with the Chief; the deadlines are also reflected in written agendas for these meetings. A Monitoring Team representative regularly attends these weekly meetings. IAD also occasionally, as needed, emails individual reminders on cases approaching due dates to investigators and their supervisors. The Department is in compliance with Task 2.2.

Task 2.3 requires that if IAD experiences an unusual proliferation of cases and/or workload, IAD staffing be increased to maintain timeliness standards. We routinely request and receive updates on IAD staffing levels during and between our site visits.

Task 2 compliance status	In compliance
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Task 5: Complaint Procedures for IAD

Requirements:

1. *On or before December 1, 2003, OPD shall develop a policy so that, OPD personnel who become aware that a citizen wishes to file a complaint shall bring such citizen immediately, or as soon as circumstances permit, to a supervisor or IAD or summon a supervisor to the scene. If there is a delay of greater than three (3) hours, the reason for such delay shall be documented by the person receiving the complaint. In the event that such a complainant refuses to travel to a supervisor or to wait for one, the member/employee involved shall make all reasonable attempts to obtain identification, including address and phone number, as well as a description of the allegedly wrongful conduct and offending personnel, from the complainant and any witnesses. This information, as well as a description of the complaint, shall immediately, or as soon as circumstances permit, be documented on a Complaint Form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander, and shall be treated as a complaint. The supervisor or appropriate Area Commander notified of the complaint shall ensure the Communications Division is notified and forward any pertinent documents to the IAD.*
2. *An on-duty supervisor shall respond to take a complaint received from a jail inmate taken into custody by OPD, who wishes to make a complaint of Class I misconduct contemporaneous with the arrest. The supervisor shall ensure the Communications Division is notified and forward any pertinent documents to the IAD. All other misconduct complaints by a jail inmate shall be handled in the same manner as other civilian complaints.*
3. *In each complaint investigation, OPD shall consider all relevant evidence, including circumstantial, direct and physical evidence, and make credibility determinations, if feasible. OPD shall make efforts to resolve, by reference to physical evidence, and/or use of follow-up interviews and other objective indicators, inconsistent statements among witnesses.*
4. *OPD shall develop provisions for the permanent retention of all notes, generated and/or received by OPD personnel in the case file.*
5. *OPD shall resolve each allegation in a complaint investigation using the “preponderance of the evidence” standard. Each allegation shall be resolved by making one of the following dispositions: Unfounded, Sustained, Exonerated, Not Sustained, or Administrative Closure. The Department shall use the following criteria for determining the appropriate disposition:*
 - a. *Unfounded: The investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. This finding shall also apply when individuals named in the complaint were not involved in the alleged act.*

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- b. *Sustained: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur and was in violation of law and/or Oakland Police Department rules, regulations, or policies.*
 - c. *Exonerated: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accord with law and with all Oakland Police Department rules, regulations, or policies.*
 - d. *Not Sustained: The investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.*
 - e. *Administrative Closure: The investigation indicates a service complaint, not involving an MOR violation, was resolved without conducting an internal investigation; OR*
 - f. *To conclude an internal investigation when it has been determined that the investigation cannot proceed to a normal investigative conclusion due to circumstances to include but not limited to the following:*
 - 1) *Complainant wishes to withdraw the complaint and the IAD Commander has determined there is no further reason to continue the investigation and to ensure Departmental policy and procedure has been followed;*
 - 2) *Complaint lacks specificity and complainant refuses or is unable to provide further clarification necessary to investigate the complaint;*
 - 3) *Subject not employed by OPD at the time of the incident; or*
 - 4) *If the subject is no longer employed by OPD, the IAD Commander shall determine whether an internal investigation shall be conducted.*
 - 5) *Complainant fails to articulate an act or failure to act, that, if true, would be an MOR violation; or*
 - 6) *Complaints limited to California Vehicle Code citations and resulting tows, where there is no allegation of misconduct, shall be referred to the appropriate competent authorities (i.e., Traffic Court and Tow Hearing Officer).*
 - g. *Administrative Closures shall be approved by the IAD Commander and entered in the IAD Complaint Database.*
6. *The disposition category of "Filed" is hereby redefined and shall be included under Administrative Dispositions as follows:*

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- a. *An investigation that cannot be presently completed. A filed investigation is not a final disposition, but an indication that a case is pending further developments that will allow completion of the investigation.*
 - b. *The IAD Commander shall review all filed cases quarterly to determine whether the conditions that prevented investigation and final disposition have changed and may direct the closure or continuation of the investigation.*
7. *Any member or employee who is a subject of an internal investigation, as well as any other member or employee on the scene of an incident at which misconduct has been alleged by a complainant, shall be interviewed and a recorded statement taken. However, investigators, with the approval of an IAD Commander, are not required to interview and/or take a recorded statement from a member or employee who is the subject of a complaint or was on the scene of the incident when additional information, beyond that already provided by the existing set of facts and/or documentation, is not necessary to reach appropriate findings and conclusions.*

(Negotiated Settlement Agreement III. E.)

Relevant Policy:

There are six Departmental policies that incorporate the requirements of Task 5: Department General Order M-03, *Complaints Against Department Personnel and Procedures* (revised most recently on December 22, 2017); Communications Division Policy & Procedures C-02, *Receiving and Logging Complaints Against Personnel and Use of Force Incidents* (revised most recently on December 7, 2009); Training Bulletin V-T.1, *Internal Investigation Procedure Manual* (revised most recently on August 23, 2018); Special Order 8270, *Booking of Prisoners at the Glenn E. Dyer Detention Facility* (published June 24, 2005); Special Order 8565, *Complaints Against Department Personnel* (published May 11, 2007); and IAD Policy & Procedures Manual 21-01, *IAD General Operating Procedures* (published August 17, 2021). In addition, NSA stipulations issued on December 12, 2005 and March 13, 2007 incorporate the requirements of this Task.

Commentary:

Task 5 consists of several subtasks, briefly described below. Based on OPD's compliance history with many of the subtasks, not all are being actively monitored at this time. As we have continued to advise, quality and timely investigations are essential to fulfilling the Department's obligation to complainants and officers alike.

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Task 5.1 requires that when a citizen wishes to file a complaint, the citizen is brought to a supervisor or IAD, or a supervisor is summoned to the scene. **Task 5.2** requires that if there is a delay of greater than three hours in supervisory response, the reason for the delay must be documented. **Task 5.3** requires that where a complainant refuses to travel to a supervisor, or wait for one, personnel make all reasonable attempts to obtain specific information to assist in investigating the complaint. **Task 5.4** requires that specific information be documented on a complaint form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander. **Task 5.5** requires that the supervisor or Area Commander notify Communications and forward any pertinent documents to IAD.

To assess compliance with Tasks 5.1 through 5.5, we reviewed the Daily Incident Logs (DILs) prepared by the Communications Division and forwarded to IAD each business day. The DIL form has been modified several times during our tenure to elicit “forced responses” that gather all of the information required to evaluate compliance with these Tasks. These modifications have significantly enhanced OPD’s ability to document compliance by properly filling out and distributing the logs, and compliance rates with these subtasks have been near 100% for several years. Consequently, we no longer actively assess OPD’s compliance with these subtasks, but we continue to receive both the DILs and Daily Complaint Referral Logs (used to document when Information Business Cards [IBCs] are provided to citizens in lieu of a complaint forms). We spot-check these forms regularly to verify that the quality of their completion has not diminished. OPD remains in compliance with Tasks 5.1 through and including Task 5.5.

Task 5.6 requires that an on-duty supervisor respond to take a complaint received from a jail inmate taken into custody by OPD, who wishes to make a complaint of Class I misconduct contemporaneous with the arrest of the inmate. We have not actively monitored this subtask since December 2014, though we have reviewed cases applicable to this requirement in several reports since that time.

Task 5.12 requires that the Watch Commander ensure that any complaints that are applicable to Task 5.6 are delivered to and logged with IAD. Under current policy, the Communications Division must record on the DILs complaints that are received and/or handled by on-duty supervisors, and the DILs are forwarded daily to IAD.

OPD remains in compliance with Tasks 5.6 and 5.12.

Task 5.15 through **Task 5.19**, and **Task 5.21**, collectively address the quality of completed IAD investigations, and therefore remain the subject of our focused Task assessments. To assess compliance with these Tasks, we reviewed a sample of 12 IAD cases that were closed between January 1-March 31, 2023.

Our sample of cases consisted of investigations completed by investigators assigned to IAD, and Division-level investigations (DLIs). It also included cases that were resolved via formal investigation and investigations that were resolved via summary finding. (Summary findings are investigations in which the Department believes a proper conclusion can be determined based on a review of existing documentation with limited or no additional interviews and follow-up.)

Together, **Tasks 5.15** and **Task 5.16** require that OPD: gathers all relevant evidence; conducts follow-up interviews where warranted; adequately considers the evidence gathered; makes credibility assessments where feasible; and resolves inconsistent statements.

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In all of the cases we reviewed, we believe that OPD gathered all relevant evidence available. As we have often found, in many of the cases video and/or audio recordings proved to be a significant factor in allowing OPD to reach an appropriate conclusion.

Investigators conducted follow-up interviews in two of the cases we reviewed. In one case, a complainant was interviewed three times. In another case, the subject officer was interviewed twice. In the remaining cases, we concur that follow-up interviews were not warranted.

OPD made credibility assessments for all involved parties in eight of the 12 cases. Five cases were approved for summary finding; and per policy, investigators are not required to assess the credibility of the involved officers and civilian employees in these instances. In three cases, including one summary finding case, the complainants were deemed not credible. In two cases, the complainant's statements were inconsistent with available body-worn camera (BWC) footage; and in the other case, the complainant's statements were inconsistent with a recorded call to OPD Dispatch. In two cases, subject officers were deemed not credible.

We disagreed with the credibility assessments in one case. Two complainants were both deemed credible. Based on the evidence in the case, and also the narrative of the credibility assessments, they should have been deemed not credible. The investigator wrote that the complainants' statements were "not accurate" and that both complainants "seemed to exaggerate and often time purposely mispresent facts."

In 10 of the 12 cases we reviewed, OPD resolved inconsistent statements. In five of these cases, BWC recordings were available and assisted in the determination. In two other cases, recorded calls to OPD Dispatch proved instrumental in reaching a definitive finding. Two cases resulted in at least one finding of not sustained. Not sustained is an acceptable finding; and by definition, it implies that inconsistencies were not resolved despite investigative efforts.

Task 5.17 requires that OPD permanently retain all notes generated and/or received by OPD personnel in the case file. OPD personnel document the presence of investigative notes within a particular file by completing an Investigative Notes Declaration Form. OPD has a sustained history of 100% compliance with this subtask.

Task 5.18 requires that OPD resolve each allegation in a complaint investigation using the preponderance of the evidence standard. **Task 5.19** requires that each allegation of a complaint is identified and resolved with one of the following dispositions: unfounded; sustained; exonerated; not sustained; or administrative closure. Our sample of 12 cases contained 39 allegations that received dispositions as follows: 11 exonerated; 16 unfounded; four not sustained; seven sustained; and one administratively closed.

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We did not disagree with the findings in any of the cases we reviewed. However, we believe that in one case, an allegation of truthfulness should have been added and sustained for the subject officer. In this case, the officer was sustained for engaging in an inappropriate relationship with a crime victim. The officer was appropriately deemed not credible based on his interviews. In the investigator's analysis of the relationship allegation, he cited and appropriately applied the preponderance of evidence standard in reaching the sustained finding. However, in his explanation for not pursuing a truthfulness allegation, the investigator appeared to apply a different, higher standard of proof. While he justified the not credible determination, and characterized certain elements of the officer's statements as "highly questionable," he indicated that the "investigation would not ever be able to *prove* Officer [] was in fact untruthful." (Italics added.) The burden of proof for a truthfulness allegation is no different than for any other allegation: preponderance of the evidence. This is often described as more likely than not, or 51%, or a slight tipping of the scales. It does not require definitive proof. The investigation, which was very thorough, contained enough documentation to meet the preponderance of the evidence standard with respect to truthfulness.

In another case we reviewed, a Division Level Investigation (DLI), the initial investigator reached one set of findings, including sustained findings for one of five involved officers for failure to accept or refer a complaint and for demeanor. The investigator's captain disagreed with some of the findings and authored an addendum to the investigation. He concurred with these sustained findings, but he disagreed with other findings reached by the investigator. He recommended that another officer be sustained for failure to accept or refer a complaint, and also recommended that several exonerated findings be changed to not sustained. It appears from the documentation we received that the Chief concurred with the captain's recommendations; yet we only received discipline documentation for the first officer referenced. After repeated requests for commensurate documentation pertaining to the second sustained officer, OPD discovered that, due to an apparent clerical error, the second officer was never notified of the sustained finding or any proposed discipline. The 3304 date has since passed, causing the Department to miss the opportunity to impose discipline if warranted based on the officer's history. OPD attributed this issue to human error, exacerbated by the continuing effects of the Citywide ransomware attack in February and its ongoing impact on Vision. While we realize that OPD relies heavily on Vision for many of its reporting processes, until that system is fully restored, it is incumbent on the Department to institute alternative measures to prevent occurrences such as this.

Additionally, at least half of the cases in our sample were missing interview and/or BWC recordings. Despite numerous attempts to obtain this documentation over more than a two-week period, most of the missing material was not provided as of this writing. While we are comfortable with our assessment of the cases based on the material at hand, in many instances, we did not have the ability to compare written summaries to actual audio or video documentation had we felt the need to do so.

Task 5.20 requires that the IAD Commander review all "filed" cases quarterly to determine whether the conditions that prevented investigation and final disposition have changed. A filed case is defined as an investigation that cannot be presently completed and is pending further developments that will allow completion of the investigation; filed is not a final disposition.

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Traditionally, as part of our review of this Task, we also reviewed cases that are tolling. OPD defines a tolled case as an administrative investigation that has been held in abeyance in accordance with one of the provisions of Government Code Section 3304. While we are no longer actively assessing this subtask, we note that filed and tolling cases are reviewed with the Chief or his designee during the weekly IAD meetings and are listed by case number on the printed meeting agendas. We receive and review these agendas regularly, and a Monitoring Team member regularly attends these meetings. Additionally, we regularly receive a weekly report listing all tolled cases and all cases approaching their 3304 dates. When we have questions regarding any of the cases in the report, the IAD Commander answers them promptly.

Task 5.21 requires that any member or employee who is a subject of an internal investigation, as well as any other member or employee on the scene of an incident at which misconduct has been alleged by a complainant, shall be interviewed and a recorded statement taken. However, with the approval of the IAD Commander or his designee, investigators are not required to interview and/or take a recorded statement in all cases. For example, interviews are not needed from a member or employee who is the subject of a complaint, or who was on the scene of the incident when additional information – beyond that already provided by the existing set of facts and/or documentation – is not necessary to reach appropriate findings and conclusions. Five of the 12 cases we reviewed were resolved via summary finding, and each case was appropriately approved for such closure.

As we noted in our last report, there have been several investigations conducted by outside investigators retained by the City. Some of these matters are still pending; and there remain issues in the Internal Affairs Division, as well as systemic and other deficiencies, that need to be addressed. We look forward to assessing the Department's progress under the new leadership in Internal Affairs. The Department remains not in compliance with Task 5.

Task 5 compliance status	Not in compliance
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Overview of Our Assessments of Tasks 24 and 25

OPD had been in compliance with Tasks 24 and 25 since 2015, and we did not actively review these Tasks. In November 2018, after we raised concerns regarding the identification, potential underreporting, and investigation of uses of force, the Court reactivated Tasks 24 and 25.

Since we resumed use of force reviews following the Court's reactivation of these Tasks, we have reviewed hundreds of investigations and provided detailed feedback on the force investigations to OPD during each of our site visits. In cases where we have had questions or concerns, OPD personnel have continued to be responsive and have provided follow-up where necessary. In some cases, OPD has provided additional information or documentation that supports its actions, and we have concurred with the Department's assessments. In others, we have identified concerns that had not been identified or addressed by supervisors who conducted the UOF investigation, or the command personnel who reviewed the investigation. In these cases, OPD executive staff have directed additional review; directed training; entered a Supervisory Note File (SNF); or initiated an Internal Affairs Division (IAD) investigation. We

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have also tracked OPD's efforts to correct identified deficiencies, which have included: the issuance of email directives from executive staff, training bulletins, and newsletters; audits; line-up training; and revisions to UOF-related policies.

In our August 2021 report, we found OPD in compliance with Task 24 for the first time since the Court reactivated these Tasks in 2018; and in April 2022, we found OPD in compliance with Task 25. We also found OPD in compliance with Tasks 24 and 25 in our first, second, and third sustainability period status reports.

To assess compliance for this report, we reviewed 31 UOF reports that occurred between December 1, 2022-February 28, 2023. We reviewed all Level 3 UOF reports (two) and a sample of Level 4 UOF reports (29). In accordance with the Order issued May 12, 2022, establishing the sustainability period, we reviewed these UOF reports with a member of OPD's Office of Internal Accountability (OIA) serving as the Department's NSA sustainability liaison. Between March 1-April 11, 2023, we reviewed three Level 2 UOF reports for which Force Review Boards (FRBs) were held. Where concerns with field reporting existed, the concerns were appropriately addressed by the Boards. We discuss only Level 3 and 4 uses of force in this assessment.

This report covers Level 3 and 4 UOF reports completed by OPD between December 1, 2022-February 28, 2023. All 31 of the cases we reviewed for this time period occurred after the publication of Special Order 9196, which clarified the use of force policy; after Special Order 9202, issued on February 27, 2020, which temporarily modified the requirements for reporting Type 32 uses of force; and after Special Order 9208, issued on April 27, 2022, which defined the finalized reporting requirements for Level 4, type 32 uses of force.

In the 31 Level 3 and 4 uses of force we reviewed, 78 officers used force on 36 different persons. There were numerous cases where multiple officers used force on a single person, and five instances where force was used on multiple persons at the same incident. We noted that there were 136 uses of force on the 36 persons. Level 4, Type 32 uses of force accounted for 60 of the total uses of force; and in 10 of the 31 cases we reviewed, only Type 32 use of force were used. As we have noted in our last two sustainability reports, an increase in the total number of uses of force is not unexpected, given the new reporting requirements for Type 32 UOF that were implemented in 2022.

During the second sustainability period, we noted some inconsistencies in the reporting of the Type 32 use of force by officers and supervisors. During our November 2022 site visit meeting, we discussed these inconsistencies with OPD and agreed on an interpretation of reporting for this type of force. After our discussion, OPD ensured that supervisors were made aware of the reporting requirements; and we have seen improved consistency in those reports we have reviewed since that time. As we requested, OPD supervisors now include on the Vision report whether any BWC was reviewed in a Type 32 use of force only incident. Area Captains continue to audit a sample of Type 32 UOF each month. In the Area Captains' reviews for incidents, they have identified and appropriately addressed concerns with use of force reporting and documentation.

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The total breakdown for the force used on the 36 persons is as follows: African Americans, 42%, a decrease from 48% in our last status report; Latinos, 42%, an increase from 28% in our last status report; whites, 13%, an increase from 8% in our last status report; and Asians or other, 17%, an increase from 16% in our last status report.

Of the 31 UOF reports we reviewed for the three-month period between December 1, 2022-February 28, 2023, we identified only one late BWC activation that had not been identified and addressed by OPD supervisors. While we have continued to observe during our reviews some instances of BWCs becoming dislodged during use of force events, limiting the availability of footage to review, those numbers have declined since OPD began issuing the new “clips” to more securely attach BWCs to both exterior vest carriers and uniforms. In February, only one incident where a BWC became dislodged was noted. During our May 2023 site visit, OPD told us that its new BWC policy is nearing completion.

We noted a few instances in our reviews where officers failed to identify themselves as police officers or used unprofessional language or profanity while dealing with members of the public. We noted one incident where we believe there may have been an unreported use of force, and one where we had concerns about the appropriateness of lowering the level of force from a Level 3 to a Level 4. Of the concerns and comments we brought forward during our May 2023 site visit, the UOF Command review group had already identified and addressed all but one. The group had also identified and addressed some additional concerns with the uses of force it reviewed.

The Deputy Chief who is responsible for the UOF Command review group also presented during our May 2023 site visit on the results of the group’s reviews, which also covered UOF reports not reviewed by our Team. The Deputy Chief noted that their reviews continued to identify some concerns with tactical issues, proper categorization of UOFs, and de-escalation techniques. The Deputy Chief also noted that they continued to identify ongoing positive trends – including improved planning and communications, more detailed UOF reports, more positive communications with the public, and sergeants and the chain of command identifying and addressing deficiencies that were found. Based on our reviews, we agree with the assessment provided. The Deputy Chief advised that he is rotating different Command officers onto the review group and finding that this is serving as good training for the command personnel who review uses of force.

In our review of UOF reports for December 1, 2022-February 28, 2023, we identified few areas of concern. In general, officers continue to appropriately use and report use of force, and supervisors and command personnel are identifying and properly addressing any concerns that are identified.

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Task 24: Use of Force Reporting Policy

Requirements:

The policy shall require that:

1. *Members/employees notify their supervisor as soon as practicable following any investigated use of force or allegation of excessive use of force.*
2. *In every investigated use of force incident, every member/employee using force, and every member/employee on the scene of the incident at the time the force was used, shall report all uses of force on the appropriate form, unless otherwise directed by the investigating supervisor.*
3. *OPD personnel document, on the appropriate form, any use of force and/or the drawing and intentional pointing of a firearm at another person.*
4. *A supervisor respond to the scene upon notification of an investigated use of force or an allegation of excessive use of force, unless community unrest or other conditions makes this impracticable.*
5. *OPD notify:*
 - a. *The Alameda County District Attorney's Office immediately or as soon as circumstances permit, following a use of lethal force resulting in death or injury likely to result in death.*
 - b. *The City Attorney's Office as soon as circumstances permit following the use of lethal force resulting in death or serious injury. At the discretion of the City Attorney's Office, a Deputy City Attorney shall respond to the scene. The Deputy City Attorney shall serve only in an advisory capacity and shall communicate only with the incident commander or his/her designee.*
 - c. *Departmental investigators regarding officer-involved shootings, in accordance with the provisions of Section V, paragraph H, of this Agreement.*
6. *OPD enter data regarding use of force into OPD's Personnel Assessment System (PAS).*

(Negotiated Settlement Agreement V. A.)

Relevant Policy:

OPD most recently revised Departmental General Order K-4, *Reporting and Investigating the Use of Force*, on October 16, 2014. The Department issued Special Order 9208, *Level 4 Type 32 Reporting and Review*, on June 4, 2022.

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Commentary:

To assess compliance with Task 24, we reviewed 31 Level 3 and 4 use of force (UOF) reports that were completed by OPD from December 1, 2022-February 28, 2023.

Task 24.1 requires that members/employees notify their supervisor as soon as practicable following any reportable use of force or allegation of excessive use of force. In our reviews, we did not identify any instances where a notification was not properly made or was not properly documented.

Task 24.2 requires that in every reportable use of force incident, every member/employee on the scene of the incident at the time the force was used, reports all uses of force on the appropriate form, unless otherwise directed by the investigating supervisor. **Task 24.3** requires that OPD personnel document, on the appropriate form, every use of force and/or the drawing and intentional pointing of a firearm at another person.

In the 31 Level 3 and 4 UOF incidents we reviewed; officers used force on 36 different persons. In four of the reports, Level 4, Type 22, pointing a weapon, was the only force used. In six others, Type 22 was used in addition to another use of force. We determined that officers' pointing of their firearms was appropriate in all instances we assessed. We identified one instance where it appears a use of force was improperly reported. The UOF Command review group had already referred this case to IAD. We also identified one instance where we had concerns about a Category 3 use of force being lowered to a Category 4 use of force. Again, the Command review group had already identified this concern and forwarded the report to IAD for investigation.

Task 24.4 requires that a supervisor respond to the scene upon notification of a Level 1, 2, or 3 use of force or an allegation of excessive use of force, unless community unrest or other conditions makes such a response impracticable. In the two Level 3 uses of force we reviewed for this subtask; a supervisor did respond to the scene as required. Though not required, supervisors also responded to 24 of the 29 Level 4 uses of force or were on scene at the time of the use of force.

Task 24.5 specifically addresses requirements for the response and handling of Level 1 uses of force. We assess Level 1 uses of force in our regular reviews of Task 30 (Executive Force Review Boards).

Task 24.6 requires that OPD enter all use of force data into Performance Reporting Information Metrics Environment (PRIME), which is now known as Vision. In most cases, use of force data was properly entered into Vision. However, OPD experienced technical difficulties with entering some of the use of force data; and the Department continues to work on resolving this issue.

This is our fourth assessment of UOF reporting for the sustainability period. OPD has continued to meet the overall requirements of this Task.

Task 24 compliance status	In compliance
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Task 25: Use of Force Investigations and Report Responsibility

Requirements:

An on-scene supervisor is responsible for completing an investigated use of force report in accordance with the provisions of Departmental General Order K-4, "Reporting and Investigating the Use of Force."

1. *OPD shall develop and implement a policy for conducting and documenting use of force investigations that include, at a minimum:*
 - a. *Documentation of the incident in either an Offense or Supplemental Report from the member(s)/employee(s) using force; and/or, when necessary, a statement taken from the member(s)/employee(s) using force;*
 - b. *Separating and separately interviewing all officers who were at the scene at the time of the incident;*
 - c. *A Supplemental Report from other members/employees on the scene or a statement taken, if deemed necessary by the investigating supervisor;*
 - d. *Identification and interviews of non-Departmental witnesses;*
 - e. *Consideration of discrepancies in information obtained from members, employees and witnesses, and statements in the reports filed;*
 - f. *Whether arrest reports or use of force reports contain "boilerplate" or "pat language" (e.g., "fighting stance", "minimal force necessary to control the situation");*
 - g. *Documentation of physical evidence and/or photographs and a summary and analysis of all relevant evidence gathered during the investigation; and*
 - h. *Consideration of training/tactical issues involving the availability and practicality of other force options.*
 - i. *Supervisor's justification as to why any element of the policy was not documented; and*
2. *All supervisors shall be trained in conducting use of force investigations and such training shall be part of a supervisory training course.*
3. *Use of force investigations shall include a recommendation whether the use of force was objectively reasonable and within Department policy and training. The recommendation shall be based on the totality of the circumstances and shall consider, but is not limited to, the following factors:*
 - a. *Whether the force used was pursuant to a legitimate law-enforcement objective;*

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- b. *Whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the members/employees were attempting to achieve;*
 - c. *Whether the member/employee used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts;*
 - d. *Whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped;*
4. *Use of force reports shall be reviewed by the appropriate chain-of-review as defined by policy.*

The type of force used, the identity of the involved members, and the report preparer shall be the determining criteria for utilizing the appropriate chain-of-review. Reviewers may include, when appropriate, the chain-of-command of the involved personnel, the appropriate Area Commander on duty at the time the incident occurred, other designated Bureau of Field Operations commanders, and as necessary, the chain-of-command of the involved personnel up to the Division Commander or Deputy Chief/Director, and the Internal Affairs Division.

Reviewers for Level 1-3 use of force investigations shall:

- a. *Make a recommendation as to whether the use of force was in or out of policy,*
 - b. *Order additional investigation and investigative resources when necessary, and*
 - c. *Comment on any training issue(s) when appropriate.*
5. *Any recommendation that the use of force did not comply with Department policy shall result in the incident being referred to the Internal Affairs Division to conduct additional investigation/analysis, if necessary.*
6. *Members/employees involved in a use of force incident resulting in serious injury or death and/or an officer-involved shooting, shall be separated from each other as soon as practicable at the incident scene, and kept apart until they have completed their reports and been interviewed.*

(Negotiated Settlement Agreement V. B.)

Relevant Policy:

OPD most recently revised Departmental General Order K-4, *Reporting and Investigating the Use of Force*, on October 16, 2014. The Department issued Special Order 9208, *Level 4 Type 32 Reporting and Review*, on June 4, 2022.

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Commentary:

As noted above in Task 24, we reviewed 31 Level 3 and 4 use of force (UOF) reports that were completed between December 1, 2022-February 28, 2023.

Task 25.1 requires that supervisors complete a use of force report and that certain criteria are met in the report. Subtask 25.1.f. addresses the use of “boilerplate” or “pat” language in reports. During our reviews for this report, we did not identify any patterns of officers failing to document specific information and details justifying their use of force or using “boilerplate” or “pat” language in their reports.

Task 25.2 requires that all supervisors are trained on how to conduct use of force investigations and such training is part of a supervisory training course. OPD includes the requirement for this training in its Departmental policies. During our March 2022 site visit, we confirmed with OPD that the Department continues to require and deliver this training in the Sergeants’ Transition Course, where use of force is part of the curriculum.

The use of force and the processes in which force is documented and reviewed have been at the core of the Court’s oversight. The Department has provided numerous directives on this topic. During this and our last three sustainability reports, we have found that in general, supervisors are identifying deficiencies in officer reporting and identifying and addressing MOR violations. We also find that reviewers of the supervisors’ reports are generally identifying and addressing concerns when appropriate. OPD has also assigned a team of command officers to review some use of force reports as an ongoing quality control mechanism. We have found that this additional oversight and review has continued to identify and properly address concerns prior to our Team identifying them.

Task 25.3 requires that use of force investigations include required recommendations. Areas of recommendation include: whether the force used was pursuant to a legitimate law enforcement objective; whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the officers were attempting to achieve; whether the officers used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts; and whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped.

In our assessment of Level 3 and 4 UOF reports for this report, we did not identify any instances where the use of force was not deescalated or stopped reasonably when resistance decreased, or any instances where we believe officers could have made additional efforts to explain to subjects being detained why the detention was occurring prior to using force. Notably, we observed several instances during this reporting period where officers used commendable patience and empathy when dealing with members of the public who were being detained.

In our review of UOF reports from the first sustainability period, we identified three Level 3-Taser deployments where we identified concerns with the use of force. As a result of our concerns, OPD initiated internal affairs investigations of two of these. In the third, OPD provided us additional detailed information on the use of force; and after further review, we concurred with their findings of in compliance. OPD conducted additional training for officers and supervisors on the use of Tasers, specifically the use of Tasers on subjects who were fleeing on foot from officers. The Department also determined that OPD would no longer allow Taser

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deployments where the subject was not struck with the probe to be lowered to a Level 4 use of force. This ensures that they receive the same level of scrutiny as those where the probe does strike the subject. Since that time, we have not identified any further concerns with the use of Tasers on fleeing subjects.

Task 25.4 requires that use of force reports be reviewed by the appropriate chain of command and appropriate recommendations are made. In all of the cases we reviewed, the reports were reviewed as required. The Command review group also reviews a select number of uses of force for follow-up review. The combination of supervisor and command review has continued to appropriately identify and address concerns with UOF reporting. OPD continues to make strides in ensuring that the chain of command is actively involved in the review of use of force and is addressing areas of concern without the need for us to bring the concerns to their attention.

Task 25.5 requires that any determination that a use of force did not comply with Department policy result in the incident being referred to IAD to conduct additional investigation/analysis, if necessary. We identified two uses of force where we believed additional investigation was appropriate to determine if the use of force was appropriate or properly reported. OPD had already identified these concern and referred the cases to IAD.

Task 25.6 requires that members/employees involved in a use of force incident resulting in serious injury or death and/or officer-involved shooting be separated from each other as soon as practicable at the incident scene, and kept apart until they have completed their reports and been interviewed. This Task is not assessed here, as we review and consider it as part of the Force and Executive Force Review Boards that OPD holds to examine Level 1 and 2 uses of force.

This is our fourth assessment of UOF for the sustainability period. OPD has continued to meet the overall requirements of this Task, and continues to render additional oversight and scrutiny of use of force reporting.

Task 25 compliance status	In compliance
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Task 45: Consistency of Discipline Policy

Requirements:

On or before October 6, 2003, OPD shall revise and update its disciplinary policy to ensure that discipline is imposed in a fair and consistent manner.

1. *The policy shall describe the circumstances in which disciplinary action is appropriate and those in which Division-level corrective action is appropriate.*
2. *The policy shall establish a centralized system for documenting and tracking all forms of discipline and corrective action, whether imposed centrally or at the Division level.*
3. *All internal investigations which result in a sustained finding shall be submitted to the Discipline Officer for a disciplinary recommendation. The Discipline Officer shall convene a meeting with the Deputy Chief or designee in the affected chain-of-command for a confidential discussion of the misconduct, including the mitigating and aggravating factors and the member/employee's overall performance.*
4. *The COP may direct the Discipline Officer to prepare a Discipline Recommendation without convening a Discipline Conference.*

(Negotiated Settlement Agreement X. B.)

Relevant Policy:

Five Departmental policies incorporate the requirements of Task 45: Departmental General Order M-03, *Complaints Against Department Personnel and Procedures* (revised most recently on December 22, 2017); Training Bulletin V-T.1 and V-T.2, *Internal Investigation Procedure Manual* (revised most recently on August 23, 2018); IAD Policy & Procedures Manual 21-01, *IAD General Operating Procedures* (published August 17, 2021); and Training Bulletin V-T, *Departmental Discipline Policy* (revised most recently on December 11, 2017).

Commentary:

Since the writing of our last report, a key member of the Department's staff who was a major contributor to data-gathering and analysis left the services of the City. We look forward to the Department filling this important position.

More importantly, in our last report, we expressed our dismay that the Department had not directly responded to issues of disparities – and in fact, certain investigative outcomes illuminated the Department's failures in this regard. The Department needs to specifically address disparities in discipline and investigative outcomes.

Task 45 compliance status	No compliance finding
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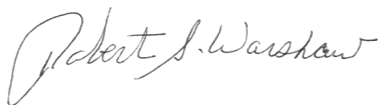
Conclusion

The Court Order of April 18, 2023 extended the NSA sustainability period and limited the active Tasks to 2, 5, 24, 25, and 45. Prior to the April 18, 2023 Order, and since our last report, we observed two Force Review Boards (FRBs) convened by OPD. One FRB assessed the appropriateness of a canine bite on a subject wanted for a felony arrest warrant who was observed in possession of a handgun. The Board found the use of force in compliance; and the members engaged in in-depth discussions regarding the length of the bite; and whether de-escalation occurred at the earliest opportunity. The second FRB assessed the use of both a Taser and a Specialty Impact Munition (a Drag Stabilized Flexible Baton, or “bean bag”). The subject refused to leave his aunt’s residence, and was armed with a metal cane which he repeatedly waved in a threatening manner. The force was used when he attempted to break the containment of the officers and re-enter his aunt’s house. We did not disagree with either Board’s conclusions.

Additionally, for this report, we reviewed one FRB report that was completed and approved by the Chief of Police since our last report. The FRB report documented an FRB that convened on January 20, 2023, which was observed remotely by a member of the Monitoring Team. The Board assessed 12 uses force, including a canine bite. The subject receiving the bite fled from a stolen vehicle that was used in an armed robbery. We found the report to be well-written and an accurate account of the proceeding we observed. The Chief concurred with the Board’s findings without any modifications. We did not disagree with any of the findings in the reports we reviewed.

We also reviewed one completed Executive Force Review Board (EFRB) report before the entry of the April 18, 2023 Order and since we last reported on Task 30. The report documented the EFRB’s evaluation of a Taser deployment on a fleeing suspect wanted from an earlier domestic violence incident. Members of the Monitoring Team observed the Board when it convened on March 7-8, 2022. We found that the report accurately documented the proceedings. The Board found the Taser deployment out of compliance, and we did not disagree. The Chief concurred with the Board’s findings without any modifications.

Interim Chief Allison has done a commendable job in the daily operations and administration of the Department. The Department, with the support of the City structure, must continue to address and resolve issues that are still of concern.



Chief (Ret.) Robert S. Warshaw
Monitor

CITY OF OAKLAND



Oakland Police Commission

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TO: NSA Parties**FROM:** Oakland Police Commission (OPC)
Dr. Tyfahra Milele, Chair**SUBJECT:** Discussion Outline of
Reform Plan to Bring the City
of Oakland Into Sustained
NSA Compliance**DATE:** March 30, 2023**Introduction**

This memorandum sets forth the outlines of a plan for the Oakland Police Commission (“Commission”) to reform the internal affairs investigation process of the Oakland Police Department (“OPD”) and ensure the City of Oakland is in sustained compliance with the goal of resolving the need for the Negotiated Settlement Agreement (“NSA”).

The proposals outlined in this memorandum operate on a parallel track with OPD’s own efforts to implement the recommendations made in the Reports of Investigation issued by Clarence Dyer Cohen, LLP related to IAD Numbers 22-0858 and 22-0443 (collectively, “CDC Report”). Those policies will make their way to the Police Commission under its Charter authority to approve or modify OPD policy changes, pursuant to Oakland City Charter Section 604(b)(5). In addition to OPD’s policy changes originating from the CDC Report, the Commission also has identified other policy areas for review during three public forum meetings and a formal solicitation to the public for written submissions in the month of March. Engaged stakeholders have proposed OPD policy changes, among other items, related to sworn officer use of Department-owned vehicles, the Department’s Discipline Matrix, disappearing messaging apps on cell phones, untruthfulness, coverups, failure to report, and body-worn cameras.

This plan builds on the current work by looking at deeper systemic and cultural issues, including those revealed by the major compliance incidents that were the subject of the CDC Report, and by focusing on the Commission’s unique Charter authorities to address those issues over time.

To formulate a final plan to address the issues outlined below, the Commission will identify information gaps the City and OPD can address, grapple in its public meetings with important policy questions, survey its relevant Charter and Municipal Code

authorities, and compile a final incident response plan for review by the NSA Parties and the Court.

The scope of reforms applies to all entities with authority over policing in Oakland, including the Commission itself and the entire City. Years of NSA Court transcripts warn us against artificially separating OPD from the City in implementing needed reforms.

OUTLINE OF ISSUES AND REFORM PLAN

A. SYSTEMIC AND STRUCTURAL ISSUES

1. Issue: Transition of the Monitor's Role to Full Community Oversight

Long after the NSA was entered, the overwhelming majority of Oakland voters passed two successive ballot measures to amend the Oakland City Charter (Measure LL in 2016 and Measure S1 in 2020) to create the Commission and codify its authority to oversee the OPD “to ensure that its policies, practices, and customs conform to national standards of constitutional policing.” These ballot measures make clear that Oakland residents want Oaklanders to oversee OPD.

Proposed Solution: To honor the will of Oakland voters, the Commission is committed to performing the same functions as the IMT is currently doing, with the eventual goal of ensuring constitutional policing is maintained by monitoring the NSA tasks even after NSA ends. The Commission can exercise all of its Charter authority and can give direction to the two civilian oversight agencies that now report to the Commission as a result of the Charter amendments: the Community Police Review Agency (CPRA), and the Office of the Inspector General (OIG). As envisioned in the Oakland City Charter, the Commission’s exercise of its civilian oversight authority can be informed by directing the OIG to perform audits of a subset of completed IAD investigations (as the IMT is currently doing) to ensure that the public policy goals expressed in Task 5 are being met, and report the audit findings to the Commission so Commission can direct OPD to implement new or revised policies if needed.

Although the CPRA typically investigates public complaints of misconduct and recommends discipline, the Commission has authority to direct the CPRA to conduct parallel investigations of what would otherwise be solely internal affairs investigations, and report its investigation results and proposed discipline to the Commission so that the Commission can take appropriate action. The Charter provides that the CPRA “shall also investigate any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, as directed by the Commission.” (Oakland Charter Section 604(f)(1)).

The Commission also has authority, with City Council approval, to establish a permanent standing committee that can monitor compliance with all existing NSA tasks (not just Tasks 5 and 45) during Sustainability and in preparation for the eventual resolution of the NSA, after which the standing committee will continue its monitoring work on these same tasks. The Commission previously announced its intention to establish such a standing committee, and that plan is still in place. In short, the Commission should be allowed to exercise its Charter authority to perform the compliance work being done by the Monitor and the Independent Monitoring Team (IMT).

2. Issue: Untimely or Absent Notifications and Referrals to the Commission and CPRA

Dozens of high profile IAD investigations have been handled by outside firms, yet there is no comprehensive policy that formally standardizes these referrals, governs the details of required notice to the other Charter entities in Oakland, or details the process and timeline for the City to implement discipline based on them, particularly discipline of the Police Chief or other non-union police officers. The City has been applying individual provisions of M-03, the OPD General Order for processing and investigating allegations of Department employee misconduct, which on its face does not contemplate dozens of outside referrals.

The Oakland Charter Section 604(f)(1) provides in pertinent part:

[T]he [Community Police Review] Agency shall receive, review and prioritize all public complaints concerning the alleged misconduct or failure to act of all Department sworn employees, including complaints from Department non-sworn employees.

The Agency shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but shall investigate public complaints involving uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, untruthfulness, and First Amendment assemblies.

The Agency shall also investigate any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, as directed by the Commission.

As a result of CPRA's mandate to investigate *public* complaints, IAD only sends CPRA complaints made by members of the public. Complaints that are initiated within the Department, considered "internal complaints," are not sent to CPRA for investigation.

The Commission could have referred the IAD investigations that were the subject of the CDC Report to the CPRA in early 2022 had the Commission known about the outside referral at the time the City Administrator and Office of the City Attorney referred them to Clarence Dyer Cohen, LLP. Prompt referral to the CPRA would have given its investigators enough time to fully investigate the matter in parallel with the outside investigation and not miss any state-imposed completion deadlines.

Proposed Solution: The internal affairs investigation policy, including any policies as part of the M-03 series and those related to referrals to outside investigations, must be reformed. In addition, a broader multi-pronged approach is needed to address the issue. The Chair of the NSA Ad Hoc Committee also serves as Chair of the CPRA Policies Ad

Hoc Committee, and is hereby proposing to fold several conceptual ideas proposed by the CPRA Director into this set of proposed solutions, as follows:

- The Commission should review the referral process for the CPRA to take up non-civilian complaints, as well as the CPRA's policies and approach for taking on complaints that are traditionally handled internally by the Department.
- The City should enter into an MOU to require it to notify the Commission Chair and CPRA in writing whenever an internal complaint is referred to an outside agency for investigation. Such notification shall include sufficient information for the Commission and CPRA to understand all allegations that need to be investigated. The City shall also provide the Commission Chair and the CPRA a copy of any contract entered into with the outside agency.
- The Commission should direct OPD to report to the Commission on a monthly basis the number of public and internal IAD complaints, to track against the CPRA's monthly reported number.
- The Commission should direct OPD to submit all internal Complaint Investigation Reports (CIRs) to the CPRA via email, within 24 hours of initiation, with detailed allegations including brief narratives sufficient for the CPRA to clearly understand the allegations and the applicable policies and provisions of OPD's Manual of Rules.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of determination, of any criminal allegations or implications that arise during the course of an administrative investigation.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of any decision being made, to have an outside entity investigate issues or allegations of police misconduct.
- The Commission should direct CPRA to document the numbers, types, and brief narratives of the internal complaints received from IAD.
- The Commission should direct CPRA to investigate mandated allegations for the internal complaints in the same manner as is done with mandated allegations for public complaints.
- The Commission should direct CPRA to investigate any mandated and non-mandated allegations against executive level supervisors ranked Captain or higher.
- The Commission should direct CPRA to determine if there is an administrative investigation that should be conducted in relation to any criminal investigation and to document the rationale for the decision.
- The Commission should direct CPRA to reopen a case and conduct an investigation if the Commission decides, based on a brief narrative of the closed internal cases, that reopening is merited.

3. Issue: Lack of a Clear City Administrator Protocol for Serious Incident Notifications to OPC Chair, IG, and CPRA Director

Related to the general problem of untimely notifications is the lack of a proper protocol for alerting the OPC Chair, CPRA, and the Inspector General of an internal affairs investigation of the Chief of Police, the Assistant Chief, or any Deputy Chief. Such an investigation should be considered a “serious incident,” which is very narrowly defined in the Municipal Code. The City Administrator is responsible under the Municipal Code for developing a “protocol for notifying the Commission Chair, the Agency Director and the Inspector General of serious incidents within forty-eight (48) hours of the Chief knowing or having a reasonable suspicion that a serious incident has occurred.” (OMC 2.45.075.) The protocol also must include “a confidential status report to the Chair of the Commission, the Agency Director, and the Inspector General within ten (10) calendar days of the date on which the serious incident occurred, and a second confidential status report to the Chair of the Commission, the Agency Director and the Inspector General within forty-five (45) calendar days of the date on which the serious incident occurred.”

Proposed Solution: As a medium or long-term strategy, the City Council should consider broadening the definition of “serious incident” to include any internal affairs investigation of the Chief, Assistant Chief, and Deputy Chiefs. Recommendation of this revision falls squarely within the Commission’s Charter authority in Charter Section 604(h). If such a protocol is developed while the Monitor is still in place, the City Administrator should include a notification protocol for the City to follow when the Monitor notifies the City that he or the IMT suspect a serious incident has occurred.

4. Issue: Lack of City, Monitor, and IMT Coordination with OPC and CPRA

The lack of thorough and repeated Commission briefings about the Monitor’s concerns in early 2022 calls out for reform in overall approach to empowering civilian oversight. The Commission should have been brought into this matter at a far earlier stage, rather than learning about it from the Monitor’s public status reports. Without prompt and comprehensive notice about the substance of OPD compliance concerns, the Police Commission cannot know what documents to formally request (as it has Charter authority to do) to properly exercise all of its Charter authorities. Delayed notifications, in turn, prevent the Commission from promptly introducing new reforms at the same speed that fast-moving compliance incidents arise (as the Monitor does). For instance, the Commission could have promptly set about reforming investigation policies in early 2022, regardless of whether any OPD officer was ultimately sustained for discipline or dismissal. These revised policies could have already been implemented even before the CDC Report was issued.

Proposed Solution: In the short term, the City and OPD (and for the period of time when the Monitor is standing in the shoes of OPD) must immediately be required to provide

regular closed session briefings to the Police Commission and its direct reports on the status of compliance issues that pose a risk to the City's resolution of the NSA.

Over the medium term, the Commission and the City should coordinate to develop a recurring Commission agenda item that requests to receive all personnel documents from the City and OPD related to all its Charter authorities, consistent with Section 604(f)(2), and all three of the Department Heads under the Commission's authority should routinely recommend any confidential files and records related to the Commission's Charter authority that they believe the Commission should be requesting to successfully carry out its oversight authority.

Over the long term, the City may need to revisit Section 604(f)(2) of the Charter and determine if it is inconsistent with the purpose of civilian oversight for the Commission to be required to know about a confidential document it does not have before it can lawfully request and access that document.

B. CULTURAL ISSUES:

1. Issue: Chain of Command Instilling a Fear of Insubordination If Subordinate Officers Speak Up

Subordinate officers fear the prospect of insubordination, which chills their willingness to speak up, even when doing so would help keep Oakland in compliance with its reform tasks. This is a cultural issue that calls for a review of management training and a rethink of any aspects of chain of command culture that could compromise investigation integrity.

Proposed Solution: The Commission should review relevant aspects of OPD's management training and help its leadership conduct a rethink of any aspects of chain of command culture that could compromise investigation integrity. OPD and the City should develop an anonymous channel to report investigation integrity issues, so subordinate officers feel more comfortable that they will not face adverse actions for calling attention to compliance concerns. The Commission, the Office of the Inspector General, and the CPRA should have access to the anonymous channel reports to ensure it can properly exercise Department oversight. Establishing this anonymous channel would be consistent with Recommendation #8 in the 2021 report issued by the City's Reimagining Public Safety Task Force, which also mentions anonymous reporting (<https://cao-94612.s3.amazonaws.com/documents/Oakland-RPSTF-Report-Final-4-29-21.pdf>).

2. Issue: Lack of Distributed Leadership and Accountability at OPD

Distributed leadership is a leadership model favoring the shared responsibility and accountability of multiple individuals within a workplace. Under a distributed leadership model, the CDC Report's findings about the Police Chief would have extended to the

entire leadership team, including those who had knowledge of the pertinent events. There should have been documented standards setting the expectation of accountability for every individual in the decision-making chain, as well as witnesses to the decisions, that led to the Department failures culminating in the December 23, 2021 meeting.

Proposed Solution: OPD and the Commission must set the expectation going forward that all participants in the chain of decision-making related to internal investigations will be held to account for any issues they observed that compromise investigation integrity and best practices. In the medium term, the Commission should consider whether to require that every level of the chain of decision-makers involved in any given investigation must sign and be responsible for the finished product.

3. Issue: Availability of Mental Health Services and Support for Sworn Officers

Mental health challenges inherent to police work, if left unaddressed, lead to major compliance incidents. One investigation subject described another's symptoms to include night terrors related to job duties. Oakland's officers should get the best support and services we can offer. Untreated mental health issues on a police force have deleterious effects on individual officers, the culture of the entire police force, as well residents and community the force serves.

The City Council vested the Commission with the authority to review, comment, and propose the Department's budget for "the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues." (Oakland Municipal Code § 2.45.070(C), (D).)

Proposed Solution: The Commission should determine what services are offered and whether proactive outreach ensures officers feel supported in using the services. The Commission should also work to set about fostering a Department culture that rewards officers for self-care and commends them for seeking out and accepting needed services. Accepting mental health services should be standard operating procedures. The Department should explore whether there should be mandated mental health evaluations on a periodic basis. With everyone having to undergo mental health evaluations, there will be less stigma attached to seeking services voluntarily.

4. Issue: OPD Officer Perception of Alleged Favoritism in Discipline

Related to Task 45, the NSA Plaintiffs tie the findings and conclusions in the CDC Report to a general perception among a supermajority of officers that OPD's discipline is not fair. One oft-cited but ambiguous quote from OPD employees is: "who you know, and to which cliques you belong, influence whether an investigation will be sustained and what level of discipline will be administered."

Proposed Solution: OPD needs far more granular information about the widely expressed perception of unfair discipline, including information about what OPD

employees perceive as “cliques.” The Commission currently has an Ad Hoc Committee that is tasked with investigating allegations made by the members of the Oakland Black Officers Association (OBOA) that they are subject to more severe discipline than other officers, and will continue to work with an outside investigating firm to review these claims.

Conclusion

The Police Commission is designed to replace the proactive compliance work currently imposed by the Monitor and the Independent Monitoring Team, as the singular civilian oversight body with authority to make policy changes for OPD related to all NSA tasks, and the sole entity named in the City Charter that “shall oversee the Oakland Police Department.” (Charter Section 604(a)(1).)

Without committing to an exclusive list, the Commission should implement its final proposed plan using the following official actions:

- formal action by the Police Commission;
- official MOUs between the Commission, OPD, City officials, City agencies, and any other relevant Charter entities or stakeholders which will be made available to the public;
- new or revised OPD policies, procedures, training bulletins;
- recommendations pursuant to Charter Section 604(h) to the City Council to revise Sections 2.45.00 and 2.46.00 of the Municipal Code;
- seeking budget allocations to ensure and that cost savings from the transition of oversight from the Monitor and IMT are used to fully fund staff for the Commission, as well as the CPRA and the OIG, so they can all carry out their Charter obligations and maintain a proactive approach to reform; and
- recommendations to the City Council to put an additional ballot measure before the voters of Oakland.

Going forward, after the Police Commission approves a plan, implementation must, under the Charter, run through a public-facing, policy-specific ad hoc process that ensures significant input and engagement from members of the public as well as the full Commission, with all final actions to take place after the April 4 Joint Case Management Conference Statement deadline.

Oakland Police Commission Statement

The Oakland Police Commission is pleased to respond to the Court's invitation to share our perspective on the value of a Sustainability Process and the best plan and prospects for a successful exit from the NSA.

The Police Commission was created through a 2016 ballot measure that amended our City Charter and vested in us broad authority to oversee the Oakland Police Department "to ensure that its policies, practices, and customs conform to national standards of constitutional policing."

The 2016 ballot measure, along with a subsequent ballot measure in 2020, enshrines civilian oversight to supervise the Police Department, the Office of the Inspector General (OIG), which has authority to assess the Department's performance and adherence to constitutional policing practices and audit its policies and procedures, and the Community Police Review Agency (CPRA), which has authority to investigate public complaints of misconduct against police officers and internal complaints if directed by the Commission. This model was part of City leadership's long term plan for the City of Oakland to earn resolution of the Negotiated Settlement Agreement (NSA). The Commission's bold exercise of its oversight authority, as informed by audit work of the OIG and investigatory work of the CPRA, should eventually replace the proactive compliance mandate currently imposed by the Monitor and the Independent Monitoring Team.

To earn NSA resolution, we appreciate that this Court and the Compliance Monitor/Director both expect the City of Oakland to demonstrate that it will routinely address major compliance incidents. The City can do so, first, by identifying deeper structural and cultural issues those incidents reveal and, second, by then implementing comprehensive response plans to keep its reform progress on track. The Monitor's Status Reports have routinely emphasized the proper scope of a more comprehensive response plan as integrating "broader issues of personnel, discipline, risk management, supervision, and leadership into a comprehensive management plan." The Oakland Police Commission's Charter authority positions it to support the City in developing this more comprehensive approach.

That's because the Police Commission plays a broad oversight role, both in leading the civilian oversight policymaking structure in Oakland and in supervising a civilian-led investigation agency that prioritizes the integrity of investigations into allegations against sworn officers. The Commission reforms Department policies related to all NSA tasks. We set direction for the Police Chief, the Inspector General, and the Executive Director of the CPRA. We can request reports about important police reform issues from the Chief and the City Administrator. We set the evaluation criteria for the Chief, the Inspector General, and the Executive Director of the CPRA. We hold an annual hearing on the Police Department's budget before the City Council approves it. We serve as a public forum for a highly informed community of Oakland residents and stakeholders, many of whom are organized and deeply engaged to help us set the reform agenda at our twice-monthly public meetings. Advocates for stringent police reform measures also serve as featured community participants of the Commission's policy committees, which we establish to revise the Department's

policies, procedures, and general orders. In the past year alone, the Commission has taken up close to 20 detailed policies, standard operating procedures, and general orders, ranging from the limited authorization to use military equipment to approving all of the changes the Monitor has required the City to implement, each time incorporating community involvement and perspectives without missing any deadlines imposed by state law or this Court. Far more policies and procedures and general orders are in the process of being created and revised, and we anticipate continuing to successfully take on the policymaking work required to reform OPD.

Based on our mandate from the voters of Oakland, and recent invitations of this Honorable Court, we understand that the Commission has a responsibility to fully exercise all of its Charter powers to continuously set the policing agenda and transform the Department from within, so that the constitutional policing measures mandated by the NSA will take root beyond the Sustainability Period.

In the short term, the Department has taken up the recommendations issued by the law firm of Clarence, Dyer, Cohen, LLP and started a detailed process of implementing those recommendations via new and updated policies and training materials. In addition, the Department has gone beyond those recommendations and is examining other policy and procedure changes to enhance communication between the Department and the CPRA and the Commission.

To set direction about ongoing reform efforts over the medium and long term, the Commission has established a new subcommittee of Commissioners currently led by Retired Judge Brenda-Harbin Forte as its Chair, other distinguished Commissioners of Oakland, and featured community participants of the public to lead the Commission in rendering its own determinations about what deeper structural and cultural issues were evidenced by the events described in the CDC Reports, in order to develop an appropriately comprehensive incident response reform plan for the Commission and the City to implement over the coming months. That plan is attached.

From this latest sprint of reform work, one point of perspective the Commission will share with the Court is to reemphasize the value of a near-term transition of oversight to the Commission and the civilian departments it oversees. With due respect to Clarence Dyer Cohen, LLP, recommended reforms to the Police Department and the City require an in-depth understanding of the City's Charter structure and the model of oversight it envisions, and key policymaking reform work would have been well underway by now had the Commission been read into the matter at an earlier juncture. Rather than coordinating the outside investigation with an Oakland-overseen investigation led by the CPRA, civilian oversight was siloed out of the process that resulted in the Reports of Investigation and Recommendations that Clarence Dyer Cohen LLP issued. The Commission is left to develop and implement big picture reforms on a short timeline, almost as an afterthought. We continue to recognize the work of the Independent Monitoring Team in helping the City of Oakland reform itself, and we are encouraged by the opportunity to build on the Monitor's herculean track record the Court itself emphasized. We would be remiss, though, if we did not respectfully share our perspective that the Commission

has been empowered by the voters because of widespread community sentiment that Oakland residents can set the direction of the reform work required to ensure Constitutional policing.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

DELPHINE ALLEN, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	NO. C 00-04599 WHO
)	
CITY OF OAKLAND, et al.,)	
)	
Defendants.)	
)	

San Francisco, California
Tuesday, April 11, 2023

TRANSCRIPT OF HYBRID PROCEEDINGS

APPEARANCES:

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(APPEARANCES CONTINUED ON FOLLOWING PAGE)

REPORTED BY: Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG
CSR No. 7445, Official U.S. Reporter

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12 **BY: ROCKNE A. LUCIA, JR., ATTORNEY AT LAW**

13 Also Present:

14 **Mayor Sheng Thao**

15 **Interim City Administrator Steven Falk**

16 **Interim Police Chief Darren Allison**

17 **Dr. Tyfahra Milele (Via Zoom)**
18 **Oakland Police Commission Chair**

19 **Retired Superior Court Judge Brenda**
20 **Harbin-Forte**
21 **Oakland Police Commission Ad Hoc Head**

22 **Michelle Phillips, Inspector General**

23 **Charlotte Jones**
24 **Interim Executive Director**
25 **Community Police Review Agency**

Deputy Chief James Beere

Deputy Chief Drennon Lindsey

Deputy Director Kiona Suttle

Captain Kevin Kaney, Internal Affairs

1 Tuesday - April 11, 2023

3:32 p.m.

2 P R O C E E D I N G S

3 ---o0o---

4 **THE CLERK:** And we are here in Case Number 00-4599,
5 Allen, et al. vs. City of Oakland, et al.

6 Counsel, if you would please come forward and state your
7 appearance for the record.

8 **MR. BURRIS:** John Burris for the plaintiff. Good
9 afternoon, Your Honor.

10 **THE COURT:** Good afternoon.

11 **MR. BURRIS:** Jim?

12 **MR. CHANIN:** James Chanin for plaintiffs, Your Honor.

13 **MS. MARTIN:** Good afternoon, Your Honor. Brigid
14 Martin for the City of Oakland. And I have many esteemed city
15 members here with me.

16 I have Mayor Sheng Thao.

17 Interim City Administrator Steven Falk.

18 Interim Police Chief Darren Allison.

19 I also have, virtually, the Oakland Police Commission
20 chair, Dr. Tyfahra Milele.

21 Head of the Oakland Police Commission Ad Hoc, Retired
22 Superior Court Judge Brenda Harbin-Forte.

23 From the Office of the Inspector General, the Inspector
24 General, Michelle Phillips.

25 The Interim Director of the Community Police Review

1 Agency, Charlotte Jones.

2 And subject matter experts from the Department, including
3 Deputy Chief James Beere; Deputy Chief Drennon Lindsey;
4 Deputy Director Kiona Suttle; and Internal Affairs Division
5 Captain Kevin Kaney, who is also acting right now for
6 Deputy Chief Clifford Wong of the Bureau of Risk Management.

7 **THE COURT:** Great. Well, thank you all for being
8 here.

9 And do I have to -- hello, Mr. Lucia.

10 **MR. LUCIA:** Just for the record, Your Honor, Rocky
11 Lucia for intervenor Oakland POA. Good to see you again.

12 **THE COURT:** It's good to see you.

13 I got a tip from a judge who I admire, a former judge who
14 I admire that I hadn't let you introduce yourself. So,
15 thank you.

16 And, Mayor Thao, I'm pleased that you're here.

17 Let me welcome everybody. And you can sit down.

18 **MS. MARTIN:** Thank you, Your Honor.

19 **THE COURT:** So my focus today, as it has been since I
20 succeeded Judge Henderson on this matter, is how the Court can
21 ensure that the City of Oakland achieves full compliance with
22 the NSA, the Settlement Agreement which was negotiated 20 years
23 ago with the plaintiffs and establishes constitutional policing
24 in all aspects of its work.

25 So I'm going to start this afternoon with a few questions

1 for Chief Allison. Then I'm going to lay out my thinking based
2 on the joint CMC statement and the Independent Monitor's
3 report.

4 After that, I'm going to ask for comments from the
5 plaintiffs, from OPOA, from the Police Commission, and then the
6 City and the Mayor.

7 So, Chief Allison, I'm going to put you on the hot seat,
8 as you have been a fair amount since I succeeded to
9 Judge Henderson.

10 **CHIEF ALLISON:** Yes, Your Honor.

11 **THE COURT:** And so you've been on the force for the
12 entire time, I think, of the Court's monitoring of OPD.

13 Since I've been the judge, I've seen impressive
14 accomplishments, like the dramatic reduction shown by the stop
15 data, both in terms of numbers and now even some impact on
16 racial disparity.

17 I've seen the risk management meetings become an effective
18 way to support constitutional policing.

19 I've seen the implementation of technology through vision
20 and through the body-worn cameras.

21 To the same end, I've seen a lot of policies implemented
22 to shore up the gaps in a myriad of tasks.

23 But here's the "but." I've also seen what seems to be a
24 cultural inability of OPD to police itself, to hold itself and
25 its officers accountable without fear or favor. And this seems

1 particularly true in cases involving OPD command staff. And
2 it's this lack of integrity, this culture that plays favorites
3 and protects wrongdoers that undercuts the foundations of
4 constitutional policing. And 20 years of court supervision
5 hasn't solved that problem, which was a major concern with
6 the Riders more than 20 years ago.

7 So that's my preface to two questions that I have for you.
8 The first one is: How are you and OPD addressing this cultural
9 problem? And then the second part of that is: What can
10 the Court do to support you in those efforts?

11 **CHIEF ALLISON:** Thank you, Your Honor.

12 As you know, as you've laid out, I've been here for a very
13 long time. I started with the City in 1994. So I've seen the
14 police department before the NSA, and certainly, particularly
15 through my command experience, I've seen almost everything
16 through the NSA, going back to even 2005. I was in the
17 Inspector General's Office as a sergeant, later a young
18 lieutenant. So I've certainly seen everything that you've seen
19 and everything that you've laid out, Your Honor.

20 You know, I think when you look at organizational culture
21 and how do you change it, you know, I think it always begins
22 with hiring folks that are aligned with the value of the
23 organization and values with the community. And for a long
24 time, we didn't have a community oversight body that existed,
25 up until just several years ago.

1 I think the first step in culture change is really trying
2 to bring in people that you know have those institutional
3 values, and then train those individuals through the academy,
4 through field training to make sure that's inculcated through
5 the organization. And that extends all the way to who you
6 promote, putting the right people in the right places that are
7 making the right decisions.

8 I have seen us progress over the years when it comes to
9 the culture of the organization. I've seen great innovations,
10 great transparency, great accountability, great community
11 relationships and collaboration.

12 But I've also seen bad decisions, wrong decisions,
13 missteps, and certainly have experienced several setbacks,
14 times where we're standing in front of Judge Henderson talking
15 about them and now yourself, Your Honor.

16 And so I always struggle with how do we hold that line.
17 And I think from the leadership having that heart, looking at
18 one's own heart and examining themselves and seeing that
19 reflected in others, I think, is important.

20 So that goes back to putting the right people in the right
21 seats to replicate that, and holding account.

22 I also think that as a business where the biggest asset
23 are people, we know that there's going to be failures; we know
24 that there's going to go wrong decisions; is working very
25 closely with an independent body that can see them -- or see us

1 independently.

2 And I know over the last couple of years in particular, we
3 have strengthened our collaboration and our work with our
4 current oversight bodies, with the Police Commission, with the
5 CPRA, with the IG's Office, and especially with the ability to
6 audit us through the IG's Office ramping up over the recent
7 months and year; that for those decisions that are wrong or
8 made in error, that there will be that net that catches those
9 things that get misstepped.

10 We're obviously -- all the setbacks, I feel them. It
11 frustrates me. I would love to see us just move forward, just
12 in best practices as an organization. And I know that we
13 consistently raise the bar high.

14 So I think from my perspective, just really
15 institutionalizing that culture; again, reinforcing not only
16 the training -- and I know we've presented on Project Reset,
17 which is a different training than we've ever done before. It
18 talks about organizational culture. It analyzes our own
19 culture and then highlights being change agents of that
20 culture.

21 And so getting folks to think that way and understand the
22 importance of it and then replicate it and get that courageous
23 followership to be able to bring that forward is going to be a
24 beginning of it; the policies that reinforce it; and then,
25 obviously, putting the right leaders in the right place to hold

1 account and see it for themselves and be supportive, from the
2 other leadership, to say, "It's okay to make decisions. It's
3 okay to hold accountability. And it's also okay to make
4 mistakes if they are done for the right reasons."

5 **THE COURT:** So, and you're always going to make
6 mistakes. You have and the police department has the toughest
7 job I can imagine doing. People are always going to mess up.

8 Not being honest about the problems that occur; trying to
9 cover up things because it's a little easier, it seems like
10 it's going to be an easier way of sort of alighting the
11 problem; playing favorites with people who either have
12 political sway or they're people that you just kind of like,
13 that's, I think, central to what's going on. And just being
14 able to hold people to account, it's a critical thing. And I
15 hope and I expect that you're doing that.

16 **CHIEF ALLISON:** Sure.

17 **THE COURT:** And so that's one issue.

18 How about the second part of my question? What is it that
19 the Court can do, that it hasn't been doing, or whether it can
20 do anything to deal with the cultural problem that has existed
21 from the Riders day and maybe for a lot longer than that?

22 **CHIEF ALLISON:** Well, Your Honor, I think that there's
23 been a lot -- I mean, certainly, any tone that hasn't been set
24 within the organization, I've always respected the Court has
25 set the tone for those areas that we need to pay great focus

1 to.

2 And I think that maybe helping us as we get to the
3 sustainability period. And I know we are several months into
4 it, and we've had some advantages and some successes, and we've
5 had certainly some setbacks.

6 Helping us focus in on the things that are remaining, the
7 tasks that really are remaining. I know that, not to get too
8 nuanced, but certainly the IA process, the discipline process,
9 trying to really put all of our energy into that to set the
10 foundation of the cultural expectations, because I do believe
11 that the policies and the training really are going to amplify
12 it.

13 So I think from the Court's assistance is basically
14 putting all the inertia into those last remaining vestiges of
15 compliance that we really need to get into to have long-lasting
16 compliance.

17 And I think, also, I would love to see that transition
18 over to community oversight, because I think we are at that
19 point to where that can -- and I'm not going to speak for
20 the Court. That's not what I'm trying to do. But since you
21 asked about how the Court could help --

22 **THE COURT:** That's what I'm looking for.

23 **CHIEF ALLISON:** -- is that transition into that
24 community oversight, because I think that the infrastructure is
25 there, and just what does that now look forward to, moving

1 forward into the future beyond the NSA.

2 **THE COURT:** Okay. So are you satisfied -- I'm going
3 to move on to a couple of other questions.

4 Are you satisfied that the policies that were recommended
5 by the Clarence Dyer report and the systemic report, as
6 modified by the City in the case management statement, as well
7 as those that are going through the approval process, are going
8 to ensure accountability and integrity in addressing officer
9 and, especially, supervisor and leadership misconduct?

10 **CHIEF ALLISON:** Yes, Your Honor.

11 And one thing I want to emphasize is, you know, there were
12 issues that were raised out of that report, and it ended up
13 touching 15 policies or forms.

14 And so we went back and we dove in deep right away. We
15 didn't wait to get it started or wait for direction. We ended
16 up diving into those policies, and figured out one thing that
17 stood out, not only in the public report but in recent
18 monitoring team reports, was taking seriously those serious
19 cases.

20 Obviously, with an organization that receives numerous
21 complaints -- I think we closed about 1100 complaints last
22 year -- that you can't scrutinize every single one of them.
23 It's just humanly impossible with just the capacity.

24 But looking at the ones that are serious and holding them
25 to a serious level is important. That's the ones -- those are

1 the ones that really impact public trust.

2 And I think the policies put in place a mechanism that
3 balances the workflow capacity with bubbling up to the top
4 those issues that are the highest importance that need the
5 highest scrutiny, bringing in the higher levels of review so
6 it's not left to just one person making all the decisions at a
7 lower level; that it touches the executive team at a higher
8 level where, if there are missteps at that level, then we can
9 start the accounting process at a higher level.

10 Certainly, with the transparency piece, the better
11 presentations at meetings and documentation of those meetings
12 when key decisions, important decisions of discipline are made
13 is certainly going to reinforce that piece of it.

14 And really, just, again, creating a greater sense of, if
15 there's disagreements, it can't be hidden in the shadows
16 anymore. It's going to be out there, whether it's going to be
17 highlighted in an executive summary or shown in meeting notes
18 or track changes.

19 So one thing that, to get rid of organizational cultural
20 issues or threats to organizational cultures, you have to start
21 shining light on shadows. You can't let things hide in the
22 shadows. And I think these policies shine lights on areas and
23 issues that are the right areas and issues to minimize and
24 prevent those issues from hiding again.

25 And then, certainly, the collaboration -- which I know

1 wasn't necessarily one of the recommendations -- but the
2 collaboration and the notification to our oversight bodies --
3 CPRA and the Commission -- will also give what I mentioned
4 earlier, that redundancy and that safety net for those issues
5 that might slip through the cracks or may be the product of a
6 wrong decision, an improper decision or a bad decision.

7 **THE COURT:** So as best you can tell, these policies,
8 if they're in force, should solve the problem?

9 **CHIEF ALLISON:** I think it will shore up the process.
10 I don't think a policy in and of itself solves a culture
11 problem.

12 **THE COURT:** I couldn't agree more. That is up to the
13 individuals who are responsible for the policy; right?

14 **CHIEF ALLISON:** That's correct. And that's where --

15 **THE COURT:** So --

16 **CHIEF ALLISON:** I'm sorry to cut you off.

17 **THE COURT:** Yeah. No, no. Go ahead.

18 **CHIEF ALLISON:** I was saying, that's where it comes to
19 putting the right people in the right chairs to make those
20 decisions.

21 **THE COURT:** And on that point, I think particularly in
22 the last several years, OPD has done a good job of recruiting a
23 more diverse force. The people that I met a few years ago when
24 I went to the seminar over in Berkeley, the officers who were
25 there, just very impressive people. And it's not -- I'm much

1 less concerned at this stage about the force in general than I
2 am about the leadership making everything else work for the
3 Department. And that's really -- that's what's got to happen.

4 Let me switch gears for a second.

5 I'm most heartened by the review and use of the stop data
6 and the way that risk management meetings are working. I think
7 they're at the core of whatever success OPD has had in
8 implementing the NSA.

9 And so can you assure me that these are central to OPD's
10 work today and on a going-forward basis?

11 **CHIEF ALLISON:** Absolutely, Your Honor.

12 The work and the outcomes of those risk management
13 meetings, I think, does show us in a highlighted, shining star
14 in the profession. I have a lot of counterparts -- chiefs,
15 assistant chiefs, executives -- in other organizations that
16 they don't do this. In fact, I asked one executive of a major
17 police department what they do with their risk management data,
18 and it wasn't anything; it wasn't anything stellar whatsoever.

19 And when I think back on our risk management policy and
20 what it's -- our meetings and what it's produced, either in the
21 forms of policy -- parole, probation, handcuffing policies --
22 or in the form of practices and training -- recognizing
23 supervisor promotion deficiencies in the sense of not giving
24 them field experience, so it birthed the field training program
25 for our sergeants -- the analysis into outliers or increase in

1 disparity. We had the report that we produced on Hispanic
2 disparity stops. And just the intentionality and focus of
3 issues and concerns that have driven down risk. And I can talk
4 about ECW or Taser use that has dropped, disparities, pursuits.

5 And so I think that has to be a core staple of not only
6 our organization, but any organization, because when you pay
7 attention to something, it absolutely modifies or changes what
8 you pay attention to. And so it has to be a core function, and
9 I will commit to ensuring that that stays as part of our
10 Department.

11 **THE COURT:** Okay. So just to let you know, I'm
12 thinking of no longer requiring the Monitor to attend the risk
13 management meetings. I will require that OPD provide slides
14 and the stop data to the Monitor. And you may, of course,
15 request the Monitor's presence or the Monitor may, at his
16 discretion, choose to attend.

17 **CHIEF ALLISON:** Yes, Your Honor.

18 **THE COURT:** So here's my final question. The City has
19 suggested that I narrow the scope of the Independent Monitor's
20 work to Task 2, 5, and 45. I'm inclined to add Tasks 24 and 25
21 to that list, simply because, at a high level, the failure of
22 IAD and the command staff, as documented by Clarence Dyer, was
23 about addressing officer misconduct, as is the analysis of uses
24 of force.

25 What's your perspective on the City's suggestion and on

1 Task 24 and 25?

2 **CHIEF ALLISON:** Thank you, Your Honor.

3 I think one of the things that has been done well with
4 Task 24 and 25, and use of force in particular, is creating
5 capacity internal within the organization. So I've had that
6 task for many years, as you well know, and reported out on it.
7 And we, through intentionality, have focused on areas of
8 concern.

9 Taking that and then replicating our own kind of internal
10 standing on it has proven to be highly effective. It doesn't
11 always change the potential missteps, whether it's a body-worn
12 camera issue or maybe it's a use of force that wasn't reported
13 properly. But the point that we're seeing is we're catching it
14 now, and we're catching it through our own command reviews.

15 We're also catching it -- because of the speed at which
16 we're catching it and communicating down, whether it's down
17 through an accountability measure, NIA, or communicated down
18 "Well, maybe it's not a misconduct issue but maybe is a
19 training point issue," it's causing it to course-correct pretty
20 rapidly.

21 So I think from a capacity standpoint, my intention is to
22 keep those command reviews going; that I don't see a reason to
23 stop them, even -- whether those tasks are monitored or not,
24 I think we need to keep that going because it's been proven
25 effective in not only catching the issues, but catching it

1 ourselves and training the new supervisors to catch it
2 themselves.

3 And so from my perspective, having that capacity and,
4 certainly, working closer with our community oversight bodies,
5 that we can maintain those tasks.

6 **THE COURT:** Okay. All right. Thank you. You can sit
7 down.

8 **CHIEF ALLISON:** Thank you, Your Honor.

9 **THE COURT:** All right. So let me tell you what I'm
10 thinking, and this is what I want your input on.

11 Obviously, the City's not in full compliance with the NSA.
12 The sustainability period is going to be extended.

13 I'm going to hold another in-person case management
14 conference on September 26th at 3:30 to assess where we are at
15 that time.

16 What I'm thinking of is, as of June 1st, I would reduce
17 the scope of the Monitorship to Tasks 2, 5, 24, 25, and 45.
18 But I also want to support the City in any reasonable way to
19 attain compliance.

20 And so I'd like to hear from, first, the plaintiffs and
21 then OPOA and then the Police Commission and then the City --
22 and I shouldn't separate the Police Commission from the City --
23 but Ms. Martin, and then the Mayor on what you think about
24 that, as well as any other things you want to tell me.

25 So, Mr. Chanin.

1 **MR. CHANIN:** Thank you, Your Honor.

2 When I spoke to the Court on April 27th, 2022, nearly one
3 year ago, OPD was on the verge of entering the sustainability
4 period. I congratulated the Department.

5 But after saying no one is perfect, just like you did --
6 and we are not looking for perfection in the sustainability
7 period, just like you said -- I also stated what we are looking
8 for is a department that can and will identify problems and
9 major scandals when they occur and will not leave that job to
10 someone else.

11 All the major scandals in the past have been discovered by
12 someone else, either a reporter, a monitor, a member of
13 the City Council, or the plaintiffs' attorneys, or a
14 combination thereof. Never has it been the Oakland Police
15 Department.

16 I further stated I am not confident that if a scandal
17 occurs in the future, that it will be brought forward by the
18 OPD.

19 Today should be a happy day. We should all be agreeing
20 that the OPD has ended the NSA and that federal oversight has
21 ended. However, I cannot agree to this proposition. We have
22 lost another chief who, like Sean Whent, brought us to the very
23 brink of compliance before disaster struck, in his case in the
24 form of the sex scandal.

25 We also have no resolution to the overuse of findings of

1 unfounded, which appear to be used to avoid the allegation
2 being discussed at risk management meetings and other areas
3 where an officer's conduct is evaluated.

4 To end this problem, I propose that the Monitor, the OPD
5 command staff, and the Police Commission, if they so choose,
6 take a sample of the so-called unfounded cases and report if
7 any of these unfounded findings should instead be sustained or
8 not sustained and, thus, go into the risk management process.

9 I don't agree with the defendants that the Court should
10 remove the affirmative assessment of the tasks they mentioned.

11 And I note Your Honor has left out Task 31,
12 officer-involved shootings, and Task 34, racial profiling.
13 They should, instead of being eliminated, remain an active task
14 pursuant to the rules of the Negotiated Settlement Agreement.

15 I don't want to be here if, for example, there is a
16 blatant violation of Task 34 or a questionable officer-involved
17 shooting takes place, and then I have to get into the
18 argument -- an argument with the City as to whether I can even
19 talk about this in court or the Monitor can assess this.

20 I also disagree with the defendants that racial disparity
21 in discipline of black and white officers for unintentionally
22 failing to accept or refer complaints is acceptable somehow
23 because the same disparity occurred previously. That's not all
24 they said, but it is what they said.

25 I am pleased to see that the Department intends to drill

1 down on this problem. However, I still feel that looking at
2 the disciplined officers' video would also be helpful. I want
3 to be convinced that this discipline, which by its very nature
4 involves substantial command staff discretion, is not a product
5 of some sort of bias on the part of the supervisor meting out
6 the discipline.

7 Furthermore, I want to disassociate myself from those who
8 have said, without any evidence but unknown sources, that
9 the Mayor was pressured by the Monitor to terminate the chief.
10 There is no proof whatsoever that this happened. Whatever we
11 may think of the Clarence Dyer & Cohen's personnel decisions,
12 there is no excuse for Chief Armstrong's public comments that
13 the Monitor, an officer of this Court, is disingenuous and only
14 motivated by perpetuating the NSA.

15 Chief Armstrong's additional claim that the Mayor was
16 forced by the Monitor to terminate him is, as yet, unsupported
17 by a single named witness and, thus, reeks of sexism.

18 **THE COURT:** So, Mr. Chanin, I don't want to talk about
19 Chief Armstrong.

20 **MR. CHANIN:** Okay.

21 **THE COURT:** I appreciate your support of the Monitor,
22 and he has my full support.

23 I want to talk about what we're doing here, what OPD --
24 how OPD is going to attain compliance with the NSA and
25 constitutional policing. So let's go to that.

1 **MR. CHANIN:** Okay, Your Honor. What you can do is
2 what you have been doing. I, of all people, know how long a
3 process this has been: 23 years, as of December 7th, since we
4 filed this lawsuit. But I do not think that it was not
5 worthwhile. I think it's hard that it takes so long. No one
6 is more frustrated than John and me. We cannot believe we're
7 still here. Every time I hear the case called "00," et cetera,
8 I cringe, and I don't -- I don't like it.

9 But I also think that your presence here, like
10 Judge Henderson before you, is extremely important. You help
11 them toe the line. You really do. And the fact that it's
12 taken a long time is really hard to digest. It's hard for John
13 and me to digest. It must be hard for you to digest. You have
14 other things to do. I respect that.

15 But the fact is, there are people alive today, there are
16 African Americans who have not been stopped by OPD because of
17 the united efforts of plaintiffs' attorneys, the Defense in
18 some cases, and especially the Court. You're the reason -- a
19 big reason why the number of African Americans stopped has
20 declined so great.

21 **THE COURT:** So, and I am in complete agreement that
22 that has been a huge benefit, and I think the Court supervision
23 has been a huge benefit. So I don't disagree with those
24 things.

25 I'm trying to figure out, and what I'm most interested in,

1 the one issue that we haven't made a ton of progress in is the
2 cultural rot that existed at the time that you brought this
3 suit 23 years ago and that comes up again and again. And so I
4 want to know what it is that you think is the best way of
5 addressing this.

6 **MR. CHANIN:** Well --

7 **THE COURT:** And maybe you've just answered it. Maybe
8 it's --

9 **MR. CHANIN:** Well, I think I did.

10 **THE COURT:** -- just we keep doing what we're doing.

11 **MR. CHANIN:** I think I did.

12 But I want to say that I don't agree that this department
13 is filled with bad people. I recently went on a ride-along in
14 East Oakland; and in one night, the officer dealt with fire on
15 580, two criminals who drove up and down the street, shooting
16 at each other, an event which ended in one of the cars crashing
17 into a neighbor's fence and destroying most of it; two women
18 who were so disoriented that the officer spent nearly an hour
19 trying to calm them down. And that was just part of how the
20 evening was spent. He got rid of me at 10 o'clock because he
21 had so much paperwork to do.

22 This officer did an outstanding job. And I was informed
23 that this night was more typical than not. And all the
24 officers I met that night were courteous and trying to do their
25 best.

1 We often discuss only the bad things. That's what lawyers
2 do sometimes. But this officer was more typical of the Oakland
3 police officers I've met over the years, rather than all the
4 admittedly bad stuff I've reported and litigated over the
5 years. So we can't lose sight of that, and I certainly don't.
6 That's why I go on these ride-alongs.

7 I want to say something briefly about women officers, if
8 that's okay.

9 **THE COURT:** Go ahead.

10 **MR. CHANIN:** Yeah. I think that the only thing harder
11 than being a police officer is being a woman police officer.
12 I've represented many women police officers, including Berkeley
13 and Oakland and San Francisco; and I know that being a woman is
14 a really, really hard job when you're a cop.

15 And I saw in the poll, however, that there's some good
16 signs that certainly weren't true in the '80s and '90s when I
17 was practicing law and represented women in federal court.

18 For example, 76 percent feel respected by their
19 supervisors. That's something that wouldn't have been true in
20 Alameda in the 1980s.

21 There's still bad news. Only 21 percent believe the
22 promotion process is fair. Only 46 percent believes the agency
23 takes claims of harassment seriously.

24 That's something you could do, frankly, is continue to
25 monitor this, the role of women at OPD; talk about getting

1 numbers up, because I think women have a really positive role
2 in a department. An all-male department is almost, by
3 definition -- I'm trying to think of a word other than --

4 **THE COURT:** You don't have to go there, Mr. Chanin. I
5 agree with whatever you were about to say.

6 **MR. CHANIN:** And I think, you know, calling for the
7 progress they're making on hiring women, calling on the
8 progress they're making in having women sergeants, lieutenants,
9 and captains, that would be helpful. So there are many helpful
10 things I think you can do, Your Honor.

11 But we do have to end sometime, and I agree with that. I
12 just don't agree it's right now. And I don't -- I don't think
13 that's the fault of the plaintiffs' attorneys. We were as
14 shattered by this almost as the cops were.

15 Thank you.

16 **THE COURT:** Thank you, Mr. Chanin.

17 Mr. Burriss, are you going to join in?

18 **MR. BURRIS:** Absolutely.

19 First off, I would like to thank the Court for cutting off
20 the conversation that Mr. Chanin was making about the chief.
21 That was a very -- that could have been a very dark spot to go
22 to. And I appreciate the Court letting all of us know that
23 that's not the subject of this particular hearing and so it was
24 important not to continue that line of discussion, and I
25 appreciate that.

1 Now, before this case started, Your Honor, 23 years ago --
2 actually, for me it started before then -- I had written a --
3 co-written a book at the time called *Blue vs. Black: Let's End*
4 *the Conflict Between Cops and Minorities*. And part of the
5 discussion that I had at the time was about the culture of
6 policing and, secondly, about can we trust the police to police
7 itself.

8 These were fundamental issues that sort of went to the
9 essence of why I was -- why I do the work. It was really
10 important because I understood that the policing component, if
11 not checked and called into question, would have a very adverse
12 impact on the African American communities and other
13 communities of color, which that ultimately was borne out.

14 So I will say that as a consequence of the work that's
15 taken place, the stop data and even Task 45, there's been some
16 really positive things that have taken place I'm really, really
17 pleased about.

18 And as the Court knows, I've raised these questions time
19 and time again. And I will only say as an aside, on a project
20 that I'm presently working on, I've had to really look at some
21 of the other departments around the country and where they have
22 been in terms of policing and the challenges they presented.

23 Particularly, like today we're hearing about Louisville
24 and the courageous acts of the officers; but I can tell you
25 that department is in bad, bad shape and African Americans in

1 that community are treated poorly. And I read the documents
2 pertaining to them, I thought harkened back to where we started
3 from. Now, I hope that it doesn't take Louisville 25 years to
4 get there, but it's a long haul.

5 And so a lot of good effort has been made here to that,
6 which we've acknowledged and I think the Court acknowledges and
7 I think everyone acknowledges and which, I've been very, very
8 pleased by some of the progress that has been made.

9 But I'm still troubled by the cultural issue.
10 Undercurrent of that is the policing oneself and the leadership
11 questions, because I don't think you can sustain yourself if
12 the leadership isn't there.

13 And because we've had constant turnover in the last --
14 since we've been involved here, I think that has contributed in
15 many ways to get a consistency approach to attacking the
16 cultural issues, because the culture is a function of the
17 pattern and practices that exist within a department and how --
18 what is carried on from one generation to the next and they
19 bring those set of values.

20 And I think that, given that the numbers that we have, in
21 many ways, if you just looked at the technical aspect of it,
22 it's been positive. We don't have the beatings that we used to
23 have; and certainly, we don't have -- the stop data stuff has
24 improved; and certainly, as you know, in terms of the culture,
25 the employment racial issues that I've raised previously around

1 officers themselves, that issue is better. It's not completely
2 done.

3 But the question, how do you get to the cultural question,
4 is one. And I know the Court has raised that question. It's
5 one that I've thought about for many, many years. I know that
6 if you don't control the cultural issues, I think, and changing
7 the culture, I don't think sustainability can last, it can be
8 sustained indefinitely, which is the hope, you know.

9 Rockne and I talk about our kids, just started out
10 together, and now there are grandkids and I got great-grands.

11 But the future was always about that aspect of it and what
12 does sustainability mean. And for me, it is not me, my
13 generation or the next generation or the generations after
14 that. And I don't know that we're going to get there without
15 resolving this question of cultural change, where it's deeply
16 embedded in the soul of the Department. And I don't have the
17 answer to that.

18 Now, I do know that probably if you have solid, consistent
19 leadership at the top with accountability, where people are
20 held to answer like -- held to answer, which then we have
21 issues that: Can that be true? Is that true? Can we count on
22 that? Given a couple of issues that have come up more
23 recently. Because those individuals at a time were in a
24 position to demonstrate to all of us that what we put in place
25 in fact sustained itself and does work. But it has not. It

1 has come up short. And so is that symbolic of what can happen,
2 or is that an aberration or not?

3 But it is concerning. It is just very concerning.
4 Because I think that at the end of the day, we've got to deal
5 with the cultural issues; and a lot of that comes, I suppose,
6 from the training, the hiring, who you hire, how you train
7 them, and how you hold people accountable when mistakes are
8 made, because mistakes, as the Court knows -- we all know;
9 we've been in this business a long time -- mistakes are going
10 to happen.

11 And it would have been a real test if when this particular
12 case arose, that the system that was in place handled it. And
13 the second case that has come up that we're talking about, did
14 the system handle it? And if so, that would have been an
15 indication of sustainability, at least at this stage.

16 So now we don't know, and I am troubled by that. And
17 hopeful. But we can't stop or decide not to go forward.

18 But we do have to recognize that the question of culture
19 is an ongoing process. It is not one day, two days, and you
20 stop. It is how do you handled the problems when they
21 developed and whether or not the culture is such that you hold
22 people accountable from beginning to end, regardless of their
23 station within the Department. And those are concerns that I
24 still have, you know, now.

25 And I think that, as I looked at the list that the Court

1 indicates that they want to have continue with monitoring,
2 certainly, they are all significant, honestly. We cannot turn
3 a blind eye to some of the areas that have taken place.

4 Consistency of discipline is very important because how
5 you treat your fellow officers is how you may treat the people
6 in the community, and that's very important. If you don't
7 treat the black officers, the women officers fair, how can we
8 expect the people in the community to be treated fairly? So
9 that's an important one, I think, that should be continued to
10 be monitored.

11 The others as well. I agree with Jim that 34 is something
12 that that's a perpetual issue that should be included because
13 that goes to the essence of what we're about here, and it's how
14 we treat people on the street and how people can feel safe that
15 they will not be necessarily stopped just because of the color
16 of their skin.

17 Now, made great progress, but we're not completely done
18 there. The numbers are still pretty high, you know. So, but
19 I think that progress is being made there. I just don't think
20 we ought to take our eye off the ball in that particular area,
21 45, 34, 2 and 5, of course, and whatever the Court thinks is
22 appropriate.

23 But I don't want to forget that we have to deal with the
24 question of how do we make consist efforts at effecting the
25 culture that exists here. And at the end of the day, can we

1 trust the police to police itself?

2 Now, we're going to have other outside entities to help
3 that down the way, but those are issues that I still have
4 concerns about, even despite the fact that we've done --
5 there's great work that's been done down through the years.

6 But that's my feeling about it now.

7 **THE COURT:** Well, so you told me -- the last time we
8 saw each other was at Judge Thompson's induction ceremony.

9 **MR. BURRIS:** Oh, that's right.

10 **THE COURT:** You told me to read *When the Riders Come*
11 *Out at Night*, which I did. I went out and I bought that. And
12 it includes a number of reports and statements that were made
13 by all sorts of people that are easy to document. I'm pretty
14 sure they were accurate.

15 **MR. BURRIS:** Mm-hmm.

16 **THE COURT:** The thing that is striking to me is that
17 the same kind of problem that existed in looking at what
18 the Riders had done internally --

19 **MR. BURRIS:** Yeah.

20 **THE COURT:** -- is echoed by what happened recently,
21 and we've been doing this for 20 years.

22 And so my real question is: What do you think the Court
23 can do to assist in this besides -- I agree with what
24 Mr. Chanin has said. I think a lot of progress has been made
25 on a lot of issues. But the thing that you just kept saying

1 over and over again, that's what -- that's the -- I'm looking
2 for the answer to that question. What do you think?

3 **MR. BURRIS:** Yeah. Well, obviously, the Court's
4 involvement is important.

5 I do think that constant reporting of things, although I
6 must admit, it may require someone more talented in another
7 discipline to really look at those issues. I mean, I do a lot
8 of reading around these police issues as well. I don't know
9 that they've been solved.

10 I've asked Mr. Bob Warshaw, who has been involved in a
11 number of these, has there been any one of his cases that he's
12 worked on where the culture has been fundamentally changed in a
13 different way? And he would say: No, there hasn't.

14 Sure, you can have technical violations -- technical task
15 compliance, which we have here. We have 55 tasks, and most of
16 those tasks -- one or two have not been -- have been in
17 compliance. But has that solved the question of compliance?
18 Has it solved the question of culture change? The answer to
19 that is no. It may have an impact on it, but it hasn't changed
20 it to the way that you feel comfortable.

21 So I don't know the answer to that, and I don't even know
22 if it's solvable, you get down to. I mean, I've done a lot of
23 reading. I've seen a lot of reports of different cities. And,
24 sure, DOJ has been involved in a lot of those and they've had a
25 lot of technical compliance, just like we have here.

1 But when the problem comes up, you still have the same
2 question of police policing itself, the effort of covering up
3 for one's friends. That still does happen. Or you try to --

4 One of the things we have here, we don't have the level of
5 beatings that we used to have on the streets. That's clear.
6 There's been real progress made from that. And I tell people
7 all the time, the kind of cases that Jim and I used to have
8 years ago, we don't have those cases anymore. And that's a
9 good thing. That means there's some people out there who are
10 not being beaten up, who should not have been beaten up.

11 But the answer to it is, I can't tell you that I have it
12 either. And I don't know what the Court can do other than what
13 the Court has been doing.

14 But all that really -- the question is: How do you
15 measure the cultural change? We can certainly measure
16 technical compliance. But how do we measure the cultural
17 change? And that is a question that we may not be able to
18 resolve right now, but I don't know that that means we have to
19 stay in the process here indefinitely till that does happen.

20 **THE COURT:** It is something I'm thinking about.

21 Thank you.

22 **MR. BURRIS:** Yeah. All right. Thank you, Your Honor.

23 **THE COURT:** I appreciate it.

24 Mr. Lucia?

25 **MR. LUCIA:** Your Honor, I'm going to try to keep my

1 remarks brief, but I feel compelled to play off of what
2 Mr. Burris just said.

3 You've always addressed us, and Judge Henderson addressed
4 us, about cultural change. I can give you my anecdotal
5 personal experiences with that, but I think what Mr. Burris
6 just said and we've heard repeatedly is that they're not
7 getting the cases they used to get.

8 And let's be specific. The cases were like the Riders
9 cases, and those were trickling in after they filed the
10 lawsuit. But we haven't seen those cases.

11 So at one level, when we start talking about cultural
12 change, we can't really get in the heads of every person in the
13 City of Oakland, law enforcement, non-law enforcement; but we
14 can look at objectively a few things. And I think that's super
15 important that the Court take into consideration that we don't
16 see the types of lawsuits that they used to file. I know for a
17 fact because our office was involved in those. We didn't
18 defend the City, but we represented the officers. We don't see
19 that. We hear about Louisville and places like that and
20 Memphis. We don't see that in Oakland.

21 Our firm is privileged to represent most of the police
22 officers in the San Francisco Bay Area. I represent the police
23 officers in Berkeley and San Francisco and many others. And we
24 don't see the types of cases that we see in other places,
25 especially outside the Bay Area. That's one.

1 Two, I will tell you, I don't know about anyplace outside
2 California. Our law firm represents cops all over the state.
3 I don't think there's a police department in the state of
4 California that has a structure in place to provide a formula
5 for success. When I say "structure," I mean the NSA-created
6 tasks. And I'm not going to get into whether you should keep
7 control of one, two, or more. But there are tasks in place
8 that have created and spawned a structure of accountability. I
9 mean, there is accountability at multiple levels in this police
10 department, far more than any other police department I have
11 ever been involved with. Ever.

12 And so with the structure -- you've asked what can
13 the Court do? What the Court has done here and what the
14 parties have done is they've created a structure for
15 accountability. And at some point, we've had -- we've come
16 close to becoming compliant and entering the sustain- -- and
17 then things happen.

18 Well, I think things happen because we're in the people
19 business. That's what we do. I'm a labor attorney. I deal
20 with people. You deal with people in this courtroom. And
21 I think we have to just accept the fact that people will make
22 mistakes. We are human beings.

23 But what I think you should expect, what I should expect
24 is -- police officers are held to the highest standards,
25 I think, in the country in terms of employees. This case is

1 evidence of that. There are cops in this country that are
2 going to prison for not doing their job right. They've
3 exceeded their authority. If a cop lies, they're fired.
4 Right? If a lawyer lies, well, maybe you'll hold me in
5 contempt and maybe I'll suffer consequences. But every cop,
6 especially in Oakland, if they come close to lying, they're
7 going to get fired. Every cop is held accountable for their
8 behavior.

9 What I'm going to conclude with is this: I think we
10 have -- I know we have a structure in place now that is far
11 superior to any other police department. And I know from my
12 perspective, being on the other side of all this, I think now
13 we have a structure in the City of Oakland that we didn't have
14 23 years ago. We've got Inspector Generals. We've got a
15 Police Commission. We've got a CPRA. We've got a whole body
16 of people that, as Chief Allison said, have to reflect the
17 needs and the desires and the expectations of the community.
18 We didn't have that before.

19 I'm used to working with civilian oversight bodies, and
20 there's a tension between those bodies and law enforcement.
21 But the reality is, they're here and we need to make it work.
22 And I think that the structure in place now will make that
23 happen.

24 No disrespect to the Court, but at some point this has to
25 end; and when it ends, then the Mayor, the City Council,

1 the City Administrator and, ultimately, the Chief of Police
2 have to be held accountable. By who? Not by a judge, but by
3 the community that they oversee. People in those communities
4 have to hold these people accountable.

5 I mean, my members, our members know, in a paramilitary
6 organization, if you don't respect chain of command and follow
7 the rules, there are consequences.

8 And I believe that this city is ready to take on the
9 responsibility of moving forward, because -- I hate to say
10 this, but in the next six to eight months, something could
11 happen; somebody at a certain level in command staff could
12 engage in some behavior.

13 And I'm going to conclude with this: Our office
14 represented one of the Riders. We were involved in both of
15 those criminal cases. I've had the pleasure and honor to
16 represent Oakland cops for 25, 26 years. This is not the same
17 police department. I'd love to know how many members have been
18 hired since the start of the NSA. By far and away, the
19 majority. This command staff, Chief Allison included, have
20 grown up as managers with expectations changing from
21 this Court, from the plaintiffs' lawyers, from the NSA. So
22 ultimately, I think there has been a cultural change.

23 And you're in a very untenable position, like I am.
24 You're a judge; I'm a lawyer. I've never walked in their
25 shoes. Jim Chanin talked about the ride-alongs. That's the

1 reality of an Oakland cop. It's a dangerous job. They're
2 understaffed, they've overwhelmed, and they're doing their
3 darnedest to protect the community. And they're not doing it
4 by circumventing people's rights. We don't have wild
5 allegations of unconstitutional policing.

6 So I've been -- I said this probably 18 years ago. I
7 haven't said it since. I'm going to say it now. At some point
8 the Court needs to let the Chief be the Chief and be held
9 accountable by those above him or her.

10 **THE COURT:** Thank you.

11 **MR. LUCIA:** You're welcome.

12 **THE COURT:** It's very rare when somebody tells a judge
13 that he's in an untenable situation.

14 **MR. LUCIA:** I know. I know. I'm in an untenable
15 position for even saying it. You're right.

16 **THE COURT:** I very much appreciate your very
17 well-stated comments, Mr. Lucia.

18 So let me go to the Police Commission. And I understand
19 that -- here we are. Please proceed.

20 **DR. MILELE:** Good afternoon, Your Honor.

21 **THE COURT:** Good afternoon. I hope you're feeling
22 better.

23 **DR. MILELE:** No.

24 I am Dr. Tyfahra Milele, Chair of the Oakland Police
25 Commission. Thank you for the invitation here directly from

1 the Commission.

2 Joining me and present with you is Retired Superior Court
3 Judge Brenda Harbin-Forte, Commissioner and Chair of our Ad Hoc
4 Committee for NSA Task 5 and 45. And Judge Harbin-Forte and I
5 are available to answer any questions you may have after my
6 remarks.

7 So briefly, I only have three points to make.

8 The first is that the citizens of Oakland have repeatedly
9 voted to have citizen oversight of the Oakland Police
10 Department centered in the Police Commission.

11 Second, at the January hearing before this Court,
12 the Mayor of Oakland committed to providing the resources
13 needed for effective civilian oversight; and the Police
14 Commission, with its policymaking authority, its community
15 police review agency, and its charter-mandated supervision of
16 the work of the Inspector General, stands ready to assume
17 the Monitor's role in ensuring the Oakland Police Department's
18 accountability to the public.

19 Lastly, the work of the Monitor has been monumental, and
20 the Commission has spent the majority of its time diligently
21 working on the policies he has identified. However, the
22 Commission is eager to use its valuable volunteer time focusing
23 on the issues the community cares about most; namely, disparate
24 enforcement of the law and racial profiling.

25 There's no question in my mind that the Commission,

1 reflecting a diversity and lived experience of the community,
2 can and will do a more thoughtful job working on these issues.

3 We believe the Court should now allow the people and their
4 Commission to take the lead.

5 So I'll pause there, and I or Commissioner Harbin-Forte
6 can answer any questions if you have any.

7 **THE COURT:** I actually don't have questions of you. I
8 appreciate your expression of readiness to take on these tasks.

9 I have, under the NSA and the agreements that brought the
10 case to the Court in the first place, the responsibility of
11 making sure that the NSA -- that the parties achieve full
12 compliance with all of the tasks. There are a couple that
13 still remain outstanding.

14 I appreciate that the Police Commission was not in
15 existence then, is in existence now, and I am encouraged by
16 that fact. And figuring out how to best ensure that that
17 oversight that you discussed and that I now have continues in a
18 way that is as effective as possible is what I'm thinking
19 about.

20 So I very much appreciate your comments. Thank you.

21 **DR. MILELE:** Thank you.

22 **THE COURT:** All right. Ms. Martin?

23 **MS. MARTIN:** Thank you, Your Honor.

24 I appreciate Your Honor's consideration to potentially
25 narrow the tasks that are affirmatively reviewed going forward.

1 I do think that in addition to 2, 5, and 45, if Your Honor
2 includes Tasks 24 and 25 that involve use of force and use of
3 force reporting, that does make the most sense. I do think
4 that's reasonable.

5 I do think that in the City's perspective, the more narrow
6 we can have that affirmative assessment focus be, the more
7 resources we'll be able to use to focus where there is greater
8 need.

9 That's not to say that we're not going to keep doing
10 everything that we are doing to remain in compliance with the
11 other tasks; but there is a non-negligible amount of time and
12 resources that go toward sending document requests and other
13 items on some of the others tasks that we could, frankly,
14 really use any time and resources that we can get to put toward
15 where we really need to use those resources.

16 So I appreciate that, Your Honor.

17 **THE COURT:** All right. You heard the plaintiffs
18 suggest that 34 should be added to that mix. What's your
19 perspective -- do you have an additional perspective besides
20 the one you just shared?

21 **MS. MARTIN:** I think that it makes more sense for 24
22 and 25 to be on the table rather than 34 because most of the
23 issues that will be reviewed in 24 and 25, plus 5, which are
24 essentially all investigations -- use of force investigations,
25 internal affairs investigations -- those form a lot of the

1 basis of the Task 34 risk management meetings.

2 And then our stop data reports are now, quarterly, made
3 public so all of that data and information is available.

4 And if we're still sharing slides from the risk management
5 meeting, I feel that that would give enough information to
6 the Monitor and to plaintiffs' counsel, assuming Jim Chanin
7 will also be getting those slides, to know that things are
8 still in the right place and that we're still maintaining
9 compliance.

10 Because one of the things that I want to be clear on, to a
11 point that Mr. Chanin made, is that none of these tasks are
12 going away if there's not affirmative assessment. We
13 understand that if something happens or someone notices an
14 irregularity or there is an issue that arises, that any of
15 these tasks could come back on the table for affirmative
16 assessment and we could find ourselves back here on another
17 task.

18 I am confident and optimistic, given the structures we
19 have in place, that that won't happen. But I understand that
20 these aren't going away. So I want to allay some concerns that
21 I've heard from plaintiffs' counsel.

22 **THE COURT:** And just to be clear about this, we're
23 going to be back together at the end of the September. Do you
24 think that you're -- would you prefer to come back without
25 having had the more direct oversight of the Monitor on Task 34

1 and just see how things have developed; or would it be helpful,
2 in order to ensure compliance, to have the Monitor looking at
3 34? Entirely up -- I mean, that's --

4 **MS. MARTIN:** You know, Your Honor, while we're here
5 and we still have the benefit of Court and Monitor oversight,
6 it makes the most sense to take some of the training wheels off
7 while we still have some of the training wheels on and see how
8 we do. I think the Department and the City are ready for that.

9 We still plan to present, in our filing, on Task 34. We
10 know that's an area Your Honor is interested in. So we will
11 continue to do that. But I think having as many training
12 wheels off to see how it goes actually makes the most sense for
13 the long run.

14 **THE COURT:** Okay.

15 **MS. MARTIN:** And I want to also just pick up on
16 something that Mr. Lucia said and focus a little bit here on
17 people because, really, at root, that is what we're talking
18 about when we talk about culture.

19 And the Department has a number of people. It's an
20 organization that necessarily is made up of a constantly
21 changing body of people. And those people -- the sworn
22 officers, the civilian Department members -- they share values
23 and attitudes that have been so critical and continue to be so
24 critical to this Department's undeniable progress.

25 And while we do have at times, inevitably, setbacks,

1 errors in judgment, and at those times -- which these times is
2 what I'm talking about -- introspection and change and critical
3 feedback are necessary.

4 And one of the ways the City has changed to address some
5 of those issues is to provide community oversight. We have the
6 Community Police Review Agency, the Police Commission, the
7 Inspector General. So it's not just trying to have a cultural
8 change from the inside, but we are trying to bring the City's
9 culture from the outside into the Department as guideposts.

10 And I think that that is working. We are seeing progress.

11 More often than not in this Department, the officers are
12 successful. And too often in life, we focus more on critical
13 feedback and we don't give positive reinforcement when there
14 are good outcomes. And the reality is that people need both.
15 And police officers and Department employees are people, and
16 they need positive reinforcement too.

17 And we've had a number of successes -- which, Your Honor,
18 thank you for appreciating that and pointing them out -- in the
19 risk management context and some of the implementations that
20 we've brought in through the risk management context, which
21 most notably show themselves in the reduction of racial
22 disparities, in non-dispatched stops, and in lower level uses
23 of force.

24 We've had success in holding officers accountable for
25 using appropriate force and reporting that force accurately,

1 and officers are using their de-escalation techniques on a
2 consistent basis and using force reasonably.

3 One of the reasons that it's important to talk about these
4 successes is because they show that the people in this
5 department are capable and willing to address any problem that
6 they encounter and that they are committed to fairly and
7 thoughtfully serving their community.

8 Another positive in limiting the tasks that are
9 affirmatively reviewed going forward is that provides positive
10 reinforcement to those officers for that good work that they
11 are doing and continuing to do and for those sworn officers and
12 civilian Department members who every day continually
13 successfully uphold not only the letter of the NSA, but the
14 spirit of the NSA as well.

15 Thank you, Your Honor.

16 **THE COURT:** All right. Thank you, Ms. Martin. I
17 appreciate your thoughts.

18 Mayor Thao.

19 **MAYOR THAO:** Good afternoon, Your Honor. So nice to
20 see you in person.

21 **THE COURT:** Very nice to see you. Thank you for being
22 here.

23 **MAYOR THAO:** Absolutely. Thank you for having me.

24 You know, the last time that I was here, the last time I
25 was able to address you, I did share my disappointment in the

1 findings that had recently taken place, and I made to you three
2 commitments.

3 First, I promised to make sure that officers who engage in
4 misconduct were held accountable.

5 Second, I said that the City would address systemic
6 failures by identifying root problems.

7 And third, I said we would continue to not only fix our
8 current system of police accountability and public safety, but
9 to truly reimagine it, to see how we can really move forward.

10 And today I am able to say that the City is delivering on
11 those commitments.

12 In terms of holding officers accountable, my
13 administration and I have made some extremely -- extremely,
14 extremely difficult decisions over the last few months as it
15 played out in the media, of course. And navigating that
16 process has been very difficult, but we were guided by our
17 City's long-term interests. I always say that I will always
18 choose Oakland first and Oakland's residents first.

19 At times we had to stare directly into the headwinds in
20 order to stay on course, and it definitely wasn't easy,
21 especially as a younger mayor coming into office right at the
22 very beginning and having to make these hard decisions.

23 So while I don't take any pleasure in having to hold City
24 employees accountable, I do take seriously the City's
25 responsibility of upholding transparency and excellence. And

1 this is why I'm in this position. This is why I fought to make
2 sure that I would be Oakland's next mayor. It's for that very
3 reason: transparency and excellence.

4 And I'm proud that our team, we met the challenge head-on
5 in regards to those difficult situations that we were put in.

6 I'm also proud to say that the Department and the City
7 have made significant progress toward fixing the problems
8 brought to light in the most recent investigations. And the
9 work has truly been collaborative. The Department, under
10 Chief Allison's stable leadership, played a central role, but
11 it was part of a much greater whole. My office has met weekly
12 with the police department commanders and legal advisors to
13 ensure we were moving forward thoughtfully.

14 Likewise, our esteemed Police Commission and our esteemed
15 Inspector General, who is here with us today, have worked
16 closely with the Department to also provide input and guidance,
17 as well as our valued partners with Mr. Burris and Mr. Chanin.

18 And that brings me to the third commitment we made, which
19 was to continue to reimagine police accountability and public
20 safety. The collaboration I've seen over the last few months,
21 including from all the civilian partners I just mentioned, has
22 further proved to me that Oakland is definitely on the right
23 track.

24 I've thought a lot recently about what it means to really
25 change organizational culture, the topic of today. And I had

1 to back up and really think about how we should really define
2 the organization we're talking about.

3 Historically, there's been this tendency to think of
4 police departments as their own organizations with their own
5 cultures. But in Oakland, we've zoomed out and decided that
6 policing must be part of a larger public safety, what I call,
7 community safety and violence prevention system, and that our
8 police officers have to be integrated into a much larger
9 structure. To me, this means that the best way to continue
10 changing the cultural at OPD is by continuing to weave the
11 Department into the fabric of Oakland and Oakland's culture.

12 The culture of Oakland is a culture of compassion, a
13 culture of service, and, of course, a culture of
14 accountability. Our City is known for having leaders, both in
15 government and in the community, who truly value the fairness
16 and equity values.

17 Having a police department that is overseen by the
18 community with policies that reflect community values, it is a
19 really great start with the ultimate goal, of course, to be
20 that it is ensuring that the Department is part of the
21 community and that it is truly sharing the community's values.

22 And so the question becomes: How do we keep moving in
23 that direction? In the near term, my administration is
24 proposing to add a dedicated staff in the City Administrator's
25 Office to be a point person in these efforts. This person will

1 provide the Chief of Police with a secondary civilian review on
2 any major cases that haven't been investigated by our Community
3 Police Review Agency. And they will work on helping the City
4 move as much as of the investigative work as possible to CPRA,
5 which has a commitment that came out of our Reimagining Public
6 Safety workshops in 2021.

7 Another initiative my administration fully backs is
8 the City's pledge to increase the percentage of female academy
9 recruits to 30 percent by the year 2030. I, as a woman myself,
10 understand that women lead a little bit differently.

11 Increasing gender diversity at OPD has been a focus of mine and
12 many other city leaders for years. It's been a focus of mine
13 prior to being a mayor, prior to being a council member,
14 you know, as a baby staffer and, prior to that, just as a
15 citizen and resident.

16 When Oaklanders chose their public servants at the ballot
17 box, we chose diversity. It benefits us in so many ways and
18 helps shape our identity. We can't fully erase divisions
19 between police services and other City services unless we erase
20 this glaring contrast in who does the work.

21 These are obviously just a few examples of the work
22 Oakland currently has ahead of ourselves. And with so many
23 capable people invested in improving public safety, like the
24 great people all here in this room, including yourself,
25 Your Honor, we'll never stop finding areas for improvement. We

1 know that.

2 And running the Oakland Police Department involves a level
3 of transparency, criticism, discourse, and collaboration that
4 seems to be somewhat unique in policing. Our City has come to
5 embrace it. It means that policing in Oakland will always be a
6 work in progress, and it means that we have the solidarity of
7 purpose to face new problems head-on because it's who we are
8 now.

9 This oversight, yes, it's lasted 20 years, going on 21 or
10 however many years; but it has changed the culture. It has
11 changed the culture of Oakland, of how citizenries can actually
12 hold the police department accountable, how the police
13 department holds itself accountable.

14 As we have heard, many, including Chief Allison, has grown
15 up in the Department under this oversight. So I believe, as I
16 always did, that we are in a space, a unique space where we are
17 creating a new culture for the OPD because we have people like
18 Chief Allison and others who have come up the ranks, many who
19 are in this room with us today who are now the trainers, who
20 are training the trainees under this very culture.

21 And so I thank you so much for your time and for having us
22 here, and I welcome any questions that you may have.

23 **THE COURT:** All right. Thank you, Mayor. I do not
24 have questions for you.

25 I want to tell you that I appreciate your focus on this

1 and your action to show what kind of accountability is demanded
2 of any civil servant.

3 **MAYOR THAO:** Yeah.

4 **THE COURT:** And particularly with the police
5 department, I said it to your predecessor, that this is -- at
6 the end of the day, you're the person who's on the top of the
7 pyramid.

8 **MAYOR THAO:** That's right.

9 **THE COURT:** And leadership in this issue of culture is
10 everything.

11 **MAYOR THAO:** Mm-hmm.

12 **THE COURT:** And it's not something that the Court --
13 the one thing I know is that court supervision can't do very
14 much about informing people that they need to own up to
15 mistakes that they make, be accountable and -- because
16 everybody makes them. But if you can't address them and then
17 move forward, if you try to sweep them under the rug, whether
18 the Court is supervising OPD or not won't make any difference.

19 And so it is really up to you, and the people who are in
20 the offices that they hold within the City, and the volunteers
21 who have formed -- who are sitting on the Commission, and the
22 Office of the Inspector General, all of you are key to making
23 this work far more than anything that is happening here on
24 Golden Gate Avenue.

25 **MAYOR THAO:** Absolutely.

1 **THE COURT:** So, thank you --

2 **MAYOR THAO:** Thank you so much.

3 **THE COURT:** -- for that.

4 And I thank you all for being here.

5 I will issue an order sometime relatively soon which lays
6 out what's going to happen over the next -- until we meet again
7 on September 26th.

8 I am hopeful that as problems arise -- and they will --
9 that they are dealt with transparently and with accountability.

10 And at the end of the September, I'm going to look and see
11 where we are.

12 We went into this sustainability period without actually
13 being fully compliant. We did it because everybody was so
14 anxious to transfer this case into the hands of the City. That
15 may have been -- we may have been -- well, it turns out we were
16 premature, whether that was a good idea or not.

17 The City has never actually reached full compliance on all
18 of the tasks, and I am hopeful, expectant that the City will be
19 in full compliance when all of these new policies that have
20 been recommended are implemented. And then we'll see where we
21 are in September and what kind of further modifications we can
22 make with respect to this.

23 So thank you all for being here, and see you in September.

24 **ALL:** Thank you, Your Honor.

25 (Proceedings adjourned at 4:49 p.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: Tuesday, May 2, 2023

Ana Dub

Ana Dub, RMR, RDR, CRR, CCRR, CRG, CCG
CSR No. 7445, Official United States Reporter

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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
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7 DELPHINE ALLEN, et al.,

8 Plaintiffs,

9 v.

10 CITY OF OAKLAND, et al.,

11 Defendants.

Case No. [00-cv-04599-WHO](#)

**ORDER EXTENDING
SUSTAINABILITY PERIOD**

12
13 Pursuant to the Negotiated Settlement Agreement (NSA) dated January 22, 2003, I placed
14 the City of Oakland into a sustainability period on May 12, 2022, given its “substantial
15 compliance” with the tasks required by the NSA. Dkt. No. 1525. My Order required that the City
16 demonstrate that it could comply with all provisions of the NSA for one year starting on June 1,
17 2022. *Id.* The Order also narrowed the number of NSA tasks under active monitoring by the
18 Monitor/Compliance Director and his team (to Tasks 2, 5, 20, 24, 25, 26, 30, 31, 34, 41, and 45)
19 and reduced the Monitoring Team’s reporting schedule, while directing the Monitor/Compliance
20 Director to continue to provide support to the OPD’s Office of Internal Accountability (OIA) and
21 guidance to the Police Commission. *Id.*

22 The City did not achieve full compliance. As explained during the October 12, 2022,
23 January 24, 2023, and April 11, 2023, Case Management Conferences, the City was either in
24 “deferred compliance” or “not in compliance” with Task 5: significant concerns have arisen
25 regarding the continued inability of the OPD to police itself in a consistent, fair, and equitable
26 way. *See* Dkt. Nos. 1557, 1578 (Not in compliance); Dkt. No. 1557 (Not in compliance); Dkt. No.
27 1540 (Deferred). Task 45 was initially not in compliance, then in partial compliance, and finally
28 deferred with “no compliance finding.” Dkt, Nos. 1540, 1557, 1578. The City has remained in

1 compliance throughout the sustainability period, however, with Tasks 2, 20, 24, 25, 26, 30, 31, 34,
2 and 41.

3 In light of the City's inability to achieve full compliance, the sustainability period will be
4 extended. I will assess the City's compliance with the NSA at the next Case Management
5 Conference on September 26, 2023. By that time, the City should be well on its way to
6 implementing the recommendations of the Clarence Dyer Cohen report, as modified by the City's
7 best judgment. Until further notice:

8 1. The Monitor/Compliance Director and his team will continue to monitor Tasks 2,
9 5, 24, 25 and 45. While Tasks 24 and 25 have remained in compliance during the sustainability
10 period, they are included given the close nexus between the failures of the IAD and the Command
11 Staff as documented by the Clarence Dyer Cohen report and the use of force reporting and internal
12 reviews covered by Tasks 24 and 25. The Monitoring Team will not be required to observe the
13 Risk Management Meetings but may do so at its discretion. The slides prepared for those
14 meetings and the stop data shall continue to be shared with the Monitoring Team. The
15 Monitor/Compliance Director shall share with the Court and the Parties any concerns he might
16 note relevant to stop data.

17 2. In addition to the Task assessments, the Monitoring Team will continue the
18 following activities:

- 19 • Maintain regular contact with the Chief and other Department officials to discuss
20 Department updates, personnel issues, high-profile cases, critical incidents, and other
21 matters.
- 22 • Review and comment upon NSA-related Department policies.
- 23 • Review OIA's audit reports and provide feedback.
- 24 • Engage in other activities as the Monitor/Compliance Director deems necessary.

25 3. The Monitoring Team will conduct site visits and issue reports on a quarterly basis
26 as before. Absent extraordinary circumstances, the Monitor/Compliance Director need not assess
27 compliance with Tasks other than those listed above.

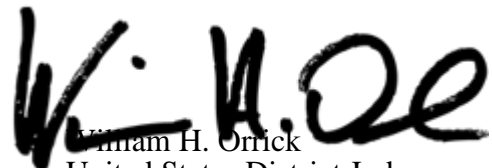
28 4. The term of the sustainability period will be assessed again at the next Case

1 Management Conference. The Monitoring Team’s next site visits will occur in May and August
2 2023. The sustainability reports will be issued in June and September 2023.

3 The Court is wrestling with the utility of its role in helping the City achieve constitutional
4 policing after 20 years of monitoring compliance with the NSA. As discussed at the last Case
5 Management Conference, much good work has been accomplished. Fundamental questions
6 regarding the Oakland Police Department’s ability to police itself remain. The Court appreciates
7 the perspectives expressed by the plaintiffs, OPOA, Police Commission, the City and the Mayor at
8 the last Case Management Conference and looks forward to the parties’ constructive analysis of
9 the remaining issues at the next Case Management Conference. As always, the Joint Case
10 Management Conference Statement is due one week before the hearing, which shall be in person.

11 **IT IS SO ORDERED.**

12 Dated: April 18, 2023


13 William H. Orrick
14 United States District Judge
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United States District Court
Northern District of California

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Police Commission

July 26, 2023

Chief (Ret.) Robert S. Warshaw
Independent Monitor and Compliance Director Monitoring Team, Oakland Police Department
Rotunda Building, Suite 222
300 Frank H. Ogawa Plaza
Oakland, CA 94612
rochtopcop@aol.com

RE: Bey Investigation

Dear Court Monitor Warshaw,

On behalf of the Oakland Police Commission, I write to request your investigation into the complaints by Mr. Ali Saleem Bey and Mr. John Bey. The Beys' complaints directly relate to Task 5 (department's alleged failure to investigate) and are at the heart of the *Delphine Allen, et al., vs. City of Oakland, et al.* case (alleged police misconduct and racial and religious profiling of the Black and Muslim community).

On April 1, 2019, the Commission sent you a letter to notify you of Mr. Bey's complaint and requested that you, as the Compliance Director and Independent Monitor, investigate the substance of his complaint and testimony. At its last meeting on July 13, 2023, the Oakland Police Commission voted to send you this follow-up letter as there was no acknowledgement by you of receipt of the 2019 letter – nor any action to investigate the matter as requested.

The Beys filed the complaint on July 13, 2007 with the Citizens' Police Review Board, which eventually became Internal Affairs Division Case No. 07-0538 and then later by your predecessor Compliance Director to be Case No. 13-1062. The Beys provided testimony regarding mishandling of the subsequent investigation of this complaint. There apparently is also concrete evidence that at least one member of OPD admitted that the department acted with racial and religious bias which may have resulted in OPD's failure to investigate.

Because the matter involved the alleged inadequacy of investigations by the Police Department and the CPRB (now reconstituted as the Community Police Review Agency overseen by the Commission), the Commission believes that your independence and ability to direct an outside investigation on the matter would best serve to get to the truth of the matter.

Please send the Commission a response acknowledging receipt of the letter and any next steps you anticipate taking on the matter. Please also confirm that you have alerted or anticipate to inform Judge Orrick of our request.

We look forward to hearing from you by August 4, 2023 as we plan to place the matter on the agenda again for a Commission meeting to provide an update to the Commission and the community about your response.

Sincerely,



Dr. Tyfahra Milele
Chair, Oakland Police Commission

Attachment:

April 1, 2019 letter by Oakland Police Commission to Court Monitor Warshaw

Cc: Oakland City Council
Oakland Mayor Thao
City Attorney Parker
Oakland Police Commission
Office of Civil Rights, Department of Justice

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Police Commission

April 1, 2019

Chief (Ret.) Robert S. Warshaw
Independent Monitor and Compliance Director
Monitoring Team, Oakland Police Department
300 Frank Ogawa Plaza, Suite 222
Oakland, CA 94612

The Oakland Police Commission is a City of Oakland commission established in November 2016 by the enactment of Measure LL to oversee the City of Oakland Police Department.

As part of its regular meetings, the Oakland Police Commission receives testimony from members of the public regarding the Oakland Police Department. At its public meeting on February 28, 2019, Mr. Saleem Ali Bey provided documents to members of the Oakland Police Commission, including a complaint dated July 13, 2007, filed by Mr. Bey with the Citizens' Police Review Board, which eventually became Internal Affairs Division Case No. 07-0538, and provided testimony regarding mishandling of the subsequent investigation of this complaint.

On March 14, 2019, at the request of Mr. Bey, the Oakland Police Commission voted to provide notice to the Independent Monitor appointed in *Delphine Allen, et al., vs. City of Oakland, et al.*, of Mr. Bey's complaint and to request that the Independent Monitor investigate the substance of Mr. Bey's complaint and testimony. Oakland Police Commission meetings are video recorded and Mr. Bey's testimony is available at the following address: <https://www.oaklandca.gov/boards-commissions/police-commission/meetings>.

Sincerely,

Regina Jackson

Regina Jackson
Chair, Oakland Police Commission

SWANSON & McNAMARA

300 Montgomery Street
Suite 1100
San Francisco, CA 94104
www.swansonmcnamara.com
Tel (415) 477-3800
Fax (415) 477-9010

August 8, 2023

Via email

Thuy Thi Nguyen
Garcia Hernandez Sawhney LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501

Dear Ms. Ngyuen:

I am the court-appointed counsel for the Monitor and Compliance Director in this matter, and I am writing to acknowledge receipt of the Police Commission's July 26, 2023, letter.

As I explained in our call, the matter raised in the Commission's letter received extensive attention from the Monitor years ago when it first arose, and there is no further action to be taken by the Monitor on the matter. We suggest that to the extent the Commission is interested in pursuing the issue further, it raise its concerns with the Chief of Police and appropriate staff within the Oakland Police Department.

Regards,



Edward W. Swanson
Swanson & McNamara LLP

Supervised Release Inquiry Policy Assessment Proposal

Objective:

The objective of this community-based qualitative assessment is to gather feedback and insights from affected community members regarding Oakland Police Department DGO R-2 B-3, which addresses the protocol for inquiring about an individual's Supervised Release (probation, parole, mandatory supervision, and PRCS) status during interactions with law enforcement officers. The assessment aims to evaluate the perception and impact of this policy on the community, ensuring that OPD practices align with community values and expectations.

Methodology:

Recruitment: The Outreach Ad Hoc Committee will be collaborating with community-based organizations working with the reentry population to recruit appropriate assessment participants. The Committee intends to incentivize participation via \$50 gift cards. The current target number is 50 participants for in-person focus groups or individual interviews.

Focus Groups: Organize focus groups consisting of affected community members including those who are or have recently been on supervised release. The focus groups will allow for open discussions, capturing nuanced perspectives on the policy's implications and potential areas for improvement. Areas of specific focus will be general community awareness of the policy and individual experiences to which this policy pertains.

Surveys: Conduct anonymous surveys accessible online via the Commission website and in person in conjunction with focus groups. The surveys will be designed to collect qualitative data on community members' perceptions and experiences related to interactions with law enforcement officers regarding Supervised Release status inquiries. Additionally, the survey will capture demographic, geographic, and chronological data to provide context for the qualitative information being gathered.

Individual Interviews: Conduct one-on-one interviews with community members who have experienced or witnessed interactions with law enforcement officers involving Supervised Release status inquiries. If possible, it may also be useful to interview a selection of patrol officers to assess their understanding of and implementation of this policy. This approach will provide deeper insights into individual experiences and emotional impacts.

Topics for Assessment:

The assessment will focus on the following areas:

Awareness and Understanding: Evaluate the level of awareness and understanding among community members about the existing policy on inquiring about Supervised Release status.

Perceptions of Justice and Respect: Explore how community members perceive the policy, particularly its implications on justice, respect, and individual rights during interactions with law enforcement.

Impact on Community-Officer Relations: Assess the impact of the policy on community-officer relations, trust, and cooperation.

Occurrence and Justification of Inquiries: Examine the frequency and justification of Supervised Release status inquiries during interactions between officers and community members.

Immediate Threat Criteria: Understand community perceptions regarding the criteria for determining an "Immediate Threat" that justifies inquiring about Supervised Release status at the beginning of an interaction.

Framing of Subsequent Inquiries: Evaluate how officers frame subsequent inquiries about probation, parole, mandatory supervision, and PRCS status, and whether they align with the respectful manner specified in the policy.

Ethics and Anonymity:

Ensure participant confidentiality and anonymity throughout the assessment process. Obtain informed consent from all participants and refrain from collecting any personally identifiable information.

Timeline:

The assessment will be conducted over a period of two months, as follows:

Week 1-2: Plan and design the assessment, including survey questionnaires and interview protocols.

Week 3-4: Conduct focus groups, interviews, and distribute surveys across the community.

Week 5-6: Analyze data collected from focus groups, interviews, and surveys.

Week 7-8: Compile the final qualitative assessment report, including key findings, recommendations, and proposed policy amendments.

Expected Outcomes:

The qualitative assessment will provide valuable insights into the community's perception of the current policy on inquiring about Supervised Release status. It will identify strengths and weaknesses in the policy, assess its impact on community members, and inform potential improvements to foster better community-police relations.

Budget:

The estimated budget for this assessment is \$2,500 for the initial purchase of 50 incentive gift cards with a contingency for as many an additional 50 cards at \$50 per card, and \$500 for snacks and beverages at the focus groups.

**OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND**

Frequently Asked Questions (FAQs)

Regarding the City Council’s (and Other Local Legislative Bodies’) Return to In-Person Meetings and Their Members’ Participation by Teleconference under the Ralph M. Brown Act, California’s Open Meeting Law

Issued: March 30, 2023

Revised:

Issued By: Barbara J. Parker, Oakland City Attorney



I. INTRODUCTION

On February 28, 2023, California Governor Gavin Newsom [issued a proclamation](#) terminating the statewide COVID-19 State of Emergency that had been in effect since March 4, 2020. The termination of the State of Emergency impacts the ability of members of the Oakland City Council and other local bodies covered by the California Ralph M. Brown Act, California Government Code section 54950 et seq. (hereinafter the “Brown Act”) to attend meetings by teleconference.

Assembly Bill (“AB”) 361, signed by the Governor on September 15, 2021, and the Governor’s prior emergency orders, temporarily suspended the Brown Act’s restrictions on participation in public meetings via teleconference. Prior to March 2020, members of local bodies could participate in public meetings via teleconference only if, among other things:

1. Notices and agendas were posted for each teleconference location from which members of the local body intended to participate;
2. Teleconference locations were accessible to the public, including persons with disabilities;
3. The public could participate in the meeting from each teleconference location; and
4. A quorum of the legislative body participated from within the boundaries of the jurisdiction.¹

AB 361 modified these requirements, providing that members of local bodies could participate in public meetings without complying with the public notice of and access to the teleconference location when, among other things, a state of emergency exists and the local body or the state recommends social distancing as a safety measure.² A state of emergency refers specifically to the authority of the Governor of California to invoke a state of emergency, and not to states of emergency declared by local bodies.³ As set forth above, the termination of the

¹ Cal. Gov’t Code § 54953(b)(3).

² Cal. Gov’t Code § 54953 (e)(1).

³ Cal. Gov’t Code § 54953(j)(5).

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Governor’s State of Emergency means that, effective March 1, 2023, local bodies may no longer rely upon AB 361 to participate in meetings via teleconference.

The termination of the Governor’s State of Emergency leaves two options for teleconference participation by members of local legislative bodies:

1. the traditional teleconference rules; and
2. the limited exceptions provided by Assembly Bill (“AB”) 2449.

Effective January 1, 2023, AB 2449 preserves, under very limited circumstances, an option for members of bodies subject to the Brown Act to participate in meetings via teleconference without complying with the public notice and public access to a member’s remote teleconference location. The AB 2449 exceptions to the standard teleconference rules are very limited and, among other things, only apply to meetings that provide a teleconference option for public participation, and can be invoked only for a maximum of 20% of the regularly scheduled meetings per calendar year.⁴

To ensure that the public, City of Oakland (“City”) employees, and City officials have the same information, the City Attorney is issuing this FAQ to provide answers to common questions regarding AB 2449 and the ability of members of local bodies to participate in public meetings via teleconference going forward. For additional questions regarding the Brown Act see our recent FAQ [here](#).

This FAQ is a general guide and does not constitute legal advice as the specific facts and circumstances must be evaluated on a case-by-case basis.

II. FREQUENTLY ASKED QUESTIONS REGARDING TELECONFERENCE MEETINGS UNDER BROWN ACT

1. Why Are Members of Local Bodies Returning to In-Person Meetings?

Answer: Since March 4, 2020, California has been in a COVID-19 State of Emergency that Governor Newsom. AB 361 declared and prior emergency orders allowed members of local bodies to conduct and participate in public meetings without complying with the notice of and public access to the teleconference locations when, among other things, a proclaimed state of emergency existed.⁵ On February 28, 2023, California Governor Gavin Newsom [issued a proclamation](#) terminating the statewide COVID-19 State of Emergency. As a result, local bodies

⁴ Cal. Gov’t Code § 54953(f)(1); Cal. Gov’t Code § (f)(2)(A)(i) and (ii).

⁵ Cal. Gov’t Code § 54953 (e)(1). State of emergency refers specifically to the authority of the Governor of California to invoke a state of emergency, and not to states of emergency declared by local bodies. Cal. Gov’t Code § 54953(j)(5).

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can no longer invoke AB 361 and are limited to the pre-pandemic traditional teleconference rules and the limited circumstances allowed by AB 2449. In other words, members of local bodies can participate in public meetings via teleconference after the termination of the COVID-19 State of Emergency but the circumstances are much more restricted.

2. Can Members of Local Bodies Still Participate in Meetings Via Teleconference under the Longstanding Teleconference Rules?

Answer: Yes. The Governor’s termination of the statewide COVID-19 State of Emergency does not impact the longstanding teleconference rules under California Government Code section 54953(b)(3), which provides in pertinent part:

If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.⁶

Members of local bodies intending to use the longstanding teleconference rules should coordinate with their staff liaison and/or the City Clerk to ensure: 1) Brown Act required noticing of the location of the teleconference meeting; 2) Brown Act required postings of the notice and agenda at the teleconference location; 3) coordination regarding any technical requirements for participating remotely; and 4) a quorum of the body will participate in the meeting within the boundaries of City of Oakland.

3. What is Assembly Bill (“AB”) 2449?

Answer: AB 2449, effective January 1, 2023 and codified in California Government Code § 54953, allows members of local bodies covered by the Brown Act to participate in meetings remotely via teleconference for “just cause” and “emergency circumstances” regardless of whether a state of emergency exists and without providing notice of or public access to the teleconference location.⁷

⁶ Cal. Gov’t Code § 54953(b)(3)

⁷ Cal. Gov’t Code § 54953(f)(2)(A)(i) and (ii) (Just Cause and Emergency Circumstances exception to 54953(b)(3) – the longstanding teleconferencing requirements)

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AB 2449 can be used only when members of the public also are allowed to participate remotely (i.e. to listen/observe and provide comment) via teleconference.⁸ AB 2449 does not apply and cannot be used for meetings that are only offered in-person or that are in-person with a teleconference option set to “observation only” such that the public cannot provide comment via teleconference.

4. Is the Public Always Allowed Notice of the Teleconference Location and Access to Participate in Meetings Via the Teleconference Location?

Answer: No. Only the longstanding teleconference rules require public notice of and access to the teleconference location. AB 2449 provides for exceptions to those requirements.

5. How Does AB 2449 Work?

Answer: The procedures vary depending on whether the member asserts “just cause” or “emergency circumstances” as the basis for the need to participate in the meeting remotely.

For Just Cause

- Timing of Notice: The member must notify the legislative body of their need to participate remotely at the earliest opportunity possible, up to the commencement of the meeting.⁹
- What to include in the Notice: The notice must provide a general description of the circumstances relating to their need to appear remotely at the given meeting.¹⁰
- “Just cause” means any of the following:
 - (A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
 - (B) A contagious illness that prevents a member from attending in person.
 - (C) A need related to a physical or mental disability not otherwise accommodated.
 - (D) Travel while on official business of the legislative body or another state or local agency.¹¹

⁸ Cal. Gov’t Code § 54593(e)(2)(A)

⁹ Cal. Gov’t Code § 54953(f)(2)(A)(i).

¹⁰ Cal. Gov’t Code § 54953(f)(2)(A)(i).

¹¹ Cal. Gov’t Code § 54953(j)(2).

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- Per meeting notice is not required: Unlike the emergency circumstances exception, it does not appear that separate notices are required for participating remotely under the just cause exception.¹² Thus, a member could provide notice of remote participation via teleconference for just cause for up to two meetings—the maximum number of times just cause can be used¹³—if the member is aware of the need in advance, such as for childcare or official travel.
- No action by legislative body required: Invoking the just cause exception is self-executing and no further action by the body is required.¹⁴
- No requirement to notice the member’s remote participation on the agenda.

For Emergency Circumstances

- Timing of Request: The member must request that the legislative body allow them to participate in the meeting remotely due to emergency circumstances as soon as possible, preferably with enough time to place the proposed action on the posted agenda for the meeting for which the request was made. However, if the timing of the request does not allow sufficient time to post the matter on the agenda, the legislative body may take action at the beginning of the meeting.¹⁵
- What to include in the Request: The member need not provide any additional information at the time of the Request to participate in the meeting remotely due to emergency circumstances. However, the legislative body must request a general description of the circumstances relating to the member’s need to appear remotely at the given meeting. The general description need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.¹⁶
- “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.¹⁷
- Per meeting request is required: A member must make a separate request for each meeting in which they seek to participate remotely.¹⁸
- Action by legislative body is required:¹⁹ The legislative body may approve such a request by a majority vote of the legislative body.²⁰

¹² Compare Cal. Gov’t Code § 54953(f)(2)(A)(i) to Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I).

¹³ Cal. Gov’t Code § 54953(f)(2)(A)(i).

¹⁴ Compare Cal. Gov’t Code § 54953(f)(2)(A)(i) to Cal. Gov’t Code § 54953(f)(2)(A)(ii)(II).

¹⁵ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I)-(II).

¹⁶ Cal. Gov’t Code § 54953(f)(2)(A)(ii).

¹⁷ Cal. Gov’t Code § 54953(j)(1)

¹⁸ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I)

¹⁹ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(II).

²⁰ Cal. Gov’t Code § 54954.2(b)(4).

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6. Are There Any Specific Limitations on the Manner of Voting by Members During a Teleconferenced Meeting?

Answer: Yes. For any meeting in which the legislative body elects to use teleconferencing, whether via the longstanding teleconferencing rules or under AB 2449, all votes during the meeting must be by rollcall.²¹

7. Is There a Limit to the Number of Times a Member of a Local Body Can Participate via Teleconference?

Answer: It depends on which teleconference rules are invoked. No limit exists on the number of times a member of a local body can participate via teleconference using the longstanding teleconference rules. However, AB 2449 does impose strict limits on use of its provisions. AB 2449 has two categories of exceptions that allow use of participation by teleconference: just cause and emergency circumstances.²² Just cause can be used no more than twice in a calendar year.²³ And just cause and emergency circumstances, together, may not be used more than 20% of the regularly scheduled meetings for the calendar year or for more than 3 consecutive months.²⁴

8. Are There Any Other Limitations on the Use of AB 2449?

Answer: Yes.

- AB 2449 can be used only when members of the public are also allowed to participate remotely (i.e. to listen/observe and provide comment) via teleconference. AB 2449 does not apply and cannot be used for meetings that are only offered in-person or that are in-person with teleconference options set to “observation only” such that the public cannot provide comment via teleconference.²⁵
- AB 2449 can be used only if a quorum of members of the legislative body participate in person from the same location within the City, and location must be clearly identified on the agenda and open to the public.
- AB 2449 can be used only for a maximum of 20% of the regularly scheduled meetings for the calendar year or for more than 3 consecutive months.²⁶ “Just cause” cannot be used more than twice in a calendar year.²⁷ For boards or commissions that meet monthly, AB 2449 can only be used a total of two times,

²¹ Cal. Gov’t Code § 54953(b)(2)(A).

²² Cal. Gov’t Code § 54953(f)(2)(A)(i) and (ii) (Just Cause and Emergency Circumstances exception to 54953(b)(3) – Standard (traditional) teleconferencing requirements).

²³ Cal. Gov’t Code § 54953(f)(2)(A)(i).

²⁴ Cal. Gov’t Code § 54953(f)(3).

²⁵ Cal. Gov’t Code § 54593(e)(2)(A).

²⁶ Cal. Gov’t Code § 54953(f)(3).

²⁷ Cal. Gov’t Code § 54953(f)(2)(A)(i).

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regardless of the exception (just cause or emergency circumstances) in the whole calendar year.

- Members participating remotely under AB 2449 must participate both on camera and via audio.²⁸
- Additionally, before any action is taken, the member must disclose if anyone 18 or older is in the room at the remote location with them, and the general nature of the relationship with the person or persons.²⁹
- Members of the public must be allowed to remotely hear and visually observe the meeting, and remotely address the legislative body via either 1) a two-way audiovisual platform (e.g. Zoom) or 2) a two-way telephonic service and a live webcasting of the meeting.³⁰
- The agenda must identify the call-in option, internet-based service option and the in-person location of the meeting.³¹

9. Does AB 2449 or the Brown Act Require City Staff or the City Attorney or City Attorney staff to Attend Meetings of Legislative Bodies In Person As Well?

Answer: No. AB 2449 amends the Brown Act to provide additional but limited circumstances under which members of local bodies can participate in public meetings via teleconference after the termination of the COVID-19 State of Emergency. However, neither AB 2449 nor the Brown Act require City staff, City Attorneys or members of the public to participate in public meetings in person.

10. Must the Meeting Stop If the Internet Service Broadcasting the Meeting Goes Down During the Meeting?

Answer: No. The meeting need not stop while such technical difficulties are resolved, however whether the legislative body can take further action on items appearing on the agenda depends on whether any member of the body is participating by teleconference via AB 2449.

The meeting may continue as normal if no member of the legislative body has invoked AB 2449 to participate via teleconference.

However, if a member has invoked AB 2449 and is participating via teleconference, in the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public, or in the event of disruption within the agency's control that prevents members of the public from offering public comment, the body

²⁸ Cal. Gov't Code § 54953(f)(2)(C).

²⁹ Cal. Gov't Code § 54953(f)(2)(B).

³⁰ Cal. Gov't Code § 54953(f)(1)(A)(i)-(ii).

³¹ Cal. Gov't Code § 54953(f)(1)(C).

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must not take further action on items appearing on the meeting agenda until public access to the meeting is restored.³² In-person public comment and discussion by the body may continue.³³ Of course, nothing in AB 2449 or the Brown Act prevents a legislative body from exercising its discretion to pause a meeting while technical difficulties are resolved, even though no law requires them to do so.

11. Do Standing Committees of Local Bodies Have to Meet in Person?

Answer: Yes. The teleconference meeting rules apply to all legislative bodies covered by the Brown Act. The Brown Act defines legislative body to include the governing body of the local agency, as well as any other “body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.”³⁴

For the City, this includes the Oakland City Council, which is the governing body of the City, the City Council's standing committees, and all other bodies created by the City Charter or by Council action, such as the Public Ethics Commission, the Police Commission, the Housing, Residential Rent and Relocation Board, and the Civil Service Board. Any standing committees of those bodies also would be considered a legislative body covered by the Brown Act.

The Oakland-Alameda County Joint Powers Authority is a local, legislative body that is subject to the Brown Act³⁵.

By contrast, an advisory body composed of less than a quorum of the legislative body that is established for a specific, single purpose and that is temporary in nature is not subject to the Brown Act.³⁶ These temporary advisory bodies sometimes are referred to as ad hoc committees. Ad hoc committees are not considered a legislative body and thus are not subject to the Brown Act. Ad hoc committees are not impacted by the teleconference meeting rules and those committees may continue to meet as they did before the termination of the COVID-19 State of Emergency.

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³² Cal. Gov't Code § 54953(f)(1)(D).

³³ Cal. Gov't Code § 54952.6.

³⁴ Cal. Gov't Code § 54952.

³⁵ *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force*, 134 Cal. App. 4th 354, 362-363 (2005).

³⁶ Cal. Gov't Code § 54952(b).



CITY OF OAKLAND | POLICE COMMISSION
250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CA 94612

Current Committees

Ad Hoc Committee	Commissioners
Budget	Milele, Jordan, Jackson-Castain
Body Worn Camera Policy	Peterson and Hsieh
Community Outreach	Howell, Jordan, Ordaz
CPRA Policies	Ordaz, Jackson-Castain, Peterson
Community Policing DGO 15-01	Hsieh and Howell
Militarized Equipment Policy	Hsieh, Jackson-Castain, Jordan
Negotiated Settlement Agreement	Hsieh and Milele
Racial Profiling Policy	Committee of the Whole
Rules of Procedure	Hsieh, Howell, Jackson-Castain
Staff Searches (CPRA, CoS, Chief)	Milele, Jordan, Howell
Staff Evaluations (IG, CPRA)	Jordan and Howell
OBOA Allegations	Jackson and Ordaz

Recently Completed/Paused/Dormant

Ad Hoc Committee	Commissioners
Annual Report	Jackson and Peterson
Antidiscrimination Policy	<i>Harbin-Forte, Hsieh, Jackson</i>
Electronic Communication Devices	Howell, <i>Harbin-Forte</i> , Peterson
Police Chief Goals and Evaluation	Milele, Peterson, Jackson
Risk Management Policy	Peterson, <i>Harbin-Forte</i> , Howell
Social Media Policy	Milele, Hsieh, Jackson
White Supremacists and Other Extremist Groups	<i>Harbin-Forte, Jackson</i>
OIG Policies	Peterson, <i>Harbin-Forte</i> , Jackson
Contracts	Peterson, Howell, Ordaz

For a roster of current Commissioners and their emails, visit:

<https://www.oaklandca.gov/teams/police-commission>

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Annual evaluation of Chief of Police	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Postponed	Annual	Ord. Section 2.45.070(G)
Annual evaluation of Inspector General	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	In Discussion	Annual	Ord. Section 2.45.070(G)
Hiring CPRA Director including public forum	Staff Searches Ad Hoc	Commission responsible for hiring of Agency Director	Completed June 2023	Incident-based	Charter - 604(e)(4)
Annual evaluation of CPRA Director	Conduct performance reviews of the Agency Director and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	July/August 2024	Annual	Ord. Section 2.45.070(G)
Annual report to the Mayor/City Council/the public	Complete Annual Report		Completed May 2023	Annual	
Hiring of Police Chief	Complete search for new Chief of Police and recommend candidates to Mayor	The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least three (3) candidates and transmit the names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission.	Nov 2023	Incident-based	Charter - 604(b)(10)
MEETINGS					
Public Hearing on OPD Policies	Commission may shall determine which Department policies are subject of the hearing		2023 Public Hearings on OPD Policy: Militarized Equipment (May) and NSA-related policies (Multiple)	Annual	Charter Section 604(b)(2)

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Two meetings per year outside City Hall - "Community Roundtables"	Agendized ten days in advance	Commission shall consider inviting to each roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and formerly incarcerated members of the community	Community forums on Police Chief search at Oakland Public Libraries	Annual	Charter § 604(d)(1) and Ord. § 2.45.090
BUDGET					
Public hearing on OPD Budget	Purpose of hearing is to "determine whether budgetary allocations for the Department are aligned with the Department's policies". Develop and Approve Recommendations to City Council re Mayor's Budget	May 2023 -- Tentative release date of Mayor's proposed budget is May 1st of each year.	May 2023 meeting - coupled with community roundtable and budget public hearing	Annual	Charter Section 604(b)(7)
Propose a Commission Budget, in general	Propose staff position submission to City Administrator necessary to permit the Commission and the CPRA to fulfill its functions and duties.	Update requested by Comm. Peterson (4.13.23)	Approved March 2023 - Revisit May 2023 after release of Mayor's budget	Annual	Ord. Section 2.45.180
Review and Comment on Proposed Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Jobrelated Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Included in Budget Memo	Annual	Charter § 604(d)(1) and Ord § 2.45.090

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Propose a Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Job-related Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Included in Budget Memo	Annual	Ord. § 2.45.070(C) & (D) (C) Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. (D) Prepare and deliver to the Mayor, the City Administrator and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection C., above.
Quarterly budget review and regular updates on the agenda		Requested by Comm. Jackson (12.8.23; 2.9.23; 2.23.23; 3.23.23)	In Progress	Continuous	
OTHER ITEMS: for CPRA					
Solicit/Consider Public Input re Quality of Interactions with CPRA and Commission			Public Forum for CPRA Director Searches	Continuous	Ord. § 2.45.070(Q)
Establish Rules/Procedures re Mediation/Resolution of Complaints of Misconduct		Requested update by Comm. Harbin-Forte (4.13.23)	In Progress with CPRA	Continuous	Ord. § 2.45.070(N)
RFP for IAD transition to CPRA		Requested by CPRA	In Progress with CPRA	Incident-Based	
Review the Agency's dismissal and/or administrative closure of all complaints of misconduct involving Class I offenses			Jan 2024 (6 months into CPRA Director's start)	Continuous	Ord. Section 2.45.070(M)
Provide policy guidelines to CPRA Director for determining case prioritization		Requested by Comm. Jackson (11.10.22; 4.13.23) re: Charlotte Jones' August 2022 email; Chair has asked Charlotte when she can report on it	In Progress with CPRA Policies Ad Hoc	Continuous	
Determine the number of existing CPRA staff who would work at a "street-level or ground-floor, visible office that is accessible by public transportation."			In Progress with CPRA	Incident-Based	Ord. Section 2.46.020

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for OPD					
Notify Chief of required contents of Chief annual report	See enumerated list of topics		Completed	Annual	Ord. Section 2.45.070(F)
Review And Comment On Department's Practices/Policies Re: Reporting And Publishing Data On Its Activities				Continuous	Ord. § 2.45.070(P)
Revisit OPD's Grooming & Presentation policy		Requested by Comm. Gage (1.13.22)			
Report on intentions regarding Militarized Equipment			Militarized Equipment Annual Report and Public Forum completed in 2023		
Report on claims regarding bail and increase in crime		Requested by Comm. Hsieh & Harbin-Forte repsectively (4.14.22)			
Update on OPD's Parole & Probation policy plus impact.		Requested by Comm. Jackson (2.10.22; 1.12.23)			
Approve/Modify/Revoke OPD Use of "Military Equipment" via Annual Report Process			May 2023		Ord. Section 9.65.030
Report from Chief regarding OPD's homelessness policy		Requested by Comm. Harbin-Forte (2.10.22)			
OPD annual update on impact of the missing person's policy		Requested by Comm. Jackson (8.25.22)			
Receive reports from Department via City Administrator on issues identified by the Commission				Continuous / Incident-Based	Ord. Section 2.45.070(R)
Informational report of data from MACRO, OPD, and CARES	(1) how many intakes CARES has received from OPD and MACRO; (2) a report from MACRO on their OPD referrals and the outcomes of those referrals for tracking purposes; (3) and finally, from OPD to see; the numbers of arrests that are eligible for CARES, the dispatches to MACRO and the types of cases involved, and the juvenile cases that are appropriate for juvenile pre-filling diversion and the outcomes of those cases	Requested by Comm. Hsieh (2.23.23)	July 2023	Annual	
OPD presentation on police misconduct data and how OPD evaluates/addresses misconduct allegations		Requested by Jackson-Castain (3.23.23)	IAD Policy Presentations and Review Completed June-August 2023		
OTHER ITEMS: for OIG					
OIG Annual Report	Provide Commission OIG Annual Report			Annual	Ord. Section 2.45.120
Monitor/evaluate # of officers receiving training on profiling, implicit bias, de-escalation, and other key topics				Continuous	Ord. Section 2.45.120

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Develop and present a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn officers				Continuous	Ord. Section 2.45.120
Complete all audits/reviews requested by the Mayor, City Administrator, City Council				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: Recruiting and hiring sworn personnel				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: OPD Policies the Commission seeks to create or modify				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: OPD's risk mgmt. practices				Continuous	Ord. Section 2.45.120
Advise OIG of priorities for the 52 NSA Tasks		Part of Post-NSA Standing Committee		Continuous	Ord. Section 2.45.120; Charter 604(f)(5)
OTHER ITEMS: for Commission					
Community Policing presentation/training		Requested by Comm. Hsieh/Commission Ad Hoc (5.26.22)	Postponed: Community Policing Policy in review		Ord. Section 2.45.070(O)
Maintain/update bylaws		Rules of Procedure Ad Hoc - in progress	In Progress with Rules Committee	Continuous	Ord. Section 2.45.040
Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of litigation			April 27, 2023 (next October 2023)	Continuous	Ord. Section 2.45.070(I)
Mayor's Youth Commission		Requested by Comm. Jackson (8.25.22)			
Bay Area Youth EMT		Requested by Comm Harbin-Forte (8.25.22)			
Presentation on new HR process		Requested by Comm. Jackson (11.10.22)			
Presentation on Ceasefire		Requested by Comm. Jackson (1.12.23)	Completed July 2023		
Half-day strategic planning session		Requested by Comm. Jackson-Castain (1.12.23)			
Discussion on content of future OPD reports		Requested by Comm. Jackson-Castain (1.26.23)		Continuous	
Audit compliance update		Requested by Comm. Jackson (2.9.23)			
Juvenile Miranda Policy and juvenile detention program update		Requested by Comm. Hsieh (2.9.23)			