
Review of Internal Affairs Division Cases 07-0538, 13-1062, and 16-0146: Policy Recommendations Derived From The Bey Matter

Friday, May 17, 2024



CITY OF OAKLAND
OFFICE OF THE INSPECTOR GENERAL

250 Frank H. Ogawa Plaza • Oakland, CA 94612
Michelle N. Phillips, Inspector General



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Thursday, May 17, 2024

Dear Members of the Public,

In 2020, 81 percent of voters approved Measure S1, establishing the Office of the Inspector General (OIG). The legislation strengthened Oakland’s police reform efforts, in part, by granting the OIG the authority to audit Oakland Police Department (“Department”) policies, practices, and procedures during and after federal oversight.

Per Section 604(f)(5) of the Oakland City Charter, the OIG also has the authority to “*review legal claims, lawsuits, settlements, complaints, and investigations, by, against or involving the Department and the Agency to ensure that all allegations of police officer misconduct are thoroughly investigated, and to identify any systemic issues regarding Department and [Community Police Review] Agency practices and policies.*”

The OIG recently conducted a review of Internal Affairs Cases 07-0538, 13-1062, and 16-0146 at the direction of the Oakland Police Commission (“Commission”).

According to records and open-source data reviewed for this report, Your Black Muslim Bakery (YBMB) was opened in Oakland, California in 1971. In 2002, YBMB named a new Chief Executive Officer (CEO) after the founder became ill and subsequently passed away. In February 2004, the CEO went missing in Oakland. Several months later their remains were found in the King Estates neighborhood. Per reviewed documents, the death was ruled a homicide, prompting the Oakland Police Department’s (OPD) Criminal Investigations Division (CID) to open an investigation.

In June 2005, a family member and YBMB colleague of the CEO reported that they were the victim of a violent crime, initiating another CID investigation. After the incidents, the victim and a member of his family consistently contacted OPD to receive updates on the criminal cases. The two criminal investigations remain open as of this report.

The victim and member of his family became complainants, having filed multiple administrative complaints against members of OPD for allegedly violating department policies and the law. OPD’s Internal Affairs Division (IAD), the Community Police Review Board (CPRB) – now the Community Police Review Agency (“Agency”) – and California’s Department of Justice (DOJ) have conducted preliminary inquiries or full investigations into most of the complainants’ allegations. Some complaints were classified as service complaints and administratively closed. The complainants continue to voice their concerns, which include a stance that OPD and the CPRB/Agency have not conducted fair and thorough investigations.



Before the appointment of the Inspector General, the Commission voted for the OIG to review IAD Cases 07-0538, 13-1062, and 16-0146 which were filed by the complainants. The scope of the review, as communicated to the Inspector General, included assessing those IAD cases for policy gaps or deficiencies, noting lessons learned, and providing recommendations where appropriate. Since the OIG does not have jurisdictional authority to complete independent investigations, there were no additional interviews or fact-finding during this review. The information contained in this report is based solely on an independent review of how IAD handled the administrative complaints associated with Cases 07-0538, 13-1062, and 16-0146, particularly as they relate to possible policy reform.

SCOPE

The scope of this review is limited to IAD Cases 07-0538, 13-1062, and 16-0146. In January 2022, the Inspector General was instructed by the Commission to review the IAD cases for possible policy reform. After a review of relevant DGOs, policies, and procedures, the OIG focused on those with the largest impact. The selected policies and procedures were reviewed to identify any policy gaps or deficiencies.

METHODOLOGY

The OIG was provided access to documents the Commission subpoenaed for the Knox & Ross independent legal analysis. . During the initial review of the documents, the Inspector General identified certain information gaps, and as a result requested additional documents from OPD, the Agency, and the Commission. The OIG reviewed the following documents and information:

- IAD Case Information for 07-0538, 13-1062, and 16-0146
 - Citizen Complaint Forms
 - Documentary Evidence
 - Audio Recordings of Interviews
 - Email and Letter Correspondence
 - Reports of Investigation
 - Chronology Logs
- IAD Case Information for 07-0553 and 20-0218
- Departmental General Orders
 - Past and Current Iterations
- OPD Internal Affairs Policy and Procedure Manual
 - Past and Current Iterations
- OPD Criminal Investigation Division Policy and Procedure Manual
 - Past and Current Iterations
- Knox & Ross’s Initial Report (May 2021)
- Knox & Ross Supplemental Report (July 2021)
- CPRB Report(s) associated with 13-1062



In addition to the above information, the OIG received legal guidance from Oakland’s City Attorney’s Office, regarding relevant mandates of the:

- City Charter;
- Municipal Code; and,
- Peace Officer Bill of Rights.

LIMITATIONS

At the onset of this review, the Commission voted to provide the Inspector General access to the subpoenaed documents. This distinction was limiting, as the motion was specific to the Inspector General position *and not* the entire Office of the Inspector General. Strictly adhering to the law and instructions provided by the Commission’s counsel, the Inspector General did not designate the review to OIG staff for well over a year. The Inspector General requested to expand that distinction to include the OIG staff for several months. At the June 22, 2023, Commission meeting, the Inspector General was authorized to share the subpoenaed documents with OIG staff. The initial distinction significantly delayed the progress of this review.

Further delay to this review occurred based on the documents subpoenaed for the Knox and Ross review and the resulting reports. The documents that were administratively subpoenaed by the Commission and previously shared with Knox & Ross were for a different scope of work; however, the Inspector General deemed some of them pertinent to its review and had to make requests for them. Additionally, the Inspector General also requested the two final reports provided to the Commission by Knox & Ross as they were referenced in the documents and appeared to be germane to the review. Initially, this request was denied by the Commission’s counsel, citing “attorney-client privilege”. Eventually, the Inspector General was given access to review the reports after a special Commission meeting held on June 2, 2022.

Additionally, it should also be noted that the reviewed IAD Cases were filed many years ago. The OIG experienced some challenges acquiring the versions of CID’s homicide and felony investigation policies that were in effect from 2007 to 2013. OPD policies that were in place during the time of the complaints were no longer in place at the time of this review. Also, some archived policies were not available for review as there were retained in hard copies an unable to be located.

Lastly, the OIG’s work on this project was impacted by the 2023 Citywide ransomware attack, which further delayed this project.

CONCLUSION

After an extensive review of documents associated with the complaints, the OIG identified areas of improvement in some of OPD’s CID Policies and Departmental General Orders (DGOs). From this effort, the OIG recommends the policy and procedural shifts included in Table 1.



Table 1: OIG’s proposed recommendations after reviewing relevant IAD cases and corresponding policies.

Relevant or Proposed Policy:	Recommendation:
CID Policy 15-01: Homicide Unit Call-Out Criteria and Unit Investigations	Explore potential policy revisions to improve communications with the designated next of kin for homicide victims.
CID Policy 13-03: Felony Assault Unit Call-Out Criteria and Unit Investigations	Explore potential policy revisions to improve communications with the victim or designated next of kin for felony assault victims.
DGO M-3: Complaints Against Departmental Personnel or Procedures (Service Complaints)	Update DGO M-3 to include a notification to the complainant when their service complaint is administratively closed.
DGO M-3.1: Informal Complaint Resolution (ICR)	Reconcile the language in DGO M-3.1 Section II, G. 1 with the language in Section III, A. 1. B., and [Negotiated Settlement Agreement] Task 4 Section III, D. to clarify the necessity for complainant consent to utilize the ICR process.
DGO M-3: Complaints Against Departmental Personnel or Procedures (Duplicate Complaints)	Insert a clear definition of what accounts for a “duplicate” complaint, including who determines its duplication, the process for handling such complaints, and the procedure for complainant notification.
DGO M-19: Prohibitions Against Racial Profiling and other Biased Based Policing	Implement effective and timely revisions to DGO M-19, as recommended previously by the OIG.
Proposed Closure Documentation Policy	Establish and codify a policy that requires IAD to provide case closure justification documents to the Agency for misconduct complaints (which misconduct complaints should be determined in consultation with stakeholders).



ACKNOWLEDGEMENTS

The OIG team wants to express its appreciation to the City Attorney's Office, Police Department, and complainants for their cooperation during this review. The OIG would also like to thank the Oakland City Council, Oakland Police Commission, and complainants for their patience as the OIG conducted this review. The OIG remains committed to improving practices and policies through impartial assessments and transparency in its work.

All audits, reviews, evaluations, and inspections are conducted independently. Findings and recommendations are based on information received and reviewed. The OIG requests stakeholder responses in accordance with policy based on reports contents.

Respectfully,

Michelle N. Phillips, Inspector General
City of Oakland, Office of the Inspector General

Attachments:

1. Acronym List & Definitions
2. Oakland Police Department's Response
3. Oakland Police Commission's Response

Acronym and Definition List

ACRONYM LIST

Agency	Community Police Review Agency
Commission	Oakland Police Commission
CID	Criminal Investigation Division
CIR	Complaint Investigation Report
CPRB	Community Police Review Board
DGO	Departmental General Order
DOJ	Department of Justice
FAU	Felony Assault Unit
IAD	Internal Affairs Division
IAR	Investigative Action Report
ICR	Informal Complaint Resolution
MOR	Manual of Rules
NSA	Negotiated Settlement Agreement
OIG	Office of the Inspector General
OPD	Oakland Police Department

DEFINITIONS LIST

<p>Administrative Closure</p>	<p>An administrative disposition indicates that an investigation or allegation cannot come to a normal investigative conclusion (finding). Reasons for administrative closure include but are not limited to:</p> <ul style="list-style-type: none"> • allegations that do not rise to the level of a Manual of Rules violation; • the complaint lacks specificity; • 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 or tow.
<p>Administrative Subpoena</p>	<p>An administrative summons or subpoena is a judicially enforceable demand for records issued by a government authority which is authorized by some other provision of law to issue such process; administrative process is governed by the Act. 12 U.S.C. § 3405.</p>
<p>Investigative Action Report</p>	<p>These reports document significant investigative steps taken on an assigned case or on cases that an investigator is assigned to assist.</p>
<p>Informal Complaint Resolution</p>	<p>A method of addressing Class II misconduct complaints, against Departmental personnel, that do not indicate a pattern of misconduct. The process is detailed in DGO M-3.1, INFORMAL COMPLAINT RESOLUTION PROCESS and involves a supervisor, commander, manager, or investigator resolving a complaint by addressing and resolving the issues with the complainant and the member or employee.</p>
<p>Service Complaint</p>	<p>A complaint from any source regarding an inadequate policy, procedure, practice, service level, or legal standard or statute required of the Department that would not result in discipline. Service complaints shall be assigned an IAD case number and documented in the IAD database. A service complaint is not an allegation of misconduct.</p>



Oakland Police Department's Response



MEMORANDUM

TO: Office of the Inspector General
FROM: Acting Assistant Chief of Police A. Tedesco
DATE: 3 May 24

SUBJECT: Response to “Review of Internal Affairs Division Cases – Policy Recommendations Derived from The Bey Matter

The purpose of this memorandum is to respond to the Office of Inspector General's (OIG) recommendations, as outlined below.

Executive Summary

The Oakland Police Department (OPD) acknowledges the recommendations made by the OIG following their review of several Internal Affairs Division (IAD) cases and related criminal investigations, including those surrounding the deaths of [REDACTED]. The OIG assessed IAD's handling of these cases to identify policy gaps or deficiencies and has provided recommendations to improve the fairness and thoroughness of future investigations.

The OIG's review highlighted areas where OPD can enhance its Criminal Investigations Division (CID) Policies and Departmental General Orders (DGOs). OPD is committed to continuously improving its policies and procedures to uphold the highest transparency, fairness, and accountability standards.

Our Department remains dedicated to refining our practices to build trust within the community and ensure that our processes meet community expectations and legal requirements. We will carefully consider the recommendations and work towards implementing changes that reinforce our commitment to delivering justice effectively and impartially.

1. Recommendation: DGO Policy M-3 Recommendation: Update DGO M-3 to include a notification to the complainant when their service complaint is administratively closed.

Response: The OPD will establish a standard letter for administratively closed cases that address a range of complaints, including cases that do not warrant a formal investigation or are without merit. The Department regrets any service that fails to meet expectations and will continue to use complaints to improve its policies, procedures, and practices.

2. Recommendation DGO M-3.1: Reconcile the language in DGO M-3.1 Section II, G. 1 with the language in Section III, A. 1. B., and NSA Task 4 Section III, D. to clarify the necessity for complainant consent to utilize the ICR process.

Response: OPD agrees that the current language aligns with NSA requirements and policy regarding the informal complaint resolution process (ICR), documenting the receipt and

resolution of complaints. An IAD Commander determines the suitability of the ICR process, ensuring complainants are not unduly influenced.

- 3. Recommendation: DGO M-3 - Insert a clear definition of what accounts for a “duplicate” complaint, including who determines its duplication, the process for handling such complaints, and the procedure for complainant notification.**

Response: A duplicate complaint will be defined as a prior investigation that reviewed identical allegations or behavior scope, excluding new allegations not covered in the previous investigation or new evidence as per GC 3304(g).

- 4. Recommendation: Implement effective and timely revisions to DGO M-19 as recommended previously by the OIG.**

Response: The Department is actively engaged in ongoing efforts to revise DGO M-19, led by entities outside the IAD. The Department remains committed to contributing to this process and ensuring that the revisions adhere to the OIG's recommendations and uphold the standards necessary to meet the needs of our community effectively.

- 5. Recommendation: Closure Documentation Policy Recommendation: Establish and codify a policy that requires IAD to provide case closure justification documents to the Agency for misconduct complaints (which misconduct complaints should be determined in consultation with stakeholders).**

Response: The Department ensures that all complaints received by the IAD are sent to the Community Police Review Agency (CPRA) for review. Before closing any case, IAD verifies if CPRA is investigating and seeks concurrence before closure. We are committed to properly codifying this practice in our policies to reinforce our dedication to transparency, accountability, and thorough oversight.

- 6. Recommendation: CID Policy 15-01 - Explore potential policy revisions to improve communications with the designated next of kin for homicide victims.**

Response: OPD acknowledges the importance of consistent and clear communication with homicide victims' next of kin. The current policy needs comprehensive guidance, and OPD is committed to revising it to include notification criteria and the type of information that can be shared. In 2020, the OPD hired a Victim Specialist to comply with Government Code 13692. This specialist fulfills the Victim of Crime Liaison role, reporting to the Criminal Investigation Division Commander.

OPD issued a Training Bulletin (TB II) on Victim Services on August 30, 2023. Departmental General Order O-07 is being updated to include the Victim Services Unit, Liaison, Assistance, and Compensation Program.

- 7. Recommendation: CID Policy 13-03 - Explore potential policy revisions to improve communications with the victim or designated next of kin for felony assault victims.**

Response: OPD agrees that this policy should be updated to reflect best practices and to ensure comprehensive communication standards. We are committed to exploring revisions that will enhance the quality of our communications with victims or their designated representatives. The Department will carefully review the existing policy and collaborate with relevant stakeholders to incorporate changes that will improve our service and accountability in these sensitive situations.



Trevelyan Jones
Assistant Chief of Police
Oakland Police Department

Oakland Police Commission's Response



CITY OF OAKLAND | POLICE COMMISSION

250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CA 94612

May 10, 2024

Via Electronic Mail

Michelle N. Phillips
Inspector General
Office of the Inspector General
oig@oaklandca.gov

***Re: Review of Internal Affairs Division Cases, 07-538, 13-1062, and 16-0146
Policy Recommendations Derived From the Bey Matter***

On behalf of the Oakland Police Commission, I write to once again thank you and the staff of the Office of the Inspector General (OIG) for the thoughtful and comprehensive analysis of the above-referenced Oakland Police Department Internal Affairs Divisions (IAD) Cases.

As you are aware, we had the opportunity to speak about the Commission's recent response to the report and policy recommendations. You have advised that the Commission's request to add CPRA training as an additional consideration exceeds the scope of the Commission's initial request for review of IAD complaints. Although the training concern is valid, the request will be pursued through other appropriate channels. Accordingly, the Commission retracts its initial response, and upon further review and consultation with IG Phillips, the Commission is in concurrence with OPD's response.

Again, we thank you for your effort in developing recommendations from your examination of these critical IAD cases.

Sincerely,

Marsha Peterson

Marsha Peterson
Chair, Oakland Police Commission



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