OAKLAND POLICE COMMISSION

MEETING AGENDA

October 8, 2020
6:30 PM

Pursuant to the Governor's Executive Order N-29-20, members of the Police Commission, as well as the Commission's Counsel and Community Police Review Agency staff, will participate via phone/video conference, and no physical teleconference locations are required.

OAKLAND POLICE COMMISSION
MEETING AGENDA
October 8, 2020
6:30 PM

PUBLIC PARTICIPATION

The Oakland Police Commission encourages public participation in the online board meetings. The public may observe and/or participate in this meeting in several ways.

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/85483447224 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 +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656
Webinar ID: 854 8344 7224

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."

PROVIDE PUBLIC COMMENT: There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

• Comment in advance. To send your comment directly to the Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to clove@oaklandca.gov. Please note that e-Comment **submissions close at 4:30 pm**. All submitted public comment will be provided to the Commissioners prior to the meeting.

• By Video Conference. To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" are available at: https://support.zoom.us/hc/en-us/articles/205566129, which is a webpage entitled "Raise Hand In Webinar."

• By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing STAR-NINE ("*9") to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: https://support.zoom.us/hc/en-us/articles/201362663, which is a webpage entitled "Joining a Meeting by Phone."

If you have any questions about these protocols, please e-mail clove@oaklandca.gov.

OAKLAND POLICE COMMISSION
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I. Call to Order
Chair Regina Jackson

II. Roll Call and Determination of Quorum
Chair Regina Jackson

III. Welcome, Purpose, and Open Forum (1 minute per speaker)
Chair Regina Jackson will welcome public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

IV. Update from Interim Police Chief
OPD Interim Chief Manheimer will provide an update on the Department. Topics discussed in the update may include crime statistics; a preview of topics which may be placed on a future agenda; responses to community member questions sent in advance to the Police Commission Chair; and specific topics requested in advance by Commissioners. ***This is a recurring item.*** (**Attachment 4**).

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

V. OPD Presentation on Race and Equity
The Department will discuss external and internal racial disparities mitigation, building trust through procedural justice and transparency, and building internal equity. (**Attachment 5**). ***This is a new item***.

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

VI. Use of Force Ad Hoc Committee Presentation of Department General Order (DGO) K-3 Use of Force
The Use of Force Ad Hoc Committee will present its version of DGO K-3. The Commission may vote to approve that version for submission to the City Council. ***This was discussed 7.9.20, 7.23.20, 8.27.20, 9.10.20, 9.21.20, and 9.24.20.*** (**Attachment 6**).

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

VII. CPRA/Commission Staff/Inspector General Reorganization

The Commission will consider whether to adopt, or adopt with amendments, the Personnel Committee's motion to reorganize passed on July 1, 2020. ***This was discussed on 7.9.20.***

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

VIII. Commission Retreat

The Commission will discuss potential dates, format, presenters, location, and cost for a retreat. The Commission may vote on selecting a provider by approving a draft resolution. ***This item was discussed on 3.12.20, 5.14.20, 9.10.20, and 9.24.20.***

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

IX. Recognition of Tara Anderson, Chris Brown, and Ginale Harris

The Commission will recognize Tara Anderson, Chris Brown, and Ginale Harris for their service on the Commission as they complete their terms. ***This is a new item.***

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

X. Report from Special Concurrent Meeting of the Oakland City Council, Community Policing Advisory Board (CPAB), Public Safety and Services Oversight Commission (SSOC), and Police Commission on September 29, 2020

The Commission will discuss key points from the September 29th meeting. ***This is a new item***.

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

XI. Update on Special Order (SO) 9205 Banning Carotid Restraint and All Forms of Asphyxia

The Commission will discuss the outcome of the City Council meeting on October 6, 2020 where the Police Commission and OPD each presented versions of SO 9205 for adoption. ***This is a new item***.

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

XII. Meeting Minutes Approval

The Commission will vote to approve minutes from September 21 and 24, 2020. ***This is a recurring item.*** (**Attachment 12**).

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

XIII. Agenda Setting and Prioritization of Upcoming 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 13**).

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

XIV. Adjournment

OFFICE OF CHIEF OF POLICE

POLICE ADMINISTRATION BUILDING • 455 - 7TH STREET • OAKLAND, CALIFORNIA 94607-3985

Oakland Police Department Telephone Device for the Deaf (510) 238-3227

October 2, 2020

TO: Regina Jackson,
Chair, Oakland Police Commission

FROM: Susan E. Manheimer
Chief of Police, Oakland Police Department

Chair Jackson,

Attached are the City of Oakland's Crime Statistics reports for the week ending September 27, 2020 to be included in the Update from the Interim Police Chief section for the October 8, 2020, Police Commission Agenda.

Statistic Reports:

Crime Summary – Citywide

OAKLAND POLICE DEPARTMENT
455 7TH ST., OAKLAND, CA 94607 | OPDCRIMEANALYSIS@OAKLANDNET.COM
CRIME ANALYSIS

2020 COVID-19 Shelter-in-Place Crime Summary — Citywide

Updated 30 Sep., 2020

Homicides Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

Homicides	2019	2020	% Change
Homicides — 187(a)PC	39	63	62%

Robbery Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

Robbery Type	2019	2020	% Change
Firearm	557	318	-43%
Knife	77	73	-5%
Strong Arm	689	443	-36%
Other Weapon	49	41	-16%
Carjacking	114	148	30%
Home Invasion	51	42	-18%
Total	**1,537**	**1,065**	**-31%**

Gunfire Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

Shooting Type	2019	2020	% Change
Assault with a Firearm - 245(a)(2)	171	266	56%
Occupied Home or Car - 246	141	207	47%
Unoccupied Home or Car - 247(b)	74	116	57%
Subtotal	**386**	**589**	**53%**
Negligent Discharge - 246.3	388	670	73%
Grand Total	**774**	**1,259**	**63%**

ShotSpotter Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

ShotSpotter Activations	2019	2020	% Change
ShotSpotter Activations	2,093	3,491	67%

Vehicle Theft Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

Vehicle Theft	2019	2020	% Change
Vehicle Theft	3,441	4,910	43%

Burglary Year-to-Year Comparison — 16 Mar to 27 Sep — 28 Weeks

Burglary Type	2019	2020	% Change
Auto			
Residential			
Commercial			
Total			

Burglary comparisons are not yet available due to the delay in crime report processing.

This report is hierarchy based. Crime totals reflect one charge (the most severe) per incident.

These statistics are drawn from the Oakland Police Dept. database. They are unaudited and not used to figure the crime numbers reported to the FBI's Uniform Crime Reporting (UCR) program. This report is run by the date the crimes occurred. Statistics can be affected by late reporting, the geocoding process, or the reclassification or unfounding of crimes. Because crime reporting and data entry can run behind, all crimes may not be recorded.

Homicides sourced from the Crime Analysis Section homicide log. Traffic collision fatalities are not included in this report.
ShotSpotter activations sourced from ShotSpotter Investigator. All other data sourced via Coplink Analytics.

OAKLAND POLICE DEPARTMENT
455 7TH ST., OAKLAND, CA 94607 | OPDCRIMEANALYSIS@OAKLANDNET.COM
CRIME ANALYSIS

Year to Date Crime Report
01 Jan. – 30 Sep., 2020

Part 1 Crimes *All totals include attempts except homicides.*	2019	2020	Percentage Change 2019 vs. 2020
Violent Crime Index (homicide, aggravated assault, rape, robbery)	**4,416**	**4,284**	**-3%**
Homicide – 187(a)PC	**56**	**74**	**32%**
Homicide – All Other *	**3**	**5**	**67%**
Aggravated Assault	**2,102**	**2,377**	**13%**
Assault with a firearm – 245(a)(2)PC	227	325	**43%**
Subtotal - Homicides + Firearm Assault	286	404	**41%**
Shooting occupied home or vehicle – 246PC	193	271	**40%**
Shooting unoccupied home or vehicle – 247(b)PC	94	141	**50%**
Non-firearm aggravated assaults	1,588	1,640	**3%**
Rape	**157**	**160**	**2%**
Robbery	**2,101**	**1,673**	**-20%**
Firearm	764	504	**-34%**
Knife	103	127	**23%**
Strong-arm	937	735	**-22%**
Other dangerous weapon	69	59	**-14%**
Residential robbery – 212.5(a)PC	68	61	**-10%**
Carjacking – 215(a) PC	160	187	**17%**
Burglary	**10,317**	**7,040**	**-32%**
Auto	8,347	5,127	**-39%**
Residential	1,351	947	**-30%**
Commercial	486	798	**64%**
Other (includes boats, aircraft, and so on)	117	125	**7%**
Unknown	16	43	**169%**
Motor Vehicle Theft	**4,848**	**6,524**	**35%**
Larceny	**5,509**	**4,571**	**-17%**
Arson	**109**	**138**	**27%**
Total	**25,202**	**22,562**	**-10%**

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (THE MOST SEVERE) PER INCIDENT.

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* *Justified, accidental, fœtal, or manslaughter by negligence. Traffic collision fatalities are not included in this report.*
PNC = Percentage not calculated — Percentage cannot be calculated.
All data extracted via Coplink Analytics.

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CRIME ANALYSIS

Year to Date Gunfire Summary
01 Jan. – 30 Sep., 2020

Citywide *All totals include attempts except homicides.*	YTD 2019	YTD 2020	YTD % Change 2019 vs. 2020
Homicide – 187(a)PC	56	74	32%
Homicide – All Other *	3	5	67%
Assault with a firearm – 245(a)(2)PC	227	325	43%
Subtotal - 187 + 245(a)(2)	286	404	41%
Shooting occupied home or vehicle – 246PC	193	271	40%
Shooting unoccupied home or vehicle – 247(b)PC	94	141	50%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	573	816	42%
Negligent discharge of a firearm – 246.3PC	524	801	53%
Grand Total	1,097	1,617	47%

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OAKLAND POLICE DEPARTMENT
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CRIME ANALYSIS

Quarterly Crime Comparison
1st Quarter 2020 vs. 2nd Quarter 2020

Part 1 Crimes *All totals include attempts except homicides.*	Q1 2020	Q2 2020	Percentage Change
Violent Crime Index (homicide, aggravated assault, rape, robbery)	1,451	1,401	-3%
Homicide – 187(a)PC	11	23	109%
Homicide – All Other *	-	2	PNC
Aggravated Assault	683	829	21%
Assault with a firearm – 245(a)(2)PC	69	114	65%
Subtotal - Homicides + Firearm Assault	80	139	74%
Shooting occupied home or vehicle – 246PC	77	82	6%
Shooting unoccupied home or vehicle – 247(b)PC	30	51	70%
Non-firearm aggravated assaults	507	582	15%
Rape	60	44	-27%
Robbery	697	505	-28%
Firearm	208	143	-31%
Knife	64	36	-44%
Strong-arm	337	201	-40%
Other dangerous weapon	18	17	-6%
Residential robbery – 212.5(a)PC	23	26	13%
Carjacking – 215(a) PC	47	82	74%
Burglary	3,572	1,877	-47%
Auto	2,987	1,085	-64%
Residential	362	297	-18%
Commercial	175	416	138%
Other (includes boats, aircraft, and so on)	37	57	54%
Unknown	11	22	100%
Motor Vehicle Theft	1,930	2,375	23%
Larceny	1,873	1,482	-21%
Arson	36	53	47%
Total	8,862	7,190	-19%

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Quarterly Crime Comparison
1st Quarter 2020 vs. 2nd Quarter 2020

Citywide *All totals include attempts except homicides.*	Q1 2020	Q2 2020	Percentage Change
Homicide – 187(a)PC	11	23	109%
Homicide – All Other *	-	2	PNC
Assault with a firearm – 245(a)(2)PC	69	114	65%
Subtotal - 187 + 245(a)(2)	80	139	74%
Shooting occupied home or vehicle – 246PC	77	82	6%
Shooting unoccupied home or vehicle – 247(b)PC	30	51	70%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	187	272	45%
Negligent discharge of a firearm – 246.3PC	158	249	58%
Grand Total	345	521	51%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (THE MOST SEVERE) PER INCIDENT.

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PNC = Percentage not calculated — Percentage cannot be calculated.
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OAKLAND POLICE DEPARTMENT
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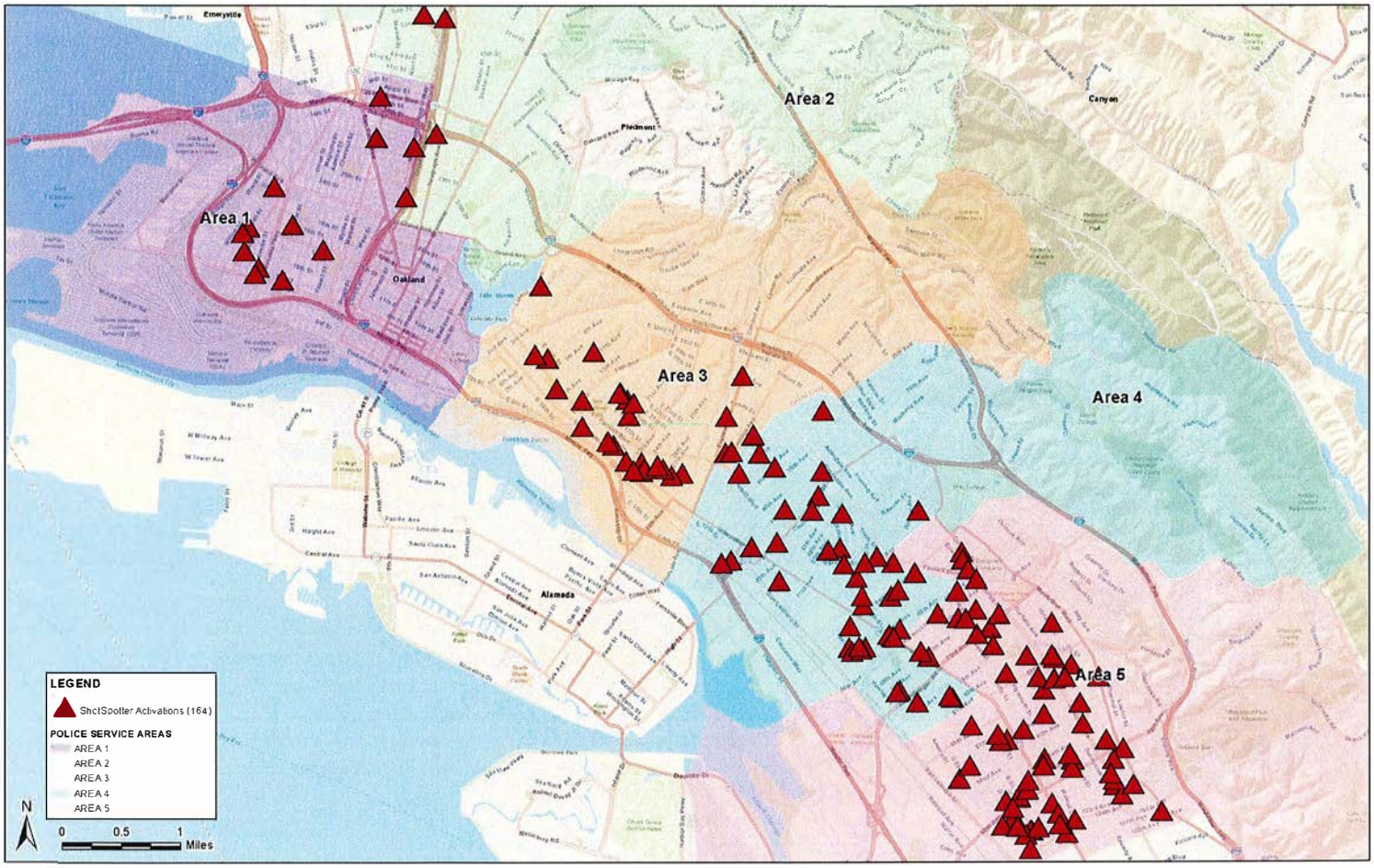
CRIME ANALYSIS

Weekly ShotSpotter Activations Report — Citywide
21 Sep. – 27 Sep., 2020

ShotSpotter Activations	Weekly Total	YTD 2019	YTD 2020	YTD % Change 2019 vs. 2020
Citywide	164	2,870	4,268	49%
Area 1	13	326	360	10%
Area 2	3	106	166	57%
Area 3	30	557	819	47%
Area 4	41	733	1,097	50%
Area 5	77	1,148	1,826	59%



All data sourced via ShotSpotter Investigator.

Produced by the Oakland Police Dept. Crime Analysis Unit.

Informational Report

TO: REGINA JACKSON
CHAIR POLICE COMMISSION

FROM: Susan E. Manheimer
Chief of Police

SUBJECT: 2019 Annual Stop Date Report

DATE: October 2, 2020

INFORMATION

Oakland Police Department (OPD) is pleased to announce the 2019 Annual Stop Data Report will be finalize the week of October 5th and findings will be released later during in the week.

OPD has been a leader in reducing racial disparities in our traffic stops, enlisting noted academics in the field, employing consistent collection and analysis of our data and partnering with Stanford University, and publishing annual stop data reports. This report provides a statistical overview of Oakland Police Department (OPD) discretionary stop data for all of 2019 using those new collection standards. While these State mandates changed the manner of some of our previous data collection methods, OPD continues to collect and analyze more data than is required by law. This relentless focus on reducing impact and harm to our communities has led to significant reductions in overall stop impact and community footprint, as well as reductions in disparities. We are committed to more work in this regard and look forward to additional results.

The men and women of the OPD, through their collective efforts, have demonstrated their commitment to provide services, crime prevention, and law enforcement responses in ways which minimize harm and provide safety and service within all neighborhoods for all people. While there is still much work to be done and achievements to be realized, it is my substantiated belief that OPD will be continue to be recognized and achieve progress in reducing racial disparities and harm to our communities.

Respectfully submitted,

SUSAN E. MANHEIMER
Chief of Police

For questions, please contact Lerrone Armstrong, Deputy Chief of Police at 510-777-8563

Informational Report

TO: REGINA JACKSON
CHAIR POLICE COMMISSION

FROM: Susan E. Manheimer
Chief of Police

SUBJECT: Racial Disparity Study Update

DATE: October 2, 2020

INFORMATION

Background

The Oakland Police Department (OPD) received and recognized concerns raised around possible disparities in discipline based on race. To address these serious concerns, the Department hired Hillard Heintze to conduct a review of the internal investigative and discipline processes with the primary goal of determining if racial and/or gender disparities existed in these processes. Hillard Heintze issued a report of their findings which revealed disparities in discipline towards Black officers and provided recommendations to the Department that focused on three areas:

- Internal Affairs Division (IAD) for discipline;
- Training Division Police Academy and Field Training Program and;
- Background and Recruiting, the hiring and background process

The Hillard Heintze report confirmed the disparities in the internal investigative process in sustained findings and enacted Phase 2, to address the recommendations in the original report.

To complete Phase 2 and provide an outlet and support for addressing disparities, the Department formed an internal OPD Race & Equity Team (IRET) assisted by Director Flynn in conducting an impact analysis study of the racial disparities. The IRET made formal recommendations to the Department to accept and implement all recommendations identified in the Racial Disparity Study. The Department immediately accepted the recommendations and has arduously began the implementation phase of the recommendations to mitigate any future disparities identified from the Racial Disparity Study.

Consequently, the Department's Phase 2 of Racial Disparities mitigation has partnered the internal Race & Equity Team (IRET) with Stanford Researchers, Dr. Eberhardt and Dr. Monin to conduct additional analysis of the report and the implementation of the proposed recommendations. The IRET will assist the Department with the application of the equity lens as it relates to policies, procedures, and protocols. The Stanford Researchers will focus on the

evaluating and supporting the Department with gauging the effectiveness of the application of the proposed recommendations. The Department's goal is to identify quality policies and procedures that address areas ripe for potential bias and disparate treatment through partnerships with identified Subject Matter Experts such as the IRET and Stanford Researchers who have had success in doing work involving racial bias and equity.

Oversight

The Steering Committee provides oversight and guidance and includes representatives and stakeholders. The Committee consists of Plaintiff's Attorneys, the City's Race and Equity Director, the CPRA Director, the Police Commission Chair, a Council member, the Stanford Team (Professor Monin and Professor Eberhardt), from all police associations (OPOA, OBOA, APOA, and LPOA), members from the internal Race & Equity Team and OPD Executive Team members and other staff.

OPD will continue to work as a team to implement, measure, and analyze available data in relation to the Racial Disparity Study's findings. A subset of the Racial Disparity Study Steering Committee has been designated as a working group. This working group responsibilities will be to evaluate the effectiveness of the recommendations already implemented by the Department, conduct further analysis of the existing data, address and evaluate the findings and recommendations from the Hillard Heintze Discipline Disparity Study, and to develop metrics to assess the impacts of each implemented intervention.

Respectfully submitted,

SUSAN E. MANHEIMER
Chief of Police

For questions, please contact Drennon Lindsey, Deputy Chief of Police at 510-777-8563

Overview

The Department hosted the Phase II Discipline Disparity Steering Committee meeting on July 8, 2020. The Steering Committee includes representatives from all police associations (OPOA, OBOA, APOA, and LPOA), the Plaintiff's Attorneys, the City's Race and Equity Director, the CPRA Director, the Police Commission Chair, a Council member, the Stanford Team (Professor Monin and Professor Eberhardt), members from the internal Race & Equity Team and OPD Executive Team members and other staff.

Background

The Oakland Police Department (OPD) recognized concerns raised around possible disparities in discipline based on race. In an effort to address these serious concerns, the Department hired Hillard Heintze to conduct a review of the internal investigative and discipline processes with the primary goal of determining if racial and/or gender disparities existed in these processes. Hillard Heintze was selected by a small group of Stakeholders (Director of the Department of Race and Equity, Plaintiff's Attorney, City Attorney's Office, OPD staff) who tasked them with conducting a review of the discipline process and administrative investigation of complaints of misconduct for sworn personnel of all ranks, Police Officer Trainees during the police academy and probationary officers in the Field Training Program over a five-year period, January 1, 2014 through December 31, 2018.

Hillard Heintze issued a report of their findings which revealed disparities in discipline towards Black officers and provided recommendations to the Department that focused on three areas:

- Internal Affairs Division (IAD) for discipline;
- Training Division Police Academy and Field Training Program and;
- Background and Recruiting, the hiring and background process

A larger group of Stakeholders (representatives' of the OPOA, OBOA, LPOA and OAPOA, the Plaintiff's Attorneys, the Director of the Department of Race & Equity, the City Attorney's Office, the CPRA Director and OPD staff) evaluated the report and identified several limitations to the Hillard Heintze findings. The limitations ranged from lack of detailed analysis, difficulty in understanding the presented data/information, and lack of depth in the scope of analysis. These limitations will be addressed during Phase 2 and Phase 3.

The Hillard Heintze report revealed disparities in the internal investigative process in sustained findings. Black sworn employees were 37 percent more likely to have a sustained finding. The Department believed that this was unacceptable and moved to accept the recommendations, supported by the Stakeholders. The findings warrant additional work from the Department which will be addressed in Phase 2.

The Department has continued to work with the internal Race & Equity Team (IRET) lead by Director Flynn who conducted an impact analysis study of the Racial Disparity. The IRET made formal recommendations to the Department to accept and implement all recommendations identified in the Racial Disparity Study. The Department immediately accepted the recommendations and has arduously began the implementation phase of the recommendations to mitigate any future disparities identified from the Racial Disparity Study.

Consequently, the Department has aligned themselves with the internal Race & Equity Team (IRET) and Stanford Researchers, Dr. Eberhardt and Dr. Monin to conduct additional analysis of the report and the implementation of the proposed recommendations. The IRET will assist the Department with the application of the equity lens as it relates to policies, procedures, and protocols. The Stanford Researchers will focus on the evaluating and supporting the Department with gauging the effectiveness of the application of the proposed recommendations. The Department's goal is to identify quality policies and procedures that address areas ripe for potential bias and disparate treatment through partnerships with identified Subject Matter Experts such as the IRET and Stanford Researchers who have had success in doing work involving racial bias and equity.

Purpose of Steering Committee

The Steering Committee will continue to work as a team to implement, measure, and analyze available data in relation to the Racial Disparity Study's findings. A subset of the Discipline Disparity Study Committee has been designated as a working group. This working group responsibilities will be to evaluate the effectiveness of the recommendations already implemented by the Department, conduct further analysis of the existing data, address and evaluate the findings and recommendations from the Hillard Heintze Discipline Disparity Study, and to develop metrics to assess the impacts of each implemented intervention. The first meeting was held on July 22, 2020.

Working Group

The working group representatives include Stanford Researchers, Dr. Eberhardt and Dr. Monin, Interim DC Lindsey, OIG Manager Burgess, Training Division Commander Captain Joshi, Internal Affairs Division Commander Acting Captain Lau, Background & Recruiting Commander Acting Lieutenant Smith, and the Internal Race & Equity Team Chairperson Lieutenant Shavies. The group met and discussed the 62-paged Racial Disparity report.

Stanford Researchers advised that they reviewed and diagnosed the Racial Disparity report from Hillard Heinz. Prior to the meeting, the data used by the Hillard Heinz study was provided to them. A/Captain Lau also provided them with additional data that was more recent (2019 – 2020). They provided the Department with several recommendations where they felt were ripe for potential bias. The Department accepted these recommendations and are conducting additional analysis into those recommendations. They also concluded that the following work will be conducted over the next six weeks. The areas of focus were based on the recommendations from the Hillard Heinz Racial Disparity Report. Over 90% of the recommendations have been implemented. The Stanford Researchers are assisting the Department with creating metrics to gauge theeffectiveness of the implemented interventions. The Department is tracking the progress by the Project Manager, Interim DC Lindsey.

Additional Areas of Focus

- Cultural Change through education – The Department has agreed that curriculum is needed that focuses on equity, the equity lens meaning and application, disparate treatment (what it is and how to prevent it), accountability measures for each rank/level. This curriculum will be created in partnership with the Subject Matter Experts, Stanford Researchers and identified Department personnel.
    - PJT3 Training; Curriculum should be focused on supervisors/commanders and address bias/disparate treatment
- The Department should come up with a definition of "what is a pattern?"
- Sustainability for the Department – what data should the Department be collecting and how to use the data to prevent future/potential disparate treatment; how can this data be used for deep analysis.

Stanford Researchers – Follow up plan

Dr. Eberhardt will assist with the following

- Qualitative interviews of OPD staff beginning with the OBOA in the form of Focus groups. The focus will start with those potentially impacted by disparate treatment
- Observations at Friday's IAD meetings
- Identification of areas that require new metrics
- This will require additional diagnosis of existing data/interviews that may uncover other areas of focus
    - Point of contact for Focus Groups will be A/Lieutenant Aaron Smith who is also the OBOA President – asmith@oaklandca.gov

Dr. Monin will assist with the following

- Provide additional data to Dr. Monin from Training Division and Background/Recruiting
- Use the Funneling Methodology to determine *decision points* in areas that may be potential for bias or causing disparate treatment
    - Areas the Funneling Methodology will be applied
        - IAD investigative processes
            - Investigation and Review
        - Hiring process
            - Background investigations
        - Academy and Field Training Program

Task 45 – Consistency of Discipline

The Department has moved forward with practicing equity in the Discipline Process. This methodology began approximately November of 2019. The newly appointed Acting Captain has been tracking the data based on the outcome of the Department's efforts to be cognizant and aware of its use of the *equity lens* in its decision-making as it relates to discipline. The Department has also began *anonymizing* the subjects of internal investigations in July 2020. There is not enough data to provide at this time but the tracking of this intervention strategy is underway.

ANY USE OF POLICE IS A USE OF FORCE

Police terror is the consequence of decades of unrelenting state-sanctioned violence levied, especially against Black people by militarized police forces, resulting in high rates of Black death and extreme fear within the Black psyche.

Couple this with the ongoing fact that police officers are very rarely, if ever, held accountable by governments for the senseless killings of Black people, and it's clear that police represent a looming, inescapable threat to Black bodies everywhere. Any use of the police is a use of force.

Redeem, the independent service for reporting police, was contracted by the City of Oakland to conduct a three-month study about Oaklanders' experiences with police use of force and what changes they believe should be made to the Oakland Police Department's use of force policy.

We worked with YouGov to conduct a representative survey of 512 adults living in Oakland and partnered with 8 Black and brown-led community-based organizations to conduct a survey of directly impacted communities - receiving responses from 1166 people including 166 people who reported being directly harmed by police use of force.

Here are our findings and policy recommendations.

Recommendation 1

Expand the definition of "use of force" and revise the reporting requirements beyond firearm use.

Here's why.

Oakland police do not systematically report incidents where they threaten other people with force (except pointing a firearm), but people directly harmed by police use of force believe police actions that intimidate or threaten people should be classified as use of force. Most Oaklanders agree with this definition.

Recommendation 2

Police should not use any force against people threatening to hurt only themselves.

Here's why.

92%

92% of Oaklanders directly harmed by police use of force believe police should not be allowed to use force against people threatening to hurt themselves but not others.

57%

57% of Oaklanders in general believe police should not be allowed to use force against people threatening to hurt themselves but not others.

Recommendation 3

Disarm most police and don't send armed police for any unarmed conflicts or non-violent situations.

Here's why.

90%

90% of Oaklanders who were directly harmed by police use of force support disarming some or all police officers of guns. 59% support disarming all police officers.

51%

51% of Oaklanders in general support disarming some or all police officers of guns. 14% support disarming all police officers.

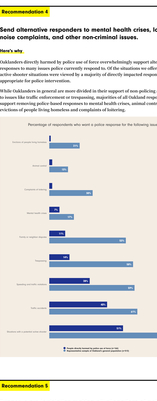
Recommendation 4

Send alternative responders to mental health crises, loitering, noise complaints, and other non-criminal issues.

Here's why.

Oaklanders directly harmed by police use of force overwhelmingly support alternative responses to many issues police currently respond to. Of the situations we offered, only active shooter situations were viewed by a majority of directly impacted respondents to be appropriate for police intervention.

Oaklanders in general are more divided in their support of non-policing alternatives to issues like traffic violations or trespassing, majorities of all Oakland respondents support removing police-based responses to mental health crises, animal control, evictions of people living homeless and complaints of loitering.



Recommendation 5

Support state legislation making all allegations of police misconduct public.

Here's why.

94%

94% of respondents directly harmed by police use of force believe all records of police misconduct should be made public.

52%

The majority of Oaklanders in general (52%) support this.

Recommendation 6

Cut the police budget and build more quality affordable housing and mental health services.

Here's why.

94%

94% of respondents who've been directly harmed by police use of force believe the Oakland police budget should be cut, while the remaining 6% want the budget to remain the same.

49%

While views were more divided among Oaklanders in general, 49% want to cut the Oakland police budget, 33% want it kept the same, and only 18% want the OPD budget increased.

Among Oaklanders who want the OPD budget cut, most want the funds reallocated to mental health services, free and low-cost health services, substance abuse treatment, education, jobs, and affordable housing programs.

Recommendation 7

Make the Police Commission, City Council, or Mayor the decider of police disciplinary appeals.

Here's why.

Both directly harmed respondents and Oaklanders in general support changing the existing system of having arbitrators decide police disciplinary appeals. They support giving either a community oversight board or local elected officials the power to decide these appeals instead.

Recommendation 8

Make the police department or individual officers pay the financial costs of their misconduct.

Here's why.

97%

97% of respondents directly harmed by police use of force believe Oakland police need to be held more accountable for use of force than they currently are.

58%

The majority of Oaklanders in general (58%) agree with this position.

Both directly harmed respondents and Oaklanders in general support changing the existing practice of paying police misconduct settlements from the City of Oakland's general fund. They support having settlements be paid by either the officer directly or by the police department budget instead.

Recommendation 9

Publish detailed data about 911 calls so communities can determine where to reallocate resources.

Here's why.

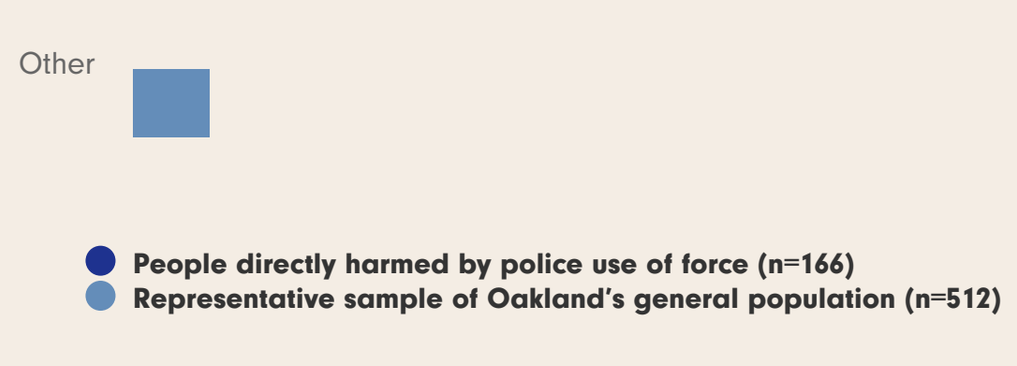
Among Oaklanders who want the OPD budget cut, most want the funds reallocated to mental health services, free and low-cost health services, substance abuse treatment, education, jobs, and affordable housing programs.

Recommendation 10

Remove from the force officers with the largest records of misconduct first, when reducing the size of the police force.

Here's why.

Both respondents directly harmed by police use of force and Oaklanders in general support changing the current process of conducting layoffs in order of officer seniority if there are budget cuts. Instead, Oaklanders in general overwhelmingly support a process that prioritizes removing officers who have the worst records of misconduct complaints, racial disparities, or police use of force.



Policy Recommendations

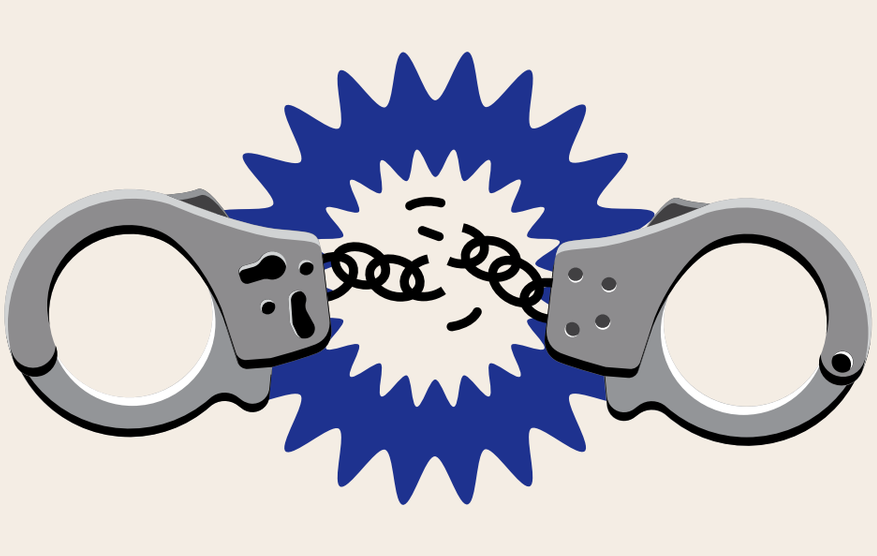
Recommendation 1 of 10

Expand the definition of "use of force" and revise the reporting requirements beyond firearm use.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 2 of 10

Police should not use any force against people threatening to hurt only themselves.



RAHEEM Police Use of Force Report 09.28.20

Recommendation 3 of 10

Disarm most police and don't send armed police for any unarmed conflicts or non- violent situations.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 4 of 10

Send alternative responders to mental health crises, loitering, noise complaints, and other non-criminal issues.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 5 of 10

Support state legislation making all allegations of police misconduct public.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 6 of 10

Cut the police budget and build more quality affordable housing and mental health services.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 7 of 10

Make the Police Commission, City Council, or Mayor the decider of police disciplinary appeals.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 8 of 10

Make the police department or individual officers pay the financial costs of their misconduct.

RAHEEM Police Use of Force Report 09.28.20

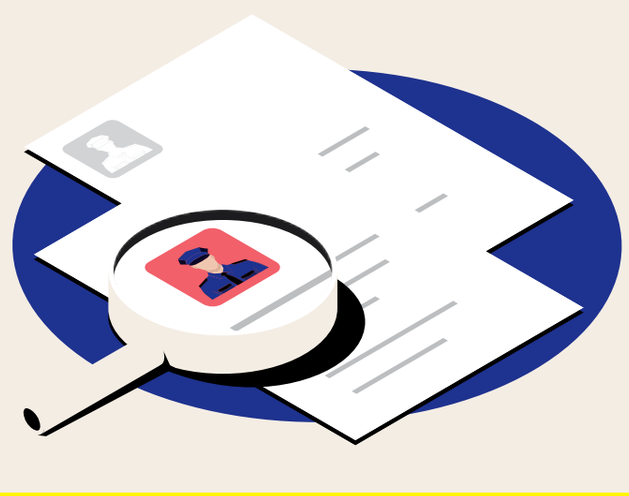
Recommendation 9 of 10

Publish detailed data about 911 calls so communities can determine where to reallocate resources.

RAHEEM Police Use of Force Report 09.28.20

Recommendation 10 of 10

Remove from the force officers with the largest records of misconduct first, when reducing the size of the police force.



RAHEEM Police Use of Force Report 09.28.20

Voices from the community

In addition to surveying the two groups, Raheem collected and examined reports from Oaklanders about 121 police encounters during the study (July - September). Under Penal Codes 832.7 & 832.8, the City of Oakland is prohibited from sharing stories about police that could be described as complaints.

Unfortunately, because Raheem was contracted by the City, there is a strong possibility that we too are bound by the above penal codes. The irony is that 94% of respondents who had experienced police use of force believed all records of police misconduct should be made public. The majority of all Oaklanders (52%) support this.

Report describing physical attack by police

This [redacted] report [redacted] is blocked [redacted] due to [redacted] Penal Codes 832.7 & 832.8 [redacted]

Report describing incident where police should not have been involved

This [redacted] report [redacted] is blocked [redacted] due to [redacted] Penal Codes 832.7 & 832.8 [redacted]

Report describing police use of force during protests

This [redacted] report [redacted] is blocked [redacted] due to [redacted] Penal Codes 832.7 & 832.8 [redacted]

Report describing police racial profiling

This [redacted] report [redacted] is blocked [redacted] due to [redacted] Penal Codes 832.7 & 832.8 [redacted]

Our methodology

Raheem conducted two surveys about police use of force: one survey that captures the general public's opinion and another survey capturing the opinions of people directly harmed by police use of force.

Based on the findings of the two surveys and 121 stories submitted by Oaklanders about their police encounters, Raheem is suggesting the City of Oakland make certain policy recommendations to the laws that govern the Oakland Police Department's use of force.

Details

Raheem was contracted to conduct a three-month study authorized through a unanimous vote by the Oakland Police Commission, the government entity tasked with overseeing the Oakland Police Department's practices, policies, and customs. All commissioners are Oakland residents, serve in a volunteer capacity, and have no ties to the police.

Raheem surveyed Oakland residents from July to September 2020, to gauge their previous interactions with Oakland police as well as residents' views on police use of force and other policing practices. To keep us accountable to the community, Raheem established the Oakland Advisory Council made up of eight extraordinary local Black and Brown-led organizations whose members continue to be impacted by the police. We worked with the Advisory Council to develop a survey questionnaire that included questions about a range of police use of force policy restrictions, alternatives to policing, perceptions of accountability resulting from police use of force, and respondents' own experiences with policing.

Raheem conducted two surveys about police use of force: one survey that captures the general public's opinion and another survey capturing the opinions of people directly impacted by police use of force. Raheem obtained survey responses using the following methods:

Survey of a Representative Sample of Oakland's General Population

First, we worked with YouGov to field a representative online survey of Oaklanders to better understand citywide opinion on policing issues. YouGov was selected because they have one of the broadest panels of survey respondents in the nation, permitting deep-dive analysis at the city level. They are one of the highest-rated polling firms, according to FiveThirtyEight.com's pollster ratings.

Responses to the survey came from 512 adults living in the City of Oakland between August 22, 2020, and September 1, 2020, producing a survey sample that YouGov weighted according to gender, age, race/ethnicity, and education based on the American Community Survey and the Current Population Survey Voting and Registration Supplement. Importantly, this representative sample of adults living in Oakland (hereafter referred to as "Representative sample of Oakland's general population") includes responses from both registered voters and those who were not registered to vote. This survey's margin of error was +-6.9. Topline survey data and further methodological details are provided by YouGov here.

Community Survey

To stay accountable to the community, Raheem established and worked in partnership with the Oakland Advisory Council, an assembly of eight Black and Brown-led community-based organizations whose members continue to be impacted by police use of force. To obtain feedback from Oaklanders directly harmed by police use of force, we partnered with the Advisory Council to conduct a community survey using the same questionnaire as the YouGov survey.

Between July 1, 2020, and September 28, 2020, we obtained 1,394 responses from people living in the City of Oakland. After removing duplicate responses, based on the respondents' names and email addresses, we identified 1,340 unique responses in our sample. The vast majority of these responses were collected online, with 105 of the 1,340 reports completed on paper. This sample was then weighted by YouGov according to gender, age, race/ethnicity, and education based on the American Community Survey and the Current Population Survey Voting and Registration Supplement. This survey's margin of error was +-3.7. Data presented displaying community survey results, including survey data on residents who were directly harmed by police use of force, reflect this sampling methodology.

The Oakland Advisory Council established by Raheem included the following members:

Allyssa Victory, co-chair · ACLU Foundation of NorCal

Angelo Sandoval · The Ella Baker Center for Human Rights

James Burch, co-chair · Anti Police-Terror Project

Carolina Martin Ramos, Esq. · Centro Legal de la Raza

Elisa Cecaci · The East Oakland Collective

Isha Rosemond · MISSSEY

John Jones III · Just Cities

John Vasquez · Communities United for Restorative Youth Justice

Canvassing

Ten Oakland residents selected by the Advisory Council organizations Centro Legal de la Raza, The East Oakland Collective, and Communities United for Restorative Justice were stipended to conduct direct in-person surveying focused on the following four categories of people.

- People who have directly impacted by police use of force
- Houseless people
- Transgender people
- People living with disabilities

Raheem directed each surveyor to capture 20 surveys (minimum) and provided surveyors with masks, two tablets, blank paper surveys, and a $10 gift card for each person from the four categories above who completed the survey. Between September 1–11, 2020, nine surveyors were dedicated to surveying residents in Districts 6 and 7, and one surveyor was dedicated to surveying the houseless population in District 3.

Reaching People Directly Impacted by Police Use of Force

Respondents from both the representative survey of Oaklanders and the community survey were asked what experiences they had with policing—including whether they had been directly harmed by police use of force, whether they had been directly harmed by police misconduct other than the use of force, and/or whether they knew a friend or family member who had been harmed by police use of force. While 17 respondents to the representative survey of Oaklanders indicated they had been directly harmed by police use of force, a much larger number of respondents—166 respondents—to the community survey. As such, we used the data obtained from the weighted community survey as the basis for understanding and visualizing the views of those directly impacted by police use of force.

Details of Policing Encounters

Respondents to either survey who indicated they had been directly harmed by police use of force were then asked to complete a follow-up report asking about the details of those police interactions. In addition to these sources, we also developed a digital ad strategy designed to obtain detailed feedback on policing encounters from residents who had recently been arrested or cited by Oakland police to gauge their experiences, including whether they had experienced incidents of police use of force. We distributed ads on Facebook and Instagram from September 2–7, 2020, that asked people if they had any experiences with policing in Oakland that they'd like to report. Using records obtained from Oakland Police Department on 45,920 arrests and citations made by OPD from 2014–2019, we were able to target these ads specifically to people living in Oakland who had the same full name and date of birth as those arrested or cited by Oakland police. These ads reached 7,052 people based on this targeted methodology, leading to 32 additional reports from people detailing encounters with police with 24 of these reports naming OPD specifically as the agency involved and 10 reports where the respondent reported being "physically attacked" by Oakland police. Between these various methods, we obtained a total of 121 reports detailing police encounters during the study period.

A. MISSION, PURPOSE, AND CORE PRINCIPLES

A - 1. Protection and Sanctity of Human Life Paramount

The overarching mission and utmost priority of the Oakland Police Department is the protection of human life. The authority to use force, conferred on peace officers by § 835a of the California Penal Code, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life.

The Oakland Police Department is committed to transformative, equitable policing that values and serves the entirety of our community.

A - 2. Department Commitment to Law, Defense of Civil Rights and Dignity, and the Protection of Human Life

Every member of the Oakland Police Department is committed to upholding the Constitution, Laws of the United States, Laws of the State of California, and defending the civil rights and dignity of all individuals, while protecting all human life and property and maintaining civil order.

~~While t~~The ultimate objective of every law enforcement encounter is ~~to protect the public,~~ the protection of human life. ~~nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.~~Officers shall use de-escalation tactics and techniques in order to reduce the need for force whenever safe and feasible.

A - 3. Policy Direction Beyond Constitutional Principles

The Fourth Amendment requires that an officer's use of force be "objectively reasonable." (*Graham v. Connor,* 490 U.S. 386 (1989)). The Constitution provides a "floor" for government action. **This policy goes beyond the Constitutional minimum by requiring that *all* uses of force by Oakland Police officers not only be objectively reasonable but also *necessary* and *proportional* to the situation (Section D)**. Additionally, required actions such as identification and warnings, intervention in unreasonable force, and medical aid after the use of force are part of the framework of this policy, a framework which provides both direction and restriction well beyond that found in Constitutional case law.

Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision-making in the broad range of possible use of force situations. It is not possible to entirely replace judgment and discretion with detailed policy provisions. Nonetheless, this policy is intended to ensure that de-escalation techniques are used whenever feasible, that force

is used only when necessary, and that the amount of force used is proportional to the situation that an officer encounters.

A - 4. Department Purpose

The purpose of the Department is to reduce crime, respond to dangerous and violent crime, and serve the community through fair, quality policing. Officers may, at times, be required to make forcible arrests, defend themselves or others, and overcome resistance. The Department's goal for the protection of both officers and the community is that officers should attempt to use non-force alternatives, including de-escalation, unless time and circumstances do not allow for the use of these alternatives.

A - 5. Strict Prohibitions on Inappropriate Force

Oakland Police Department officers are prohibited from using force to punish, retaliate, or interrogate. Force that is not reasonable and necessary under the totality of the circumstances will be subject to corrective action, including discipline up to and including termination. It is the expectation of the Department that when an individual is under control, either through the application of physical restraint or the individual's compliance, only the amount of force necessary to maintain control will be used. Under no circumstances will an officer use force solely because another officer is using force. Officers shall not use force based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic, and shall comply with the provision of **DGO M-19**, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing*.

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A - 6. Duty to Intervene

Every officer has an obligation to ensure compliance, by themselves and others, with Department policy, as well as all applicable laws, regarding use of force. Any officer who observes another officer about to use force that is illegal, excessive, or otherwise inconsistent with this policy shall, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events *before* the fellow officer does something that makes any official action necessary. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately. Similarly, any officer who observes an officer using force that is illegal, excessive, or otherwise inconsistent with this directive shall, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events and *stop* the use of force. Members witnessing instances of misconduct must also follow the direction given in Department Manual of Rules Section 314.48, *Reporting Violations of Laws, Ordinances, Rules, or Orders.*

A - 7. Commitment to De-Escalation

When safe, feasible, and without compromising law enforcement priorities, officers shall use de-escalation tactics and techniques in order to reduce the need for force. The goal of the Department is to promote thoughtful resolutions to situations and to reduce the likelihood of harm to all persons involved. In concert with using proportional force, officers shall de-escalate the amount of force used when the officer reasonably believes that a lesser level or no further force is appropriate.

A - 8. Commitment to Serving Members of the Community with Physical, Mental Health, Developmental, or Intellectual Disabilities

The Department recognizes that individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from officers. The Department is committed to reducing these deleterious effects with a focus on communication, prescriptions in this policy, de-escalation, and training, among other remedies.

A - 9. Commitment to Medical Aid

Whenever a person is injured by a use of force, complains of injury from a use of force, or requests medical attention after a use of force, as soon as it is safe and practical, officers shall request medical aid and provide appropriate medical care consistent with the officer's training and skillset.

A - 10. Commitment to Thorough and Fair Evaluation of Force

The Department is committed to evaluating force by reviewing the totality of the circumstances facing the officer at the time force was used, in a manner that reflects the gravity of the authority to use force and the serious consequences of the use of force by police officers.

Any evaluation of force must also allow for the fact that law enforcement officers must sometimes make split-second decisions about the amount of force that is necessary in a particular situation with limited information and in circumstances that are tense, uncertain, rapidly evolving, and dangerous.

B. DEFINITIONS

B - 1. Carotid Restraint Hold

A physical technique where continuing compression on the carotid arteries on both sides of an individual's neck, with no effect on the respiratory structures of the throat, is applied in order to gain control.

The carotid restraint hold is considered **lethal force** by the Oakland Police Department, and officers are prohibited from using the carotid restraint hold.

B - 2. Chokehold

A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include the carotid restraint hold.

A chokehold is considered **lethal force** by the Oakland Police Department, and officers are prohibited from using chokeholds.

B - 3. Complaint of Pain

A report of pain that persists beyond the use of a physical control hold or other use of force, but where there is no visible injury corresponding to that pain.

B - 4. Cooperation / Compliance

Responsiveness to and compliance with officer ~~requests~~commands.

B - 5. Crowd Control

Those techniques used to address unlawful public assemblies, including a display of large numbers of police officers, crowd containment, dispersal tactics, and arrest procedures. Reference **Training Bulletin III-G**, *Crowd Control and Crowd Management*.

B - 6. De-Escalation

Actions or verbal/non-verbal communication during a potential force encounter used to:

- stabilize the situation and/or reduce the immediacy of the threat, so that more time, distance, or other options and resources are available for resolution without the use of force or with a reduced type of force, or
- reduce or end a use of force after resistance or an immediate threat has ceased or diminished.

B - 7. Exigent Circumstances

Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, or the escape of a suspect.[1]

B - 8. Feasible

Capable of being done or carried out to successfully achieve a lawful objective without increasing risk to the officer or another person.

B - 9. Force

Any physical or mechanical intervention used by an officer to defend against, control, overpower, restrain, or overcome the resistance of an individual. Force includes less-lethal and lethal force options.

[1] Based on the definition from *United States v. McConney*, 728 f.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

B - 10. Force Options

Force options are different means of using force to defend against, control, overpower, restrain, or overcome the resistance of an individual. Depending on their intrusiveness and the manner in which they are used, force options may fall into different levels of force (see section **F**).

Less-lethal force options authorized by the Department are further explained in section **G-1, Less-Lethal Force Options**, while lethal force options are further explained in section **H-1, Lethal Force Options.**

Prohibited uses of force are enumerated in section **I.**

B - 11. Great Bodily Injury

Great bodily injury is significant or substantial physical injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body. It is an injury that is greater than minor or moderate harm, and is more severe than serious bodily injury.

B - 12. Immediate Threat

A threat is immediate when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that the person threatening has the present intent, means, opportunity, and ability to complete the threat, regardless of whether the threatened action has been initiated. An immediate threat is ready to take place, impending, likely to happen, or at the point of happening, and is not merely a fear of future harm; instead, an immediate threat is one that, from appearances, must be instantly confronted and addressed.

B - 13. Less-Lethal Force

Any use of force, other than lethal force, which by design and application is less likely to cause great bodily injury or death. The possibility of an unintended lethal outcome, although very rare, still exists.

B - 14. Lethal Force

The application of force by firearm or any other means which create a substantial risk of causing death or great bodily injury.

B - 15. Medical Aid

Medical interventions and life-saving techniques, ranging from home remedies and first-aid to life-saving or -sustaining interventions. Such efforts are not considered force. Medical aid includes monitoring an engaged person's vital signs while calling for medical assistance from first responders with higher medical skills, such as fire department or ambulance personnel.

B - 16. Minor Bodily Injury

Corporal injury, illness, or an impairment of physical condition greater than transitory pain but less than great or serious bodily injury (e.g. bruises, cuts, and abrasions).

B - 17. Necessary

Evaluations of the necessity of actions shall be done from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and shall account for occasions when officers may be forced to make quick judgments about taking action. The evaluation of necessity shall be on a case-by-case basis, and with the understanding that necessity does not require that all possible alternatives be exhausted prior to the use of force.

An action is necessary if it is reasonably believed to be required by the totality of the circumstances. The evaluation of whether an action was necessary shall be based on whether

1. Objectively reasonable *alternatives* to the action were available and/or practical AND
2. Whether the action was reasonably likely to *effect the lawful purpose* intended.

B - 18. Objectively Reasonable

Objective reasonableness is a test to measure whether a particular intrusion on an individual's person or interests by government agents was justified. The test of whether or not an intrusion – such as the use of force – is objectively reasonable requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake. The "test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application"[2], however its proper application requires careful attention to the facts and circumstances of each particular case.

Any evaluation of the reasonableness of a particular use of force shall be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight, and must allow for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation. All evaluations of reasonableness shall also be carried out in light of the facts and circumstances facing the officer at the time of the force, without regard to their underlying intent or motivation.

Factors which may be considered in determining the objective reasonableness of force – and which may be used by officers to determine whether force is

[2] *Bell v. Wolfish*, 441 U.S. 520, 559 (1979)

reasonable based on a situation in which they are involved – include, but are not limited to:

- The seriousness/severity of the crime or suspected offense;
- The level of threat or resistance presented by the engaged person;
- Whether the engaged person was posing an immediate threat to officers or a danger to the public;
- The potential for injury to members of the public, officers, or engaged persons;
- The risk or apparent attempt by the engaged person to escape;
- The conduct of the engaged person being confronted (as reasonably perceived by the officer at the time);
- The conduct of officers leading up to the use of force;
- The apparent need for immediate control of the engaged person for a prompt resolution of the situation versus the ability to step back, regroup, and develop an alternative approach, and the time available to the officer to make that decision;
- Efforts made by officers to de-escalate the situation, and the reactions of the engaged person(s) to those efforts;
- The time available to the officer to make a decision;
- The availability of other resources;
- The training received by the officer;
- The proximity or availability of weapons, or items which could be used as weapons, to the engaged person;
- Officer versus engaged person factors such as age, size, relative strength, skill level, injury/exhaustion, and number of officers versus engaged persons;
- Environmental factors and/or other exigent circumstances;
- Whether the engaged person had any perceived physical disability;
- Whether a person is unresponsive and the reasons for that unresponsiveness;
- Whether the engaged person was under the influence of alcohol or drugs, or was influenced by mental illness or a mental health crisis.

B - 19. Officer

Any sworn member of the Oakland Police Department, at any rank.

Although the use of force is primarily intended for sworn officers, various professional staff job classifications include Departmental training in specific

force options normally reserved for sworn officers. In these cases, professional staff are held to the same standard as officers for the application of these authorized force options, and policy directed towards "officers" shall apply to these professional staff members as well. All members of the Oakland Police Department shall maintain their right to self-defense by any objectively reasonable means.

B - 20. Police Canine

A canine that is specifically trained and deployed to search for, locate and assist in the apprehension of criminal suspects. The Police Canine is certified by a Peace Officer Standards and Training (POST) certified canine evaluator as meeting current voluntary POST canine standards. A Police Canine may also be cross-trained in the tracking method and narcotics detection. Reference **DGO K-09**, *Department Canine Program*.

B - 21. Procedural Justice

Procedural justice in the context of policing focuses on the nature and quality of the way that police personnel deliver services, with the understanding that the legitimacy of police personnel in the eyes of the community they serve is based in part on personnel exhibiting procedurally just behavior. Procedurally just behavior is based on four main principles:

- **Respect**: Treating all people with dignity and respect;
- **Voice**: Giving people an opportunity to be heard;
- **Neutrality**: Being neutral and fair when making decisions; and
- **Trustworthiness**: Conveying trustworthy motives, such as doing what is best for the community.

B - 22. Proportional Force

Proportional force is force which is deemed reasonably effective to overcome the level of resistance posed, taking into account the severity of the offense or law enforcement need facing the officer(s) using force. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed, consistent with the constraints of this policy, and assessments of proportionality shall be based on an objectively reasonable officer standard.

Proportional force does not require officers to use the same type or amount of force as the engaged person. The more immediate the threat and the more likely that the threat will result in death or injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it. (See section **F, LEVELS OF FORCE**)

B - 23. Resistance

Resistance is the absence of **cooperation**, an indication of unwillingness to comply with an officer's lawful orders or direction, physical obstruction of an officer's attempts to gain compliance, or physical attacks on an officer or others. Resistance can range in severity from non-compliance to life-threatening. The severity, or **level** (see section **E, LEVELS OF RESISTANCE**), of resistance offered by a person to the lawful commands or actions of officers is an important factor in determining the **immediacy of the threat**, if any, posed by the person as well as whether the force used to overcome the resistance was **proportional** to the resistance posed.

Resistance is a significant factor in the reporting and evaluation of force (reference **DGO K-04**, *Reporting and Investigating the Use of Force*), and for this reason is specifically discussed in this policy in detail.

B - 24. Restrained Person

A restrained person is a person who has been fully placed in a Department-authorized restraint device such as both hands handcuffed, a WRAP, or a RIPP Hobble.

B - 25. Serious Bodily Injury

Serious bodily injury is any injury which involves temporary but substantial disfigurement of the body or a body part, temporary but substantial loss or impairment of the function of any body part, or fracture of any body part. Serious bodily injury includes, but is not limited to, loss of consciousness, concussion, dislocation of joints or appendages, and wounds requiring suturing. Serious bodily injuries typically require treatment in a hospital or medical facility beyond what is required by basic first aid. Serious bodily injuries are serious in nature, but not as severe as great bodily injuries.

B - 26. Totality of Circumstances

All of the facts and circumstances an officer knew, or reasonably should have known, without mere conjecture or speculation, at the time of the incident, action, or decision being assessed, based upon a continual assessment of the situation, however rapid. This includes, but is not limited to, the seriousness of the threat of injury posed to the officer or other persons, the seriousness of the crime in question, and the conduct of the officer and engaged person leading up to the use of force, all viewed from the perspective of a reasonable officer.

B - 27. Vehicle Ramming Mass-Casualty Attack

An attack in which a person deliberately rams, or attempts to ram, a motor vehicle at a crowd of people with the intent to inflict fatal injuries.

B - 28. Vulnerable Populations

Vulnerable populations are those persons who are particularly vulnerable susceptible to use of force. Vulnerable populations include children

(especially those under age 14); seniors (those over the age of 65); pregnant persons; people with physical, mental, or intellectual disabilities; people with limited English proficiency or other communication challenges; people of small or infirm stature; and persons experiencing mental health crises.

C. DE-ESCALATION

Officers have the ability to impact the direction and outcome of an incident with their decision making and employed tactics. All members of the Oakland Police Department must remember the overarching mission and utmost priority of the Department: the protection of human life. De-escalation is an integral tool in furtherance of that mission. The Department values thoughtful resolutions to situations where public, engaged subject, and officer safety are enhanced by sound decision making and tactics that further the Department's mission.

The Department also recognizes that racial bias (even if implicit) and historic racial injustice involving policing are realities of the American experience. The Department's commitment to de-escalation is rooted in a commitment to equity, where the goals of de-escalation, protection of human life, and reduction in the need to use force are applied to every encounter in an equitable and just fashion, free from bias or prejudice of any type.

Policing, at times, requires that an officer exercise control of a violent or resisting person, or a person experiencing a mental or behavioral crisis. At other times, policing may require an officer to serve as a mediator between parties, or defuse a tense situation. At all times, however, officer actions must be in furtherance of the mission of the Department: to attempt to resolve situations while preserving life and limiting reliance on the use of force.

An officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. An officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force to effect the arrest or to accomplish the lawful purpose or objective. Tactical repositioning or other de-escalation tactics are not considered "retreat" for the purposes of this policy.

C - 1. Goals of De-Escalation

The goal of the Department is to promote thoughtful resolutions to situations and to reduce the likelihood of harm to all persons involved. When used appropriately, de-escalation techniques may reduce the immediacy of the threat, so that more time, options, and resources are available for resolution without the use of force or with a reduced level of force.

C - 2. Considerations Surrounding the use of De-Escalation

De-escalation is one facet of an overall strategy designed to lower the tensions inherent in a police encounter, promote cooperation and peaceful resolution, effectively utilize police resources, and enhance officer, engaged person, and public safety while limiting reliance on the use of force. While the

Department mandates that officers use de-escalation techniques when safe and feasible, the Department also recognizes that whether de-escalation is reasonable, safe, and feasible, and the extent to which de-escalation techniques are used, is based on the totality of the circumstances of the encounter at hand.

Factors, including law enforcement priorities, which may be considered when evaluating the totality of the circumstances surrounding the reasonableness and feasibility of de-escalation include:

- The officer's use of a critical decision-making structure;
- The benefits and drawbacks of immediate resolution or pre-emptive action on the part of the officer to resolve the situation;
- Facts and circumstances which influenced the chances of de-escalation strategies being successfully implemented;
- Whether limited intervention early in the encounter may have forestalled more marked or severe intervention later in the encounter;
- The availability of additional de-escalation resources;
- Whether the engaged person involved in the police encounter is believed to have a physical, mental health, developmental, or intellectual disability;
- The level of resistance posed;
- Circumstances existing (such as the presence of a weapon) which increase the chance of the encounter escalating to a significant or lethal force encounter.

C - 3. Policy Requirement Regarding De-Escalation

When safe, feasible, and without compromising law enforcement priorities, officers shall use de-escalation tactics and techniques in order to reduce the need for force. De-escalation is reviewed and evaluated under the totality of the circumstances present at the time of the incident, and assessments of the feasibility and safety of de-escalation tactics shall be based on an objectively reasonable officer standard.

Team approaches to de-escalation are encouraged and should consider officer training and skill level, number of officers, and whether any officer has successfully established rapport with the engaged person. Where officers use a team approach to de-escalation, each individual officer's obligation to de-escalate will be satisfied as long as the officer's actions complement the overall approach.

An officer's conduct prior to the use of force, including the display of weapons, may be a factor which can influence the level of force necessary in a given situation. Officers shall take reasonable care that their actions do not precipitate an unnecessary or disproportionate use of force.

C - 4. De-Escalation Tactics, Techniques, and Principles

De-escalation may take many forms, and can vary from incident to incident. Just because a tactic or technique is not mentioned in this policy does not mean it is prohibited from being used as a de-escalation technique; officers are encouraged to creatively problem-solve to find and employ de-escalation techniques which are focused on protecting life, limiting force, respecting the dignity of others, enhancing officer, engaged person, and public safety, and completing the law enforcement mission.

Broadly, de-escalation techniques fall under the following categories:

- **Communication**

Communication is often the most effective de-escalation technique, and involves active listening as much as, if not more than, what is said by the officer. Communication includes:

- Calm and respectful tone, body language, and interaction – this includes avoiding placing hands on weapons on the tool belt when not necessary for safety reasons
- Avoidance of language, such as taunting or insults, which could escalate the incident
- Clear instructions and commands
- Active listening, repetition, and indications of understanding
- Gathering information
- Assessing communication barriers
- Warnings and clear indications of the consequences of resistance
- Considering whether any lack of compliance is a deliberate attempt to resist rather than an inability to comply based on factors including, but not limited to,
  - Medical conditions
  - Mental impairment
  - Developmental disability
  - Physical limitation
  - Language barrier
  - Drug interaction
  - Behavioral crisis
  - Fear or anxiety

- Seeking to communicate in non-verbal ways when a verbal warning would be inadequate (such as when a person does not speak English or is unable to hear or understand warnings)
- Giving the engaged person a reasonable amount of time to comply with commands.

- **Isolation/Containment**

Isolating the engaged person (limiting or preventing access to officers, the public, or possible victims of resistance, including officers) and containing the engaged person (limiting the ability of the engaged person to move away from an area controlled by officers) are both important aspects of de-escalation, as they limit the exposure of the public to the engaged person and allow officers to lower the number of variables that they are attempting to control during the encounter. Isolation/containment includes actions such as:

- Separating parties in disputes;
- Handcuffing or restraining agitated persons to prevent their agitation from turning to active resistance, if appropriate;
- Placing barriers between officers and uncooperative engaged persons;
- Setting police perimeters, and limiting access to the scene;
- Using additional personnel to cover possible escape routes; and
- Transitioning incidents from dynamic to static by limiting access to unsecured areas, limiting mobility, and preventing the introduction of non-involved community members.

- **Positioning and Spatial Awareness**

Closely related to the concepts of distance and cover, positioning and spatial awareness covers both the positioning of the officer and the engaged person. Officers should constantly be assessing their positioning relative to the engaged person and seeking a position of advantage which affords the best opportunity to control the situation. Positioning and spatial awareness includes:

- Proper interview stance;
- Separation of parties during disputes;
- Handcuffing or restraining agitated persons to prevent their agitation from turning to active resistance, if appropriate; and
- Consideration of environmental hazards and other environmental factors which may enhance or detract from safety.

- **Time, Distance, and Cover**

Time, distance, and cover may allow officers additional time to assess the totality of the incident, including resistance, and to formulate a response. The main goal of using time, distance, and cover to de-escalate situations is to slow the momentum of a charged or critical incident to allow for more time, options, and resources to become available for incident resolution. Time, distance, and cover may be enhanced by utilizing:

- Additional resources such as crisis intervention trained officers or mental-health crisis response units;
- Avoidance or minimization of physical confrontation, unless necessary (for example to protect someone or stop dangerous behavior);
- Using cover and concealment for tactical advantage, such as:
  - Placing barriers between an uncooperative engaged person and officers
  - Using natural barriers in the immediate environment
- Officers with stand-off or longer-distance force options; or
- Armored vehicles.

- **Disengagement**

Disengagement is the act of leaving, ending an interaction, delaying contact, delaying custody, or planning to make contact at a different time or different circumstances. This de-escalation tactic may be used when the risks to the engaged person, the officer, or the public outweigh the need to continue with the police response.

While some situations require immediate police action, other circumstances may allow officers the opportunity to disengage. Under the appropriate circumstances, disengagement may improve officer safety, mitigate threats, reduce injuries, build public trust, and preserve life. The analysis of whether to disengage from a situation should take into account the seriousness of the offense or situation, the risk to the public if the police response is abandoned or delayed, and the proportionality of the police response goal versus the risks inherent in the continuation of response.

Officers should continually assess the situation as circumstances change new information is received to determine if disengagement would be an appropriate and viable de-escalation strategy, including evaluating whether further contact with the engaged person may result in an undue safety risk to the person, the public, and/or officers.

- **De-Escalation Resources**

De-escalation resources are continuously evolving, and the Department encourages creative, thoughtful de-escalation strategies to resolve situations. Some of the de-escalation resources utilized by the Department include:

- ~~Armored vehicles~~
- Mental Health Professionals working with Law Enforcement (e.g. Mobile Evaluation Team)
- Community Crisis Intervention Resources (e.g. Community Assessment Transport Team [CATT], Mobile Assistance Community Responders of Oakland [MACRO])
- Language Assistance (e.g. language translation line, multi-lingual Department personnel)
- Crisis intervention-trained officers

D. USE OF FORCE – GENERAL CONSIDERATIONS AND POLICY

D - 1. Use of Force Shall be Reasonable, Necessary, and Proportional, and for a Lawful Purpose or Objective

Officers shall only use **objectively reasonable** and **necessary** force, **proportional** to the level of resistance posed, threat perceived, or urgency of the situation, to achieve the lawful purpose or objective.

Lethal force is strictly prohibited solely to protect property.

Lethal force is strictly prohibited ~~or~~ against a person who presents only a danger to himself/herself and does not pose an immediate threat of death or serious bodily injury to another person or officer.

Officers may use objectively reasonable and necessary force options in the performance of their duties in the following circumstances:

- To effect a lawful arrest, detention, or search;
- To overcome resistance or prevent escape;
- To prevent the commission of a public offense;
- In defense of others or in self-defense;
- To gain compliance with a lawful order;
- To prevent a person from injuring him/herself.
- ~~➢~~ Nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.

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D - 2. Prohibitions on Unreasonable Force

Oakland Police Department officers are prohibited from using force or the threat of force to punish, retaliate, or unlawfully coerce.

It is the expectation of the Department that when an individual is under control, either through the application of physical restraint or the individual's compliance, only the amount of force necessary to maintain control will be used. Under no circumstances will an officer use force solely because another officer is using force. Officers shall not use force based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.

D - 3. Duty to Intervene

Any officer who observes another officer about to use force that is illegal, excessive, or otherwise inconsistent with this policy shall, absent extraordinary circumstances, do whatever he/she can to interrupt the flow of events *before* the fellow officer does something that makes any official action necessary.

Similarly, any officer who observes an officer using force that is illegal, excessive, or otherwise inconsistent with this directive shall, absent extraordinary circumstances, do whatever he/she can do to interrupt the flow of events and *stop* the use of force.

Members witnessing instances of misconduct must also follow the direction given in Department Manual of Rules Section 314.48, *Reporting Violations of Laws, Ordinances, Rules, or Orders*[3], and members who fail to report excessive force are subject to appropriate discipline.

D - 4. Identification and Warnings Prior to the Use of Force

When feasible, and without sacrificing officer, engaged person, or public safety, officers shall:

- Identify themselves as law enforcement officers;
- Warn the engaged person that force may be used unless their resistance ceases; and
- Give the engaged person a reasonable opportunity to comply with a warning that force may be used.

Warnings about the use of force shall not be made with malicious or arbitrary intent to threaten, but instead shall have a legitimate law enforcement purpose.

Warnings directed to members of vulnerable populations shall be modified to enhance the ability to communicate, if appropriate and feasible.

[3] Manual of Rules 314.48: "Members and employees who become aware that other members or employees violated laws, ordinances, rules of the Department, or disobeyed orders, of a Class I violation or any Class II violation which indicates a pattern of misconduct of which they are aware, shall within 24 hours or sooner, if practical, report the offense, orally or in writing, to his/her supervisor or the Internal Affairs Division." The use of unreasonable or excessive force is **Class I** misconduct.

Officers shall warn that lethal force may be used before discharging firearms at a person, when feasible and without sacrificing officer, engaged person, or public safety; reference section **H-4**.

D - 5. Use of Force on Restrained Persons

Officers may only use objectively reasonable, necessary, and proportional force on restrained persons. The fact that the person was restrained shall be evaluated both as part of the totality of the circumstances and when determining the level of resistance and the threat posed by the engaged person. Absent extraordinary circumstances, ~~Typically,~~ intermediate less-lethal and lethal force may not be used against restrained persons (see **G-5**).

D - 6. De-escalation of Force After Force has been Used

Officers shall de-escalate the use of force when the officer reasonably believes a lesser level or no further force is appropriate. It is the expectation of the Department that when an individual is under control, either through the application of physical restraint or the individual's compliance, only the amount of force necessary to maintain control will be used.

D - 7. Providing Medical Assistance to Persons Subject to the Use of Force

When feasible, officers shall request medical aid for any minor, serious, or great bodily injury, complaint of serious or great bodily injury, or sign of medical distress for persons subject to the use of force, even if the aid is declined.

After requesting medical aid, officers shall, if feasible, render aid within the full scope of their training and skillset unless aid is declined. Consent should be assumed for unconscious persons or persons incapable of providing consent.

Officers shall automatically request medical aid for persons who have been struck, contacted, or contaminated by the following force options, regardless of injury:

- Lethal ammunition fired from a firearm;
- Electronic Control Weapons, whether probe or drive-stun;
- Specialty Impact Munitions;
- Impact or impromptu impact weapon strikes with contact; or
- Oleoresin Capsicum spray.

D - 8. Reporting Use of Force

Members shall report force pursuant to **DGO K-04**, *Reporting and Investigating the Use of Force*. All uses of force by Department members are treated with the utmost seriousness. Reporting the use of force promptly and in adherence with policy is central to the mission of the Department and is

Commented [TJ2]: Third para from suggestions not included as it was repetitive to a paragraph in D-3, above:

"Members witnessing instances of misconduct must also follow the direction given in Department Manual of Rules Section 314.48, *Reporting Violations of Laws, Ordinances, Rules, or Orders*[1], and members who fail to report excessive force are subject to appropriate discipline."

essential to public safety, the safety of officers, and maintaining the legitimacy of the Department's actions.

➢ Members shall not harass, pressure, or publicly degrade another member reporting force pursuant to policy. Retaliation is prohibited, in any form, against another member who intercedes in or reports any violation of this policy, or who cooperates with an investigation into a possible violation of this policy (reference Department Manual of Rules section 398.73, *Retaliation*).

E. LEVELS OF RESISTANCE

Resistance (**Section E, LEVELS OF RESISTANCE**) and response (**Section F, LEVELS OF FORCE**) are dynamic. The engaged person's behavior and the use of force to control it may escalate or de-escalate during any given interaction until complete control of the engaged person is achieved. This policy does not require that an officer attempt to select or exhaust each force option or level of force before moving to another level; rather, gradations on the levels of resistance (**Section E**) and force which may be used to overcome that resistance (**Section F**) are set forth below to guide officers in making reasonable decisions on the use of force and to provide a framework to allow for evaluation of decisions made during use of force incidents.

Resistance is a significant factor in the reporting and evaluation of force (reference **DGO K-04**, *Reporting and Investigating the Use of Force*), and for this reason is specifically discussed in this policy in detail

Proportional force does not require officers to use the same type or amount of force as the engaged person. The more immediate the threat and the more likely that the threat will result in death or injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

Nothing in this document removes the rights of officers to reasonably protect themselves or others from immediate threats to their safety or the safety of others.

E - 1. Non-Compliance

Verbal and physical actions indicate the engaged person is not responding to verbal commands but also offers no form of physical resistance.

E - 2. Passive Resistance

Engaged person responds without compliance or takes physical actions that do not prevent an officer's attempts to exercise control of a person or place them in custody.

Verbal responses indicating an unwillingness to comply with an officer's directions which do not rise to the level of threats are also considered passive resistance.

E - 3. Active Resistance

Physically evasive movements to defeat an officer's attempts at control including bracing, tensing, or pulling / running away.

Verbal responses indicating an unwillingness to comply with an officer's directions which **do** rise to the level of threats are also considered active resistance.

E - 4. Assaultive Resistance

Physical movements which demonstrate an intent and present ability to assault the officer or another person. Assaultive resistance is resistance that is not immediately life-threatening.

E - 5. Life-Threatening Resistance

Any action likely to result in death, great bodily injury, or serious bodily injury to the officer or another person.

F. LEVELS OF FORCE

Note: Clear commands, warnings, command presence, and increased officer numbers are essential aspects of all levels of force, as well as of de-escalation attempts both before and after any use of force incident.

F - 1. Contact Controls

Low-level physical tactics used to gain control and overcome **non-compliance** or **passive resistance**. These include physical control techniques (e.g. pulling, pushing, or maneuvering an engaged person's body), escorts, or simply using a firm grip. This level of force is not intended to cause injury or pain.

F - 2. Compliance Techniques and Defensive Tactics

Low-level physical tactics used to gain control and overcome **passive resistance** and **active resistance**, depending on the totality of the circumstances. While not intended to cause injury, these techniques may cause transitory pain or discomfort, and are occasionally intended to cause pain in order to gain compliance (e.g. control holds). Techniques and tactics used to overcome **passive resistance** shall be objectively reasonable based on the totality of the circumstances, and the level of resistance is an important calculation regarding the proportionality of force.

Techniques and tactics to overcome **passive resistance** include control holds, **objectively reasonable** takedowns, and non-striking use of the baton. OC spray shall not be used on those engaged persons who go limp or offer no physical resistance.

Techniques and tactics to overcome **active resistance** include control holds, oleoresin capsicum (OC) spray, takedowns, non-striking use of the baton, and personal body weapons.

F - 3. Intermediate Less-Lethal Force

Intermediate-level force options which pose a foreseeable risk of injury or harm, but are neither likely nor intended to cause death or great bodily injury. Intermediate less-lethal force is intended to overcome **active** and **assaultive resistance**, and includes personal body weapons, impact weapons, electronic control weapons (ECW), oleoresin capsicum (OC) spray, police canines, and specialty impact munitions.

F - 4. Lethal Force

Any use of force that creates a substantial risk of causing great bodily injury or death, intended to overcome **life-threatening resistance**. Lethal force includes impact weapon strikes to the head, the discharge of a firearm loaded with lethal ammunition, and intentionally striking a person with a vehicle.

G. COMMANDS AND LESS-LETHAL FORCE

The Oakland Police Department trains on multiple different tools and techniques which constitute commands or less-lethal force options. These options can be broadly categorized into three realms: **Presence/Command Options, Physical Control/Personal Weapons Options,** and **Less-Lethal ~~Tool~~ Weapon Options.**

G - 1. Presence/Command Options

Officer presence, verbal commands, measured tone, and command presence of a uniformed officer are all part of the larger field of **Presence/Command Options**. These are communication techniques, both verbal and non-verbal, which are not a use of force but which are essential in resolving tense, uncertain, and rapidly-developing incidents or incidents where force is used. Verbal commands shall be respectful and clearly relay the police objective, and presence/command options are an integral part of de-escalation (see section **C, De-Escalation**).

G - 2. Physical Control/Personal Weapons Options

Depending on the manner and intensity in which they are used, **Physical Control/Personal Weapons Options** may fall into multiple force levels: Contact Controls, Compliance Techniques and Defensive Tactics, or Intermediate Less-Lethal Force. These options include, but are not limited to:

- Escorts and physical body manipulation without pain compliance
- Control Holds
- Takedowns
- Vulnerable Area manipulation
- Personal Weapon strikes – **NOTE:** Personal Weapon strikes to a restrained person are considered Intermediate Less-Lethal Force.

Absent exigent circumstances, all **Physical Control/Personal Weapons Options** shall be compliant with Oakland Police Department policy and training. Refer to **Training Bulletin III-I.1,** *Weaponless Defense.*

G - 3. Less-Lethal ~~Tool~~Weapon Options

Less-lethal ~~tool~~weapons are used to interrupt an engaged person's threatening behavior so that officers may take physical control of the engaged person with less risk of injury to the engaged person or officer than posed by other force applications. Less-lethal ~~tool~~weapons alone cannot be expected to render an engaged person harmless.

Officers will only carry and use ~~tool~~weapons that have been approved by the Department and that the officer has been properly trained and certified to use; use of improvised or impromptu weapons may be permissible under exigent circumstances.

Less-lethal ~~tool~~weapons most often fall into the level of Intermediate Less-Lethal Force, although certain ~~tool~~weapons, depending on the totality of the circumstances, may fall to the level of Compliance Techniques and Defensive Tactics (e.g. non-striking use of a baton or OC Spray).

Less-lethal ~~tool~~weapons, depending on the nature of the ~~tool~~weapon and the manner in which they are used, have the potential to cause serious consequences. Officers are reminded that they shall follow the specific policy and guidance contained in Departmental Training Bulletins that govern any specific ~~tool~~weapon. Important warnings regarding specific less-lethal ~~tool~~weapons, covered below, are not a substitute for a complete understanding of the specific policy and guidance for any particular force option as described in the appropriate Training Bulletin or policy.

The Less-lethal ~~tool~~weapons authorized by the Department include:

- Patrol Canine – See **DGO K-09**, *Department Canine Program*
- Electronic Control Weapon (ECW) – See **DGO (Lexipol) 304**, *Electronic Control Weapon (TASER)*
  - **Important warning:** When feasible, a verbal warning of the intended use of the ECW shall proceed its use, to warn the engaged person and other officers.
- Impact Weapons: Includes the ASP® expandable baton, long wood baton, and short wood baton – See **Training Bulletin III-H.02**, *Hand-held Impact Weapons*
  - **Important warning:** Unless exigent circumstances exist, officers shall not intentionally strike the head, neck, throat, spine, kidneys, groin, or left armpit with impact weapons.
- Specialty Impact Weapons: Includes direct-fired ranged impact munitions, regardless of weapons platform – See **Training Bulletin III-H,** *Specialty Impact Weapons*

- **Important warning:** SIM use during crowd control situations is further limited – see **Training Bulletin III-G,** *Crowd Control and Crowd Management.*

➢ Oleoresin Capsicum (OC) Spray – See **Training Bulletin V-F.02,** *Chemical Agents*

- **Important warning:** OC spray shall not be used to wake up or arouse unconscious or sleeping individuals who otherwise pose no threat.
- **Important warning:** OC spray shall not be used on passive resisters who go limp or offer no physical resistance.

➢ Crowd Control and Tactical Team Chemical Agents – See **Training Bulletin V-F.02,** *Chemical Agents* and **Training Bulletin III-G,** *Crowd Control and Crowd Management.*

G - 4. Requirement to Carry at Least One Less-Lethal ~~Tool~~Weapon

Uniformed sworn officers who are working field assignments shall carry at least one hand-held less-lethal ~~tool~~weapon (e.g. ECW, impact weapon, and/or OC).

G - 5. Restrictions on Use of Less-Lethal ~~Tool~~Weapons Against Restrained Persons

Officers are prohibited from using less-lethal ~~tool~~weapons against restrained persons unless that person is exhibiting **Assaultive** or **Life-Threatening** resistance or there is an immediate threat of serious or great bodily injury or death.

H. LETHAL FORCE

H - 1. Lethal Force Options

Lethal force is any force that creates a substantial risk of causing great bodily injury or death. These force options include firearms loaded with lethal ammunition, force likely to cause great bodily injury or death, and using a vehicle to intentionally strike the body of another person. For the purpose of this section of the policy, the term "firearms" shall indicate firearms loaded with lethal ammunition.

The Department acknowledges that policy regarding the use of lethal force does not, and cannot, cover every situation that may arise. Any deviations from the provisions of this policy shall be examined rigorously and will be critically reviewed on a case-by-case basis. The involved officers must be able to articulate clearly the reasons for the use of lethal force, including whether the officer's life or the lives of others were in immediate peril and if there was no reasonable alternative.

H - 2. Drawing, Exhibiting, or Unholstering Firearms

An officer may draw, exhibit, or unholster their firearm in the line of duty when the officer reasonably believes it is necessary for his or her own safety or for the safety of others. The drawing, exhibiting, or unholstering of a firearm by law enforcement officers can be perceived as threatening and intimidating and, when unwarranted, may cast a negative impression on officers. Unwarranted emphasis on the police possession of weapons, such as an officer placing their hand on a holstered firearm during an interaction with the public when not justified by a safety concern, can also create negative impressions and damage rapport.

~~Officers may draw, exhibit, or unholster their firearms only when justified by appropriate circumstances, and t~~The drawing, exhibiting, and unholstering of firearms will be tracked by the Department (see **DGO K-04**, *Reporting and Investigating the Use of Force*).

When an officer determines that the threat is over, the officer shall holster his or her firearm, when feasible.

H - 3. Pointing Firearms at a Person

The pointing of a firearm at another person is a Fourth Amendment seizure and a use of force.[4] Officers shall only point a firearm at another person if there is an objectively reasonable perception of a substantial risk that the situation may escalate to justify lethal force.

If an officer points a firearm at a person the person shall, when safe and appropriate, be advised of the reason why the officer(s) pointed the firearm.

H - 4. Discharging Firearms at a Person

An officer is justified in discharging a firearm at another person only when the officer believes, based on the totality of the circumstances, that the discharge is necessary for either of the following reasons:

- To defend against an immediate threat of death, great bodily injury, or serious bodily injury to the officer or another person; or
- To apprehend a fleeing person for a felony when the following three conditions are met:
  - There is probable cause to arrest the engaged person for the commission of a felony that threatened or caused death, great bodily injury, or serious bodily injury;
  - The officer reasonably believes that the person will cause death or great bodily injury to another unless immediately apprehended; and
  - There are no other reasonably available or practical alternatives to apprehend the person.

[4] *Robinson v. Solano County*, 278 F. 3d 1007 (9th Cir. 2002)

If feasible, and if doing so would not increase the danger to the officer or others, an officer shall identify themselves as a police officer and give a verbal warning that deadly force may be used before discharging a firearm at a person.

H - 5. Discharging Firearms at Moving Vehicles

Discharging firearms at occupants in moving vehicles poses an increased risk for the occupants of the vehicle, officers, and the public at large.

Officers shall not discharge firearms at occupants of moving vehicles, with the following exceptions:

- Officers may discharge firearms at occupants of moving vehicles to defend the officer or another person against the vehicle occupant's immediate threat of death, great bodily injury, or serious bodily injury *by means other than the vehicle*;
- Officers may discharge firearms at the operator of a moving vehicle to defend the officer or another person against the operator's use of the vehicle to cause death, great bodily injury, or serious bodily injury *where the officer or other person has no reasonable avenue of protection or escape*.
- Officers may discharge firearms at the operator of a moving vehicle who is committing or attempting to commit a **vehicle ramming mass-casualty attack**.

Officers are prohibited from intentionally positioning themselves in a location vulnerable to a vehicular attack, and, whenever possible, shall move out of the way of the vehicle instead of discharging their firearm at the operator. Officers are also prohibited from discharging their firearms at the operator of a vehicle when the vehicle has passed and is attempting to escape, except in the case of a **vehicle ramming mass-casualty attack.**

H - 6. Discharging Firearms from Moving Vehicles

Officers shall not discharge a firearm from a moving vehicle unless a person is immediately threatening the officer or another person with life-threatening resistance. This behavior is strongly discouraged and should be considered a last resort.

H - 7. Discharging Firearms at Animals

Officers may discharge firearms at animals under the following circumstances if it is not feasible to control the animal by using Oakland Animal Services (OAS) personnel or services:

- Against a dangerous animal to deter an attack or to prevent injury to persons present; or

- If an animal is a threat to human safety and cannot be controlled by the responsible person, or there is no responsible person present, or the animal is a wild animal, and the threat is such that the animal must be dispatched (killed) in order to ameliorate the threat.

Other than when the animal presents an immediate threat of attack or injury to a human, and when it has been determined that it is not feasible to control the animal by using OAS personnel or services, officers shall summon a supervisor or commander to the scene prior to dispatching an animal. The supervisor or commander shall either dispatch the animal (if necessary) or delegate the responsibility to a designated officer.

H - 8. General Prohibitions Regarding Firearms

Officers are prohibited from the following actions:

- Using firearms as impact weapons, unless any of the following circumstances exist:
  - When a person is attempting to take the firearm away from the officer;
  - When lethal force is permitted; or
  - When using long-gun-specific defensive tactics muzzle strikes as taught by Patrol Rifle or Firearms training staff;
- Firing warning shots; and
- Using lethal force solely to protect property or against a person who presents only a danger to himself/herself and does not pose an immediate threat of death, great bodily injury, or serious bodily injury to another person or officer.

H - 9. Force Likely to Cause Great Bodily Injury or Death

Other than firearms, certain other force options create a substantial risk of causing death or great bodily injury. These include:

- Intentional impact weapon strikes to the head; and
- Intentional use of a vehicle, at any vehicle speed, to strike the person of another.

Officers may use force likely to cause great bodily injury or death only when the officer believes, based on the totality of the circumstances, that the force is necessary for either of the following reasons:

- To defend against an immediate threat of death or serious bodily injury to the officer or another person; or
- To apprehend a fleeing person for a felony when the following three conditions are met:

- There is probable cause to arrest the engaged person for the commission of a felony that threatened or caused death, great bodily injury, or serious bodily injury;
- The officer reasonably believes that the person will cause death or great bodily injury to another unless immediately apprehended; and
- There are no other reasonably available or practical alternatives to apprehend the person.

I. PROHIBITED USES OF FORCE

I - 1. Carotid Restraint

Officers are prohibited from using the carotid restraint.

I - 2. Chokeholds

Officers are prohibited from using chokeholds.

J. CONSIDERATIONS AFTER FORCE

J - 1. Preventing Positional Asphyxia

Commented [TJ3]: A) Move to a more appropriate section
B) Defer to process on Special Order 9205

J - 2. Administrative Leave after Lethal Force Incidents

Officers involved in a lethal force incident shall be placed on paid administrative leave for not less than three days, unless otherwise directed by the Chief of Police. The Incident Commander may recommend other personnel be placed on paid administrative leave to the Chief of Police. The assignment to administrative leave shall not be interpreted to imply or indicate that an officer acted improperly.

While on administrative leave, officers shall remain available at all times for official Departmental business, including interviews and statements regarding the incident.

J - 3. Counseling Services after Lethal Force Incidents

Officers involved in a force incident that results in a person being seriously injured or killed shall attend employee assistance and counseling services provided by the City before his/her return to normal duties. Supervisors shall verify attendance only and document completion in an SNF entry. Command officers shall ensure involved officers are advised of the services available and shall direct their attendance. As needed, officers and employees who witness such incidents may also be referred to counseling services.

J - 4. Community Impact of Force Incidents

Depending on the nature and gravity of a force incident, the greater community may be affected beyond the person(s) and members(s) engaged. Supervisors and Commanders who respond to force incidents shall consider whether community response resources or strategies should be recommended

or immediately implemented given the nature of the force incident. These resources include, but are not limited to:

- Referrals to community-based support organizations for force witnesses;
- Community force debriefs or town halls; and
- Resources made available by other governmental entities (e.g. the Department of Violence Prevention)

K. TRAINING

K - 1. Annual Training on Use of Force Policy

Sworn officers of all ranks, and professional staff members who are trained on and authorized to use specific force options, shall receive training at least annually on the specific provisions of this policy. This training may include, but is not limited to, instruction during continued professional training (CPT) and written refresher training distributed via Department intranet or other document management system.

K - 2. Use of Force Policy Training Incorporation into Practical Training

All practical force and force option training for officers that is delivered by Department training staff shall incorporate into the lesson plan or training materials instruction on this policy and how the force options or skills being practiced are specifically evaluated and used in light of this policy.

K - 3. Training Bulletins

Officers are reminded that they shall follow the specific policy and guidance contained in Departmental Training Bulletins.

L. MUTUAL AID

This policy shall remain in effect for officers when the Department provides or receives mutual aid. Reference **Training Bulletin III-G,** *Crowd Control and Crowd Management,* for information on receiving Mutual Aid during crowd control.

By order of

Susan Manheimer
Interim Chief of Police

Date Signed: _____

CITY OF OAKLAND

OAKLAND POLICE COMMISSION
JOINT SPECIAL MEETING OF THE USE OF FORCE AD HOC COMMITTEE AND THE POLICE COMMISSION PUBLIC MEETING MINUTES -DRAFT

September 21, 2020
5:30 PM

I. Call to Order
Chair Regina Jackson

The meeting began at 5:36 pm.

II. Roll Call and Determination of Quorum
Chair Regina Jackson

Commissioners Present: Tara Anderson, Henry Gage, III, Brenda Harbin-Forte, Ginale Harris, and Regina Jackson. Quorum was met.

Commissioners Excused: José Dorado and Thomas Lloyd Smith

Alternate Commissioners Present: David Jordan

Alternate Commissioners Excused: Chris Brown

Counsel for this meeting: Conor Kennedy and Nitasha Sawhney

III. Welcome, Purpose, and Open Forum/Public Comment
Comments were provided by the following public speakers:
Cathy Leonard
Michael Tigges
Angie Noel
Assata Olugbala
Tina Monaco-Glynn
Megan Steffen

IV. Presentation of the Commission's Draft Use of Force Policy
Commissioners on the Use of Force Ad Hoc Committee provided an overview of the revision project and walked the full Police Commission through a working draft, highlighting suggested edits, community input, and the Raheem survey.

Comments were provided by the following public speakers:
Assata Olugbala
Megan Steffen
Anne Janks
Britt R
Valerie Baptiste
John Lindsay-Poland

Mariano Contreras
Bruce Schmiechen

No action was taken on this item.

V. Adjournment

A motion was made by Brenda Harbin-Forte, seconded by Ginale Harris, to adjourn the meeting at 8:30 pm. The motion carried by the following vote:

Aye: Anderson, Harbin-Forte, Harris, Gage, and Jackson
No: 0

OAKLAND POLICE COMMISSION
SPECIAL MEETING MINUTES - DRAFT
September 24, 2020
5:30 PM

I. Call to Order
Vice Chair Henry Gage, III

The meeting began at 5:36 pm.

II. Roll Call and Determination of Quorum
Vice Chair Henry Gage, III

Commissioners Present: Tara Anderson, José Dorado, Henry Gage, III, Brenda Harbin-Forte, Ginale Harris, Regina Jackson *(arrived during item VII)*, and Thomas Lloyd Smith *(arrived during item VII)*. Quorum was met.

Alternate Commissioners Present: Chris Brown and David Jordan (*arrived during item VI)*

Counsel for this meeting: Conor Kennedy and Nitasha Sawhney

III. Public Comment on Closed Session Items

Comments were provided by the following public speakers:
Assata Olugbala

The Commission adjourned to closed session. The open session section of the meeting commenced at 6:57 pm.

IV. Closed Session
CONFERENCE WITH LABOR NEGOTIATOR
Agency designated representative: John Alden

Employee Organization: International Federation of Professional and Technical Engineers (IFPTE) Local 21

PUBLIC EMPLOYEE APPOINTMENT (2)
Titles: Chief of Police, Interim Chief of Police

PUBLIC EMPLOYEE EVALUATION
Title: Executive Director, Community Police Review Agency

V. Report out of Closed Session

Comments were provided by the following public speakers:
Kevin Cantu
Saleem Bey
Assata Olugbala
Rashidah Grinage

Michele Lazaneo

A motion was made by Henry Gage, III, seconded by José Dorado, to extend Interim Chief Manheimer's employment agreement to December 8, 2020. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Harris, and Gage
No: 0

VI. Welcome, Purpose, and Open Forum

Comments were provided by the following public speakers:
Kevin Cantu
Michele Lazaneo
Assata Olugbala
Megan Steffen
Anne Janks,
Saleem Bey

VII. Update from Interim Police Chief

OPD Interim Chief Manheimer provided an update on Department activities including crime statistics.

Comments were provided by the following public speakers:
Megan Steffen
Michele Lazaneo
Saleem Bey
Cameron Bird
Assata Olugbala
Kevin Cantu

No action was taken on this item.

VIII. External Crowd Management After Action Report from Public Demonstrations

The Commission discussed and voted to pursue an external report on the efficacy of OPD's crowd management that occurred during the recent public demonstrations.

Comments were provided by the following public speakers:
Saleem Bey

A motion was made by Regina Jackson, seconded by Henry Gage, III, to issue an RFP seeking a contractor to conduct a review of OPD's actions during public demonstrations from May 31 – June 4, 2020 and recommend any policy changes. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Harris, Gage, Jackson, and Smith
No: 0

IX. Use of Force Ad Hoc Committee Update

The Use of Force Ad Hoc Committee provided an update on the status of the amended and updated version of DGO K-03 (Use of Force), and community outreach activities.

Comments were provided by the following public speakers:
Saleem Bey
Assata Olugbala
Anne Janks

No action was taken on this item.

X. Commission Retreat

The Commission discussed potential dates, format, presenters, location, and cost for a retreat. The Commission voted to select a draft agenda.

Comments were provided by the following public speakers:
Assata Olugbala
Saleem Bey

A motion was made by Henry Gage, III, seconded by Regina Jackson, to adopt draft agenda #1 on page 19 of the agenda packet as the preferred option. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Gage, Jackson, and Smith
No: 0
Abstain: Harris

XI. Police Chief Search Update

The Police Chief Search Ad Hoc Committee provided an update on the status of the search for the next Police Chief.

Comments were provided by the following public speakers:
Rashidah Grinage
Jasmine Fallstich
Saleem Bey
Assata Olugbala

No action was taken on this item.

XII. Meeting Minutes Approval

The Commission voted to approve minutes from August 27 and September 10, 2020.

Comments were provided by the following public speakers:
Assata Olugbala
Saleem Bey

A motion was made by Henry Gage, III, seconded by Brenda Harbin-Forte, to approve the minutes from August 27, 2020. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Harris, Gage, Jackson, and Smith
No: 0

A second motion was made by Henry Gage, III, seconded by Regina Jackson, to approve the minutes from September 10, 2020. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Harris, Gage, Jackson, and Smith
No: 0

XIII. Review of OPD Policy 15-01 Community Resource Officer Deployment

The Commission discussed OPD Policy 15-01. An Ad Hoc Committee comprised of Commissioners Dorado, Harbin-Forte, and Jackson will bring a draft policy and recommendations to a future meeting.

Comments were provided by the following public speakers:
Assata Olugbala
Saleem Bey
Megan Steffen
Michele Lazaneo

No action was taken on this item.

XIV. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission engaged in a working session to discuss and determine agenda items for the upcoming Commission meeting: an update on the special concurrent meeting of the Oakland City Council, Community Policing Advisory Board (CPAB), Public Safety and Services Oversight Commission (SSOC), and Police Commission on September 29, 2020; an update on the City Council's consideration of OPD Special Order 9205 at the October 6, 2020 meeting; and an update on the Bey investigation being conducted by Knox and Ross.

Comments were provided by the following public speakers:
Saleem Bey
Assata Olugbala

No action was taken on this item.

XV. Adjournment

A motion was made by Regina Jackson, seconded by Thomas Lloyd Smith, to adjourn the meeting at 9:40 pm. The motion carried by the following vote:

Aye: Anderson, Dorado, Harbin-Forte, Harris, Gage, Jackson, and Smith
No: 0

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
2	Commissioner Trainings	1/1/2018	Complete trainings mandated by City Charter section 604 (c)(9) and Enabling Ordinance section 2.45.190 Some trainings have deadlines for when they should be completed (within 3 months, 6 months, etc.) Several trainings were delivered in open sesssion and have been recorded for future use	The following trainings must be done in Open Session: 1. California's Meyers Milias Brown Act (MMBA) and Public Employment Relations Board's Administration of MMBA (done 3.12.20) 2. Civil Service Board and Other Relevant City Personnel Policies and Procedures (done 2.27.20) 3. Memoranda of Understanding with Oakland Police Officers Association and Other Represented Employees (**rescheduled due to COVID-19 health emergency**) 4. Police Officers Bill of Rights (done 12.12.19)	**High**	Ongoing		

Police Commission Pending Agenda Matters List

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1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
3	Confirming the Process to Hire Staff for the Office of Inspector General	5/17/2019	Per the Enabling Ordinance: The City shall allocate a sufficient budget for the OIG to perform its functions and duties as set forth in section 2.45.120, including budgeting one (1) full-time staff position comparable to the position of Police Program and Audit Supervisor. Within thirty (30) days after the first Inspector General is hired, the Policy Analyst position and funding then budgeted to the Agency shall be reallocated to the OIG. All OIG staff, including the Inspector General, shall be civil service employees in accordance with Article IX of the City Charter.	This will require information presented from the City Administrator's Office.	**High**			
4	Finalize Bylaws and Rules	1/24/2019			**High**			Gage
5	Hire Inspector General (IG)	1/14/2019	Hire IG once the job is officially posted	Pending Measure LL revisions to be included in the November 2020 ballot. Recruitment and job posting in process.	**High**			Personnel Committee

Police Commission Pending Agenda Matters List

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1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
6	Notification of OPD Chief Regarding Requirements of Annual Report	1/1/2018	Commission must notify the Chief regarding what information will be required in the Chief's annual report	The Chief's report shall include, at a minimum, the following: 1. The number of complaints submitted to the Department's Internal Affairs Division (IAD) together with a brief description of the nature of the complaints; 2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated; 3. The number of investigations completed by IAD, and the results of the investigations; 4. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions; 5. Revisions made to Department policies; 6. The number and location of Department sworn employee-involved shootings; 7. The number of Executive Force Review Board or Force Review Board hearings and the results; 8. A summary of the Department's monthly Use of Force Reports; 9. The number of Department sworn employees disciplined and the level of discipline imposed; and 10. The number of closed investigations which did not result in discipline of the Subject Officer. The Chief's annual report shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7	**High**	June 14, 2018 and June 14 of each subsequent year		Dorado
7	OPD to Provide a 30 Day Snapshot on the Effectiveness of SO 9202	2/27/2020		On 2.27.20, at the request of OPD the Commission considered and approved SO 9202 which amends the section in SO 9196 regarding Type 32 reportable force	**High**			

Police Commission Pending Agenda Matters List

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1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
8	Performance Reviews of CPRA Director and OPD Chief	1/1/2018	Conduct performance reviews of the Agency Director and the Chief	The Commission must determine the performance criteria for 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. The Commission may, in its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Administrator and other City staff who are familiar with the Agency Director's or the Chiefs job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary.	**High**	Annually; Criteria for evaluation due 1 year prior to review		
9	Recommendations for Increasing Communication Between CPRA and IAD	10/6/2018		Review of existing communication practices and information sharing protocols between departments, need recommendations from stakeholders about whether a policy is needed. Ensure prompt forwarding of complaints from IAD to CPRA and prompt data sharing.	**High**			
10	Reports from OPD	10/6/2018	Commission to decide on what reports are needed prior to receiving them.	Receive reports from OPD on issues such as: response times; murder case closure rates; hiring and discipline status report (general number for public hearing); any comp stat data they are using; privacy issues; human trafficking work; use of force stats; homelessness issues; towing cars of people who sleep in their vehicles	**High**	Ongoing as appropriate		

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
11	Request City Attorney Reports	1/1/2018	Request the City Attorney submit semi-annual reports to the Commission and the City Council	Request the City Attorney submit semi-annual reports to the Commission and City Council which shall include a listing and summary of: 1. To the exent permitted by applicable law, the discipline decisions that were appealed to arbitration; 2. Arbitration decisions or other related results; 3. The ways in which it has supported the police discipline process; and 4. Significant recent developments in police discipline. The City Attorney's semi-annual reports shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code 832.7	**High**	Semi-annually		Smith
12	Community Policing Task Force/Summit	1/24/2019			**Medium**			Dorado
13	CPAB Report			Receive any and all reports prepared by the Community Policing Advisory Board (hereinafter referred to as “CPAB”) and consider acting upon any of the CPAB’s recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community.	**Medium**			
14	Determine Outstanding Issues in Meet and Confer and the Status of M&C on Disciplinary Reports	10/6/2018		Need report from police chief and city attorney. Also need status report about collective bargaining process that is expected to begin soon.	**Medium**			

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
15	Develop Plan for Quarterly Reports in Relation to Annual Report that is Due April 17th of Each Year	12/6/2019		The Commission is required to submit an annual report each year to the Mayor, City Council and the public. Preparing quarterly reports will help with the coordination and preparation of an annual report.	**Medium**			
16	Free Gun Trace Service	1/27/2020		This service was mentioned at a meeting in 2019.	**Medium**			Dorado
17	Modify Code of Conduct from Public Ethics Commission for Police Commission	10/2/2018		On code of conduct for Commissioners there is currently a code that was developed by the Public Ethics Commission.	**Medium**			
18	Offsite Meetings	1/1/2018	Meet in locations other than City Hall	The offsite meetings must include an agenda item titled “Community Roundtable” or something similar, and the Commission must consider inviting individuals and groups familiar with the issues involved in building and maintaining trust between the community and the Department.	**Medium**	Annually; at least twice each year		Dorado, Harris, Jackson
19	OPD Supervision Policies	10/2/2018		Review existing policy (if any) and take testimony/evidence from experts and community about best practices for supervisory accountability. Draft policy changes as needed. In addition, IG should conduct study of supervisor discipline practices. In other words, how often are supervisors held accountable for the misconduct of their subordinates.	**Medium**			
20	Receive a Report from the Ad Hoc Committee on CPRA Appellate Process	6/13/2019	Once the Commission has an outside counsel, work with them on determining an appellate process	When a draft process is determined, bring to the Commission for a vote.	**Medium**			Brown, Gage, Prather
21	Report from OPD Regarding Found/Confiscated Items	7/12/2019	OPD will report on the Department’s policy for disposition of found/confiscated items	This came about through a question from Nino Parker. The Chief offered to present a report at a future meeting.	**Medium**			

Police Commission Pending Agenda Matters List

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1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
22	Report Regarding OPD Chief's Report	1/1/2018	Submit a report to the Mayor, City Council and the public regarding the Chief's report in addition to other matters relevant to the functions and duties of the Commission	The Chief's report needs to be completed first.	**Medium**	Annually; once per year		
23	Review Budget and Resources of IAD	10/10/2018		In Discipline Training it was noted that many "lower level" investigations are outsourced to direct supervisors and sergeants. Leaders in IAD have agreed that it would be helpful to double investigators and stop outsourcing to Supervisors/Sgts. Commissioners have also wondered about an increase civilian investigators. Does the Commission have jurisdiction over this?	**Medium**			
24	Review Commission's Agenda Setting Policy	4/25/2019			**Medium**			
25	Review Commission's Code of Conduct Policy	4/25/2019			**Medium**			Prather
26	Review Commission's Outreach Policy	4/25/2019			**Medium**			Dorado
27	Revise Contracts with CPRA and Commission Legal Counsels	10/10/2018		The contract posted on the Commission's website does not comport with the specifications of the Ordinance. As it stands, the Commission counsel reports directly to the City Attorney's Office, not the Commission. The Commission has yet to see the CPRA attorney's contract, but it, too, may be problematic.	**Medium**			
28	Taser Policy (incorporate into Use of Force)	10/10/2018		This is part of Use of Force Policy; Review use of tasers in light of what happened to Marcellus Toney - In the report the Commission was given, it mentioned that officers have choice as to where to deploy a taser.	**Medium**			

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
29	Amendment of DGO C-1 (Grooming & Appearance Policy)	10/10/2018		DGO C-1 is an OPD policy that outlines standards for personal appearance. This policy should be amended to use more inclusive language, and to avoid promoting appearance requirements that are merely aesthetic concerns, rather than defensible business needs of the police department.	**Low**			
30	Annual Report	1/1/2018	Submit an annual report each year to the Mayor, City Council and the public		**Low**	Spring, 2021		Prather, Smith
31	Assessing Responsiveness Capabilities	10/6/2018		Review OPD policies or training regarding how to assess if an individual whom police encounter may have a disability that impairs the ability to respond to their commands.	**Low**			
32	CPRA Report on App Usage	10/10/2018		Report from staff on usage of app.	**Low**			
33	Creation of Form Regarding Inspector General's Job Performance	1/1/2018	Create a form for Commissioners to use in providing annual comments, observations and assessments to the City Administrator regarding the Inspector General's job performance. Each Commissioner shall complete the form individually and submit his or her completed form to the City Administrator confidentially.	To be done once Inspector General position is filled.	**Low**			
34	De-Escalation Policy (incorporate into Use of Force)	1/1/2018		This should be part of Use of Force Policy; review existing policy (if any) and take testimony/evidence from experts and community about best practices for de-escalation.	**Low**			

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
35	Discipline: Based on Review of MOU	10/6/2018		How often is Civil Service used v. arbitration? How long does each process take? What are the contributing factors for the length of the process? How often are timelines not met at every level? How often is conflict resolution process used? How long is it taking to get through it? Is there a permanent arbitration list? What is contemplated if there's no permanent list? How often are settlement discussions held at step 5? How many cases settle? Is there a panel for Immediate dispute resolution? How many Caloca appeals? How many are granted? What happened to the recommendations in the Second Swanson report?	**Low**			
36	Discipline: Second Swanson Report Recommendations – Have These Been Implemented?	10/6/2018		Supervisor discipline Process for recommending improvements to policies, procedures and training, and to track and implement recommendations Tracking officer training and the content of training Comparable discipline imposed – database of discipline imposed, demonstrate following guidelines IAD civilian oversight for continuity in IAD Improved discovery processes Permanent arbitration panel implemented from MOU OPD internal counsel Two attorneys in OCA that support OPD disciplines and arbitration Reports on how OCA is supporting OPD in discipline matters and reports on arbitration Public report on police discipline from Mayor's office OIG audit includes key metrics on standards of discipline	**Low**			

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
37	Feedback from Youth on CPRA App	10/10/2018		Get some feedback from youth as to what ideas, concerns, questions they have about its usability.	**Low**			
38	OPD Data and Reporting			Review and comment on the Department's police and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the comments in writing.	**Low**			
39	Outreach Committee: Work with Mayor's Office and City Admin to Publicize CPRA App	10/10/2018			**Low**			
40	Overtime Usage by OPD - Cost and Impact on Personal Health; Moonlighting for AC Transit	1/1/2018		Request Office of Inspector General conduct study of overtime usage and "moonlighting" practices.	**Low**			
41	Process to Review Allegations of Misconduct by a Commissioner	10/2/2018		Maureen Benson named concerns/allegations about a sitting Commissioner early in 2018, but no process exists which allows for transparency or a way to have those concerns reviewed. It was suggested to hold a hearing where anyone making allegations presents evidence, the person named has an opportunity to respond and then the Commission decides if there's sanctions or not. *Suggestion from Regina Jackson: we should design a form...check box for the allegation...provide narrative to explain..hearing within 4 weeks?	**Low**			Jackson

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	**Pending Agenda Matter**	**Date Placed on List**	**Duties/Deliverables**	**Additional Information/Details**	**Priority Level**	**Timeline/Deadline**	**Scheduled**	**Lead Commissioner(s), if any**
42	Proposed Budget re: OPD Training and Education for Sworn Employees on Management of Job-Related Stress	1/1/2018	Prepare for submission to the Mayor a proposed budget regarding training and education for Department sworn employees regarding management of job-related stress. (See Trauma Informed Policing Plan)	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 posttraumatic 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. 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.	**Low**	4/15/2021		
43	Public Hearing on OPD Budget	1/1/2018	Conduct at least one public hearing on the Police Department's budget	Tentative release date of Mayor's proposed budget is May 1st of each year.	**Low**	Spring, 2021		
44	Public Hearings on OPD Policies, Rules, Practices, Customs, General Orders	1/1/2018	Conduct public hearings on Department policies, rules, practices, customs, and General Orders; CPRA suggests reviewing Body Camera Policy		**Low**	Annually; at least once per year		Dorado
45	Revisit Standing and Ad Hoc Committee Assignments	10/29/2019			**Low**			
46	Social Media Communication Responsibilities, Coordination, and Policy	7/30/2019		Decide on social media guidelines regarding responsibilities and coordination.	**Low**			