



OAKLAND POLICE COMMISSION

REGULAR MEETING AGENDA

January 26, 2023

5:30 P.M.

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

Pursuant to California Government Code Section 54953(e), 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.



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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/85468152970> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled “Joining a Meeting”
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

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

Webinar ID: 854 6815 2970

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 opc@oaklandcommission.org. 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 opc@oaklandcommission.org.

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Public Statements by Commission Chair Dr. Tyfahra Milele on [January 19, 2023](#) and [January 23, 2023](#).

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

Chair Tyfahra Milele

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

II. Consider and Approve Request to OPD and City of Oakland for Investigation Files and Records (Charter § 604(f)(2))

In furtherance of its prior requests on January 17, 2022 and October 11, 2022, the Police Commission will formally request internal affairs and City personnel files and records related to two case numbers and formally articulate a nexus to its Charter Authorities in Section 604(b) of the City Charter. ([Attachment 2](#))

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

III. Closed Session

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

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

**PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
(Government Code Section 54957(b))**

**CONFERENCE WITH LEGAL COUNSEL –
EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Delphine Allen et al., v. City of Oakland, et al.
N.D.Cal No, 00-cv-4599-WHO**

IV. Redetermination of Quorum

Chair Tyfahra Milele

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

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

Members of the public wishing to address the Commission on matters that are not on tonight's agenda but are related to the Commission's work should raise their hands and they will be called on in the order their hands were raised. Comments regarding agenda items should be held until the agenda item is called for discussion. Speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2. ***This is a recurring item.***

VI. Discussion of Commission Authority on Priorities for N.S.A. Tasks 5 & 45

Pursuant to the Police Commission's authority under Charter Section 604(b)(13) and Municipal Code Section 2.45.120, the Commission will welcome input and consider next steps about Priorities Related to Tasks 5 and 45 of the Negotiated Settlement Agreement. ([Attachment 6](#))

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

VII. Update from Oakland Police Department (OPD)

Representatives of the Oakland Police Department will provide an update. 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; and specific topics requested by the Commission.

This is a recurring item. ([Attachment 7](#))

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

VIII. Update from Community Police Review Agency (CPRA)

Director Jones will provide updates on the CPRA, to the extent permitted by state and local law. Topics discussed in the update may include the Agency's pending cases, completed investigations, staffing, and recent activities. ***This is a recurring item.*** ([Attachment 8](#))

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

IX. Presentation of Proposed Amendments by City Council related to Militarized Equipment Policies
([Attachment 9 — Supplemental](#))

OAKLAND POLICE COMMISSION

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5:30 P.M.

X. Presentation and Possible Approval of Updated Militarized Equipment Policies

([Attachment 10 — Supplemental](#))

- DGO I-26 (Ground Robots) — Approved 9/22/22
- DGO K-6 (Department Rifles) — Approved 9/16/22
- DGO K-7 (Military Equipment Funding, Acquisition and Use Policy) — Approved 9/8/22
- TB V-F.02 (Chemical Agents) — Approved 9/16/22
- TB-III-H (Specialty Impact Munitions) — Approved 9/16/22

XI. Committee Reports

Representatives from Standing and Ad Hoc Committees will provide updates on their work.

This is a recurring item. ([Attachment 11](#))

- Budget Committee (Commissioners Milele, Jordan, Jackson-Castain)
- Rules of Procedure Committee (Hsieh, Howell, Jackson-Castain)
 - a. Discussion
 - b. Public Comment
 - c. Action, if any

XII. Upcoming/Future Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. *This is a recurring item.* ([Attachment 12](#))

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

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

Members of the public wishing to address the Commission on matters that were not on tonight's agenda but are related to the Commission's work should raise their hands and they will be called on in the order their hands were raised. *This is a recurring item.*

XIV. Adjournment

NOTICE: In compliance with the Americans with Disabilities Act, for those requiring special assistance to access the videoconference meeting, to access written documents being discussed at the Discipline Committee meeting, or to otherwise participate at Commission meetings, please contact the Police Commission's Chief of Staff, Kelly Yun, at kyun@oaklandca.gov for assistance. Notification at least 48 hours before the meeting will enable the Police Commission to make reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids or services.

CITY OF OAKLAND



POLICE COMMISSION

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

October 11, 2022

Mr. LeRonne Armstrong
Chief of Police
City of Oakland

Re: Request under Charter Section 604(f)(2) re: Materials Related to NSA Monitor's First Sustainability Report

Dear Chief,

Thank you for working with me to better understand certain topics raised by the Monitor's October 3, 2022 OPD Sustainability Report, which uses a term "deferred compliance" to describe OPD's compliance with some of the "subtasks" under one of the 52 tasks of the Negotiated Settlement Agreement ("N.S.A."). The Monitor Report indicates that Task 5 of the 52 Tasks consists of "several subtasks," the large majority of which appear to be confirmed as in compliance. In the Report, the IMT takes issue with certain deferred issues which appear to be related to Subtasks 5.18 and 5.21, and as a result conveys that full Task 5 compliance is deferred.¹

The Commission has agendaized the latest Monitor report for this Thursday's (10/13) Regular Meeting of the Commission, and we would appreciate you and/or your leadership team's help in making our own determinations about some of the references in the Monitor's report, to ensure that the Police Commission is exercising its oversight function and supporting OPD's efforts to address any and all instances that have raised the concerns of the Monitor.

On Pages 9 and 10 of the Monitor's Report, the Monitor makes mention of "two disciplinary matters [that] were referred to an outside firm for further investigation." Without providing any detailed information about compliance concerns, the report references unspecified "information that has been developed to date regarding the Department's internal investigation and discipline process [which] is deeply troubling." Consistent with the Police Commission's January 27, 2022 request under Charter Section 604 (f)(2), this is to request that you help us to identify both matters by their case matter numbers and also enable Commissioner access to:

¹ At least one member of the press has reported this as "out of compliance," which we understand to be inaccurate. In a Court filing, Plaintiffs' counsel in the N.S.A. matter more accurately state that the Monitor's full assessment of task compliance "must be deferred until there is greater clarity about these disciplinary matters and the underlying investigation(s)." For the sake of all stakeholders to the Court-oversight process, the Commission has previously urged the IMT to establish set, consistent, and detailed parameters by which the City can fully and finally resolve each NSA task. We maintain that position.

- Reports from IAD
- Interview Recordings or Transcripts from Subject and/or Witness Officers
- Interview Recordings or Transcripts from Complainants
- Discipline Recommendation Forms
- Body Worn Camera Footage

This is also to request a short, confidential briefing about the information that “has been developed to date.” The primary purpose of requesting these materials is to enable the Commission to reliably determine whether the information is relevant to its authorities under the Charter, in particular its policymaking authority under Section 604(b)(4).

On Page 8 of the Monitor’s Report, the Monitor makes reference to compliance concerns related to Body Worn Cameras. As you know, we have previously provided written input to the IMT about interpretations of the N.S.A. compliance standards that are vague and might even unnecessarily forestall full and final resolution of Court-mandated oversight. To that end, the Commission would appreciate you and/or your leadership team to prepare a short, confidential briefing of the specific instances that the Monitor is referencing. The primary purpose of the briefing is to empower the Commission if there is any basis to convene a Discipline Committee pursuant to Section 604(g)(5) related to any disciplinary incident “when body-worn camera footage of the incident was required under Department policy but such footage was not recorded or was otherwise unavailable.”

Finally, we note that the Court itself in its May 12, 2022 Order openly invited the Police Commission to set its own assessment protocols for the NSA Tasks during the sustainability year and authorized the Monitor to share with the Inspector General the IMT’s methodologies or tools that have been used during the sustainability period. (The IG recently reported that she has received these tools, which is encouraging news). Accordingly, we request you and/or your leadership team providing the same briefings to the Inspector General, who may evaluate the matters and report back to the Commission consistent with OMC § 2.45.120.

We commend your team’s ongoing commitment to resolving the N.S.A. and look forward to working with you to address any final concerns the Monitor may have, anticipating next year’s exit from the N.S.A.

Sincerely,

Tyfahara Milele

Tyfahra Milele
Chair of the Oakland Police Commission
City of Oakland

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,
Plaintiffs,
v.
CITY OF OAKLAND, et al.,
Defendants.

Case No. [00-cv-04599-WHO](#)

**ORDER RE CONCLUSIONS AND
RECOMMENDATIONS RE VEHICLE
COLLISION AND ELEVATOR
DISCHARGE INCIDENTS**

United States District Court
Northern District of California

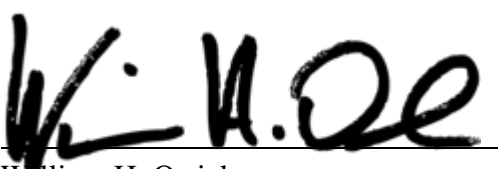
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The City of Oakland retained an independent law firm to investigate incidents involving Oakland Police Department personnel as well as the Oakland Police Departments' investigations of those incidents that implicated OPD's responsibilities under the Negotiated Settlement Agreement (NSA) and Amended Memorandum of Understanding (AMOU). Pursuant to his authority as Compliance Director of the NSA, and the Court's Order of October 21, 2022, Doc. 1549, Chief Robert Warshaw has received a report from the independent law firm, Clarence Dyer & Cohen LLP, regarding its Conclusions and Recommendations Re: Vehicle Collision and Elevator Discharge Incidents.

Having reviewed the report, and having discussed it with the Compliance Director/Monitor, I direct that the Conclusions and Recommendations shall be filed in the docket of this matter and publicly disclosed in full. Disclosure of the Conclusions and Recommendations allows for greater public transparency and accountability for OPD to ensure that the cultural change necessary for compliance with the NSA and AMOU governing this matter is achieved.

IT IS SO ORDERED.

Dated: January 18, 2023


William H. Orrick
United States District Judge

Conclusions and Recommendations

Re: Vehicle Collision and Elevator Discharge Incidents

Oakland Police Department

January 14, 2023

CLARENCE DYER & COHEN LLP

In May 2022, the City of Oakland retained an independent law firm to investigate two separate incidents that involved the same Oakland Police Department officer. As will be explained below, the investigation of these incidents – and a third follow-on investigation involving the Criminal Investigation Division – revealed not only individual acts of misconduct by officers, but also exposed systemic deficiencies in the Department’s ability to investigate misconduct of its members.

In the first incident, which took place in March 2021, the officer – a sergeant of police – was the driver in a motor vehicle collision in which he left the scene of the incident and failed to report the collision. The Oakland Police Department’s Internal Affairs Division conducted an investigation and concluded that the officer had not violated a departmental rule requiring obedience to laws for what amounted to a hit and run. About a year later, in April 2022, the same officer discharged his service weapon inside an elevator at the Police Administration Building in Oakland, removed evidence of the discharge, and then failed to report the discharge for over a week. After it became clear that the officer who had failed to report the weapon discharge was the same officer who had earlier failed to report the vehicle collision, the outside law firm was asked to review the original investigation conducted by the Internal Affairs Division into the vehicle collision and to conduct a separate Internal Affairs Division investigation into the elevator discharge incident. This investigation revealed additional potential misconduct involving the Criminal Investigation Division, which investigators were asked to probe in a third, separate investigation. This report sets forth certain public conclusions of the investigations, along with investigators’ recommendations which are hereby submitted to the Independent Monitor and Compliance Director.

I. The Incidents and Investigations

a. *The Vehicle Collision*

On March 25, 2021, a sworn member and sergeant of the Oakland Police Department, was driving an OPD vehicle in the parking garage of his residence in San Francisco. Also present in the vehicle was another sworn OPD member, an officer and the dating partner of the sergeant who was driving the vehicle. As the sergeant drove the OPD-issued Chevrolet Tahoe out of a parking stall in the parking garage, the vehicle collided with the vehicle in the adjacent

parking stall, ripping the front bumper off the parked car. Video recovered from surveillance cameras in the parking garage show the impact and damage to the adjacent car. The surveillance video also showed that, immediately after the collision, the sergeant stopped the vehicle for 4-5 seconds. Neither the sergeant nor the officer exited the car. Instead, the video showed the vehicle driving away from the scene of the collision.

Neither the sergeant nor the officer reported the collision to their supervising officers on the day of the collision or at any other time afterwards. OPD only became aware of the collision because the City of Oakland received an insurance claim for the damage caused to the vehicle whose bumper had been ripped off during the collision. The City of Oakland received notice of the insurance claim on 25 May 2021.

OPD first became aware of the collision on 14 July 2021, when an OPD lieutenant was asked to identify the driver of the vehicle.¹ That lieutenant was provided with the insurance claim, including photographs and a video of the collision, which he reviewed and shared with the sergeant who was involved in the collision. After showing him the video, the lieutenant instructed the sergeant to make a report of the collision to the San Francisco Police Department because the incident took place in San Francisco. Only then did the lieutenant complete the referral paperwork for the vehicle collision and refer the matter to the Internal Affairs Division. IA initiated IAD Case 21-0862 on 28 July 2021.

b. The Subsequent IAD Investigation

An IAD investigator was assigned IAD Case 21-0862 on October 12, 2021. The IAD investigator was able to locate a longer video of the incident from the security personnel at the subject officer's residence. The longer video shows two individuals, one male and one female, pulling rollaboard suitcases while walking through a parking garage. The individuals put the luggage into the vehicle and then enter the vehicle, with the male individual entering the driver side and the female entering the passenger side. The vehicle had been parked by backing into the stall, such that the vehicle did not have to reverse in order to leave the stall. The vehicle then turns on and pulls forward out of the parking stall and makes a right turn. As the vehicle

¹ The process of identifying the driver on the date of the collision was not a straightforward process because the Lieutenant had not kept a log of which OPD member had that vehicle on any given day.

passes the car parked in the stall immediately adjacent, the right side of the Tahoe makes contact with the front left bumper of the parked car and the bumper is ripped completely off the body of the parked car and falls to the ground.

Immediately after impact, the Tahoe comes to a complete stop, two to three feet from where the collision had just occurred. The Tahoe remains stopped for four to five seconds. No one exits the vehicle. The vehicle then continues driving forward, turns right toward the garage exit, at which point the video ends.

The IAD investigator next interviewed an estimator at a local Oakland auto repair shop to determine whether it would be possible for the driver of the OPD vehicle to have been unaware of the collision. The estimator expressed his belief that the collision would have made a loud sound that should have been heard inside a vehicle, even with the windows closed.

The IAD investigator then attempted to identify the passenger who appeared in the video, first by asking around the department to see if anyone recognized her. The investigator learned, via this informal canvass, that the sergeant in the video was in a dating relationship with an OPD officer. Still, the IAD investigator could not conclude that the person in the video was that officer and therefore was unable to conclusively identify the passenger until he interviewed the sergeant. Notably, the investigator reached out to OPD's HR department to inquire about whether the relationship between the sergeant (a superior officer) and the officer (a subordinate officer) had been reported. He learned that it had not.

The IAD investigator next interviewed the subject sergeant, who was represented by an attorney from a local law firm. During the interview, the sergeant maintained that he had no recollection of the vehicle collision and was not aware it had happened at the time it occurred. The sergeant gave statements that were inconsistent with his prior statements regarding when he viewed the video that showed the collision. The investigator asked the sergeant why the vehicle stopped immediately after the collision, but the sergeant's attorney would not allow the sergeant to answer the question and the investigator did not insist on an answer. Also, during the interview, the sergeant reluctantly identified the passenger in the video as an OPD officer and admitted to being in a dating relationship with her. The investigator did not ask the

sergeant whether he reported the relationship to his superiors and did not notice him for an MOR violation for failure to report the relationship.

The IAD investigator next interviewed the passenger-officer, who was represented by the same attorney from the same law firm as the sergeant. She maintained that she was unaware of the vehicle collision and had no recollection of the day in question. The investigator did not ask the officer about her relationship with the sergeant or whether it had been reported to OPD supervisors.

c. The Report of Investigation

The IAD investigator drafted the Report of Investigation (ROI) for 21-0862, concluding that a preponderance of the evidence showed that the sergeant should be sustained for violating the Manual of Rules (“MOR”) for Obedience to Laws for the hit and run and for preventable collision. The investigator also concluded that the officer should not be sustained for the performance of duty MOR. The investigator’s draft report called into question the credibility of both the sergeant and the officer. It also included a discussion of their dating relationship and their failure to report that relationship to OPD superior officers or command staff. Finally, it included a discussion and finding of “not sustained” for the Truthfulness MOR against the sergeant, which the IAD investigator conducted as part of his investigation. The investigator then reviewed the draft ROI with his superior officer, who was the IAD Commander – a Captain. The Captain requested revisions to the ROI with which the investigator disagreed and to which the investigator objected. Nevertheless, the Captain directed the investigator to revise the ROI and the investigator did so at the Captain’s direction. The investigator stated that he had to obey the “direct orders” of a superior officer and alter the report in a manner that, he believed, minimized the severity of the misconduct and allowed the sergeant to avoid the appropriate consequences for his actions. At the behest of the Captain, the final ROI contained the following revisions: (1) it sustained the sergeant only for the preventable collision but not for the hit and run; (2) it changed the passenger-officer’s designation from subject officer to witness; (3) it concluded that both the sergeant and officer were credible; (4) it removed the discussion of the relationship issue; and (5) it deleted any mention of the Truthfulness MOR or investigation into that issue.

d. The Chief's Friday Meeting

The investigator presented his findings and recommendations at a weekly meeting of the Executive Command Staff, known informally in the department as the "Chief's Friday Meeting" on 23 December 2021, eight months after the vehicle collision. At the meeting, the investigator described the facts of the case, however he did not mention that the two OPD members in the vehicle at the time of the collision were involved in an unreported dating relationship. His presentation recommended only one sustained finding – for the preventable vehicle collision – per the Captain of IAD's direct orders. The Chief of Police did not permit extensive discussion of the case and did not request that the video be shown, instead quickly approving the recommended sustained finding and signing the final ROI without reading it.

e. Subsequent Discipline

As a result of the sustained finding on the preventable collision, the sergeant received counselling and training.

II. The Independent Investigation into IAD's Investigation of the Vehicle Collision

Several months later, after it was revealed that the sergeant who had been involved in the unreported vehicle collision was the same officer who failed to report the discharge of his service weapon in an elevator inside the Police Administration Building, the City of Oakland retained an independent law firm to lead: (1) an inquiry into IAD's original investigation of the vehicle collision incident; (2) an inquiry into the elevator discharge incident; and (3) any ancillary misconduct uncovered over the course of the above investigations. Over the course of four months, investigators reviewed email correspondence, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Nineteen subjects and witnesses were interviewed. Notably, nearly every OPD subject interviewed was represented by the same attorney from the same law firm, which was also the same firm that represented both the sergeant and officer in IAD's investigation into the vehicle collision.

At the conclusion of the investigation into the vehicle collision, investigators recommended that the Department sustain multiple Manual of Rules violations against the Captain of the Internal Affairs Division for inappropriately directing a subordinate officer to

downgrade the findings of the investigation such that the subject officer was not held accountable for serious misconduct and thereby avoided serious discipline. Investigators also recommended the Department sustain Manual of Rules violations against the lieutenant who showed the sergeant photographs and video of the incident before referring the matter to internal affairs, thereby interfering with the investigation. Finally, investigators recommended that the Department sustain Manual of Rules violations against the Chief of Police for failing to hold his subordinate officers to account, for failing to engage effectively in the review of the incident and for allowing the subject officer to escape responsibility for serious misconduct. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

III. The Service Weapon Discharge

a. The Incident

On the night of Saturday, April 16th or the early morning of Sunday, April 17th, while working a shift inside the Police Administration Building, an OPD officer discharged a service weapon inside the freight elevator. The discharge created a strike mark on the wall of the elevator, which strike mark was first noticed by other OPD members the following day. When it was discovered that no one had reported an accidental firearm discharge, an investigation was undertaken to determine who was responsible for the discharge.

A preliminary investigation was commenced when members of the department began collecting video footage from cameras inside the Police Administration building that showed people entering and exiting the freight elevator during the weekend of April 16th and 17th. The investigating officer also reviewed proxy card data showing who had used a proxy card to access the elevators on those days. The matter became a subject of department-wide chatter and speculation about who was responsible for the discharge as the investigator narrowed the list of potential suspects.

On Monday April 25th, 2022, more than a week after the discharge, a sergeant of police approached the preliminary investigator in his office at the Police Administration Building to confess that he was the officer who had discharged his firearm in the elevator. He also

admitted to collecting and discarding evidence from the discharge, including the shell casing by throwing it in the San Francisco Bay while driving his service vehicle over the Bay Bridge. The sergeant was immediately placed on administrative leave. The Criminal Investigation Division of the Oakland Police Department conducted a parallel criminal investigation into the incident.

b. The Independent Investigation into the Weapon Discharge

When it became apparent that the officer who discharged his service weapon inside the elevator and failed to report it was the same officer who had previously been involved in the similarly unreported vehicle collision, independent investigators were tasked with conducting an investigation into the weapon discharge. Investigators began reviewing the incident in September 2022. Over the course of four months, investigators reviewed email correspondence, cell phone records, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Two subjects and fourteen witnesses were interviewed. Notably, the two subjects in this investigation were the same two subjects in the vehicle collision investigation, i.e. the sergeant and his officer girlfriend, and both subjects were again represented by the same lawyer from the same law firm as the prior investigation.

At the conclusion of the investigation, outside investigators recommended that the Department sustain multiple Manual of Rules violations against the subject officer based on the discharge itself, the disruption of the scene of the incident and destruction of evidence after the fact, the failure to immediately report the incident, and additional violations. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

IV. The Criminal and Administrative Investigations into the Discharge

Over the course of conducting the Internal Affairs Division investigation into the facts surrounding the discharge of a service weapon in the Police Administration Building, outside investigators identified certain procedural irregularities and possible violations of OPD policy committed by OPD members who conducted the initial criminal and administrative investigations. These issues resulted in the initiation of a separate follow-on investigation into the way the Internal Affairs Division and the Criminal Investigation Division undertook their parallel investigations of the underlying facts of the elevator discharge. This follow-on

investigation has identified MOR violations that will be addressed in a separate confidential IAD report.

During the course of the three confidential Internal Affairs Division investigations referred to above – one for the vehicle collision incident, the second for the elevator discharge incident, and the third for the investigation into the Department’s handling of the elevator discharge – outside investigators encountered multiple deficiencies in process and policy that undermined the full and complete discovery of the facts. While some of these deficiencies stem from gaps in Department policies, other deficiencies flowed from the Department’s failure to follow or implement existing Department policies. Most disturbingly, some of the deficits appear to stem from a failure of leadership and a lack of commitment to hold members of the Oakland Police Department accountable for violations of its own rules.

As these deficiencies were uncovered by the three above-described independent investigations, the following recommendations are offered for the purpose of strengthening OPD’s ability to hold its members accountable to the public it serves by implementing improved processes for the Internal Affairs and Criminal Investigation Divisions, and clearer rules and policies. These recommendations are set forth below.

V. RECOMMENDATIONS

As discussed above, certain members of the Oakland Police Department committed MOR violations by failing to effectively investigate and discipline a sergeant of police who broke the law and failed to report his own misconduct. This failure on the part of these OPD members permitted that sergeant to evade serious discipline and allowed him to commit far more serious misconduct when, several months later, he discharged his service weapon inside a building full of people. These investigations revealed issues and shortcomings that go beyond the conduct of individual officers to the very question of whether the Oakland Police Department is capable of policing itself and effectively holding its own officers accountable for misconduct.

Every sworn officer of the Oakland Police Department, including the Chief of Police, has an obligation to abide by the Department’s high standards for its officers. This includes the obligation to abide by the Manual of Rules, to self-report violations of rules, and to cooperate

fully with investigations into those violations. The Internal Affairs Division is a uniquely situated component within OPD, tasked with investigating misconduct and, at times, criminal conduct – together with the Criminal Investigations Division – committed by OPD members. It is absolutely critical, if the Department wishes to enjoy the confidence and trust of the communities it serves, for the IAD to function independently of internal politics or favoritism and to bring uncompromising rigor to its work. The inquiry into IAD’s investigation of the vehicle collision incident revealed that the IAD fell well short of that mark. The IAD’s shortcomings in this case call into question whether they are truly up to the task.

It is equally critical to the functioning of any law enforcement agency that sworn police officers, both in their day-to-day police work and in their interactions with IAD and CID, are honest and always conduct themselves with integrity. The investigations underlying these recommendations were dogged by a lack of forthrightness by multiple members, both subjects and witnesses, that betrayed a lack of commitment to the pursuit of truth by the Internal Affairs process. If OPD is to fulfill its duties to the community it serves it must create and maintain a commitment to uncovering the truth and holding OPD members accountable for misconduct rather than thwarting the investigative process for the purpose of protecting fellow OPD members.

Effectively addressing these issues will require the Department to review and reassess the very structure of IAD and its internal investigatory functions. There must be a shift in the very culture of the Department, to ensure that IAD and CID can bring unflinching rigor to their work investigating misconduct committed by sworn members – the very same rigor other investigatory bodies within the Department bring to investigating crimes committed by members of the community.

- a. ***OPD should require all personnel involved in the investigation, review, supervision, and approval of IAD and CID cases to conform to the recusal standards of applicable policies***

Pursuant to Training Bulletin V-T.1(C) governing internal investigations procedures for the Oakland Police Department, investigators are required to recuse themselves from conducting an internal investigation if they were directly involved in the incident or if certain enumerated relationships exist between any of the involved parties “which might lead to a

perception of bias.” CID has a similar policy memorialized in CID Policy and Procedure 15-01 that applies to the Homicide section. The laudable goal of these policies is to ensure that personal relationships maintained by investigators do not lead to bias or the perception of bias in these critical investigatory functions. It is recommended that the OPD extend this policy to include not only investigators themselves, but supervisors, commanders and senior executives overseeing IAD investigations and discipline and CID investigations.

b. *OPD should adopt a policy that requires approval and documentation of all changes to draft Reports of IAD Investigations*

IAD’s current policies require IAD investigators to get authorization from the IAD Commander before they can remove an MOR from an investigation or before they can downgrade a subject officer to a witness. IAD policy, however, vests authority for such changes with the IAD commander and does not protect against situations in which the IAD Commander is compromised and seeks to alter findings and conclusions for personal or improper reasons. It is recommended that IAD update its policy so that no member has the authority to remove an MOR violation or downgrade an officer from subject to witness without notice and accountability. If the IAD Commander believes such changes are necessary over the objection of the lead investigator, it is recommended that the IAD Commander should have to seek authorization from the Deputy Chief for the Bureau of Risk Management or from the Chief of Police.

It is further recommended that IAD develop a policy that explicitly requires investigators to include in final reports all MOR violations that were considered and investigated as part of any investigation. If an MOR violation is identified and later deemed to have been identified in error, a clear notation should appear in the ROI but the MOR violation should not be deleted in its entirety.

To ensure transparency, it is further recommended that all substantive changes to ROIs made after a report has been submitted to IAD command staff for approval be documented in a central repository, with appropriate documentation explaining why such changes were required.

c. ***OPD should adopt a policy that requires all briefings regarding ongoing IAD investigations to be documented.***

In order to ensure greater transparency and accountability in the IAD process it is recommended that all substantive briefings on the merits of the case that occur between any member of IAD staff and Executive Staff (to include the Chief of Police, Assistant Chief and Deputy Chiefs) be documented in a central repository, including the date of such briefings and a summary of the content of the briefing. This will ensure that future reviews of IAD investigations are not frustrated by witnesses' claimed inability to recall conversations and details of briefings.

d. ***OPD should adopt a policy that requires the Chief of Police to read reports of IAD investigations before signing them.***

It is axiomatic that the Chief of Police is ultimately responsible for the outcome of internal affairs investigations and for the imposition of discipline. The imposition of discipline must be made only after a full and complete review of the facts uncovered by the Internal Affairs Division investigation as set forth in the Report of Investigation. It is recommended that the OPD adopt a policy explicitly requiring the Chief of Police to read Reports of Investigation before signing them.

e. ***OPD should adopt a Department-specific policy regarding acceptable personal relationships between sworn members and when and how those relationships must be reported***

Multiple witnesses reported a lack of clarity around when personal relationships between sworn members must be reported and how those relationships should be reported. Undisclosed personal relationships pose issues for fact-finding and investigations, both in the normal course of official police work as well as during Internal Affairs Division investigations when officers involved in personal relationships may be called upon to give testimony that could be adverse to the other. These issues are not limited to circumstances where one officer involved in a personal relationship may be a superior officer or supervisor. It is recommended that OPD adopt a clear policy regarding acceptable personal relationships between sworn members and when those relationships must be reported to the Department. Upon adoption of such a policy, it is recommended that OPD members are given clear guidance, via formal training, of the policy.

- f. ***OPD should review its implementation and training regarding the policies governing use by OPD members of OPD-issued cellular telephones and personal cellular telephones for all Department-business and to prohibit the use of personal cellular telephones for work-related communication.***

It became abundantly clear during the investigation into the elevator discharge incident that OPD members regularly use their personal cell phones for work-related purposes, both while on active duty and while off-duty. In fact, multiple OPD members stated that they use their personal cell phones for “everything” work-related. Some members do not carry their OPD-issued cell phones with them while on duty, and many do not know their OPD-issued cell phone numbers or the OPD phone numbers for officers with whom they actively work. OPD-issued cell phones appear to be used, by multiple OPD members, exclusively as cameras used to take photographs of evidence at crime scenes. Nearly every OPD member who was asked about cell phone usage admitted to using their personal cell phones for communication (by voice or text) with other OPD members for work-related purposes. Additionally, multiple OPD members admitted that their personal cell phones, with which they communicate via text message with other OPD members on work-related topics, are set to auto-delete text messages after as little as 30 days. This haphazard use of personal and work telephones raises serious concerns about the deletion of evidence, and there appears to be little regard for the need to preserve evidence that may be critical in regular police work as well as Internal Affairs investigations that arise. In fact, the two investigations described here were negatively impacted by auto-deleted text message conversations that may have been fruitful in the fact-finding mission in these investigations. Moreover, the investigations were hampered by a complete lack of clarity about whether current Internal Affairs Division rules permit investigators to compel production of text or telephone messages maintained on personal telephones even when important evidence is known to exist on those personal telephones used in connection with OPD duties.

It is recommended that OPD recommit to its policy requiring members to use OPD-issued cell phones for all Department-related purposes and prohibiting the use of personal cell phones.² It is recommended that OPD issue additional training on this topic.

g. OPD should revise its rule regarding physical fitness for duty to explicitly include mental health.

Manual of Rules section 328.56-2b – Physical Fitness for Duty states that “all members and employees shall maintain the necessary level of physical fitness to perform their duties.” This means that an officer who is not physically fit for duty can be found in violation of this rule. The rule does not, however, explicitly require that officers be mentally fit for duty. Officers who are under extreme stress or who are experiencing severe mental health distress or crisis may not be fit for duty and those officers should know, unequivocally, that reporting for duty in the midst of a mental health crisis is not permitted. Clear guidance about how officers experiencing mental health crises should interface with their commanders is needed. OPD should also provide support and training to members so that they are equipped to handle reports of mental health crises from their fellow officers.

h. OPD, through its Office of Internal Accountability, should review and improve its policies, practices, and training regarding investigations of members accused of criminal misconduct to ensure rigor and accountability.

OPD’s Internal Affairs Division is tasked with investigating misconduct on the part of OPD members to determine whether that misconduct violates Department rules. At times, this misconduct comprises criminal acts, which requires the Department’s Criminal Investigations Division (“CID”) to undertake a *criminal* investigation of OPD members. Any investigation into an OPD member’s potential criminal conduct should be given the same attention, resources and rigor as any other investigation undertaken by CID. In investigating the potential criminal conduct of their fellow officers, CID investigators must ensure that the various rights afforded law enforcement officers under the California Police Officer’s Bill of Rights are considered and

² Notably, the OPD issued General Order I-19: ELECTRONIC COMMUNICATION DEVICES regarding use of personal devices and telephones in the aftermath of a public report issued in the “Instagram” investigation in connection with *Allen, et al. v. City of Oakland, et al.*, Case No. 3:00-cv-04599-WHO. Despite issuing this policy, there appears to be scant compliance with the policy, and members readily admitted to not knowing about the policy or disregarding it.

protected. This is especially true when misconduct is being investigated both criminally and administratively. The investigations described above revealed a lack of clarity regarding how to effectively conduct a criminal investigation of a fellow police officer who is also under administrative investigation. This hindered the criminal investigation referenced above.

The Department should review its policies and practices surrounding General Order M-04.1 investigations and its practices with respect to parallel CID and IAD investigations to ensure that all members responsible for investigating fellow officers are equipped to conduct those investigations thoroughly and in a manner that ensures accountability. The Department should provide members with appropriate training, if necessary, to achieve this standard.

VI. CONCLUSION

The actions of one officer who twice violated the simple rule to self-report one's misconduct launched independent investigations which revealed systemic failures far larger and more serious than the actions of one police officer. The actions of OPD's Internal Affairs Division, which sought to recast, deflect, and minimize the severity of the officer's misconduct created an environment that allowed that officer to go on to commit far more egregious and dangerous misconduct, to wit: discharging a weapon in a building full of people. The multiple failures, at every level, to hold this sergeant responsible, belie OPD's stated position that it can police itself and hold its members accountable for misconduct. Instead, investigators were left with the impression that the system is designed not to uncover the truth and hold those who commit misconduct to account, but instead to find ways to minimize misconduct such that OPD members are able to avoid serious discipline. For the sake of public confidence in the Oakland Police Department and its relationship both with its members and the community it serves, OPD must take the necessary steps to review the failures of its internal affairs processes and to commit to more rigorously investigating misconduct to prevent the recurrence of similar, or more serious, events in the future.



CITY OF OAKLAND

AGENDA REPORT

SUBJECT: Discussion of Commission Authority on Priorities for N.S.A. Tasks 5 & 45

DATE: January 23, 2023

RECOMMENDATION

Solicit Public Input about Applicable Commission Charter and Municipal Code Authorities to Address Recommendations from Sustainability Period Reports and N.S.A. January 18, 2023 Court Order; and Deliberate on Next Steps for the Commission.

BACKGROUND

According to Court Monitor reports arising from the “Negotiated Settlement Agreement” (“N.S.A.”), the Department was found to be in partial compliance for Task 45 (Consistency of Discipline) and not in compliance for Task 5 (Internal Affairs Complaint Procedures). The N.S.A. Plaintiffs wrote to the Court on January 23, 2023, urging: “...Plaintiffs’ attorneys do not believe OPD can be in compliance with Task 45, and respectfully request that the [Monitor] immediately reevaluate status of this all-important Task.”

On January 18, 2023, the N.S.A. Court publicly released an investigation firm’s Conclusions and Recommendations, which detailed changes to Police Department policies, procedures, and training related to the following topics:

- Recusal standards for supervisors, commanders and senior executives overseeing IAD investigations and discipline and CID investigations.
- Methods of documenting and strengthening safeguards for authorizing changes to Draft Reports of Investigation.
- Documentation of substantive investigation briefings between members of IAD staff and members of Executive Staff.
- Review of ROIs prior to final signature.
- Disclosure of personal relationships between members.
- Use of OPD-issued cellular telephones for all Department-related communications.
- Standards for handling reports of mental health crises from officers, including for fellow officers and interfacing with commanding officers.
- Investigations of members accused of criminal misconduct.

AUTHORITIES

The Police Commission has several Charter and Municipal authorities to address these points of reform, including:

Oakland Police Commission
Meeting on January 26, 2023

- Approval of Department policy changes (Charter § 604(b)(5))
- Initiation of the Commission's own policy changes to address N.S.A.-related developments. (Charter § 604(b)(4))
- Receipt of CPRA Update on 2022 Issuance of RFP for Professional Services for IAD to CPRA Transition (OMC § 2.24.022)
- Apprising the Office of the Inspector General about priorities for audits (OMC § 2.45.120)
- Creation of Ad Hoc Committee to Address Negotiated Settlement Agreement Transition Priorities, Receive Reports and Audits related to Tasks 5 and 45, and Develop Policy Recommendations for the Consideration of the Full Commission
- Request to City Council to Create a Standing Committee to the Above (OMC § 2.45.150)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,
Plaintiffs,
v.
CITY OF OAKLAND, et al.,
Defendants.

Case No. [00-cv-04599-WHO](#)

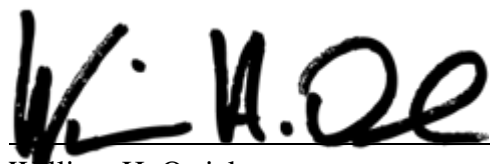
**ORDER RE CONCLUSIONS AND
RECOMMENDATIONS RE VEHICLE
COLLISION AND ELEVATOR
DISCHARGE INCIDENTS**

The City of Oakland retained an independent law firm to investigate incidents involving Oakland Police Department personnel as well as the Oakland Police Departments' investigations of those incidents that implicated OPD's responsibilities under the Negotiated Settlement Agreement (NSA) and Amended Memorandum of Understanding (AMOU). Pursuant to his authority as Compliance Director of the NSA, and the Court's Order of October 21, 2022, Doc. 1549, Chief Robert Warshaw has received a report from the independent law firm, Clarence Dyer & Cohen LLP, regarding its Conclusions and Recommendations Re: Vehicle Collision and Elevator Discharge Incidents.

Having reviewed the report, and having discussed it with the Compliance Director/Monitor, I direct that the Conclusions and Recommendations shall be filed in the docket of this matter and publicly disclosed in full. Disclosure of the Conclusions and Recommendations allows for greater public transparency and accountability for OPD to ensure that the cultural change necessary for compliance with the NSA and AMOU governing this matter is achieved.

IT IS SO ORDERED.

Dated: January 18, 2023



William H. Orrick
United States District Judge

United States District Court
Northern District of California

Conclusions and Recommendations

Re: Vehicle Collision and Elevator Discharge Incidents

Oakland Police Department

January 14, 2023

CLARENCE DYER & COHEN LLP

In May 2022, the City of Oakland retained an independent law firm to investigate two separate incidents that involved the same Oakland Police Department officer. As will be explained below, the investigation of these incidents – and a third follow-on investigation involving the Criminal Investigation Division – revealed not only individual acts of misconduct by officers, but also exposed systemic deficiencies in the Department’s ability to investigate misconduct of its members.

In the first incident, which took place in March 2021, the officer – a sergeant of police – was the driver in a motor vehicle collision in which he left the scene of the incident and failed to report the collision. The Oakland Police Department’s Internal Affairs Division conducted an investigation and concluded that the officer had not violated a departmental rule requiring obedience to laws for what amounted to a hit and run. About a year later, in April 2022, the same officer discharged his service weapon inside an elevator at the Police Administration Building in Oakland, removed evidence of the discharge, and then failed to report the discharge for over a week. After it became clear that the officer who had failed to report the weapon discharge was the same officer who had earlier failed to report the vehicle collision, the outside law firm was asked to review the original investigation conducted by the Internal Affairs Division into the vehicle collision and to conduct a separate Internal Affairs Division investigation into the elevator discharge incident. This investigation revealed additional potential misconduct involving the Criminal Investigation Division, which investigators were asked to probe in a third, separate investigation. This report sets forth certain public conclusions of the investigations, along with investigators’ recommendations which are hereby submitted to the Independent Monitor and Compliance Director.

I. The Incidents and Investigations

a. *The Vehicle Collision*

On March 25, 2021, a sworn member and sergeant of the Oakland Police Department, was driving an OPD vehicle in the parking garage of his residence in San Francisco. Also present in the vehicle was another sworn OPD member, an officer and the dating partner of the sergeant who was driving the vehicle. As the sergeant drove the OPD-issued Chevrolet Tahoe out of a parking stall in the parking garage, the vehicle collided with the vehicle in the adjacent

parking stall, ripping the front bumper off the parked car. Video recovered from surveillance cameras in the parking garage show the impact and damage to the adjacent car. The surveillance video also showed that, immediately after the collision, the sergeant stopped the vehicle for 4-5 seconds. Neither the sergeant nor the officer exited the car. Instead, the video showed the vehicle driving away from the scene of the collision.

Neither the sergeant nor the officer reported the collision to their supervising officers on the day of the collision or at any other time afterwards. OPD only became aware of the collision because the City of Oakland received an insurance claim for the damage caused to the vehicle whose bumper had been ripped off during the collision. The City of Oakland received notice of the insurance claim on 25 May 2021.

OPD first became aware of the collision on 14 July 2021, when an OPD lieutenant was asked to identify the driver of the vehicle.¹ That lieutenant was provided with the insurance claim, including photographs and a video of the collision, which he reviewed and shared with the sergeant who was involved in the collision. After showing him the video, the lieutenant instructed the sergeant to make a report of the collision to the San Francisco Police Department because the incident took place in San Francisco. Only then did the lieutenant complete the referral paperwork for the vehicle collision and refer the matter to the Internal Affairs Division. IA initiated IAD Case 21-0862 on 28 July 2021.

b. The Subsequent IAD Investigation

An IAD investigator was assigned IAD Case 21-0862 on October 12, 2021. The IAD investigator was able to locate a longer video of the incident from the security personnel at the subject officer's residence. The longer video shows two individuals, one male and one female, pulling rollaboard suitcases while walking through a parking garage. The individuals put the luggage into the vehicle and then enter the vehicle, with the male individual entering the driver side and the female entering the passenger side. The vehicle had been parked by backing into the stall, such that the vehicle did not have to reverse in order to leave the stall. The vehicle then turns on and pulls forward out of the parking stall and makes a right turn. As the vehicle

¹ The process of identifying the driver on the date of the collision was not a straightforward process because the Lieutenant had not kept a log of which OPD member had that vehicle on any given day.

passes the car parked in the stall immediately adjacent, the right side of the Tahoe makes contact with the front left bumper of the parked car and the bumper is ripped completely off the body of the parked car and falls to the ground.

Immediately after impact, the Tahoe comes to a complete stop, two to three feet from where the collision had just occurred. The Tahoe remains stopped for four to five seconds. No one exits the vehicle. The vehicle then continues driving forward, turns right toward the garage exit, at which point the video ends.

The IAD investigator next interviewed an estimator at a local Oakland auto repair shop to determine whether it would be possible for the driver of the OPD vehicle to have been unaware of the collision. The estimator expressed his belief that the collision would have made a loud sound that should have been heard inside a vehicle, even with the windows closed.

The IAD investigator then attempted to identify the passenger who appeared in the video, first by asking around the department to see if anyone recognized her. The investigator learned, via this informal canvass, that the sergeant in the video was in a dating relationship with an OPD officer. Still, the IAD investigator could not conclude that the person in the video was that officer and therefore was unable to conclusively identify the passenger until he interviewed the sergeant. Notably, the investigator reached out to OPD's HR department to inquire about whether the relationship between the sergeant (a superior officer) and the officer (a subordinate officer) had been reported. He learned that it had not.

The IAD investigator next interviewed the subject sergeant, who was represented by an attorney from a local law firm. During the interview, the sergeant maintained that he had no recollection of the vehicle collision and was not aware it had happened at the time it occurred. The sergeant gave statements that were inconsistent with his prior statements regarding when he viewed the video that showed the collision. The investigator asked the sergeant why the vehicle stopped immediately after the collision, but the sergeant's attorney would not allow the sergeant to answer the question and the investigator did not insist on an answer. Also, during the interview, the sergeant reluctantly identified the passenger in the video as an OPD officer and admitted to being in a dating relationship with her. The investigator did not ask the

sergeant whether he reported the relationship to his superiors and did not notice him for an MOR violation for failure to report the relationship.

The IAD investigator next interviewed the passenger-officer, who was represented by the same attorney from the same law firm as the sergeant. She maintained that she was unaware of the vehicle collision and had no recollection of the day in question. The investigator did not ask the officer about her relationship with the sergeant or whether it had been reported to OPD supervisors.

c. The Report of Investigation

The IAD investigator drafted the Report of Investigation (ROI) for 21-0862, concluding that a preponderance of the evidence showed that the sergeant should be sustained for violating the Manual of Rules (“MOR”) for Obedience to Laws for the hit and run and for preventable collision. The investigator also concluded that the officer should not be sustained for the performance of duty MOR. The investigator’s draft report called into question the credibility of both the sergeant and the officer. It also included a discussion of their dating relationship and their failure to report that relationship to OPD superior officers or command staff. Finally, it included a discussion and finding of “not sustained” for the Truthfulness MOR against the sergeant, which the IAD investigator conducted as part of his investigation. The investigator then reviewed the draft ROI with his superior officer, who was the IAD Commander – a Captain. The Captain requested revisions to the ROI with which the investigator disagreed and to which the investigator objected. Nevertheless, the Captain directed the investigator to revise the ROI and the investigator did so at the Captain’s direction. The investigator stated that he had to obey the “direct orders” of a superior officer and alter the report in a manner that, he believed, minimized the severity of the misconduct and allowed the sergeant to avoid the appropriate consequences for his actions. At the behest of the Captain, the final ROI contained the following revisions: (1) it sustained the sergeant only for the preventable collision but not for the hit and run; (2) it changed the passenger-officer’s designation from subject officer to witness; (3) it concluded that both the sergeant and officer were credible; (4) it removed the discussion of the relationship issue; and (5) it deleted any mention of the Truthfulness MOR or investigation into that issue.

d. The Chief's Friday Meeting

The investigator presented his findings and recommendations at a weekly meeting of the Executive Command Staff, known informally in the department as the "Chief's Friday Meeting" on 23 December 2021, eight months after the vehicle collision. At the meeting, the investigator described the facts of the case, however he did not mention that the two OPD members in the vehicle at the time of the collision were involved in an unreported dating relationship. His presentation recommended only one sustained finding – for the preventable vehicle collision – per the Captain of IAD's direct orders. The Chief of Police did not permit extensive discussion of the case and did not request that the video be shown, instead quickly approving the recommended sustained finding and signing the final ROI without reading it.

e. Subsequent Discipline

As a result of the sustained finding on the preventable collision, the sergeant received counselling and training.

II. The Independent Investigation into IAD's Investigation of the Vehicle Collision

Several months later, after it was revealed that the sergeant who had been involved in the unreported vehicle collision was the same officer who failed to report the discharge of his service weapon in an elevator inside the Police Administration Building, the City of Oakland retained an independent law firm to lead: (1) an inquiry into IAD's original investigation of the vehicle collision incident; (2) an inquiry into the elevator discharge incident; and (3) any ancillary misconduct uncovered over the course of the above investigations. Over the course of four months, investigators reviewed email correspondence, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Nineteen subjects and witnesses were interviewed. Notably, nearly every OPD subject interviewed was represented by the same attorney from the same law firm, which was also the same firm that represented both the sergeant and officer in IAD's investigation into the vehicle collision.

At the conclusion of the investigation into the vehicle collision, investigators recommended that the Department sustain multiple Manual of Rules violations against the Captain of the Internal Affairs Division for inappropriately directing a subordinate officer to

downgrade the findings of the investigation such that the subject officer was not held accountable for serious misconduct and thereby avoided serious discipline. Investigators also recommended the Department sustain Manual of Rules violations against the lieutenant who showed the sergeant photographs and video of the incident before referring the matter to internal affairs, thereby interfering with the investigation. Finally, investigators recommended that the Department sustain Manual of Rules violations against the Chief of Police for failing to hold his subordinate officers to account, for failing to engage effectively in the review of the incident and for allowing the subject officer to escape responsibility for serious misconduct. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

III. The Service Weapon Discharge

a. The Incident

On the night of Saturday, April 16th or the early morning of Sunday, April 17th, while working a shift inside the Police Administration Building, an OPD officer discharged a service weapon inside the freight elevator. The discharge created a strike mark on the wall of the elevator, which strike mark was first noticed by other OPD members the following day. When it was discovered that no one had reported an accidental firearm discharge, an investigation was undertaken to determine who was responsible for the discharge.

A preliminary investigation was commenced when members of the department began collecting video footage from cameras inside the Police Administration building that showed people entering and exiting the freight elevator during the weekend of April 16th and 17th. The investigating officer also reviewed proxy card data showing who had used a proxy card to access the elevators on those days. The matter became a subject of department-wide chatter and speculation about who was responsible for the discharge as the investigator narrowed the list of potential suspects.

On Monday April 25th, 2022, more than a week after the discharge, a sergeant of police approached the preliminary investigator in his office at the Police Administration Building to confess that he was the officer who had discharged his firearm in the elevator. He also

admitted to collecting and discarding evidence from the discharge, including the shell casing by throwing it in the San Francisco Bay while driving his service vehicle over the Bay Bridge. The sergeant was immediately placed on administrative leave. The Criminal Investigation Division of the Oakland Police Department conducted a parallel criminal investigation into the incident.

b. The Independent Investigation into the Weapon Discharge

When it became apparent that the officer who discharged his service weapon inside the elevator and failed to report it was the same officer who had previously been involved in the similarly unreported vehicle collision, independent investigators were tasked with conducting an investigation into the weapon discharge. Investigators began reviewing the incident in September 2022. Over the course of four months, investigators reviewed email correspondence, cell phone records, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Two subjects and fourteen witnesses were interviewed. Notably, the two subjects in this investigation were the same two subjects in the vehicle collision investigation, i.e. the sergeant and his officer girlfriend, and both subjects were again represented by the same lawyer from the same law firm as the prior investigation.

At the conclusion of the investigation, outside investigators recommended that the Department sustain multiple Manual of Rules violations against the subject officer based on the discharge itself, the disruption of the scene of the incident and destruction of evidence after the fact, the failure to immediately report the incident, and additional violations. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

IV. The Criminal and Administrative Investigations into the Discharge

Over the course of conducting the Internal Affairs Division investigation into the facts surrounding the discharge of a service weapon in the Police Administration Building, outside investigators identified certain procedural irregularities and possible violations of OPD policy committed by OPD members who conducted the initial criminal and administrative investigations. These issues resulted in the initiation of a separate follow-on investigation into the way the Internal Affairs Division and the Criminal Investigation Division undertook their parallel investigations of the underlying facts of the elevator discharge. This follow-on

investigation has identified MOR violations that will be addressed in a separate confidential IAD report.

During the course of the three confidential Internal Affairs Division investigations referred to above – one for the vehicle collision incident, the second for the elevator discharge incident, and the third for the investigation into the Department’s handling of the elevator discharge – outside investigators encountered multiple deficiencies in process and policy that undermined the full and complete discovery of the facts. While some of these deficiencies stem from gaps in Department policies, other deficiencies flowed from the Department’s failure to follow or implement existing Department policies. Most disturbingly, some of the deficits appear to stem from a failure of leadership and a lack of commitment to hold members of the Oakland Police Department accountable for violations of its own rules.

As these deficiencies were uncovered by the three above-described independent investigations, the following recommendations are offered for the purpose of strengthening OPD’s ability to hold its members accountable to the public it serves by implementing improved processes for the Internal Affairs and Criminal Investigation Divisions, and clearer rules and policies. These recommendations are set forth below.

V. RECOMMENDATIONS

As discussed above, certain members of the Oakland Police Department committed MOR violations by failing to effectively investigate and discipline a sergeant of police who broke the law and failed to report his own misconduct. This failure on the part of these OPD members permitted that sergeant to evade serious discipline and allowed him to commit far more serious misconduct when, several months later, he discharged his service weapon inside a building full of people. These investigations revealed issues and shortcomings that go beyond the conduct of individual officers to the very question of whether the Oakland Police Department is capable of policing itself and effectively holding its own officers accountable for misconduct.

Every sworn officer of the Oakland Police Department, including the Chief of Police, has an obligation to abide by the Department’s high standards for its officers. This includes the obligation to abide by the Manual of Rules, to self-report violations of rules, and to cooperate

fully with investigations into those violations. The Internal Affairs Division is a uniquely situated component within OPD, tasked with investigating misconduct and, at times, criminal conduct – together with the Criminal Investigations Division – committed by OPD members. It is absolutely critical, if the Department wishes to enjoy the confidence and trust of the communities it serves, for the IAD to function independently of internal politics or favoritism and to bring uncompromising rigor to its work. The inquiry into IAD’s investigation of the vehicle collision incident revealed that the IAD fell well short of that mark. The IAD’s shortcomings in this case call into question whether they are truly up to the task.

It is equally critical to the functioning of any law enforcement agency that sworn police officers, both in their day-to-day police work and in their interactions with IAD and CID, are honest and always conduct themselves with integrity. The investigations underlying these recommendations were dogged by a lack of forthrightness by multiple members, both subjects and witnesses, that betrayed a lack of commitment to the pursuit of truth by the Internal Affairs process. If OPD is to fulfill its duties to the community it serves it must create and maintain a commitment to uncovering the truth and holding OPD members accountable for misconduct rather than thwarting the investigative process for the purpose of protecting fellow OPD members.

Effectively addressing these issues will require the Department to review and reassess the very structure of IAD and its internal investigatory functions. There must be a shift in the very culture of the Department, to ensure that IAD and CID can bring unflinching rigor to their work investigating misconduct committed by sworn members – the very same rigor other investigatory bodies within the Department bring to investigating crimes committed by members of the community.

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perception of bias.” CID has a similar policy memorialized in CID Policy and Procedure 15-01 that applies to the Homicide section. The laudable goal of these policies is to ensure that personal relationships maintained by investigators do not lead to bias or the perception of bias in these critical investigatory functions. It is recommended that the OPD extend this policy to include not only investigators themselves, but supervisors, commanders and senior executives overseeing IAD investigations and discipline and CID investigations.

b. *OPD should adopt a policy that requires approval and documentation of all changes to draft Reports of IAD Investigations*

IAD’s current policies require IAD investigators to get authorization from the IAD Commander before they can remove an MOR from an investigation or before they can downgrade a subject officer to a witness. IAD policy, however, vests authority for such changes with the IAD commander and does not protect against situations in which the IAD Commander is compromised and seeks to alter findings and conclusions for personal or improper reasons. It is recommended that IAD update its policy so that no member has the authority to remove an MOR violation or downgrade an officer from subject to witness without notice and accountability. If the IAD Commander believes such changes are necessary over the objection of the lead investigator, it is recommended that the IAD Commander should have to seek authorization from the Deputy Chief for the Bureau of Risk Management or from the Chief of Police.

It is further recommended that IAD develop a policy that explicitly requires investigators to include in final reports all MOR violations that were considered and investigated as part of any investigation. If an MOR violation is identified and later deemed to have been identified in error, a clear notation should appear in the ROI but the MOR violation should not be deleted in its entirety.

To ensure transparency, it is further recommended that all substantive changes to ROIs made after a report has been submitted to IAD command staff for approval be documented in a central repository, with appropriate documentation explaining why such changes were required.

c. ***OPD should adopt a policy that requires all briefings regarding ongoing IAD investigations to be documented.***

In order to ensure greater transparency and accountability in the IAD process it is recommended that all substantive briefings on the merits of the case that occur between any member of IAD staff and Executive Staff (to include the Chief of Police, Assistant Chief and Deputy Chiefs) be documented in a central repository, including the date of such briefings and a summary of the content of the briefing. This will ensure that future reviews of IAD investigations are not frustrated by witnesses' claimed inability to recall conversations and details of briefings.

d. ***OPD should adopt a policy that requires the Chief of Police to read reports of IAD investigations before signing them.***

It is axiomatic that the Chief of Police is ultimately responsible for the outcome of internal affairs investigations and for the imposition of discipline. The imposition of discipline must be made only after a full and complete review of the facts uncovered by the Internal Affairs Division investigation as set forth in the Report of Investigation. It is recommended that the OPD adopt a policy explicitly requiring the Chief of Police to read Reports of Investigation before signing them.

e. ***OPD should adopt a Department-specific policy regarding acceptable personal relationships between sworn members and when and how those relationships must be reported***

Multiple witnesses reported a lack of clarity around when personal relationships between sworn members must be reported and how those relationships should be reported. Undisclosed personal relationships pose issues for fact-finding and investigations, both in the normal course of official police work as well as during Internal Affairs Division investigations when officers involved in personal relationships may be called upon to give testimony that could be adverse to the other. These issues are not limited to circumstances where one officer involved in a personal relationship may be a superior officer or supervisor. It is recommended that OPD adopt a clear policy regarding acceptable personal relationships between sworn members and when those relationships must be reported to the Department. Upon adoption of such a policy, it is recommended that OPD members are given clear guidance, via formal training, of the policy.

- f. ***OPD should review its implementation and training regarding the policies governing use by OPD members of OPD-issued cellular telephones and personal cellular telephones for all Department-business and to prohibit the use of personal cellular telephones for work-related communication.***

It became abundantly clear during the investigation into the elevator discharge incident that OPD members regularly use their personal cell phones for work-related purposes, both while on active duty and while off-duty. In fact, multiple OPD members stated that they use their personal cell phones for “everything” work-related. Some members do not carry their OPD-issued cell phones with them while on duty, and many do not know their OPD-issued cell phone numbers or the OPD phone numbers for officers with whom they actively work. OPD-issued cell phones appear to be used, by multiple OPD members, exclusively as cameras used to take photographs of evidence at crime scenes. Nearly every OPD member who was asked about cell phone usage admitted to using their personal cell phones for communication (by voice or text) with other OPD members for work-related purposes. Additionally, multiple OPD members admitted that their personal cell phones, with which they communicate via text message with other OPD members on work-related topics, are set to auto-delete text messages after as little as 30 days. This haphazard use of personal and work telephones raises serious concerns about the deletion of evidence, and there appears to be little regard for the need to preserve evidence that may be critical in regular police work as well as Internal Affairs investigations that arise. In fact, the two investigations described here were negatively impacted by auto-deleted text message conversations that may have been fruitful in the fact-finding mission in these investigations. Moreover, the investigations were hampered by a complete lack of clarity about whether current Internal Affairs Division rules permit investigators to compel production of text or telephone messages maintained on personal telephones even when important evidence is known to exist on those personal telephones used in connection with OPD duties.

It is recommended that OPD recommit to its policy requiring members to use OPD-issued cell phones for all Department-related purposes and prohibiting the use of personal cell phones.² It is recommended that OPD issue additional training on this topic.

g. OPD should revise its rule regarding physical fitness for duty to explicitly include mental health.

Manual of Rules section 328.56-2b – Physical Fitness for Duty states that “all members and employees shall maintain the necessary level of physical fitness to perform their duties.” This means that an officer who is not physically fit for duty can be found in violation of this rule. The rule does not, however, explicitly require that officers be mentally fit for duty. Officers who are under extreme stress or who are experiencing severe mental health distress or crisis may not be fit for duty and those officers should know, unequivocally, that reporting for duty in the midst of a mental health crisis is not permitted. Clear guidance about how officers experiencing mental health crises should interface with their commanders is needed. OPD should also provide support and training to members so that they are equipped to handle reports of mental health crises from their fellow officers.

h. OPD, through its Office of Internal Accountability, should review and improve its policies, practices, and training regarding investigations of members accused of criminal misconduct to ensure rigor and accountability.

OPD’s Internal Affairs Division is tasked with investigating misconduct on the part of OPD members to determine whether that misconduct violates Department rules. At times, this misconduct comprises criminal acts, which requires the Department’s Criminal Investigations Division (“CID”) to undertake a *criminal* investigation of OPD members. Any investigation into an OPD member’s potential criminal conduct should be given the same attention, resources and rigor as any other investigation undertaken by CID. In investigating the potential criminal conduct of their fellow officers, CID investigators must ensure that the various rights afforded law enforcement officers under the California Police Officer’s Bill of Rights are considered and

² Notably, the OPD issued General Order I-19: ELECTRONIC COMMUNICATION DEVICES regarding use of personal devices and telephones in the aftermath of a public report issued in the “Instagram” investigation in connection with *Allen, et al. v. City of Oakland, et al.*, Case No. 3:00-cv-04599-WHO. Despite issuing this policy, there appears to be scant compliance with the policy, and members readily admitted to not knowing about the policy or disregarding it.

protected. This is especially true when misconduct is being investigated both criminally and administratively. The investigations described above revealed a lack of clarity regarding how to effectively conduct a criminal investigation of a fellow police officer who is also under administrative investigation. This hindered the criminal investigation referenced above.

The Department should review its policies and practices surrounding General Order M-04.1 investigations and its practices with respect to parallel CID and IAD investigations to ensure that all members responsible for investigating fellow officers are equipped to conduct those investigations thoroughly and in a manner that ensures accountability. The Department should provide members with appropriate training, if necessary, to achieve this standard.

VI. CONCLUSION

The actions of one officer who twice violated the simple rule to self-report one's misconduct launched independent investigations which revealed systemic failures far larger and more serious than the actions of one police officer. The actions of OPD's Internal Affairs Division, which sought to recast, deflect, and minimize the severity of the officer's misconduct created an environment that allowed that officer to go on to commit far more egregious and dangerous misconduct, to wit: discharging a weapon in a building full of people. The multiple failures, at every level, to hold this sergeant responsible, belie OPD's stated position that it can police itself and hold its members accountable for misconduct. Instead, investigators were left with the impression that the system is designed not to uncover the truth and hold those who commit misconduct to account, but instead to find ways to minimize misconduct such that OPD members are able to avoid serious discipline. For the sake of public confidence in the Oakland Police Department and its relationship both with its members and the community it serves, OPD must take the necessary steps to review the failures of its internal affairs processes and to commit to more rigorously investigating misconduct to prevent the recurrence of similar, or more serious, events in the future.

December 22, 2022

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

Introduction

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

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

As with our site visits before the sustainability period, our site visits include both compliance assessments and technical assistance. During our second sustainability site visit, which we held remotely, in November, we met with Department and City officials; observed the Department’s Risk Management Meeting; discussed the status of several Departmental policies; and shared our observations of misconduct investigations and use of force reports.

This report covers our assessments of all 11 Tasks listed in the May 12, 2022 Order: Tasks 2; 5; 20; 24; 25; 26; 30; 31; 34; 41; and 45.

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Task Assessments

Task 2: Timeliness Standards and Compliance with IAD Investigations

Requirements:

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

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

(Negotiated Settlement Agreement III. B.)

Relevant Policy:

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

Commentary:

Task 2.1 requires that internal investigations (IAD and Division Level) – including review, approval, findings, and discipline – be completed in accordance with the timeliness standards developed by OPD. To assess this subtask, we reviewed a list of all internal investigations resulting in formal findings (unfounded, sustained, exonerated, or not sustained) that were approved in July, August, and September 2022, and calculated the number of days between the complaint date and the approval date for each case. We excluded from the dataset cases that were administratively closed, those that involved on-duty traffic accidents or service complaints, and those that did not involve Manual of Rules (MoR) violations. We segregated the remaining cases into Class I or Class II categories. If a case involved at least one alleged Class I violation, we classified it as Class I.

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

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

For this reporting period, the Department remains in compliance with Task 2. Of the 26 applicable Class I cases we reviewed for this assessment, 26, or 100%, were in compliance with established timelines. During our last review of Task 2, we found 96% of Class I cases in compliance with established timelines. Of the 74 applicable Class II cases we reviewed for this assessment, 72, or 97%, were in compliance with established timelines. During our last review of Task 2, we found 98% of Class II cases in compliance with established timelines.

Per DGO M-03, “In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding.” We reviewed all 18 cases including a total of 49 sustained findings that were approved in July, August, and September 2022; 10 cases involved multiple sustained findings. All (100%) of these cases were in compliance with established discipline timelines.

OPD is in compliance with Task 2.1.

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

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

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

Requirements:

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

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

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

(Negotiated Settlement Agreement III. E.)

Relevant Policy:

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

Commentary:

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

Task 5.1 requires that when a citizen wishes to file a complaint, the citizen is brought to a supervisor or IAD, or a supervisor is summoned to the scene. **Task 5.2** requires that if there is a delay of greater than three hours in supervisory response, the reason for the delay must be documented. **Task 5.3** requires that where a complainant refuses to travel to a supervisor, or

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wait for one, personnel make all reasonable attempts to obtain specific information to assist in investigating the complaint. **Task 5.4** requires that specific information be documented on a complaint form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander. **Task 5.5** requires that the supervisor or Area Commander notify Communications and forward any pertinent documents to IAD.

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

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

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

OPD remains in compliance with Tasks 5.6 and 5.12.

Task 5.15 through **Task 5.19**, and **Task 5.21**, collectively address the quality of completed IAD investigations, and therefore remain the subject of our focused Task assessments. To assess compliance with these Tasks, we reviewed a sample of 12 IAD cases that were closed between July 1-September 30, 2022. In accordance with the Order issued May 12, 2022 establishing the sustainability period, we reviewed these cases with a member of OPD’s Office of Internal Accountability (OIA) serving as the Department’s NSA sustainability liaison.

Our sample of cases consisted of Division-level investigations (DLIs).¹ It also included cases that were resolved via formal investigation and investigations that were resolved via summary finding. (Summary findings are investigations in which the Department believes a proper conclusion can be determined based on a review of existing documentation with limited or no additional interviews and follow-up.) We also reviewed one case that was administratively closed with no formal findings.

¹ The cases we review are randomly selected, and there were not any cases completed by IAD in our sample for this review period.

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

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

Investigators conducted follow-up interviews to seek clarification or resolve inconsistencies in one of the 12 cases we reviewed. In this case, the subject officer was interviewed twice. We do not believe follow-up interviews were warranted in the other cases we reviewed.

OPD made credibility assessments for all involved parties in five of the 12 cases. In two cases, the complainants were deemed “not credible.” In one case, the complainant’s statements were inconsistent with available body-worn camera (BWC) footage; and in the other case, the complainant’s statements were affected by his mental health status. Officers responded for a welfare check and subsequently placed the complainant on a mental health hold. We agreed with all of the credibility assessments we reviewed, although we found the credibility assessment of a subject officer in one case to be problematic. In this case, the assessment appeared boilerplate and did not coincide with the facts of the case. The investigator noted that “[the subject officer’s] statements were based on his recollection of the incident and consistent with BWC.” The officer’s statements were actually *inconsistent* with BWC video – in fact, so much so that he was called in for a second interview to reconcile the discrepancies.

Six cases were approved for summary finding; and per policy, investigators are not required to assess the credibility of the involved officers and civilian employees in these instances. Another case was administratively closed, negating the need for credibility assessments.

In nine of the 12 cases we reviewed, OPD resolved inconsistent statements. In eight of these cases, BWC recordings were available and assisted in the determination. In the other case, a failure to activate a BWC was discovered during an audit. Two cases resulted in at least one finding of not sustained. Not sustained is an acceptable finding; and by definition, it implies that inconsistencies were not resolved despite investigative efforts. One case was administratively closed, negating the need to assess and resolve inconsistencies.

Task 5.17 requires that OPD permanently retain all notes generated and/or received by OPD personnel in the case file. OPD personnel document the presence of investigative notes within a particular file by completing an Investigative Notes Declaration Form. OPD has a sustained history of 100% compliance with this subtask. During this reporting period, the form was again included in all of the cases we reviewed.

Task 5.18 requires that OPD resolve each allegation in a complaint investigation using the preponderance of the evidence standard. **Task 5.19** requires that each allegation of a complaint is identified and resolved with one of the following dispositions: unfounded; sustained; exonerated; not sustained; or administrative closure. Our sample of 12 cases contained 55 allegations that received dispositions as follows: 17 exonerated; 22 unfounded; seven not sustained; seven sustained; and two administratively closed.

We did not disagree with the findings in any of the cases we reviewed.

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Task 5.20 requires that the IAD Commander review all “filed” cases quarterly to determine whether the conditions that prevented investigation and final disposition have changed. A filed case is defined as an investigation that cannot be presently completed and is pending further developments that will allow completion of the investigation; filed is not a final disposition. Traditionally, as part of our review of this Task, we also reviewed cases that are tolling. OPD defines a tolled case as an administrative investigation that has been held in abeyance in accordance with one of the provisions of Government Code Section 3304. While we are no longer actively assessing this subtask, we note that filed and tolling cases are reviewed with the Chief or his designee during the weekly IAD meetings and are listed by case number on the printed meeting agendas. We receive and review these agendas regularly, and a Monitoring Team member regularly attends these meetings. Additionally, we regularly receive a weekly report listing all tolled cases and all cases approaching their 3304 dates. When we have questions regarding any of the cases in the report, the IAD Commander answers them promptly.

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

As we noted in our previous quarterly status report, certain internal matters were referred to outside counsel for investigation. Conclusions to date are troubling, and call into question the integrity of the internal investigatory process. Accordingly, Task 5 is deemed not in compliance.

Task 5 compliance status	Not in compliance
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Task 20: Span of Control

Requirements:

On or before August 14, 2003, OPD shall develop and implement a policy to ensure appropriate supervision of its Area Command Field Teams. The policy shall provide that:

- 1. Under normal conditions, OPD shall assign one primary sergeant to each Area Command Field Team, and, in general, (with certain exceptions) that supervisor's span of control shall not exceed eight (8) members.*
- 2. During day-to-day operations, in the absence of the primary supervisor (e.g., due to sickness, vacation, compensatory time off, schools, and other leaves), the appropriate Area Commander shall determine, based on Department policy and operational needs, whether or not to backfill for the absence of the sergeant on leave.*
- 3. If a special operation, (e.g., Beat Feet, Special Traffic Offenders Program (STOP), etc.) requires more than eight (8) members, the appropriate Area Commander shall determine the reasonable span of control for the supervisor.*
- 4. If long-term backfill requires the loan or transfer of a supervisor from another unit, the Chief of Police and/or the Deputy Chief of Police shall make that decision.*

(Negotiated Settlement Agreement IV. C.)

Relevant Policy:

Three Departmental policies incorporate the requirements of Task 20: Departmental General Order A-19, *Supervisory Span of Control*, issued on July 26, 2006; Departmental General Order D-13, *Assignment to Acting Higher Rank or Classification*, issued on June 17, 1999; and Departmental General Order D-13.1, *Assignment to Acting Sergeant of Police*, issued on May 14, 2014. (The publication of DGO D-13.1 cancelled Special Order 8435, which previously governed the selection process of acting sergeants.)

Commentary:

To assess these requirements for this report, we reviewed spreadsheets prepared by the Department for July, August, and September 2022 that, by date, note which type of sergeant supervised each applicable squad – a primary sergeant, relief sergeant, acting sergeant, other sergeant (one working overtime), or none. (The Department refers to unsupervised squads as “open.”) We calculated per squad the compliance percentages for this subtask during this time period. Each of the 44 applicable squads were in compliance – that is, all applicable squads during this time period were supervised by either a primary, relief, or other/overtime sergeant for at least 85% of their working shifts. We also found that none of the applicable squads exceeded the required 1:8 supervisor to officer ratio at least 90% of their working shifts.

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OPD continues to be in compliance with these requirements. The Department has institutionalized the practices of tracking how each squad is supervised each day; planning, when possible, for expected absences; and considering how to fill in for personnel who are absent unexpectedly.

Task 20 compliance status	In compliance
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Overview of Our Assessments of Tasks 24 and 25

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

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

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

To assess compliance for this report, we reviewed 29 UOF reports that occurred between June 1 -August 31, 2022. We reviewed all Level 3 UOF reports (eight) and a sample of Level 4 UOF reports (21). In accordance with the Order issued May 12, 2022, establishing the sustainability period, we reviewed these UOF reports with a member of OPD's Office of Internal Accountability (OIA) serving as the Department's NSA sustainability liaison. Between October 25-November 11, 2022, we also reviewed three Level 2 uses of force for which a Force Review Board (FRB) was held, and one Level 1 use of force for which an Executive Force Review Board (EFRB) was held. The EFRB was scheduled for additional dates in December due to extensive follow-up that was needed. Where concerns with field reporting existed, the concerns were appropriately addressed by the Boards. We discuss only Level 3 and 4 uses of force in this assessment.

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This report covers Level 3 and 4 UOF reports completed by OPD between June 1-August 31, 2022. All 29 of the cases we reviewed for this time period occurred after the publication of Special Order 9196, which clarified the use of force policy; after Special Order 9202, issued on February 27, 2020, which temporarily modified the requirements for reporting Type 32 uses of force; and after Special Order 9208, issued on April 27, 2022, which defined the finalized reporting requirements for Level 4, type 32 uses of force.

In the 29 Level 3 and 4 uses of force we reviewed, 76 officers used force on 29 different persons. There were numerous cases where multiple officers used force on a single person, but no cases reviewed for this report where force was used on multiple subjects at the same incident. We noted that there were 114 uses of force on the 29 persons. Level 4, Type 32 UOFs accounted for 84 of the total uses of force; and in 15 of the 29 cases we reviewed, only Type 32 use of force was used. The increase in total uses of force was not unexpected, given the new reporting requirements for type 32 UOF. We noted, however, some inconsistency in the reporting of the Type 32 use of force by officers and supervisors. Some multiple Type 32s, all occurring at virtually the same time while taking a combative subject into custody, were reported separately. In others, similar circumstances were documented as a single Type 32 UOF. During our November 2022 site visit meetings, we discussed this inconsistency with OPD and agreed on an interpretation of reporting for this type of force. OPD committed to ensuring that supervisors are made aware of the reporting requirements and will deliver the information using both a digital presentation and line-up training. District Captains also continue to audit a sample of Type 32 UOF each month.

The total breakdown for the force used on the 29 persons is as follows: African Americans, 55%; Latinos, 17%; whites, 14%; and Asians or other, 14%. The percentage of force incidents involving African Americans decreased by 8%; force incidents involving Latinos increased by 7%, force incidents involving whites increased by 9%; and force incidents involving Asians or persons categorized as “other” increased by 7%, from our last review, documented in our last quarterly status report.

Of the 29 UOF reports we reviewed for the three-month period between June 1-August 31, 2022, we noted only one late BWC activation that had not been identified and addressed by OPD supervisors. We continued to note some instances of officers failing to identify themselves as police officers, or using unprofessional language or profanity. We also noted one incident where a supervisor should have taken a complaint, but failed to do so and one incident where a Level 4 use of force was not properly reported. Of the concerns we brought forward at our November 2022 site visit, the OPD UOF Command review group had already identified and addressed a number of them and taken appropriate action.

We reviewed 8 Level 3 uses of force for this report. Six involved the use of a Taser deployment, and two involved a type 16 takedown. In one of the Taser deployments, the Taser deployment was the only use of force. In the five others, one or more Level 4 uses of force was used in addition to the Taser deployment. Seven of the eight Level 3 use of force reports were not completed within the required timeframe; all had approved extensions. We identified concerns with only one Level 3 use of force, which we discuss in detail in Task 25.

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In our review of UOF reports for June-August 2022, we identified few areas of concern. In general, officers are appropriately using and reporting use of force, and supervisors are generally identifying and addressing any concerns that exist.

Task 24: Use of Force Reporting Policy

Requirements:

The policy shall require that:

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

(Negotiated Settlement Agreement V. A.)

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Relevant Policy:

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

Commentary:

To assess compliance with Task 24, we reviewed 37 Level 3 and 4 use of force (UOF) reports that were completed by OPD from March 1-May 31, 2022.

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

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

In the 29 Level 3 and 4 UOF incidents we reviewed; officers used force on 29 different persons. In four of the reports, Level 4, Type 22, pointing a weapon, was the only force used. In two others, Type 22 was used in addition to another use of force. We determined that officers' pointing of their firearms was appropriate in all instances we assessed. We did identify one instance where an officer failed to properly report two Level 4, Type 25 uses of force. The OPD UOF Command review group had also identified this failure to report. No action was taken as the officer is no longer with OPD.

Task 24.4 requires that a supervisor respond to the scene upon notification of a Level 1, 2, or 3 use of force or an allegation of excessive use of force, unless community unrest or other conditions makes such a response impracticable. In all eight Level 3 uses of force we reviewed for this subtask; supervisors responded to the scene as required. Though not required, supervisors also responded to 14 of the 21 Level 4 uses of force or were on scene at the time of the use of force.

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

Task 24.6 requires that OPD enter all use of force data into Performance Reporting Information Metrics Environment (PRIME), which is now called Vision. In all 29 of the Level 3 and 4 UOF cases we reviewed; the data was entered as required.

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

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

Requirements:

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

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

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

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

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

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

(Negotiated Settlement Agreement V. B.)

Relevant Policy:

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

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Commentary:

As noted above in Task 24, we reviewed 37 Level 3 and 4 use of force (UOF) reports that were completed between March 1, 2022 -May 31, 2022.

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

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

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

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

In our assessment of Level 3 and 4 UOF reports for this report, we did not identify any instances where the use of force was not deescalated or stopped reasonably when resistance decreased, or any instances where we believe officers could have made additional efforts to explain to subjects being detained why the detention was occurring prior to using force. We did note continued improvement in officers identifying themselves as police officers when appropriate and there was time to do so.

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In January 2022, we identified one instance – a Level 3 Taser deployment on a subject fleeing from OPD officers – where we believed the force used may not have been appropriate. After we brought this to OPD’s attention, the Department initiated an internal affairs investigation. In our review of UOF reports from the first sustainability period, we identified three Level 3-Taser deployments where we again identified concerns with the use of force. As a result of our concerns, OPD initiated internal affairs investigations of two of these. In the third, OPD provided us additional detailed information on the use of force; and after further review, we concurred with their findings of in compliance.

Of the three Taser deployments referred to IAD, two were found not in compliance upon investigation by IAD. The third was found in compliance at the conclusion of the IAD investigation. Both of the deployments found out of compliance resulted from subjects fleeing from officers who were not struck by the Taser probes. After these reviews, OPD determined that they would no longer allow Taser deployments where the subject was not struck with the probe to be lowered to a Level 4 use of force. This will ensure that they receive the same level of scrutiny as those where the probe does strike the subject. OPD has also conducted additional training on the policy requirements for Taser deployments and investigations. We agree with the actions of OPD and believe this will properly address the identified concerns.

For this report, we reviewed eight Level 3 uses of force. We identified one involving a Taser deployment where we had concerns about the use of force. In this instance, the OPD Command review group had already identified the same concerns and referred the case to IAD for investigation.

Task 25.4 requires that use of force reports be reviewed by the appropriate chain of command and appropriate recommendations are made. In all of the cases we reviewed, the reports were reviewed as required. As noted in Task 25.3, we identified a concern with one Level 3 use of force that had already been identified by the OPD Command group reviewing uses of force. The same group had also identified two additional UOF investigations that were problematic and had referred them to IAD prior to our bringing them to their attention. OPD continues to make strides in ensuring that the chain of command is actively involved in the review of use of force and is addressing areas of concern without the need for us to bring the concerns to their attention.

Task 25.5 requires that any determination that a use of force did not comply with Department policy result in the incident being referred to IAD to conduct additional investigation/analysis, if necessary. As noted above, we identified one Level 3 UOF where we believed additional investigation was appropriate to determine if the use of force was appropriate and properly reported. OPD had already identified this concern and referred the case to IAD. We will review the IAD report once it is completed.

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

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

Task 25 compliance status	In compliance
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Task 26: Force Review Board (FRB)

Requirements:

OPD shall develop and implement a policy concerning its FRB proceedings. The policy shall:

1. *Set out procedures, membership and a timetable for FRB review of use of force investigations involving Level 2 incidents, as defined in Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE;*
2. *Require the FRB to review all use of force investigations;*
3. *Require the FRB to make a recommendation as to whether the use of force was in policy or out of policy;*
4. *Require the FRB to forward sustained policy violations to the Discipline Officer.*
5. *Require the FRB not to review any use of force allegation until the internal investigations has been completed;*
6. *Authorize the FRB to recommend to the Chief of Police additional use of force training or changes in policies or tactics, or additional standards, investigatory policies, or training for use of force investigations;*
7. *Require the FRB to conduct an annual review of use of force cases examined, so as to identify any patterns of use of force practices that may have policy or training implications, and thereafter, issue a report to the Chief of Police;*
8. *Require that the FRB membership include, at a minimum, one member from the Training Division, one member from the Field Training Officer program, and either the Bureau of Field Operations Deputy Chief or his/her designee;*
9. *Minimally, that one member of the FRB shall be replaced at least annually.*

(Negotiated Settlement Agreement V. C.)

Relevant Policy:

OPD most recently revised Departmental General Order K-4.1, *Force Review Boards*, on December 21, 2015.

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Commentary:

OPD Force Review Boards (FRBs) are regularly convened to examine the investigations conducted relative to the deployment and application of Level 2 uses of force.² OPD first achieved compliance with this Task during the nineteenth reporting period (April 1-June 30, 2014). The Order establishing the sustainability period directs that this Task continue to be monitored, and so we continue to assess compliance with this Task, including our analyses of force reports; our review of Force Review Board reports; and observing Force Review Boards between site visits via online meeting software.

During this reporting period (July 1-September 30, 2022), OPD did not submit any completed FRB reports for our review.

We observed both of the FRBs convened by OPD since we last reported on this Task. These Boards met on November 8 and 9, 2022. We observed them all remotely via an online meeting platform. As is our practice, we provided immediate feedback for Board members at the conclusion of each FRB we observed.

As noted in our previous reports concerning this Task, we continue to observe substantive discussion and deliberations among the Board members. Members ask probing questions of the force investigators; and, where applicable, Department subject-matter experts (SMEs) and IAD investigators. They also spend a great deal of time discussing issues ancillary to the uses of force, such as tactics, supervision, force alternatives, and training opportunities. As is customary for all Boards, their feedback was conveyed in the form of training points to appropriate personnel.

Collectively, the FRBs found all the uses of force they reviewed to be in compliance. We did not disagree with any of the Boards' findings. In one case, the Board assessed the use of personal weapon strikes to the head of an individual (Level 2 use of force) who refused to leave a house at the request of the homeowner. They also evaluated the take down of the individual, and force used to overcome his resistance, both Level 4 uses of force. We noted that the sergeant who presented to the Board did an excellent job, particularly considering it was his first such presentation.

² According to OPD, Level 2 uses of force include: "1) Any strike to the head (except for an intentional strike with an impact weapon); 2) Carotid restraint is applied that does not result in the loss of consciousness; 3) Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and contact is made, regardless of injury; 4) Any unintentional firearms discharge that does not result in injury; 5) A police canine bites the clothing or the skin of a subject, or otherwise injures a subject requiring emergency medical treatment (beyond first-aid) or hospital admittance; 6) Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance; (NOTE: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency treatment) 7) Any Level 3 use of force used on or applied to a restrained subject; 7.a) A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP or Rip Hobble; 7.b) A subject with only one handcuff on is not a restrained person."

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In the other case, while officers were taking a subject fleeing from a stolen vehicle into custody, one officer applied a bent wrist control hold to the subject – a Level 4 use of force. It was later learned at a hospital that the subject potentially sustained a fracture to his elbow, and the investigating sergeant elevated the force to Level 2, requiring FRB review. His presentation was also thorough and well delivered. The Board assessed this use of force, as well as lower-level uses of force associated with the arrest.

It is not a requirement, but both of the Board votes we observed during this reporting period were unanimous. We recognize that in some circumstances, there will be legitimate differences of opinion where the determination is not obvious. In these situations, we look for frank discussion and clear explanations of the differing positions.

In addition to ruling on the appropriateness of uses of force, Force Review Boards generally identify several follow-up items based on their review of the associated materials and the presentations made to them. These can include items such as counseling and training for individual officers, publication of Department-wide training materials, and modifications to policy. OPD tracks these deliverables in a spreadsheet, broken down into three categories: Individual Issues; Department-Wide Issues; and Quarterly Training Points.

The last accounting of deliverables provided to us, which lists follow-up items from FRBs convened prior to October 11, 2022, indicated that there were no open deliverables. All follow-up items from previously convened Boards were closed. This is the first time since we have been tracking this information that OPD has accomplished this.

Task 26 compliance status	In compliance
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Task 30: Executive Force Review Board (EFRB)

Requirements:

1. *An EFRB shall be convened to review the factual circumstances surrounding any Level 1 force, in-custody death, or vehicle pursuit-related death incidents. A firearm discharge at an animal shall be reviewed by the EFRB only at the direction of the Chief of Police.*
2. *The Board shall have access to recordings and/or transcripts of interviews of all personnel on the scene, including witnesses, and shall be empowered to call any OPD personnel to provide testimony at the hearing.*
3. *OPD shall continue the policies and practices for the conduct of EFRB, in accordance with the provisions of DGO K-4.1, FORCE REVIEW BOARDS.*

(Negotiated Settlement Agreement V. G.)

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Relevant Policy:

OPD most recently revised Departmental General Order K-4.1, *Force Review Boards*, on December 21, 2015.

Commentary:

Executive Force Review Boards (EFRBs), consisting of three top command-level staff, conduct thorough, detailed reviews of all Level 1 uses of force, in-custody deaths, and vehicle pursuit-related deaths and serious injuries. OPD achieved compliance with this Task during the nineteenth reporting period (April 1-June 30, 2014).

Since we last reported on this Task, OPD convened one EFRB, but adjourned the Board after three days of presentation to allow both the Criminal Investigation Division (CID) and IAD to address several follow-up requests from the Board. As of this writing, the Board has not reconvened. We will comment on this EFRB in our next report.

We did not review any completed EFRB Reports during the reporting period.

OPD remains in compliance with this Task.

Task 30 compliance status	In compliance
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Task 31: Officer-Involved Shooting Investigations Review Protocol

Requirements:

OPD shall develop a policy to ensure that, in every officer-involved shooting in which a person is struck, Homicide and Internal Affairs investigators respond to the scene. The Homicide Section's investigation shall be conducted in partnership with, and when deemed appropriate by, the Alameda County District Attorney's Office. Interviews of the subject officer(s) shall be conducted jointly with the appropriate staff from Homicide and the Office of the District Attorney. The District Attorney and City Attorney shall be notified in accordance with the provisions of Section V, paragraph A (5), of this Agreement. Homicide shall duplicate and provide all completed reports and documents to the District Attorney's Office, the Office of the City Attorney, and the Internal Affairs Division. IAD shall provide information and/or documents as required by law.

(Negotiated Settlement Agreement V. H.)

Relevant Policy:

OPD most recently published Departmental General Order K-4, *Reporting and Investigating the Use of Force* on October 16, 2014. IAD Policy & Procedures and Homicide Policy & Procedures are also relevant to this Task.

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Commentary:

Task 31 requires certain notifications and responses in the event of an officer-involved shooting. During this reporting period (October 4-December 16, 2022), on October 17, 2022, the Internal Affairs Division had a Level 1 incident callout related to a fatal accident during a pursuit. OPD confirmed that the protocols required by this Task were followed in this instance.

OPD remains in compliance with this Task.

Task 31 compliance status	In compliance
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Task 34: Vehicle Stops, Field Investigation, and Detentions *and* Task 41: Use of Personnel Assessment System (PAS) and Risk Management

Requirements:

Task 34:

1. *OPD shall require members to complete a basic report on every vehicle stop, field investigation and every detention. This report shall include, at a minimum:*
 - a. *Time, date and location;*
 - b. *Identification of the initiating member or employee commencing after the first year of data collection;*
 - c. *Reason for stop;*
 - d. *Apparent race or ethnicity, and gender of individual(s) stopped;*
 - e. *Outcome of stop (arrest, no arrest);*
 - f. *Whether a search was conducted, and outcome of search;*
 - g. *Offense categories (felony, misdemeanor or infraction).*
2. *This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.*
3. *The development of this policy shall not pre-empt any other pending or future policies and or policy development, including but not limited to “Promoting Cooperative Strategies to Prevent Racial Profiling.”*

(Negotiated Settlement Agreement VI. B.)

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Task 41:

Within 375 days from the effective date of this Agreement, OPD shall develop a policy for use of the system, including supervision and audit of the performance of specific members, employees, supervisors, managers, and OPD units, as well as OPD as a whole.

The policy shall include the following elements:

- 1. The Chief of Police shall designate a PAS Administration Unit. The PAS Administration Unit shall be responsible for administering the PAS policy and, no less frequently than quarterly, shall notify, in writing, the appropriate Deputy Chief/Director and the responsible commander/manager of an identified member/employee who meets the PAS criteria. PAS is to be electronically maintained by the City Information Technology Department.*
- 2. The Department shall retain all PAS data for at least five (5) years.*
- 3. The Monitor, Inspector General and Compliance Coordinator shall have full access to PAS to the extent necessary for the performance of their duties under this Agreement and consistent with Section XIII, paragraph K, and Section XIV of this Agreement.*
- 4. PAS, the PAS data, and reports are confidential and not public information.*
- 5. On a quarterly basis, commanders/managers shall review and analyze all relevant PAS information concerning personnel under their command, to detect any pattern or series of incidents which may indicate that a member/employee, supervisor, or group of members/employees under his/her supervision may be engaging in at-risk behavior. The policy shall define specific criteria for determining when a member/employee or group of members/employees may be engaging in at-risk behavior.*
- 6. Notwithstanding any other provisions of the PAS policy to be developed, the Department shall develop policy defining peer group comparison and methodology in consultation with Plaintiffs' Counsel and the IMT. The policy shall include, at a minimum, a requirement that any member/employee who is identified using a peer group comparison methodology for complaints received during a 30-month period, or any member who is identified using a peer group comparison methodology for Penal Code §§69, 148 and 243(b)(c) arrests within a 30-month period, shall be identified as a subject for PAS intervention review. For the purposes of these two criteria, a single incident shall be counted as "one" even if there are multiple complaints arising from the incident or combined with an arrest for Penal Code §§69, 148 or 243(b)(c).*
- 7. When review and analysis of the PAS threshold report data indicate that a member/employee may be engaging in at-risk behavior, the member/employee's immediate supervisor shall conduct a more intensive review of the member/employee's performance and personnel history and prepare a PAS Activity Review and Report. Members/employees recommended for intervention shall be required to attend a documented, non-disciplinary PAS intervention*

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meeting with their designated commander/manager and supervisor. The purpose of this meeting shall be to review the member/employee's performance and discuss the issues and recommended intervention strategies. The member/employee shall be dismissed from the meeting, and the designated commander/manager and the member/employee's immediate supervisor shall remain and discuss the situation and the member/employee's response. The primary responsibility for any intervention strategies shall be placed upon the supervisor. Intervention strategies may include additional training, reassignment, additional supervision, coaching or personal counseling. The performance of members/ employees subject to PAS review shall be monitored by their designated commander/manager for the specified period of time following the initial meeting, unless released early or extended (as outlined in Section VII, paragraph B (8)).

8. *Members/employees who meet the PAS threshold specified in Section VII, paragraph B (6) shall be subject to one of the following options: no action, supervisory monitoring, or PAS intervention. Each of these options shall be approved by the chain-of-command, up to the Deputy Chief/Director and/or the PAS Activity Review Panel.*

Members/employees recommended for supervisory monitoring shall be monitored for a minimum of three (3) months and include two (2) documented, mandatory follow-up meetings with the member/employee's immediate supervisor. The first at the end of one (1) month and the second at the end of three (3) months.

Members/employees recommended for PAS intervention shall be monitored for a minimum of 12 months and include two (2) documented, mandatory follow-up meetings with the member/employee's immediate supervisor and designated commander/manager: The first at three (3) months and the second at one (1) year. Member/employees subject to PAS intervention for minor, easily correctable performance deficiencies may be dismissed from the jurisdiction of PAS upon the written approval of the member/employee's responsible Deputy Chief, following a recommendation in writing from the member/employee's immediate supervisor. This may occur at the three (3)-month follow-up meeting or at any time thereafter, as justified by reviews of the member/employee's performance. When a member/employee is not discharged from PAS jurisdiction at the one (1)-year follow-up meeting, PAS jurisdiction shall be extended, in writing, for a specific period in three (3)-month increments at the discretion of the member/employee's responsible Deputy Chief. When PAS jurisdiction is extended beyond the minimum one (1)-year review period, additional review meetings involving the member/employee, the member/ employee's designated commander/manager and immediate supervisor, shall take place no less frequently than every three (3) months.

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9. *On a quarterly basis, Division/appropriate Area Commanders and managers shall review and analyze relevant data in PAS about subordinate commanders and/or managers and supervisors regarding their ability to adhere to policy and address at-risk behavior. All Division/appropriate Area Commanders and managers shall conduct quarterly meetings with their supervisory staff for the purpose of assessing and sharing information about the state of the unit and identifying potential or actual performance problems within the unit. These meetings shall be scheduled to follow-up on supervisors' assessments of their subordinates' for PAS intervention. These meetings shall consider all relevant PAS data, potential patterns of at-risk behavior, and recommended intervention strategies since the last meeting. Also considered shall be patterns involving use of force, sick leave, line-of-duty injuries, narcotics-related possessory offenses, and vehicle collisions that are out of the norm among either personnel in the unit or among the unit's subunits. Division/appropriate Area Commanders and managers shall ensure that minutes of the meetings are taken and retained for a period of five (5) years. Commanders/managers shall take appropriate action on identified patterns of at-risk behavior and/or misconduct.*
10. *Division/appropriate Area Commanders and managers shall meet at least annually with his/her Deputy Chief/Director and the IAD Commander to discuss the state of their commands and any exceptional performance, potential or actual performance problems or other potential patterns of at-risk behavior within the unit. Division/appropriate Area Commanders and managers shall be responsible for developing and documenting plans to ensure the managerial and supervisory accountability of their units, and for addressing any real or potential problems that may be apparent.*
11. *PAS information shall be taken into account for a commendation or award recommendation; promotion, transfer, and special assignment, and in connection with annual performance appraisals. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*
12. *Intervention strategies implemented as a result of a PAS Activity Review and Report shall be documented in a timely manner.*
13. *Relevant and appropriate PAS information shall be taken into account in connection with determinations of appropriate discipline for sustained misconduct allegations. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*
14. *The member/employee's designated commander/manager shall schedule a PAS Activity Review meeting to be held no later than 20 days following notification to the Deputy Chief/Director that the member/employee has met a PAS threshold and when intervention is recommended.*

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15. *The PAS policy to be developed shall include a provision that a member/employee making unsatisfactory progress during PAS intervention may be transferred and/or loaned to another supervisor, another assignment or another Division, at the discretion of the Bureau Chief/Director if the transfer is within his/her Bureau. Inter-Bureau transfers shall be approved by the Chief of Police. If a member/employee is transferred because of unsatisfactory progress, that transfer shall be to a position with little or no public contact when there is a nexus between the at-risk behavior and the “no public contact” restriction. Sustained complaints from incidents subsequent to a member/employee’s referral to PAS shall continue to result in corrective measures; however, such corrective measures shall not necessarily result in a member/employee’s exclusion from, or continued inclusion in, PAS. The member/employee’s exclusion or continued inclusion in PAS shall be at the discretion of the Chief of Police or his/her designee and shall be documented.*
16. *In parallel with the PAS program described above, the Department may wish to continue the Early Intervention Review Panel.*
17. *On a semi-annual basis, beginning within 90 days from the effective date of this Agreement, the Chief of Police, the PAS Activity Review Panel, PAS Oversight Committee, and the IAD Commander shall meet with the Monitor to review the operation and progress of the PAS. At these meetings, OPD administrators shall summarize, for the Monitor, the number of members/employees who have been identified for review, pursuant to the PAS policy, and the number of members/employees who have been identified for PAS intervention. The Department administrators shall also provide data summarizing the various intervention strategies that have been utilized as a result of all PAS Activity Review and Reports. The major objectives of each of these semi-annual meetings shall be consideration of whether the PAS policy is adequate with regard to detecting patterns of misconduct or poor performance issues as expeditiously as possible and if PAS reviews are achieving their goals.*
18. *Nothing in this Agreement, and more specifically, no provision of PAS, shall be construed as waiving, abrogating or in any way modifying the Department’s rights with regard to discipline of its members/employees. The Department may choose, at its discretion, to initiate the administrative discipline process, to initiate PAS review or to use both processes concurrently or consecutively.*

(Negotiated Settlement Agreement VII. B.)

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Relevant Policy:

- **Task 34:** OPD published General Order M-19, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing* on November 4, 2004); Special Order 9042, *New Procedures Regarding Stop Data Collection* on June 11, 2010; Special Order 9101, *Revised Stop Data Collection Procedures* on February 27, 2013; and Report Writing Manual (RWM) Inserts R-2 (January 15, 2010), N-1 (April 15, 2007), and N-2 (April 15, 2007).
- **Task 41:** OPD revised and issued Departmental General Order D-17, *Personnel Assessment Program*, on November 20, 2013; and issued Department General Order R-01, *Risk Management*, on April 15, 2022.

Commentary:

As noted in our previous report, Task 40, which addresses Risk Management, and Task 34, which addresses stop data, are closely linked. For a lengthy time period, the Department has recognized that stop data – including the number of stops, particularly non-dispatched stops, the process during those stops, and the outcome of stops – represents potential risks consistent with the risk management interests of the Department. As a result, stop data has been fully integrated with the risk management process and includes reviews of dispatched and non-dispatched stops, actions taken including searches, and outcomes including citation or arrests or noting that no action resulted from the stop. The review of stop data is a central part of Risk Management Meetings at the Area level, Bureau of Field Operations analyses, and the all Department-wide meetings which include specialized unit including CeaseFire and the Violent Crime Operations Center (VCOC).

The risk management reviews include examination of uses of force, complaints, pursuits, collisions, officers on supervisory monitoring or intervention, and stop data. The Department's Police Program and Performance Audit Supervisor provides the data used in those reviews. That data includes monthly summary statistics for the Department and for each unit, and graphs and charts illustrating patterns in the risk data over time. The stop data are also submitted to the California Racial and Identity Profiling Advisory (RIPA) Board, which has produced five annual reports on the stop data from 18 law enforcement agencies, including the 15 largest agencies in the state, which includes OPD.

Since our first status report of the sustainability period, the Department has maintained its approach to collecting and analyzing risk-related data, including stop data, and has continued to use the data to identify potential problems and take appropriate remedial action.

The risk management process continues under the direction of the designated Deputy Chief for the Bureau of Risk Management. The individual area and specialized unit meetings are led by the Captain responsible for each unit and incorporate discussion by sergeants and lieutenants from those units. The content of these meetings is generally detailed and extensive and focused on significant risk related issues and result in recommendations for appropriate action. The meetings also serve as preparation for the Department-wide meetings.

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The Department Bureau of Field Operation meetings are run by the Department's Assistant Chief. As Captains discuss their commands, it is clear that the Assistant Chief has reviewed the data ahead of time and identified issues for discussion. When examined as a whole, the Risk Management Meetings are informed by the review of data, demanding of detailed assessments by command staff, and thorough by virtue of extensive preparation. Finally, they result in expectation for action to address risk related issues. One thing that the Department might find useful is to be able to systematically track the action taken based on the analysis of risk. That could require documenting the meeting results, including expected responses to the analysis of risk-related data. That would also include tracking the processes that have been described as "drilling down," as well as the processes addressing policy and practice that have been described as "drilling up." Finally, OPD's risk management process reflects a commitment that sets it apart from other police departments. What matters most, however, is the actions and outcomes that result from this process. The effects and effectiveness of risk management at OPD will be best understood and of greatest value if those actions and outcomes are well documented.

The Department remains in compliance with the requirements of Tasks 34 and 40.

Task 34 compliance status	In compliance
Task 41 compliance status	In compliance

Task 45: Consistency of Discipline Policy

Requirements:

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

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

(Negotiated Settlement Agreement X. B.)

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Relevant Policy:

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

Commentary:

Task 45, which addresses consistency of discipline, is the lone Task that was not in full compliance with the requirements of the NSA at the start of the sustainability period.

Our previous Task 45 compliance review during the sustainability period involved a detailed discussion of concerns regarding the Department's analysis and reporting of results regarding potential bias in the disciplinary process. The result was a finding that the Department had not yet achieved compliance with Task 45 requirements of the Negotiated Settlement Agreement. Since that time, the Department has conducted additional analyses and presented results of that analysis before the Court at the most recent Case Management Conference.

The text of Task 45 establishes the requirement that the disciplinary policy ensures that "discipline is imposed in a fair and consistent manner." The principal question being examined by the department is whether there are unexplained differences in discipline processes and outcomes across officers of different demographic characteristics including the race of involved officers. The Department has adopted using a statistical outcome measure as an important compliance criterion in its assessment of whether the "fair and consistent manner" requirements are met.

The Department's September 2022 "Discipline Equity and Internal Procedural Justice Report" examined data covering January-June 2022. The report examined information on sustained Internal Affairs Division (IAD) cases and sustained Division-Level Investigations (DLIs). The Department also extended its analysis of 2019 data in which it found that Black officers were more likely than white officers to be sustained for misconduct in DLIs. Although the analyses presented in the 2022 reports included several components, including a survey of officers and examination of officer attrition, as was true in the 2019 report, the most significant review involves comparison of disciplinary procedures and outcomes for officers across demographic categories. The 2019 analysis found no statistically significant disparities beyond the 2019 DLIs. The 2022 document reports the data broken out by officer race, but does not include any statistical tests to assess differences in the data. Based on conversations with the author of the report, the Department does plan on conducting tests of statistical significance for a year-end report addressing Task 45 requirements.

Based on its 2019 and 2022 analyses, the Department also produced a draft of its "Working Methodology for IA Disparity Analyses." In preparation for the most recent version of the study methodology, there were productive discussions among OPD, a representative of Stanford University, and the Monitoring Team.

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The current examination of disciplinary outcomes is the third recent study of these issues within the Department. The first was completed by external consultants and was ultimately found flawed by the Department. The next was completed by the Department, but concerns were raised regarding important findings being relegated to an appendix. The current, and now third analysis, addresses the previous problems and provides greater detail. OPD's next report, covering the annual data, is expected to include additional analyses and detailed discussion. The Department has also agreed to sharing draft material with the Monitor and with Plaintiffs' attorneys, in advance of formal presentations. This will support clarifications and revisions when necessary.

Recognizing that meeting the requirements of the task at hand requires a detailed statistical analysis locates the examination of data squarely within a set of commonly recognized expectations of such research. Among them are clarity in the reporting of decisions about the data and the procedures employed, as well as the conclusions reached. These are common elements in a technical report that would ordinarily accompany any other narrative or summary report. A technical report for the analyses relevant to Task 45 would not only be useful for the Monitor's compliance review, but would also serve as an archive of all the analyses completed. This would not require additional work, as those tables were created for the current analyses and would be repeated for any similar report in the future. That will be useful for forthcoming reviews in the Department and will serve as a basis for tracking discipline disparity data over time. Department policy now calls for the annual collection and review of discipline disparity data.

As noted above, along with the completion of the analysis of discipline data, which includes analysis of a survey of officers and an assessment of the impact of officer turnover, the Department has also completed a document specifying the methodology guiding the current analysis and providing direction for similar reviews moving forward. That document provides a step-by-step description which includes data collection, the variables to be included and the types of analyses to be completed to support demographic comparisons in cases sustained and in decisions regarding discipline. The methodology document provides a useful template for the examination of potential disparity in discipline in the future.

The Department has taken significant steps in identifying, examining, and responding to potential disparity in the disciplinary process. It is also committed, by policy, to annual reviews of this data. That commitment is also enabled by the creation of a detailed written methodology which will guide similar examinations going forward. The work to assess disparity in discipline has been extensive, and the steps taken to this point are consistent with the Task 45 goal of ensuring that discipline is imposed in a fair and consistent manner.

However, conclusions are necessarily tentative because statistical tests of the relationships in the data were not completed; and a technical report of the research is not available for review. The completion of these, in connection with the year-end review of discipline data, will be necessary to support continued compliance with the requirements of this NSA Task.

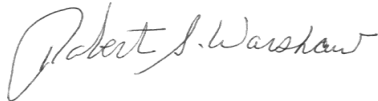
Task 45 compliance status	In compliance
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Conclusion

This is our second report of the NSA sustainability period. The Department is now in compliance with Task 45. This is the culmination of a long, collaborative effort involving many stakeholders, to include the Plaintiffs' attorneys.

During this reporting period, a determination has been made that the Department is not in compliance with Task 5 due to serious systemic and other issues that will need to be addressed. Further information will be made known in the foreseeable future.



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16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN FRANCISCO DIVISION**

20 DELPHINE ALLEN, et al.)	Case No. 00-cv-04599 WHO
)	
21 Plaintiffs,)	JOINT CASE MANAGEMENT
)	STATEMENT
22 v.)	
)	Date: January 24, 2023
23 CITY OF OAKLAND, et al.,)	Time: 3:30 p.m.
)	Courtroom 2, 17th Floor (Virtual)
24 Defendant(s).)	Hon. William H. Orrick
)	
)	
26 _____)	

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1 **PLAINTIFFS' STATEMENT**

2 **PLAINTIFFS' CURRENT POSITION**

3 The Independent Monitor for the OPD has issued one NSA Sustainability
4 Period Report since the last Case Management Conference statement. This
5 sustainability period involves the monitoring of the "last remaining and most
6 critical Negotiated Settlement Agreement Tasks: 2, 5, 20, 24, 25, 26, 30, 31, 34, 41,
7 and 45." (Dkt. 1525, p. 2)

8 According to the Second NSA Sustainability Period Report of the IMT, OPD
9 is in compliance with ten of these eleven Tasks:

10 1. Task 2 (Timeliness Standards and Compliance with IAD Investigations –in
11 compliance when most recently assessed by the IMT in the 79th Report and in
12 compliance

13 per the First NSA Sustainability Period Report);

14 2. Task 20 (Span of Control – in compliance per the draft Second NSA
15 Sustainability Period Report);

16 3. Task 24 (Use of Force Reporting Policy – in compliance per the draft
17 Second NSA Sustainability Period Report);

18 4. Task 25 (Use of Force Investigations and Report Responsibility – in
19 compliance per the draft Second NSA Sustainability Period Report);

20 5. Task 26 (Force Review Board (FRB) – in compliance per the draft Second
21 NSA Sustainability Period Report);

22 6. Task 30 (Executive Force Review Board (FRB) – in compliance per the
23 draft Second NSA Sustainability Period Report);

24 7. Task 31 (Officer-Involved Shooting Investigations Review Protocol) – in
25 compliance per the draft Second NSA Sustainability Period Report);

26 8. Task 34 (Stop Data – in compliance per the draft Second NSA
27 Sustainability Period Report);

28 9. Task 41 (Use of Personnel Assessment System (PAS) and Risk

1 Management – in compliance per the draft Second NSA Sustainability Period
2 Report)

3 10. Task 45 (Consistency of Discipline – this was in partial compliance during
4 the First NSA Sustainability Period Report and was deemed in full
5 compliance during the period covered draft Second NSA Sustainability Period
6 Report.)

7
8 As of this writing, OPD is not in compliance with one NSA task:

9 1. Task 5 (Internal Affairs Division (IAD) Complaint Procedures – in
10 compliance when assessed by the IMT in the 79th Report, but “Deferred” in
11 the First NSA Sustainability Period Report and deemed “not in compliance”
12 according to the Second NSA Sustainability Period Report.)

13
14 Plaintiffs’ will outline their concerns regarding specific NSA tasks, as well as
15 developments that impact multiple NSA tasks, below, with specific emphasis on
16 Tasks 5 and 45, which will determine whether OPD is able to achieve full
17 compliance with the NSA and/or continue with the Sustainability Period that is
18 currently scheduled to end in May of 2023.

19 **I. Task 2 (Timeliness Standards and Compliance with IAD**
20 **Investigations)**

21 Task 2 requires that the Internal Affairs Department (IAD) of the OPD
22 complete internal investigations in a timely manner. This task was inactive from
23 2015 to July 2019, before falling out of compliance in the 62nd IMT Report. Task 2
24 remained out of compliance until February 2022, when OPD once again met the
25 mathematical threshold required for compliance.

26 OPD policy requires that “at least 85% of Class I misconduct investigations
27 and at least 85% of Class II misconduct investigations must be completed within
28 180 days to be considered timely.” Per DGO M-03, Class I offenses “are the most

1 serious allegations of misconduct and, if sustained, shall result in disciplinary
2 action up to and including dismissal and may serve as the basis for criminal
3 prosecution.”

4 The IMT reviewed 26 Class I misconduct cases during the period covered by
5 the First OPD Sustainability and determined that 25 of these cases were completed
6 in a timely manner. This represented a 96% timely-completion rate, which put
7 OPD above the 85% threshold required for compliance with NSA Task 2. During
8 the period covered by the Draft Second OPD Sustainability Report, the IMT
9 reviewed 26 Class I misconduct cases, and determined that all 26 of these cases
10 were completed in a timely manner. This 100% completion rate speaks for itself
11 and is an unequivocal success for the Department.

12 Similarly, of the 74 Class II cases reviewed by the IMT during the period
13 covered by the Draft Second OPD Sustainability Report, 72 were in compliance with
14 established timelines. This represents a 97% timely completion rate and is also a
15 substantial improvement from the reporting period immediately preceding the
16 Sustainability Period, when the OPD completed just 92%, 82%, 84%, and 82% of
17 Class II investigations in a timely manner.

18 The numbers here are unequivocal: OPD has built upon its progress and
19 remains comfortably above the NSA-mandated numerical thresholds required for
20 compliance with Task 2. However, it is not lost on Plaintiffs’ attorneys that this
21 very same Internal Affairs Division, including the Captain ultimately responsible
22 for the Department’s recent progress on Task 2, are central to OPD’s catastrophic
23 failures regarding Task 5, outlined below.

24 **II. Task 5 (Complaint Procedures for IAD)**

25 Task 5 pertains to Complaint Procedures for the Internal Affairs Division,
26 and consists of several subtasks, all of which the IMT had previously found in
27 compliance, including:

- 28 • Task 5.1, which requires that when a citizen wishes to file a complaint,

1 the citizen is brought to a supervisor or IAD, or a supervisor is
2 summoned to the scene.

- 3 • Task 5.2, which requires that if there is a delay of greater than three
4 hours in supervisory response, the reason for the delay must be
5 documented.
- 6 • Task 5.3, which requires that where a complainant refuses to travel to
7 a supervisor, or wait for one, personnel make all reasonable attempts
8 to obtain specific information to assist in investigating the complaint.
- 9 • Task 5.4, which requires that specific information be documented on a
10 complaint form and submitted to the immediate supervisor or, in
11 his/her absence, the appropriate Area Commander.
- 12 • Task 5.5, which requires that the supervisor or Area Commander
13 notify Communications and forward any pertinent documents to IAD.

14 On March 23, 2016, the Court issued an Order indicating that irregularities
15 and potential violations of the NSA occurred in IAD investigation 15-0771. Multiple
16 officers were ultimately terminated and disciplined in that matter, which involved
17 the widely reported sexual exploitation of a minor. OPD's calamitous handling of
18 the ensuing investigation led to this Court to appoint an outside firm to issue a
19 highly critical report which contributed to the departure of the then-Chief of Police.

20 In the years since this sex scandal and the resultant Swanson Report, the
21 IMT had focused on subtasks 5.15 to 5.19 and subtask 5.21, which address the
22 quality of completed IAD investigations. The IMT determined that subsequent IAD
23 investigations improved to the standards mandated by the NSA and, in February
24 2022, OPD reattained full compliance with Task 5. It appeared that OPD had made
25 real, sustainable progress regarding Internal Affairs Investigations.

26 However, the First OPD Sustainability Report moved the status of Task 5
27 from "in compliance" to "deferred compliance." Plaintiffs' attorneys noted their
28 concerns about OPD backsliding on this all-important Task during the October 2022

1 Case Management Conference and expressed grave concerns about the IMT's note
2 that "two disciplinary matters were referred to an outside firm for further
3 investigation." (Draft First Sustainability Report, p. 9).

4 It was thus extremely concerning that the IMT has determined that OPD is
5 no longer in compliance with Task 5 as of the draft Second OPD Sustainability
6 Report. Referring to "certain internal matters [that] were referred to outside
7 counsel for investigation", the IMT reports that "conclusions to date are troubling
8 and call into question the integrity of the internal investigatory process." (draft
9 Second IMT Sustainability Report, p. 9)

10 Plaintiffs' attorneys first became aware of the details of this investigation on
11 January 18, 2023, when the "Conclusions and Recommendations Re: Vehicle
12 Collision and Elevator Discharge Incidents" drafted by the independent law firm,
13 Clarence Dyer, & Cohen LLP (Clarence Dyer, & Cohen Report), were filed in the
14 docket and publicly disclosed. Dkt. 1564.

15 This document echoes some of the catastrophic failures that plagued OPD at
16 earlier points in the NSA process and affirms the IMT's conclusion that OPD is out
17 of compliance with Task 5. The Clarence Dyer & Cohen Report documents
18 definitive, comprehensive, and pervasive cultural and systemic problems within
19 Department, as well hugely significant failures by individuals in the OPD command
20 staff.

21 On March 25, 2021 an OPD Sergeant was driving an OPD-issued vehicle out
22 of a parking garage in San Francisco. His dating partner, a subordinate OPD
23 officer, was also in the vehicle. Video evidence shows that the vehicle operated by
24 the OPD Sergeant struck a parked civilian vehicle, ripping off the bumper. The
25 OPD Sergeant driving this vehicle stopped for approximately 4-5 seconds after the
26 impact, then drove away from the scene. This incident was never reported by the
27 OPD Sergeant or his OPD Officer dating partner, and OPD only became aware of
28 the incident after the City of Oakland received an insurance claim caused by the

1 damage caused by the OPD Sergeant and captured on video.

2 After an OPD Lieutenant was provided with this video, that Lieutenant
3 shared and viewed the video with the OPD Sergeant who was operating the vehicle
4 during the collision and “instructed the sergeant to make a report of the collision to
5 the San Francisco Police Department because the incident took place in San
6 Francisco. Only then did the lieutenant complete the referral paperwork for the
7 vehicle collision and refer the matter to the Internal Affairs Division. IA initiated
8 IAD Case 21-0862 on 28 July 2021.” (Clarence Dyer, & Cohen Report, p. 3)

9 The IAD investigator assigned to this matter obtained further video, which
10 also showed that the OPD-issued vehicle impacted the civilian vehicle, stopped for
11 approximately 4-5 seconds, and then left the scene. This investigator contacted a
12 vehicle repair professional, who determined that “the collision would have made a
13 loud sound that should have been heard inside a vehicle, even with the windows
14 closed.” (Clarence Dyer, & Cohen Report, p. 4). An informal canvass of OPD
15 personnel also revealed that the OPD Sergeant driving the vehicle was in a dating
16 relationship with a subordinate OPD Officer, although this relationship had not
17 been reported to OPD’s HR Department as required.

18 After interviewing the subject Sergeant and his dating partner about this
19 incident, the IAD investigator drafted a Report of Investigation (ROI) for 21-0862.
20 Plaintiffs’ attorneys have not seen or read this ROI, but the Clarence Dyer, & Cohen
21 Report states that this ROI concluded that a preponderance of the evidence showed
22 that the sergeant should be sustained for:

23
24 “violating the Manual of Rules (“MOR”) for Obedience to Laws for the
25 hit and run and for preventable collision. The investigator also
26 concluded that the officer should not be sustained for the performance
27 of duty MOR. The investigator’s draft report called into question the
28 credibility of both the sergeant and the officer. It also included a
discussion of their dating relationship and their failure to report that
relationship to OPD superior officers or command staff. Finally, it
included a discussion and finding of “not sustained” for the

1 Truthfulness MOR against the sergeant, which the IAD investigator
2 conducted as part of his investigation.” (Clarence Dyer, & Cohen
3 Report, p. 5)

4 The IAD Commander then discussed this ROI with the IAD Commander, an
5 OPD Captain whose name has been publicly reported and is known to this Court.
6 According to the Clarence Dyer, & Cohen Report, this Captain “requested revisions
7 to the ROI with which the Investigator disagreed and to which in the investigator
8 objected.” (Clarence Dyer & Cohen Report, p. 5). Nevertheless, pursuant to explicit
9 direction from the Captain, the investigator revised the ROI at the direction of the
10 OPD Captain in charge of the Internal Affairs Division. The ROI was thus altered
11 in a manner that the investigator believed “minimized the severity of the
12 misconduct and allowed the sergeant to avoid the appropriate consequences for his
13 actions.” (Clarence Dyer & Cohen Report, p. 5).

14 Specifically, the final ROI contained the following revisions, made at the
15 behest of the IAD Commander:

- 16 1. It sustained the sergeant only for the preventable collision, but
17 not for the hit and run;
- 18 2. It changed the passenger-officer’s designation from subject
19 officer to
20 witness;
- 21 3. It concluded that both the sergeant and officer were credible;
- 22 4. It removed the discussion of the relationship issue; and
- 23 5. It deleted any mention of the Truthfulness Manual of Rules or
24 investigation
25 into that issue.

(Clarence Dyer, & Cohen Report, p. 5)

26 The revised findings and recommendations were subsequently presented to
27 OPD’s Executive Command Staff. The Investigator did not disclose that the two
28 officers in the OPD-issued vehicle were in an unreported dating relationship and,
per the IAD Commander’s orders, contained just one sustained finding relating to a
preventable vehicle collision. Notably, there was no discussion of a hit-and-run, a

1 crime. According to the Clarence Dyer, & Cohen Report, the “Chief of Police did not
2 permit extensive discussion of the case and did not request that the video be shown,
3 instead quickly approving the recommended sustained finding and signing the final
4 ROI without reading it.” (Clarence Dyer, & Cohen Report, p. 6). The OPD Sergeant
5 received only counselling and training as a result of the sustained finding for a
6 preventable collision, and there was no further discipline in the matter, and the
7 Sergeant continued to work as an OPD Sergeant.

8 The Clarence Dyer, & Cohen Report then details an incident where an OPD
9 officer discharged a service weapon at the Police Administration Building on the
10 night of April 16-17, 2022. After strike mark from this discharge was noticed by
11 other OPD members, an investigation was commenced. More than one week after
12 the discharge, an OPD Sergeant approached the investigator to admit that he had
13 discharged his weapon, and “admitted to collecting and discarding evidence from
14 the discharge, including the shell casing by throwing it in the San Francisco Bay
15 while driving his service vehicle over the Bay Bridge. The Sergeant was
16 immediately placed on administrative leave.” (Clarence Dyer, & Cohen Report, p. 8)

17 This was the same Sergeant involved in the above-referenced auto collision,
18 and his admission precipitated an investigation into the discharge by outside
19 investigators. During this investigation, outside investigators “identified certain
20 procedural irregularities and possible violations of OPD policy committed by OPD
21 members who conducted the initial criminal and administrative investigations”
22 (Clarence Dyer, & Cohen Report, p. 8), which resulted in a third investigation into
23 the way that OPD’s Internal Affairs and Criminal Investigation Division undertook
24 their investigations of the elevator discharge. The Clarence Dyer, & Cohen Report
25 concludes that:

26
27 During the course of the three confidential Internal Affairs Division
28 investigations referred to above – one for the vehicle collision incident,
the second for the elevator discharge incident, and the third for the

1 investigation into the Department's handling of the elevator discharge
2 – outside investigators encountered multiple deficiencies in process
3 and policy that undermined the full and complete discovery of the
4 facts. While some of these deficiencies stem from gaps in Department
5 policies, other deficiencies flowed from the Department's failure to
6 follow or implement existing Department policies. Most disturbingly,
7 some of the deficits appear to stem from a failure of leadership and a
8 lack of commitment to hold members of the Oakland Police
9 Department accountable for violations of its own rules... **These
10 investigations revealed issues and shortcomings that go
11 beyond the conduct of individual officers to the very question
12 of whether the Oakland Police Department is capable of
13 policing itself and effectively holding its own officers
14 accountable for misconduct.**

(Clarence Dyer, & Cohen Report, p. 9, emphasis NOT original)

11 It is clear that there were widespread systemic failures, as well as individual
12 failures by high ranking OPD personnel, that are incongruous with the letter and
13 the spirit of the NSA. An Internal Affairs process where supervisors can demand
14 changes to an ROI without an accompanying paper trail is ripe for abuse.
15 Similarly, a process ending with the Chief of Police signing an altered ROI without
16 much discussion, without examining at the underlying evidence, or even reading the
17 ROI before signing it is fundamentally incompatible with a robust Internal Affairs
18 or discipline process.

19 The Clarence Dyer, & Cohen Report found that the three investigations in its
20 purview “were dogged by a lack of forthrightness by multiple members, both
21 subjects and witnesses, that betrayed a lack of commitment to the pursuit of truth
22 by the Internal Affairs process.” (Clarence Dyer, & Cohen Report, p. 10). This too
23 cannot be reconciled with the requirements mandated by Task 5 of the NSA,
24 specifically, or the overall spirit of the NSA generally.

25 Based on the details laid forth in the Clarence Dyer, & Cohen Report, it
26 appears the OPD Sergeant committed a crime. CA Vehicle Code 20002(a) requires
27 that the driver of any vehicle involved in an accident resulting only in damage to
28

1 property, including vehicles, shall locate and notify the owner or person in charge of
2 that property with the identifying information of the driver of the involved vehicle,
3 or provide written notice of the same and notify the police department where the
4 collision occurred. Failure to do so constitutes a misdemeanor, punishable by jail
5 time and/or fines.

6 Given the facts in this matter, it is simply incomprehensible that OPD's
7 Criminal Investigation Department never opened a criminal investigation. OPD
8 General Order M-04.1 requires that when any member assigned to the Internal
9 Affairs Division has reasonable suspicion that any member of the Department is
10 involved in a felony or misdemeanor, he/she shall immediately contact the IAD
11 Commander. If the IAD Commander cannot be reached, the member shall contact
12 an IAD Lieutenant. (OPD General Order M-04.1, p. 1). Plaintiffs' attorneys wish to
13 know whether this happened and, if not, why not.

14 The same General Order requires that, "upon awareness that any member of
15 the Department is allegedly involved in criminal misconduct, the IAD Commander
16 or IAD Lieutenant shall attempt to determine the identity of the member and the
17 jurisdiction of the alleged criminal misconduct. The IAD Commander or IAD
18 Lieutenant shall provide such information to the CID Commander and shall
19 maintain strict confidentiality at all times." (OPD General Order M-04.1, p. 2). It
20 does not appear that this happened. This, too, is a major, command-level failure to
21 follow basic OPD rules.

22 Moreover, because the offending Sergeant was never investigated by CID,
23 and because the IAD commander intervened to overrule the IA Investigators
24 original report which found that a "preponderance of evidence" showed the Sergeant
25 should be held responsible for violating OPD rules and hit-and-run-laws, the subject
26 officer was **simply given advice and counselling for committing a crime. He**
27 **continued his career as an OPD employee, and discharged his service**
28 **weapon inside the Police Administration Bureau less than one year later.**

1 It is also important to note that Oakland Police Department missed the
2 Government Code Section 3304 deadline for an internal investigation into the hit
3 and run auto collision caused by the OPD Sergeant, so there is no further remedy
4 that can occur regarding this matter. (Plaintiffs' attorneys note that the 3304 date
5 for the supervisors responsible for this failure may not yet have run, because this
6 clock starts on the day of discovery, not the date that it occurred.)

7 Plaintiffs' attorneys are also curious to learn more about why the Chief of
8 Police was sustained in this matter. What, precisely, was discussed during the
9 December 23, 2021 "Chief's Friday Meeting"? Who else was in the room during the
10 meeting? Was the Chief of Police, or anybody else, informed about a possible
11 criminal case? Was the vehicle collision caused by the OPD Sergeant ever referred
12 to the Criminal Investigation Division, and did anybody at this meeting suggest
13 that this occur?

14 OPD Departmental General Order M-03, Complaints Against Departmental
15 Personnel, contains a list of Class I offenses, which are the most serious allegations
16 of misconduct that, if sustained can result in disciplinary action up to an including
17 dismissal, and which may serve as the basis for criminal prosecution. These include
18 the failure of a supervisor to properly supervise and/or take corrective action for
19 misconduct that he/she knew or reasonably should have known about, as well as
20 knowingly and intentionally obstructing the Internal Affairs investigation process
21 in any manner, and commission of a felony or serious misdemeanor. (OPD DGO M-
22 03, pp. 4-5). The Clarence Dyer, & Cohen Report describes each of these scenarios,
23 and yet it does not appear that any of these Class I offenses were initially
24 investigated by OPD. Plaintiffs' attorneys are curious to learn if any of these
25 Manual of Rule violations were investigated and addressed, and whether criminal
26 conduct was uncovered.

27 Based on the foregoing revelations Plaintiffs' attorneys are in agreement with
28 the IMT that OPD is not in compliance with Task 5. This has obvious implications

1 for the Sustainability Period -- which is currently scheduled to end in May 2023 –
2 that will be discussed at greater length, below.

3 **III. Task 20 (Span of Control)**

4 This Task requires that OPD have a policy to ensure appropriate supervision
5 of its Area Command Field Teams. 44 squads were examined by the IMT during
6 the period covered by the draft Second OPD Sustainability Report, and the IMT
7 determined that (1) all squads were supervised by either a primary, relief or
8 other/overtime sergeant for at least 85% of working shifts, and that (2) all squads
9 met the eight-to-one officer-to-supervisor ratio for at least 90% of shifts. Further,
10 OPD has institutionalized practices for tracking supervision/span of control.
11 Plaintiffs' attorneys agree with the IMT that OPD remains in compliance with Task
12 20.

13 **IV. Tasks 24 (Use of Force Reporting Policy) & 25 (Use of Force
14 Investigations and Report Responsibility)**

15 OPD had been in compliance with Tasks 24 (Use of Force Reporting Policy)
16 and 25 (Use of Force Investigations and Report Responsibility) of the NSA since
17 2015. In November 2018, this Court reactivated these Tasks as a result of Plaintiffs'
18 and the Monitoring Team's concerns about systematic underreporting of weaponless
19 defense techniques and incidents related to the pointing of firearms. During the
20 period covered by the 74th IMT Report, OPD came back into compliance with Task
21 24, and Plaintiffs' attorneys agreed with the IMT's assessment that OPD was in
22 compliance with Task 24 at the most recent Case Management Conference. OPD
23 remains in compliance with Task 24 during the period covered by the draft Second
24 OPD sustainability Report.

25 However, as recently as May 2022, OPD was in only partial compliance with
26 Task 25. This was, in part, because the IMT continued to harbor concerns "with the
27 preparation and review of UOF reports by OPD supervisors". (80th IMT Report, p.
28 15). The First OPD Sustainability Report noted that "in general, we now find that

1 supervisors are identifying deficiencies in officer reporting and identifying and
2 addressing MOR violations. We also find that reviewers of the supervisors' reports
3 are identifying and addressing concerns when appropriate." (First OPD
4 sustainability Report, p. 17). The IMT therefore determined that OPD achieved full
5 compliance with Task 25.2. According to the draft Second Sustainability Report,
6 OPD "has continued to meet the overall requirements of this Task and appears to be
7 rendering additional oversight and scrutiny to use of force reporting." (Draft Second
8 OPD sustainability Report, p. 19).

9 Task 25.3 requires that use of force investigations include required
10 recommendations, such as whether the force used was pursuant to a legitimate law
11 enforcement objective, whether the force used was proportional and reasonably
12 related to the underlying objective, whether officers used reasonable verbal means
13 to resolve a situation without force, and whether force was deescalated or stopped
14 when it was reasonable to do so.

15 During their assessment of Level 3 Taser deployments during the period
16 covered by the draft Second OPD sustainability Report, the IMT reviewed eight
17 Taser deployments. The IMT identified one Taser deployment "where we had
18 concerns about the use of force." (Draft Second IMT Report, p. 18). OPD command
19 staff apparently shared the IMT's concerns about this matter and referred the case
20 to IAD for further investigation.

21 As noted above, the IMT determined that OPD remains in compliance with
22 Task 25. Plaintiffs' attorneys defer to the IMT's assessment that OPD is meeting
23 the overall requirements of this Task.

24 **V. Task 26 (Force Review Board)**

25 Task 26 requires OPD to implement a policy concerning its Force Review
26 Board (FRB) proceedings, which are convened to examine Level 2 uses of Force.
27 OPD originally came into compliance with this task in 2013, during the 19th
28 reporting period, and has remained in compliance with the Task ever since. During

1 the reporting period covered by the draft Second OPD sustainability Report, OPD
2 did not submit any completed FRB reports for IMT review. However, the IMT did
3 observe two FRBs conducted in November 2022 and noted “substantive discussion
4 and deliberations among the Board members.” (Draft Second OPD sustainability
5 Report, p. 20). Plaintiffs’ attorneys were not present for any of these FRBs and
6 defer to the IMT’s judgment that OPD is in compliance with Task 26.

7 **VI. Task 30 (Executive Force Review Board)**

8 Task 30 requires OPD to conduct an Executive Force Review Board (EFRB)
9 to review the factual circumstances surrounding any Level 1 force, in-custody death,
10 or vehicle pursuit-related death incidents. Like Task 26, OPD originally came into
11 compliance with this task in 2013, during the 19th reporting period. And as with
12 Task 26, Plaintiffs’ attorneys do not attend EFRBs and defer, generally, to the
13 reporting of the Monitor. The IMT’s assessment is that OPD remains in compliance
14 with Task 30. Plaintiffs’ attorneys concur with this finding.

15 **VII. Task 31 (Officer-Involved Shooting Investigations Review Protocol)**

16 Task 31 requires certain notifications and responses in the event of an officer-
17 involved shooting. During the reporting period covered by the First OPD
18 Sustainability Report, there were two instances where the protocols required by
19 Task 31 were applicable. The IMT found that Task 31 requirements were followed
20 in events, and therefore adjudged OPD in compliance with this Task.

21 Task 31 was not actively monitored for a long time prior to the Sustainability
22 Period, and Plaintiffs’ attorneys have no reason to disagree with the IMT’s
23 compliance status assessment for this Task at this time.

24 Plaintiffs’ attorneys are particularly pleased with the decline and/or absence
25 of unnecessary officer involved shootings in recent years. There were times since
26 the NSA began in 2003, when we saw people beaten and killed by OPD for no valid
27 reason. The Riders case was a turning point in our tolerance for this kind of
28 activity. Plaintiff s’ attorneys believe the vast majority of OPD officers have

1 changed in the 20 years since we have begun this oversight and have no toleration
2 for excessive force in most instances. This development alone has made our twenty
3 year journey worthwhile.

4 **VIII. Task 34 (Stop Data/Vehicle Stops, Field Investigations and**
5 **Detentions) and Task 41 (Use of Personnel Assessment System and**
6 **Risk Management)**

7 Task 34 requires OPD to complete a basic report on all vehicle stops, field
8 investigations, and detentions, and to compile this information into a database that
9 can be searched, queried, and reported by OPD. Task 41 pertains to the Use of a
10 Personnel Assessment System (PAS) and Risk Management, and requires OPD to
11 develop a risk management system to audit the performance of specific members,
12 employees, supervisors, managers, units, and the Department as a whole. Since
13 Task 34 pertains to the collection of stop data and Task 41 pertains to the analysis
14 of said data, these Tasks are linked. Although they were previously assessed
15 separately by the IMT, and both determined to be in NSA compliance prior to the
16 sustainability period, they were evaluated together in the IMT's Draft Second
17 Sustainability Report. This report determined that OPD remains in compliance
18 with both Tasks.

19 As the Monitor notes in the draft Second OPD Sustainability Report, the data
20 OPD collects is comprehensively analyzed and “ has been fully integrated into the
21 Department's risk management process and includes reviews of dispatched and
22 non-dispatched stops, actions taken including searches, and outcomes including
23 citation or arrests or noting that no action resulted from the stop.” (Draft Second
24 OPD Sustainability Report, p. 28). Patterns, trends, and outliers are reviewed
25 during the Risk Management Meetings (RMM), and officers with the highest levels
26 of non-dispatched stops are flagged for further attention from supervisors. The
27 justification for stops, characteristics of those who are stopped, the outcomes of
28 stops, and the officers involved in stops are all subject to analysis via the RMM
process. The year-over-year trend in the stop data speaks to institutionalized,

1 sustainable change within OPD, and therefore, OPD remains in compliance with
2 Tasks 34 and 41.

3 Although we agree with the Monitor's findings, we would caution against the
4 routinization of Risk Management meetings. Some of these meetings take many
5 hours and are occasionally characterized by uneven presentations by Captains
6 and/or Area Commanders. As evidenced by the fiasco outlined in Task 5, above,
7 adequate supervision is a job that will never end, and which requires vigilance by
8 all concerned.

9 **IX. Task 45 (Consistency of Discipline Policy)**

10 Task 45 requires that discipline is imposed in a fair and consistent manner,
11 and Plaintiffs' attorneys were disappointed that OPD did not achieve full
12 compliance with Task 45 prior to the October 2022 Case Management Conference
13 before this Court. According to the draft Second Compliance Report, the IMT has
14 determined that OPD is now in compliance with this Task. Plaintiffs' attorneys
15 agree that OPD has greatly improved in the sphere of data collection when it comes
16 to Stop Data and the Risk Management process. That said, Plaintiffs' attorneys are
17 unable to make a recommendation that OPD stay in compliance with this all-
18 important Task at this time, as it is necessarily intertwined with Task 5, which the
19 IMT has deemed out of compliance.

20 The Clarence Dyer, & Cohen Report details a scenario where discipline was
21 imposed without a full and complete review of the facts uncovered by the Internal
22 Affairs Division. A discipline process where the Chief of Police does not even read
23 Reports of Investigation before signing them is not compatible with Task 45.
24 Similarly, a scenario where the IA commander can demand revisions to an ROI over
25 the objections of his subordinates – especially without any documentation about
26 such a directive -- is antithetical to the goal of fair and transparent discipline within
27 the Department.

28 But the rot runs deeper than that: According to the Clarence Dyer, & Cohen

1 Report, “investigators were left with the impression that the system is designed not
2 to uncover the truth and hold those who commit misconduct to account, but instead
3 to find ways to minimize misconduct such that OPD members are able to avoid
4 serious discipline.” (Clarence Dyer, & Cohen Report, p. 15). This echoes some of the
5 findings of the Hillard Heintze disparity study. Although that study had widely
6 acknowledged data problems that rendered some of the resultant analysis
7 functionally useless, there was also a survey component unrelated to data-scraping
8 from OPD’s risk management systems.

9 Specifically, the Hillard Heintze Disparity Study found that the IAD policy
10 which allowed sergeants to be “fact finders and adjudicators has the potential to
11 lessen an investigator’s neutrality” and that this system “is not consistent with
12 promising practices used in departments similar in size to Oakland.” (Disparity
13 Study, p. 11). It also noted that just 18.68% of sworn respondents believe that
14 OPD’s disciplinary process is fair, while 81.32 percent of respondents disagreed
15 with the statement “OPD’s disciplinary process is fair.” (Disparity Study, p. 17)

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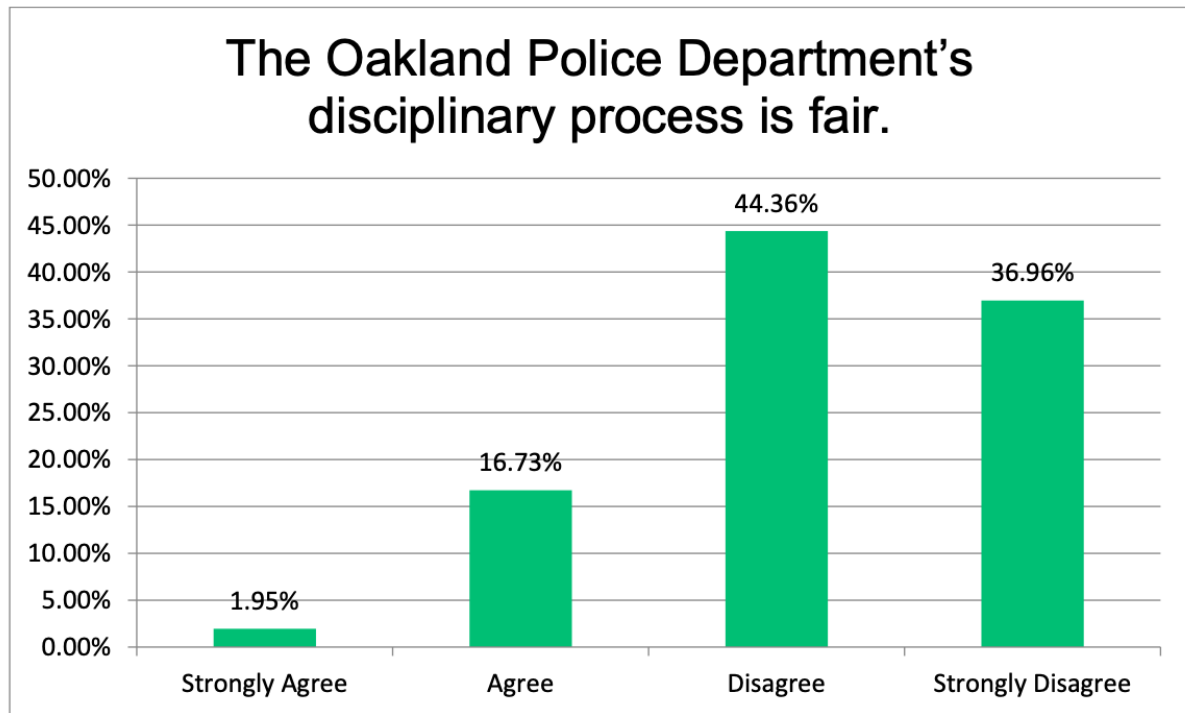
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2 Only 18.68 percent of the sworn respondents agreed or strongly agreed that the disciplinary process is fair.



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15 A discipline system that is “unfair” in the eyes of more than five of every six
16 employees is untenable, and by definition, not up to the standard mandated by Task
17 45 of the NSA. Indeed, during Plaintiffs’ attorneys many years of involvement with
18 OPD, we have noticed that supervisors and command staff often receive lighter
19 discipline than rank-and-file officers. OPD employees also reported that “who you
20 know, and to which cliques you belong, influence whether an investigation will be
21 sustained and what level of discipline will be administered”, and that the “IAD and
22 disciplinary processes are not transparent.” (Hillard Heintze Disparity Study, p.
23 23). The Clarence Dyer, & Cohen Report’s findings regarding the vehicle collision
24 and subsequent investigatory and disciplinary process is an illustrative example of
25 exactly this dynamic.

26 At the time of this writing, there are press reports that Chief of Police
27 Armstrong was placed on administrative leave as a result of the Clarence Dyer, &
28

1 Cohen Report's determination that he violated departmental rules by failing to hold
2 officers accountable and allowing them to escape discipline. Specifically,
3 "investigators recommended that the Department sustain Manual of Rules
4 violations against the Chief of Police for failing to hold his subordinate officers to
5 account, for failing to engage effectively in the review of the incident and for
6 allowing the subject officer to escape responsibility for serious misconduct.
7 (Clarence Dyer, & Cohen Report, p. 7).

8 The recommended findings are contained in a separate, confidential Internal
9 Affairs Division report that has not been review by Plaintiffs' attorneys. We are
10 therefore unable to comment on the specifics, although the very decision to place the
11 Chief of Police on administrative leave suggests there is substantial cause to believe
12 that the Chief committed serious Manual of Rule violations related to failing to hold
13 his subordinate officers to account. In any event, it is clear that the subject officer
14 in the hit and run/discharge of weapon in the PAB case was shown special
15 consideration because of some factor connected with his status in the OPD that
16 would not be shown to other officers had they committed the same misconduct as
17 this officer. Therefore, Plaintiffs' attorneys do not believe OPD can be in compliance
18 with Task 45, and respectfully request that the IMT immediately reevaluate status
19 of this all-important Task.

20 CONCLUSION

21 The IMT's determination that OPD is out of compliance with Task 5 due to
22 "information that has been developed to date regarding the Department's internal
23 investigation and discipline process [that] is deeply troubling" was as a flashing red
24 warning light to Plaintiffs' attorneys when we received the draft Second
25 Sustainability Report at the end of 2022. The specifics described in the just-
26 published Clarence Dyer, & Cohen Report are an unmitigated disaster for the
27 Department and the Negotiated Settlement Agreement.

28 Plaintiffs' attorneys will never agree that the OPD has attained compliance if

1 members of the Command Staff attempt to hide misconduct from appropriate
2 supervisors (including the Police Commission), and/or impose inconsistent discipline
3 based on who you know, your race, or what rank you have. Both the draft Second
4 Sustainability Report and the Clarence Dyer, & Cohen Report suggest that is time
5 **to extend the current sustainability period until the Department designs**
6 **policies, practices and procedures to prevent this disaster from happening**
7 **again. Part of these changes necessarily include compliance with Tasks 5**
8 **and 45 as well as implementing the recommendations in the Clarence,**
9 **Dyer & Cohen report. These reforms must be audited to the satisfaction of**
10 **the Court, the Monitor and Plaintiffs' attorneys.**

11 We see no reason why this cannot be done within six months. We insist on
12 reasonable progress reports during that time to assure ourselves that the OPD is
13 making a genuine commitment to resolve these issues. If OPD is not in compliance
14 within this time, we expect that the Sustainability Period will be extended further.

15 OPD is not in compliance with the spirit or the letter of the NSA. Two
16 different tasks, over two different sustainability period IMT reviews, have now
17 fallen out of compliance. OPD must comply with the Negotiated Settlement
18 Agreement in a way that guarantees the reforms will be long lasting, and that OPD
19 members will meet these standards in the future. There is simply no evidence that
20 OPD is even in the vicinity of substantial compliance with NSA Tasks 5 and 45. It
21 is also clear that Court and IMT oversight is still required.

22 Tasks 5 and 45 are not insignificant. If the OPD cannot perform competent
23 Internal Affairs Investigations or discipline its own officers fairly, there will always
24 be questions as to whether they can police themselves, or provide equal justice in
25 the community they serve. Plaintiffs' Attorneys have previously lauded OPD's
26 substantial progress across multiple tasks, and held these up as evidence of cultural
27 reform within the Department.

28 The Clarence Dyer, & Cohen Report paints a bleaker picture of a Department

1 -- and a Command Staff -- in disarray. It also catalogues a very long list of OPD
2 failures: a Sergeant failed to self-report two serious incidents, failed to report a
3 dating relationship with a subordinate officer (who herself also failed to report one
4 incident and her relationship), and then – after escaping with a slap on the wrist –
5 this Sergeant destroyed evidence by throwing a bullet he had discharged in the PAB
6 off the Bay Bridge. An IAD Commander pressured his subordinate to soften an
7 ROI, and there has been no effort to determine why this happened. The Chief of
8 Police was sustained for Manual of Rules violations for failing to hold subordinate
9 officers to account and has apparently been placed on administrative leave. It was
10 also “abundantly clear... that OPD members regularly use their personal cell
11 phones for work-related purposes, both while on active duty and while off-duty.”
12 (Clarence Dyer, & Cohen Report, p. 13). Some of these phones are set to auto-delete
13 text messages every thirty days, which raises serious concerns about the
14 destruction of evidence. The Clarence Dyer, & Cohen Report also noted a “lack of
15 clarity about whether current Internal Affairs Division rules permit investigators to
16 compel production of text or telephone messages maintained on personal telephones
17 even when important evidence is known to exist on those personal telephones used
18 in connection with OPD duties.” (Clarence Dyer, & Cohen Report, p. 13).

19 Judge Thelton Henderson once described OPD’s reform efforts as a
20 “Shakespearian tragedy”¹, and it is not lost on Plaintiffs’ attorneys that Judge
21 Henderson’s March 2016 Order also describes, word for word, the just-released
22 Clarence Dyer, & Cohen Report: “This case raises most serious concerns that may
23 well impact Defendants’ ability to demonstrate their commitment to accountability
24 and sustainability – both of which are key to ending court oversight.” Seven years
25 later, OPD has once again shown that it cannot meet this standard. To wit, the
26 Clarence Dyer, & Cohen Report concludes that the “issues and shortcomings that go
27 beyond the conduct of individual officers to the very question of whether the

28 ¹ <https://themonthly.com/feature1708/>

1 Oakland Police Department is capable of policing itself and effectively holding its
2 own officers accountable for misconduct.” (Clarence Dyer, & Cohen Report, p. 9)

3 It is time to immediately extend the Sustainability Period until, at the very
4 least, OPD regains full compliance with each and every NSA Task and implements
5 the Clarence Dyer recommendation in their report.

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THE CITY'S STATEMENT**OVERVIEW**

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3 As we begin the new year, the Department is doing remarkably well in nearly
4 all aspects of NSA compliance. The City acknowledges, however, serious
5 weaknesses in the Department's internal investigation processes reflected in the
6 failures revealed by the outside law firm's recent investigations. *See* Dkt. 1564,
7 *Order Re Conclusions and Recommendations Re Vehicle Collision and Elevator*
8 *Discharge Incidents* (Jan. 18, 2023) (the Report or the January 18 Report). The City
9 learned about the findings and conclusions set forth in the Report for the first time
10 on January 18, when it received the publicly filed report and two confidential
11 investigative reports penned by the same outside investigator. An additional
12 investigative report regarding the Department's handling of the elevator discharge
13 has not yet been completed. The outside investigator recommended that the
14 Department sustain Manual of Rules violations against multiple officers including
15 the Chief of Police for failing to hold his subordinate officers to account, failing to
16 engage effectively in the review of the investigation into a sergeant's failure to
17 report a collision with a parked car, and for allowing the sergeant to escape
18 responsibility for serious misconduct.

19 In the wake of the information received from the outside investigator, and
20 pending receipt of the final report and its conclusions, on January 20 the City
21 placed Chief LeRonne Armstrong on paid administrative leave. Assistant Chief
22 Darren Allison is serving as Acting Chief while Chief Armstrong remains on leave.
23 While the City does not yet have the evidentiary materials underlying the
24 investigator's recommendations and thus cannot determine whether it agrees that
25 the evidence supports each and every one of the investigator's findings, we agree
26 that the investigation revealed failures that call into question the integrity of the
27 Department's internal investigation processes.

28

1 The City recognizes that to ensure integrity in the Department's internal
2 investigations in the long term it must strengthen the Department's internal
3 processes as well as the City's independent oversight of those processes. The
4 Department's sustained achievement in all other respects, however, demonstrates
5 that the City has both the willingness and capability to achieve effective solutions to
6 the problems identified in the Report.

7 On January 2, Oakland inaugurated its 51st mayor, Sheng Thao. Mayor Thao
8 has served in City leadership since her election to City Council in November 2018.
9 In addition, the City anticipates welcoming an interim city administrator in the
10 near term as current City Administrator Ed Reiskin continues his public service in
11 at the University of California, Santa Cruz. While their voices may change, the
12 City's leaders remain engaged and enthusiastic about promoting constitutional
13 policing, accountability, and community trust. The City's commitment will continue
14 to transcend individual transitions.

15 In this status report, the City discusses the following: (1) internal affairs
16 complaint procedures (Task 5), (2) the Department's risk management program and
17 use of stop data to reduce racial disparities in policing (Tasks 34 & 41), (3) the
18 Department's demonstrated commitment to internal discipline equity (Task 45), (4)
19 officer recruiting and attrition, (5) force and force investigations (Tasks 24, 25, 26 &
20 30), and (6) internal affairs timelines (Task 2).

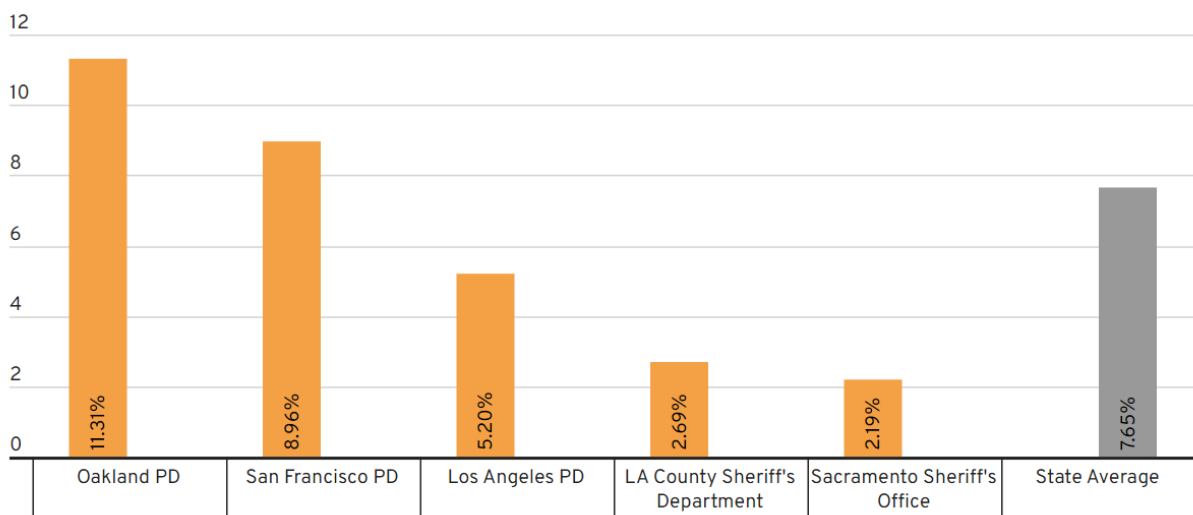
21 I. INTERNAL AFFAIRS COMPLAINT PROCEDURES (TASK 5)

22 Holding individual police officers accountable for their conduct is an essential
23 element of constitutional policing. The Oakland Police Department sustains
24 complaints against its officers at a higher rate than any other major law
25 enforcement entity in the state, except the Department of Corrections and
26 Rehabilitation. *See Nigel Duara, From scandal to scrutiny: How intense citizen*
27 *oversight reshaped Oakland police* (Apr. 2022) (citing a CalMatters analysis of
28 Department of Justice data), <https://calmatters.org/justice/2022/04/oakland-police->

1 citizen-oversight/ (last visited Jan. 11, 2023) (graphic reprinted below in *Fig. 1*).
 2 Statewide, California law enforcement agencies sustained 7.6% of complaints
 3 against their officers from 2016 to 2020. *Id.* In those years, the California
 4 Department of Justice (CalDOJ) reported the Oakland Police Department sustained
 5 complaints at an average rate of 11.3%. *Id.* According to CalDOJ’s calculations, in
 6 2018 and 2020, the Department sustained more than 15.2% of complaints, double
 7 the state average. *Id.* Based on the Department’s recent data, it estimates that in
 8 2021-2022, the Department sustained 9.9% of complaints against its officers.²

Oakland sustains complaints against police at higher rate than similar departments

CalMatters calculated the rate of sustained complaints for each California police department, sheriff's office and law enforcement agency for college campuses and railroads. These are the departments with the most complaints filed against officers and the average rate they were sustained between 2016 and 2020.



Source: California Department of Justice

Fig. 1

² CalDOJ and the Department likely did not use the same methodology to calculate these percentages. The Department’s calculations set forth herein are based on the number of sustained allegations using allegations contained in Vision against named officers. Using this methodology, the Department calculates a 2016-2020 sustained complaint rate against officers of 10.4%.

1 But quantity does not automatically equate to quality. The City knows it
2 must continually identify and correct deficiencies in its internal investigation
3 processes to ensure that its investigations are consistently thorough and honest.
4 The City must also continually identify deficiencies in the attitudes surrounding its
5 internal investigations, separate and aside from its policies, if it is going to ensure
6 accountability.

7 The City agrees that based on the conclusions set forth in the January 18
8 Report, *supra*, it has not sustained its progress on Task 5. While the City
9 thoughtfully though promptly considers the recommendations set forth in the
10 Report, it is also considering more robust improvements both within the
11 Department and independent of the Department to establish enduring solutions.

12 As the City has previously made clear, however, it does not intend to rely
13 solely on the police to police themselves. The City's independent police oversight
14 bodies, the Office of Inspector General (OIG), the Police Commission, and the
15 Community Police Review Agency (CPRA), were created to ensure long-term
16 sustainability of Department reform and therefore play important roles in
17 protecting the integrity of the Department's internal investigations process—via
18 audits, policy revision, and independent parallel misconduct investigations. In
19 addition to other corrective action, the City is examining ways to bolster support for
20 its police oversight bodies, including providing resources to ramp up the City's OIG
21 whose primary task enshrined in the City's Charter is to audit NSA reforms, even
22 after Court oversight ends.

23 The OIG has worked in its first year to design and lay the groundwork for a
24 comprehensive oversight framework. It anticipates publishing its audit of the
25 Department's Field Training Program (Task 42) as early as April 2023. After adding
26 a fifth staff member earlier in January, the OIG's current operating staff consists of
27 the IG, Chief of Staff, Director of Communications, Audit Manager, and Executive
28 Assistant. A sixth staff member will join the OIG in February, and it expects to add

1 four additional members to its team as soon as April 2023—three auditors and a
2 policy analyst. Noting that plans and priorities are subject to change based on
3 staffing and evolving information, including a thorough review of the January 18
4 Report and underlying evidence, and with timing contingent upon adequate
5 staffing, prior to release of the January 18 Report, the OIG plans to audit: Internal
6 Affairs Division (IAD) and CPRA referral process for potential criminal cases; the
7 effectiveness of *Department General Order (DGO) R-02, Searches of Individuals on*
8 *Supervised Release*; IAD’s complaint control system; and officer wellness and
9 retention.

10 The City is unequivocal that it must remediate the deficiencies in the
11 internal investigation processes that resulted in failures in two instances of
12 misconduct identified in the January 18 Report. At the same time, the City retains
13 some measure of optimism based on the Monitoring Team’s positive assessment of
14 more recent internal investigations:

- 15 • The Monitoring Team did not disagree with the findings in any of the
- 16 cases it reviewed;
- 17 • The Department gathered all relevant evidence available;
- 18 • The Department conducted follow-up interviews when necessary to
- 19 seek clarification or resolve inconsistencies;
- 20 • The Department made credibility assessments where appropriate; and

21 ///

- The Monitoring Team agreed with all of the Department’s credibility assessments.³

Dkt. 1557, *Second NSA Sustainability Period Report of the Independent Monitor 8* (Dec. 22, 2022).

II. THE DEPARTMENT MAINTAINS AN EFFECTIVE RISK MANAGEMENT PROGRAM (TASKS 34 & 41)

The Department has continued to operate its risk management program in compliance with policy *DGO R-01, Risk Management* (published Apr. 2022). While the new policy mandates in writing that the Department adhere to certain practices and timelines, the Department has already employed many of these processes, some for as long as several years. For example, the Department has recognized “for a lengthy time period” that stop data, for all stops but particularly for non-dispatch stops, “represents potential risk consistent with the risk management interests of the Department.” *Report at 28*. As a result, stop data has been fully integrated with the risk management process and includes reviews of dispatch and non-dispatch stops, actions taken including searches, and outcomes including citation or arrests or noting that no action resulted from the stop. *Id.*

A. THE DEPARTMENT CONTINUES TO SUSTAIN A MEANINGFUL REDUCTION IN AFRICAN AMERICAN STOP DISPARITIES

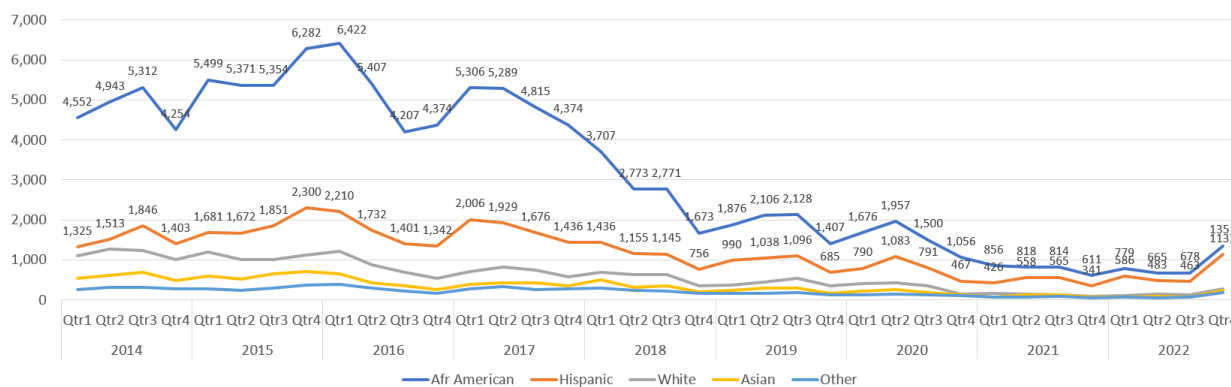
In the third quarter of 2022, the Department’s African American non-

³ The Monitoring Team found the documentation of one credibility assessment “problematic” though not because it did not agree with the Department’s conclusion or because the Department failed to identify and resolve inconsistencies. *Id.* During the investigation, the investigator identified and documented inconsistencies between the officer’s statement and the body-worn camera video. Based on the inconsistencies discovered by the investigator, the investigator interviewed the subject officer twice in order to address and resolve the discrepancies. *See id.* Unfortunately, the investigator’s credibility assessment summary did not accurately reflect the type and significance of the inconsistency, or adequately describe how the investigator resolved the discrepancy. Instead, the summary was “boilerplate” and inaccurately stated that the officer’s statement was consistent with the body-worn camera video. *Id.* But the fact remains that although the summary was inaccurate, the underlying report of investigation reflected that the investigator identified, addressed, and resolved inconsistencies in a manner which supported the investigator’s ultimate finding that the officer was credible.

1 dispatch stop rate was 48%. See *OPD Quarterly Stop Data Report Q3 2022 4*,
 2 <https://www.oaklandca.gov/resources/2022-stop-data-and-reports> (last visited Jan.
 3 9, 2023). Although the Department is still awaiting stop data from
 4 approximately 154 stops that occurred in the last month of the year, the
 5 preliminary fourth quarter 2022 data reflects a 42% African American non-dispatch
 6 stop rate. See *Fig. 2*. Reductions in the Department’s African American stop rate
 7 persisted in the last quarter of 2022 even as the total number of stops increased
 8 because the increase in stops occurred across all races. *Id.*

Non-Dispatch Stops

	2014	2015	2016	2017	2018	2019	2020	2021	2022*
Afr American	57%	59%	62%	61%	55%	51%	52%	50%	45%
Hispanic	18%	20%	20%	22%	22%	26%	26%	31%	35%
White	14%	11%	10%	9%	11%	12%	11%	8%	9%
Asian	7%	7%	5%	5%	7%	7%	6%	6%	6%
Other	4%	3%	3%	4%	5%	4%	4%	4%	5%



*Qtr4 2022 numbers are preliminary and subject to change based on 154 still-pending stop reports.

Fig. 2, 2014-2022 Non-Dispatch Stop Data by Race

21 Since 2021, the Department has reduced its African American non-dispatch
 22 stop rate below 50% in six of eight quarters. *Id.*; see also Dkt. 1515, *Joint Case*
 23 *Management Statement 54 Fig.4* (Apr. 20, 2022). Prior to 2021, the Department’s
 24 African American non-dispatch stop rate was never below 50%. *Fig. 2*. Between
 25 2017 and 2020, the average annual non-dispatch stop rate for African Americans
 26 was 55%. See *id.* The 2021 African American non-dispatch stop rate was 50%. *Id.*
 27 The 2022 African American non-dispatch stop rate was 45%. *Id.*; see also *OPD*

1 *Quarterly Stop Data Reports Q1-Q3 2022,*

2 <https://www.oaklandca.gov/resources/2022-stop-data-and-reports> (last visited Jan.
3 9, 2023).

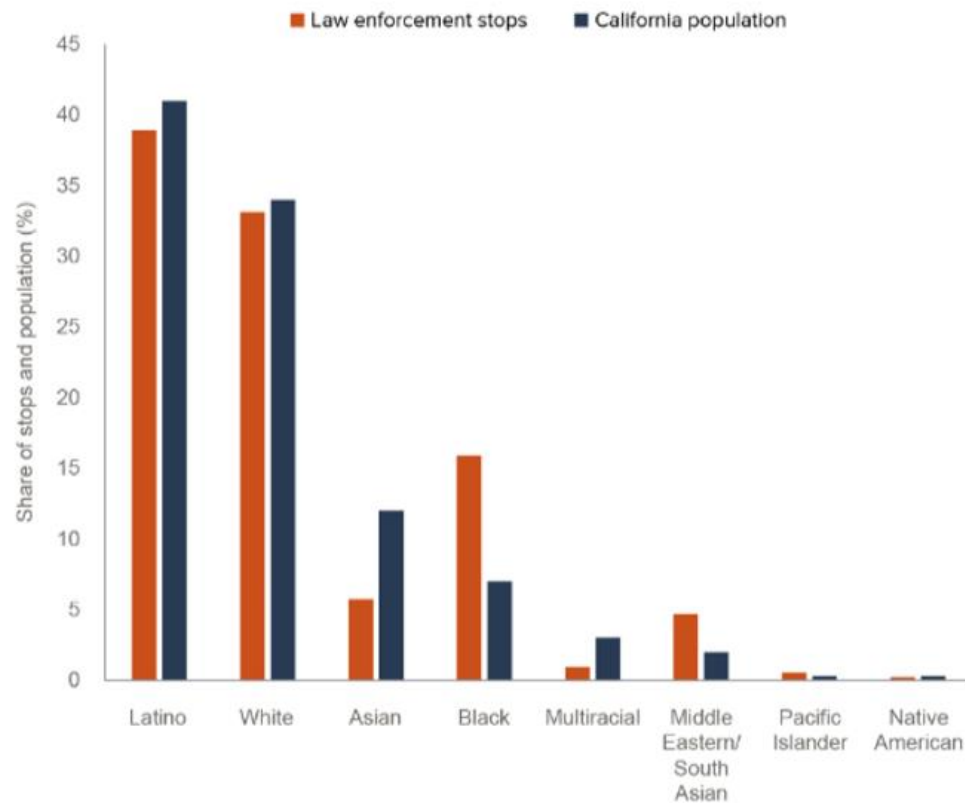
4 While the African American non-dispatch stop rate has been steadily
5 trending downward, the Hispanic non-dispatch stop rate has been steadily trending
6 upward. *Fig 2.* Between 2017 and 2020, the average annual non-dispatch stop rate
7 for Hispanics was 24%. *See id.; see also* Dkt. 1515 at 54 *Fig.4.* In 2021, the Hispanic
8 non-dispatch stop rate rose to 31%. *Fig. 2.* In 2022, the Hispanic non-dispatch stop
9 rate rose again to 35%. *Id.* The Department has continued to track the Hispanic
10 stop rate and routinely discusses increases in Hispanic stop data as part of Area,
11 Bureau, and Citywide risk management meetings.

12 The “stark racial inequities” between African American and white individuals
13 in the criminal justice system, however, warrant a particular and enduring focus on
14 reducing African American stop disparities. According to a report published by the
15 Public Policy Institute of California based on 2019 Racial and Identity Profiling Act
16 (RIPA) data, African American or Black residents are considerably overrepresented
17 in police stops statewide, while white and Hispanic residents are represented fairly
18 proportionally in stops compared with their state population share. Magnus
19 Lofstrom, et al., *Racial Disparities in Law Enforcement Stops*, 6-7 (2021),
20 <https://www.ppic.org/publication/racial-disparities-in-law-enforcement-stops/> (last
21 visited Jan. 9, 2023) (graphic reprinted below in *Fig. 3*).

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Black residents are overrepresented in police stops



SOURCES: Author calculations using California Department of Justice, Racial and Identity Profiling Act (RIPA) Wave 2 data, 2019; RIPA Board Report 2021 population calculations using American Community Survey (2018).

Fig. 3

B. THE DEPARTMENT’S RECENT IN-DEPTH INSPECTION OF NON-DISPATCH STOPS BY RACE

As part of its risk management process, the Department regularly examines overrepresentation of African Americans in its stop data. As the Hispanic non-dispatch stop rate has steadily crept higher in recent years, the Department has also added regular discussions about Hispanic non-dispatch stops (both intel-led and non-intel led) to its risk management meetings. To supplement the ongoing analysis, during the past few months the Bureau of Risk Management has undertaken a detailed inspection of the Department’s non-intel based, non-dispatch

1 stops of African Americans, and non-dispatch stops of Hispanic individuals to
 2 determine if there are identifiable factors that may be contributing to the observed
 3 overrepresentation of African Americans and the observed increase in Hispanic non-
 4 dispatch stops. Based on Court and plaintiffs' counsel interest, the Department's
 5 memorandum is attached as Exhibit 1 (redacted and not including appendices to
 6 remove confidential personnel information), and the City has summarized some of
 7 the findings below. *See* Dkt. 1548 25:23-26:11, 28:16-19, Oct. 13, 2022 Court Hr'g
 8 Tr.

9 1. Non-Dispatch, Non-Intelligence Led Stops Allow for Officer 10 Discretion

11 Stops based on objective information and specific directives (e.g., intelligence-
 12 led stops) tend to reduce potential bias in officer decision making during non-
 13 dispatch stops. Therefore, non-dispatch, non-intelligence (non-intel) led stops are
 14 the category of stops in which officer discretion has the greatest impact, and where
 15 potential bias may be more likely to impact stops. *See* Ex. 1 at 2; *see also* *OPD*
 16 *Quarterly Stop Data Reports Q1-Q3 2022* at 2-3, *supra*. It is significant, therefore,
 17 that through the third quarter of 2022 the Department posted an overall year-to-
 18 date decrease in non-dispatch, non-intel led stops. *See* Ex. 1 at 2; *Fig. 4*.

19 Non-dispatch, Non-Intel Led Stops: January – September

20 Race	2021	2022	21-22 # Change	21-22 % Change
21 Black or African American	1,279	897	-382	-30%
22 Hispanic	984	749	-235	-24%
23 White	297	175	-122	-41%
24 Asian	232	131	-101	-44%
24 Other	160	83	-77	-48%
25 Total	2,952	2,035	-917	-31%

26 *Fig. 4*

27 ///

28

2. The Vast Majority of Non-Dispatch, Non-Intel Led Stops Across All Races Are Traffic Stops for Moving Violations

Non-dispatch, non-intel led stops are mostly vehicle stops (88% in 2021-3Q 2022) versus pedestrian (12%), bicycle (<1%), or other (<1%). The overwhelming majority of vehicle stops are stops for traffic violations (90% in 2021-3Q 2022). Ex. 1 at 3. In the first three quarters of 2022, moving violations accounted for the vast majority of traffic stops across all races. *Id.* at 4; *Fig. 5*. The most frequently cited moving violations were California Vehicle Code (VC), sec. 21461(a), Driver Fail to Obey Sign/Etc.; VC 22450(a), Fail to Stop Vehicle at a Crosswalk, Stop Sign, etc.; and VC 23123.5, Driving while Using a Handheld Device. *See* Ex. 1 at 9.

Non-dispatch, Non-Intel Led Traffic Stops by Type and Race: January – September 2022

Type of Traffic Stop	Black or African American	Hispanic	White	Asian	Other
Moving Violation	93% (613)	93% (579)	91% (114)	93% (106)	92% (68)
Equipment Violation	5% (35)	5% (29)	6% (7)	6% (7)	4% (3)
Non-Moving Violation	2% (14)	3% (17)	3% (4)	1% (1)	4% (3)

Fig. 5

In 2021 and 2022, Patrol Division commanders repeatedly emphasized that officers should prioritize moving violation-based vehicle enforcement stops, especially in areas the City's Department of Transportation has deemed part of the High Injury Network (HIN).⁴ *Id.* at 4; *see Oakland Dept. of Transportation (OakDOT) Equity Toolbox*, <https://www.oaklandca.gov/resources/oakdot-geographic->

⁴ The OakDOT Geographic Equity Toolbox was created as a way for the City of Oakland to prioritize neighborhoods based on concentrations of people with demographic factors determined to have experienced historic and current disparities. Ninety-five percent of the HIN is in medium and high priority equity neighborhoods. Neighborhood priority level scores are based on people of color (25%), low income households (25%), people with disability (10%), seniors (10%), single-parent families (10%), severely rent-burdened households (10%), low educational attainment (10%).

1 equity-toolbox (last visited Jan. 15, 2023). The data reflected in Figure 5
 2 demonstrates that officers followed the Department's directive to prioritize moving
 3 violations over other types of vehicle code violations. *Id.*

4 **3. Non-dispatch, Non-Intel Led Non-Traffic Violation Stops**

5 For each stop, officers must select the type of stop from a list of seven
 6 categories. *See Fig. 6* (reprinted from *OPD Quarterly Stop Data Reports Q1-Q3 2022*
 7 at 2, *supra*).

8 **Stops Reasons**

9 For every stop, officers must select one of the following stop reasons:

- 10 1. **Traffic Violation:** Stops based on observation of a vehicle or pedestrian law or ordinance
 11 violation. Traffic Violation types:
 - 12 • **Moving Violations:** Speeding, running a red light
 - 13 • **Equipment Violations:** Brake lights off or not working
 - 14 • **Non-Moving Violations, including registration:** Expired registration tags
- 15 2. **Probable Cause:** Fair probability exists that the person stopped committed a crime and
 16 may be arrested.
- 17 3. **Reasonable Suspicion:** Sufficient information exists that the person stopped may have
 18 committed a crime or engaged suspected criminal activity. The stop may not lead to an
 19 arrest and the person may only be temporarily detained.
- 20 4. **Probation or Parole:** Stop of a person known to be on supervised release (probation,
 21 parole, or post-release community supervision – PRCS) for the purpose of checking
 22 compliance with their supervised release, or other action related to their supervised
 23 release status.
- 24 5. **Consensual Encounter & Search:** Contact to investigate a person's involvement in criminal
 25 activity, where the person is free to refuse to engage the officer and/or leave the officer's
 26 presence. This category does not include routine or innocuous interactions such as giving
 27 driving directions. However, if a consensual encounter results in search, officers will select
 28 this reason.
6. **Community Caretaking:** Contact to assess whether the subject should be held under
 section 5150 of the Welfare and Institutions Code because of a mental health disorder
 and potential harm to themselves or others.
7. **Truant/Education Code:** Stop where the subject is believed to be a truant, or the
 encounter takes place on school grounds and there is a possible education code violation.

24 *Fig. 6*

25 Apart from traffic violations, in 2021 and 2022 officers conducted vehicle and
 26 non-vehicle non-dispatch, non-intel stops on African Americans for the following
 27 reasons: 13.5% probable cause, 6% reasonable suspicion, 3% community caretaking,
 28 less than 2% consensual encounter and search, and less than 1% truancy. *See Fig.*

7, (Summary Slide from Nov. 2022 Citywide Risk Management Meeting). During the same period, apart from traffic violations officers conducted vehicle and non-vehicle non-dispatch, non-intel stops on Hispanics for the following reasons: 9.5% probable cause, 3.5% reasonable suspicion, less than 2% community caretaking, less than 1% consensual encounter and search. *Id.*

During 2021 through 3Q 2022, for Hispanic non-dispatch stops, non-vehicle stops (including intel-led and non-intel led), reasonable suspicion and probable cause were the most common reasons (86.5%). *See* Ex. 1 at 28.

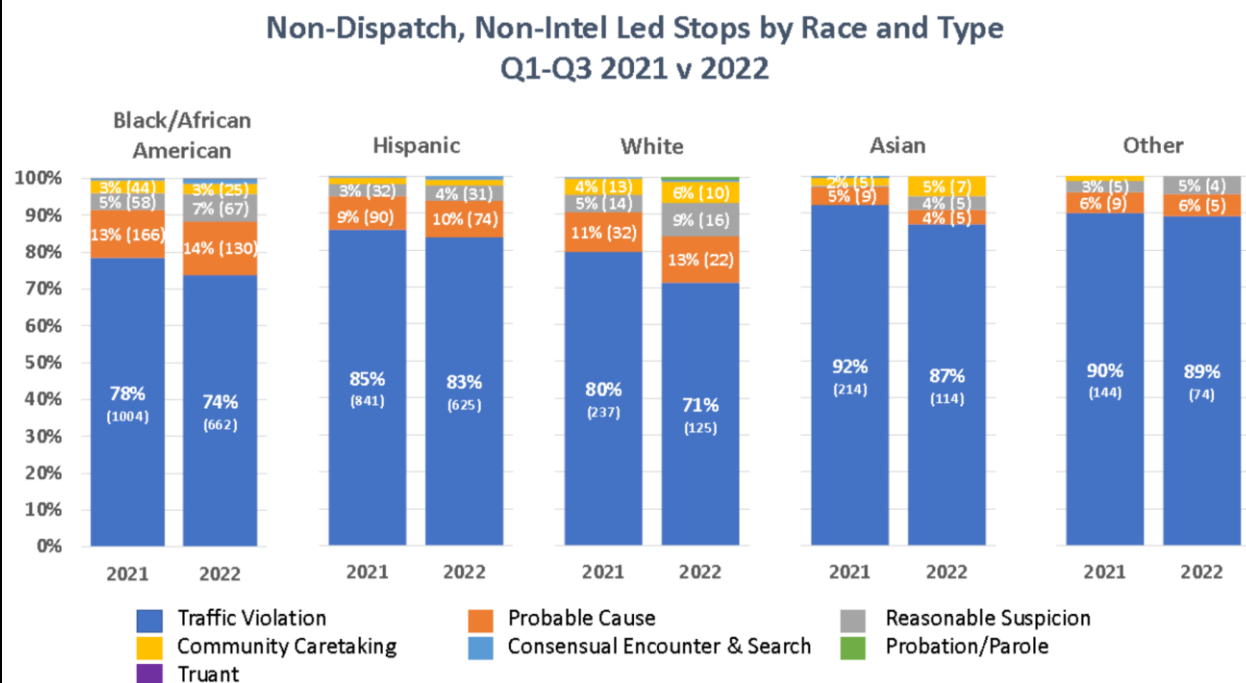


Fig. 7, Slide from Citywide Risk Management Meeting (Nov. 2022)

4. Geographic Trend: Highest Rates of African American and Hispanic Non-Dispatch Stops Occur in East Oakland

In Areas 4 and 5, African American and Hispanic stops accounted for more than 4 out of 5 non-dispatch stops in 2021 through 3Q 2022. *Id.* at 26. No other race accounted for more than 8% of the of the stops for those Areas. *Id.* During that time:

- Area 4 African American non-dispatch stops went down 3%, and Hispanic non-dispatch stops rose 3%; and

- Area 5 African American non-dispatch stops went down 5%, and Hispanic non-dispatch stops rose 5%.⁵ *Id.*

5. Conclusion

The non-dispatch stop data demonstrates that officers are following Department directives. The majority of non-dispatch, non-intel led stops are vehicle traffic stops for moving violations; this comports with the directive to emphasize dangerous driving actions over equipment violations or vehicle registration issues. *Id.*; see also *Safe Oakland Streets Traffic Safety Initiative: Year One Report on the Safe Oakland Streets Initiative* 27, https://cao-94612.s3.amazonaws.com/documents/20220626_SOS-Presentation_PWC.pdf (last visited Jan. 15, 2023) (71% of the Department's 2021 non-dispatch stops were within 500 feet of the HIN). Furthermore, both the increase in intel-led stops—particularly stops using intelligence based on recent crime trends and patterns, and the facts that the majority of non-vehicle non-dispatch stops are initiated based on reasonable suspicion or probable cause, comport with the Department directive for proactive enforcement measures to be data-driven with less room for discretion or reliance on officer training and experience. *See id.* The majority of non-dispatch, other-than-vehicle stops are intel-led and largely enacted by a few specialized units conducting investigative follow up or operations designed to address specific areas of concern (e.g., gang activity, human trafficking); this comports with the Department's directives to use enforcement tactics to target the relatively few individuals responsible for the most serious crimes. *Id.*

The Department's directives are discussed routinely at all levels within the Department, and substantially during monthly risk management meetings in connection with stop data analyses at the Area, Squad, and Officer levels to ensure

⁵ Area 6 was created in 2022 and encompasses police beats previously assigned to Area 5. Although data comparisons take this into account it may mean there are some imperfections in 2022 data comparisons.

1 commanders and supervisors are enforcing the directives and that every officer is
2 complying with the directives and adhering to constitutional policing principles. *See*
3 *id.*

4 **III. CONSISTENCY OF DISCIPLINE POLICY (TASK 45)**

5 With the Department's development of a comprehensive working
6 methodology for determining whether there are "unexplained differences in
7 discipline processes and outcomes across officers of different demographic
8 characteristics [including race]," we have achieved consensus that the Department
9 is in compliance with Task 45. *Second NSA Sustainability Period Report* at 31,
10 *supra*; *see Ex. 2, Working Methodology for Internal Affairs (IA) Disparity Analyses.*

11 The Department developed the comprehensive methodology in consultation
12 with researchers from Stanford and the Monitoring Team. The content of the
13 methodology was advanced and informed in significant part by the Department's in-
14 depth investigation into racial disparity observed in 2019 Division-Level
15 Investigation (DLI) case outcomes. Through firsthand experience during its
16 investigation, the Department learned how to more effectively consider data within
17 the various workflows of the discipline process, how to identify and use causal
18 versus correlative variables, and the applications and limitations of objective
19 discipline data.

20 The Department will sustain compliance with Task 45 by using the working
21 methodology to monitor discipline data and identify disparities in the investigation
22 and discipline outcomes across demographic categories including race and ethnicity,
23 gender, and rank. The methodology remains "working" in the sense that the
24 Department may continue to modify the methodology as appropriate to facilitate its
25 data analyses (e.g., if the Department identifies additional variables that may
26 result in, correlate with, or explain apparent differences observed in the discipline
27 data). The Department looks forward to presenting its 2022 discipline data analyses
28 employing this methodology. The Department anticipates it will complete its

1 analyses of the 2022 discipline data by the end of the first quarter 2023.

2 **IV. OFFICER RECRUITMENT, ATTRITION, AND COMMITMENT TO**
 3 **DEPARTMENT DIVERSITY**

4 The Department's ongoing strategic outreach efforts demonstrate its
 5 commitment to attract and actively recruit officers who reflect the diversity of
 6 Oakland, racially and otherwise, and who live in or have meaningful ties to the
 7 City. *See Oakland Police Dept. (Q3) Quarterly Staffing Memo 14-16 (Dec. 13, 2022),*
 8 <https://www.oaklandca.gov/resources/info-memo> (last visited Jan. 11, 2023).

9 Between July and September 2022, the Department hosted or attended 17
 10 recruitment events. There were 14 in-person events, nine of which occurred in
 11 Oakland, and three online events. *Fig. 8.* For each event, the Department tracked
 12 the number of individuals who showed interest in police officer trainee (POT)
 13 positions (graduating from the academy and becoming a sworn officer), the cadet
 14 program (part-time positions for young adults attending high school and college to
 15 provide an introduction to various sworn and non-sworn positions within the
 16 Department), or dispatcher positions (non-sworn). *Oakland Police Dept. (Q3)*
 17 *Quarterly Staffing Memo* at 15-16, *supra*. The Department partnered with the City's
 18 Economic Workforce Development Agency to fund 10 cadet positions for Oakland
 19 high school and college students. *Supplemental City Council Agenda Report – OPD*
 20 *NSA Status Update 4, Concurrent Meeting of the Oakland Redevelopment*
 21 *Successor Agency and the City, Item 10, Supplemental Report,*
 22 <https://oakland.legistar.com/calendar.aspx> (last viewed January 18, 2023). The
 23 Department also offers a mentorship program to provide additional support for local
 24 candidates that face challenges. *Id.* at 3.

25 **3Q2022 Recruitment – Outreach Events**

Date	Event	Location	Number of Attendees	Inquiries: Number and Type
9-Jul-22	Bill Pickett Invitational Rodeo	Rowell Ranch Rodeo Ground, Hayward	1,000	POT 4 Dispatcher 2 Cadet 2

1	10-Jul-22	Bill Pickett Invitational Rodeo	Rowell Ranch Rodeo Ground, Hayward	1,000	POT 3 Dispatcher 0 Cadet 3
2	13-Jul-22	OPD Recruiting Zoom Webinar	Online	39	POT 34 Dispatcher 0 Cadet 0
3	27-Jul-22	OPD Block Party	San Antonio Park, Oakland	300	POT 2 Dispatcher 1 Cadet 2
4	3-Aug-22	Scottish Highland Gathering & Games	Alameda Fairgrounds, Pleasanton	1,500	POT 12 Dispatcher 5 Cadet 30
5	4-Aug-22	Scottish Highland Gathering & Games	Alameda Fairgrounds, Pleasanton	1,500	POT 20 Dispatcher 10 Cadet 22
6	13-Aug-22	Laurel Street Fair	35th & MacArthur Blvd, Oakland	1,000	POT 2 Dispatcher 1 Cadet 2
7	13-Aug-22	Recruiting Event	New Hope Baptist Church, 892 36th Street, Oakland	200	POT 0 Dispatcher 0 Cadet 0
8	17-Aug-22	OPD Recruiting Zoom Webinar	Online	28	POT 28 Dispatcher 0 Cadet 0
9	20-Aug-22	Practice Physical Ability Test	Merritt College, Oakland	17	POT 17 Dispatcher 0 Cadet 0
10	20-Aug-22	Chinatown Street Fest	388 Ninth Street, Oakland	200	POT 5 Dispatcher 1 Cadet 2
11	21-Aug-22	Chinatown Street Fest	388 Ninth Street, Oakland	200	POT 3 Dispatcher 0 Cadet 0
12	31-Aug-22	Day of Action	85th Avenue & International Blvd., Oakland	100	POT 1 Dispatcher 0 Cadet 0
13	4-Sep-22	Las Vegas Lowrider Super Show	Las Vegas, Nevada	2,000	POT 0 Dispatcher 0 Cadet 0
14	10-Sep-22	Little Saigon Festival	7th Avenue & International Blvd., Oakland	200	POT 0 Dispatcher 0 Cadet 0
15	14-Sep-22	OPD Recruiting Zoom Webinar	Online	69	POT 69 Dispatcher 0 Cadet 0
16	17-Sep-22	Practice Physical Ability Test	Merritt College, Oakland	10	POT 10 Dispatcher 0 Cadet 0

26 *Fig. 8*

27 *///*

28

1 In addition to attending outreach and recruiting events, the Department uses social
2 media and online forums to publicize events and open positions. The Department
3 maintains an online presence using the following platforms to share current
4 recruitment and hiring opportunities:

- 5 • OPD Jobs Website – www.opdjobs.com,
- 6 • Facebook – <https://m.facebook.com/opdjobs/>,
- 7 • Twitter – <https://twitter.com/opdjobs>,
- 8 • Instagram – www.instagram.com/opd_jobs,
- 9 • Additional Websites – Campuspride.org; Provident.com (Professional
10 Diversity Network), LGBTConnect.com, Out and Equal, and Black
11 Career Network,

12 *id.* at 3-4; *Oakland Police Dept. (Q3) Quarterly Staffing Memo* at 14, *supra*.

13 The Department researches targeted marketing strategies and pathways of
14 communication, including working with community organizations to conduct hiring
15 workshops and obtain input on achieving and maintaining visibility in a variety of
16 communities. *Oakland Police Dept. (Q3) Quarterly Staffing Memo* at 16, *supra*.

17 **A. RECENT ACADEMY DEMOGRAPHICS**

18 In November 2022, the Department commenced its 191st Basic Academy. The
19 academy is a 24-week program. Tables 1 and 1A below reflect the demographics of
20 the 26 Oakland police officer trainees who entered the 191st Academy. Three of the
21 trainees are Oakland residents.

22 ///

Table 1: OPD's 191st Basic Academy Demographics (Nov. 2022)

Gender		Race/Ethnicity		Residency		Language		Education	
Female	3	Asian	5	Oakland	3	Spanish	8	High School	8
Male	23	Black or African American	11	Other	23	Arabic	1	Some College	10
		Hispanic	8			Punjabi/Hindi	1	AA/AS	5
		White or Caucasian	0			Toisanese	1	BA/BS	3
		Other	2			Vietnamese/Cantonese	1		
						Yoruba/Pashto	1		
Total	26	Total	26	Total	26	Total	13	Total	26

Table 1A: Race/Ethnicity & Gender in OPD's 191st Academy (Nov. 2022)

Race/Ethnicity	Female	Male
Asian	0	5
Black or African American	0	11
Hispanic	3	5
White or Caucasian	0	0
Other	0	2
Total	3	23

B. THE DEPARTMENT PROJECTS AN END TO RECENT ELEVATED ATTRITION RATE

From 2016 through 2020, the Department maintained an average attrition rate of 5 officers per month. That rate nearly doubled in 2021 and the first half of 2022. Since the rate fell again in the second half of 2022, however, the City projects an average attrition rate moving forward of 4 officers per month. *Id.* at 5; *see also Quarter 2 Staffing Report 12* (average attrition rate rose to 9 officers per month), (Sep.26, 2022), <https://www.oaklandca.gov/resources/info-memo> (last visited Jan. 11, 2023). The Department closed the year with 678 of 726 authorized sworn positions filled. For comparison, the Department began 2021 with 723 sworn officers and ended 2021 with 690 sworn officers. *Oakland Police Dept. (Q3) Quarterly Staffing*

1 *Memo 6, supra; Quarterly Police Staffing Report (4th Quarter 2021) 6* (Mar. 4, 2022),
2 <https://www.oaklandca.gov/resources/info-memo> (last visited Jan. 11, 2023).

3 **V. OFFICERS USE REASONABLE FORCE AND DEPARTMENT FORCE**
4 **REVIEW IS DEPENDABLE**

5 “The use of force and the processes in which force is documented and
6 reviewed have been at the core of the Court’s oversight.” *Second NSA Sustainability*
7 *Period Report at 17, supra*. The Department not only remains in compliance with all
8 tasks involving force, force reporting, and force investigation but has continued to
9 improve its supervision of force and force review. *See id.* at 11-23. The Monitoring
10 Team’s most recent report was complimentary of the Department’s achievements
11 and continued progress in these areas. *See id.* In general, officers are appropriately
12 using and reporting force, and supervisors are generally identifying and addressing
13 any concerns that exist. *Id.* at 13.

14 **A. FORCE AND FORCE INVESTIGATIONS (TASKS 24 & 25)**

15 The Department has continued its own internal command oversight and
16 assessment of force and force investigations using a process patterned after the
17 Monitoring Team’s review process. The Department’s assessment team has been
18 successful in providing an additional, high-level layer of oversight to ensure
19 thoughtful, rigorous force review. The Monitoring Team has praised the
20 Department’s “ongoing quality control mechanism,” and acknowledged that it “is
21 addressing areas of concern without the need for [the Monitoring Team] to bring the
22 concerns to their attention.” *Id.* at 17, 18. In general, supervisors are identifying
23 deficiencies in officer reporting and identifying and addressing Manual of Rules
24 violations. *Id.* at 17. Additionally, reviewers of the supervisors’ reports are generally
25 identifying and addressing concerns where appropriate. *Id.*

26 In the Monitoring Team’s most recent review of 29 Level 3 and Level 4 use of
27 force reports completed between June and August 2022, it recognized that the
28 Department sustained its achievements and made further improvements on many

1 measures:

- 2 • The percentage of force incidents involving African Americans
3 decreased 8% (*id.* at 12), a further reduction in addition to the 14%
4 decrease achieved in the previous quarter (Dkt. 1540, *First NSA*
Sustainability Report of the Independent Monitor 12 (Oct. 3, 2022);
- 5 • There were no instances where the use of force was not de-escalated or
6 stopped reasonably when resistance decreased (*Second NSA*
Sustainability Period Report at 17, *supra*);
- 7 • There were no instances where officers could have made additional
8 efforts to explain to subjects why detention was occurring prior to
9 using force (*id.*);
- 10 • There was continued improvement in officers identifying themselves as
11 police officers when appropriate and there was time to do so (*id.*);
- 12 • Supervisors identified and properly addressed all but one body-worn
13 camera issue (delayed activation) (*id.*);
- 14 • The Department had already identified the single incident where an
15 officer failed to report a use of force prior to the Monitor's review (*id.*
at 14); and
- 16 • All use of force reports that were not completed within the required
17 timeframe had approved extensions (*id.* at 12).

18 **B. FORCE BOARDS (TASKS 26 & 30)**

19 During the Second NSA Sustainability Period, the Department held two
20 Force Review Boards to review Level 2 uses of force. No Executive Force Review
21 Boards were completed for Level 1 uses of force (e.g., officer-involved shootings).
22 The Monitoring Team did not disagree with any of the Boards' findings that officers'
23 used force in compliance with law and policy. *Id.* at 20. Furthermore, the
24 Monitoring Team recognized a number of positive qualities characteristic of the
25 Department's force boards that contribute to consistent and effective boards. For
26 example, the Monitoring Team continued to observe "substantive discussion and
27 deliberation among Board members," and that members "spend a great deal of time
28 discussing issues ancillary to the issues of force such as tactics, supervision, force
alternatives, and training opportunities." *Id.*

1 In addition, Boards generally identify follow-up items and track them as
2 deliverables, including things like counseling and training for particular officers or
3 squads, publication of department-wide training materials, and modifications to
4 policy. *See id.* at 21. At the time of the Monitor’s last assessment, there were no
5 open deliverables. *Id.* All follow-up items from previously convened boards had been
6 completed. This is the first time that the Department has accomplished this feat
7 since the Monitoring Team has been tracking these items. *Id.*

8 This accomplishment is the intentional result of the Bureau of Risk
9 Management’s focus and perseverance. When the Department reinstated the
10 Bureau of Risk Management (BRM) in 2021, the Court asked how the Department
11 planned to evaluate the procedures and value of the BRM and its contribution to
12 managing the Department. *See* Dkt. 1486 9:23-26:11, Sep. 1, 2021 Court Hr’g Tr.
13 Previously identified items include publication of *DGO R-01 Risk Management*
14 *Policy* (completed) and implementation of an effective risk management program in
15 compliance with such policy which is successful and ongoing. The City had also
16 identified as additional “concrete” measures that would demonstrate BRM’s value to
17 the Department, “no observed significant backlogs on force board scheduling or
18 deliverables from boards.” Dkt. 1495, *Joint Case Management Statement* 48 (Dec.
19 22, 2021). These recent accomplishments demonstrate the tangible measure of the
20 BRM’s value to the Department. The City is confident that moving forward the
21 BRM will continue to prove its mettle as its component divisions IAD and Office of
22 Internal Accountability (OIA) will necessarily play vital roles in supporting the
23 Department’s remediation and internal oversight of its internal investigation
24 processes.

25 VI. INTERNAL AFFAIRS TIMELINES (TASK 2)

26 The Department remains in compliance with Task 2. *Second NSA*
27 *Sustainability Period Report* at 3, *supra*. The Department has consistently met its
28 internal 180-day deadline on at least 85% of internal investigations closed from

1 October 2021 to date. *See* Dkt. 1505 2, *Seventy-Ninth Report of the Independent*
2 *Monitor* (Feb. 22, 2022); Dkt. 1519 2 *Eighty-First Report of the Independent Monitor*
3 (Apr. 26, 2022); *First NSA Sustainability Period Report* at 3; *Second NSA*
4 *Sustainability Period Report* at 3. In the third quarter of 2022, the Department
5 timely completed 100% of Class I and 97% of Class II investigations. *Second NSA*
6 *Sustainability Period Report* at 3. Based on the Department's initial fourth quarter
7 2022 data, it projects timely completion rate will be at least 95% for both Class I
8 and Class II investigations. Finally, the Department also continues to routinely
9 complete the discipline recommendation process on all cases with sustained findings
10 within 30 calendar days as required by policy. *See id.*

11 CONCLUSION

12 The City approaches each new year with a sense of optimism. While violent
13 crime rates remain much higher than they were pre-pandemic, 2022 was
14 significantly less violent than 2021. This gives the City hope that the Department's
15 strategic, coordinated effort to curb gun crimes and violence will continue to
16 correlate with a reduction in violent crime in our community. The City
17 acknowledges, however, that effective long-term crime-fighting strategies
18 ultimately require trust and collaboration between police and the communities they
19 serve. Constitutional policing is the foundation for that trust; constitutional policing
20 is also the foundation of the NSA. Constitutional policing includes holding
21 individual officers accountable for their conduct. The City appreciates that officer
22 accountability is directly and indirectly related to achieving the most basic goals of
23 policing: reducing crime, enhancing the quality of neighborhood life, and providing
24 fair, respectful, and equal treatment for all people. Moreover, the City recognizes
25 that sustaining the Department's significant and, in many cases, pioneering
26 reforms is crucial to fostering a positive relationship with the community and a
27 sense of partnership in working to improve public safety.

EXHIBIT 1

CITY OF OAKLAND

Memorandum

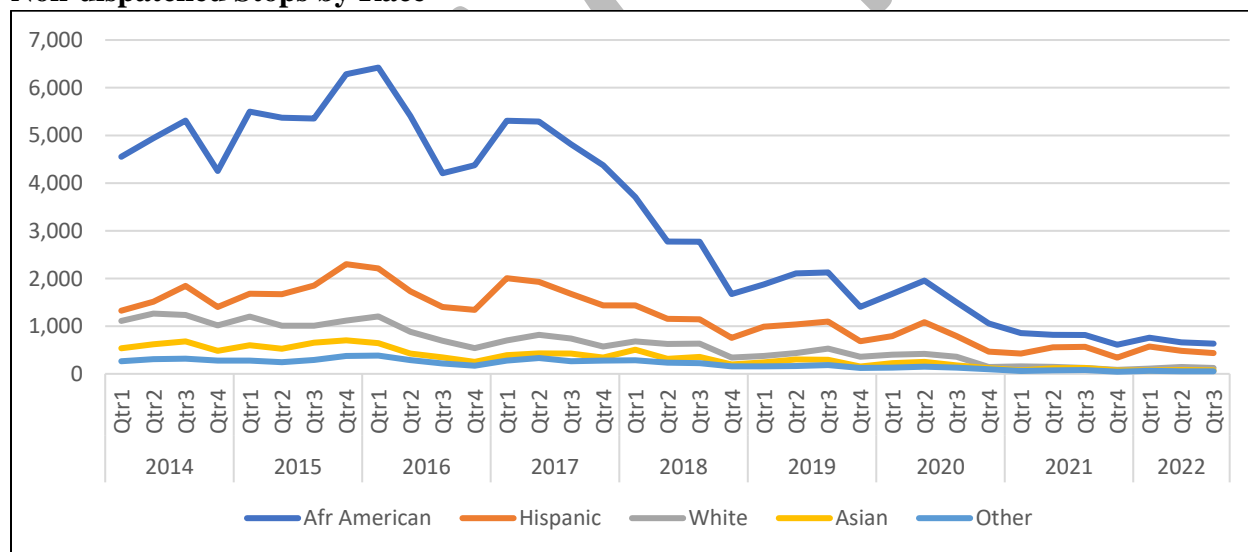
TO: Bureau of Risk Management
ATTN: Deputy Chief Clifford Wong
FROM: Office of Internal Accountability
DATE: 5 Jan 23

RE: Inspection of Non-dispatched Stops by Race

Part I Background

Although the Department has decreased both the raw number of non-dispatched stops as well as the non-dispatched stop rate for Black or African American individuals to record-low levels, the non-dispatched stop rate remains higher for this group than any other race or ethnicity. While the Department has decreased its Black or African American stop rate, its Hispanic non-dispatched stop rate has increased over the last several quarters.

Non-dispatched Stops by Race



Non-dispatched Stop Rate by Race

	2014	2015	2016	2017	2018	2019	2020	2021	2022 Q1-Q3
Afr American	57%	59%	62%	61%	55%	51%	52%	50%	47%
Hispanic	18%	20%	20%	22%	22%	26%	26%	31%	35%
White	14%	11%	10%	9%	11%	12%	11%	8%	9%
Asian	7%	7%	5%	5%	7%	7%	6%	6%	5%
Other	4%	3%	3%	4%	5%	4%	4%	4%	4%

Accordingly, the Department conducted a further inspection of the data to learn more about non-dispatched, non-intelligence led stops of African American and Hispanic individuals.

The Department's Stop Data through September 30, 2022, revealed the Non-Dispatched Non-Intel led (NDNI) Hispanic stop rate increased 4% from 2021 to 2022 YTD.

In 2021 through September, the Department conducted 984 NDNI stops on Hispanic subjects, which accounted for 33% of all NDNI stops. In 2022 for the same period, the Department conducted 749 stops, which accounts for 37% of all non-intel led stops.

If the NDNI Hispanic stop rate had remained the same from 2021 into 2022 (33%), then the 2022 YTD number of NDNI stops would have been 671. The current number of NDNI stops (749) represents a 78 stop increase within this category. One of the goals below will be to attempt to identify any patterns or trends contributing to the 78-stop increase.

The intent of this inspection was to determine if there are officers, operations, Departmental priorities, or other criteria that may be driving NDNI stops for these two groups that may explain a sustained elevated stop rate for African Americans and an increased stop rate for Hispanics. NDNI stops are the category of stops wherein officer discretion has the greatest impact.

Part II Non-Dispatched Non-Intel (NDNI) Stops

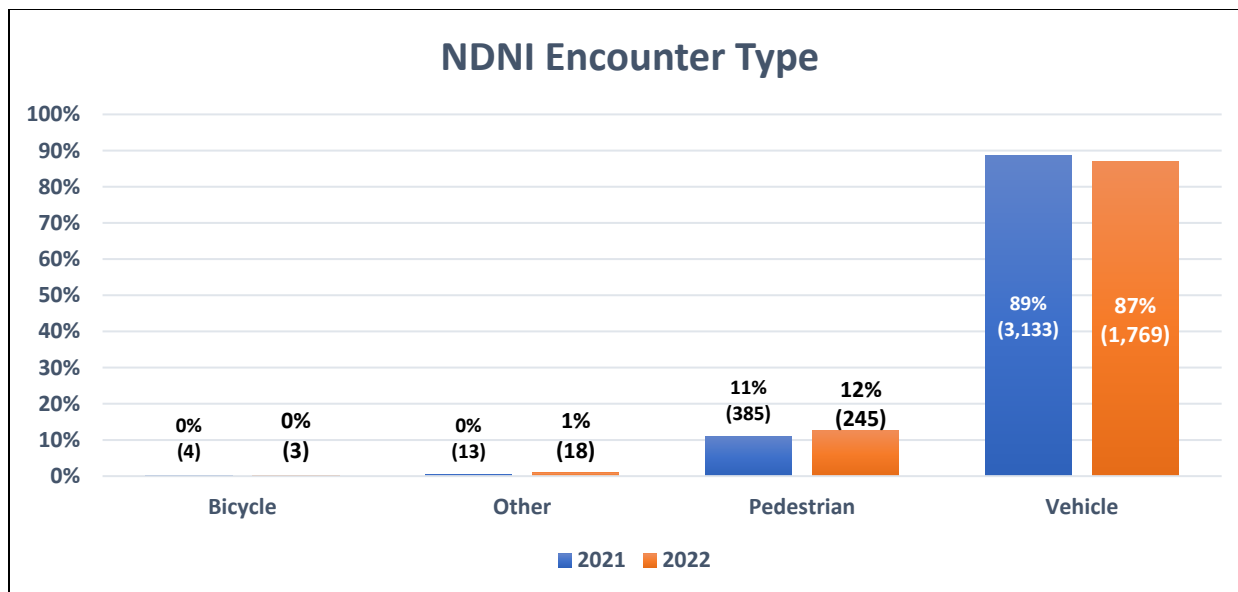
Non-dispatched, Non-Intel Led Stops: January – September 2022

Race	2021	2022	21-22 # Change	21-22 % Change
Black/African American	1,279	897	-382	-30%
Hispanic	984	749	-235	-24%
White	297	175	-122	-41%
Asian	232	131	-101	-44%
Other	160	83	-77	-48%
Total	2,952	2,035	-917	-31%

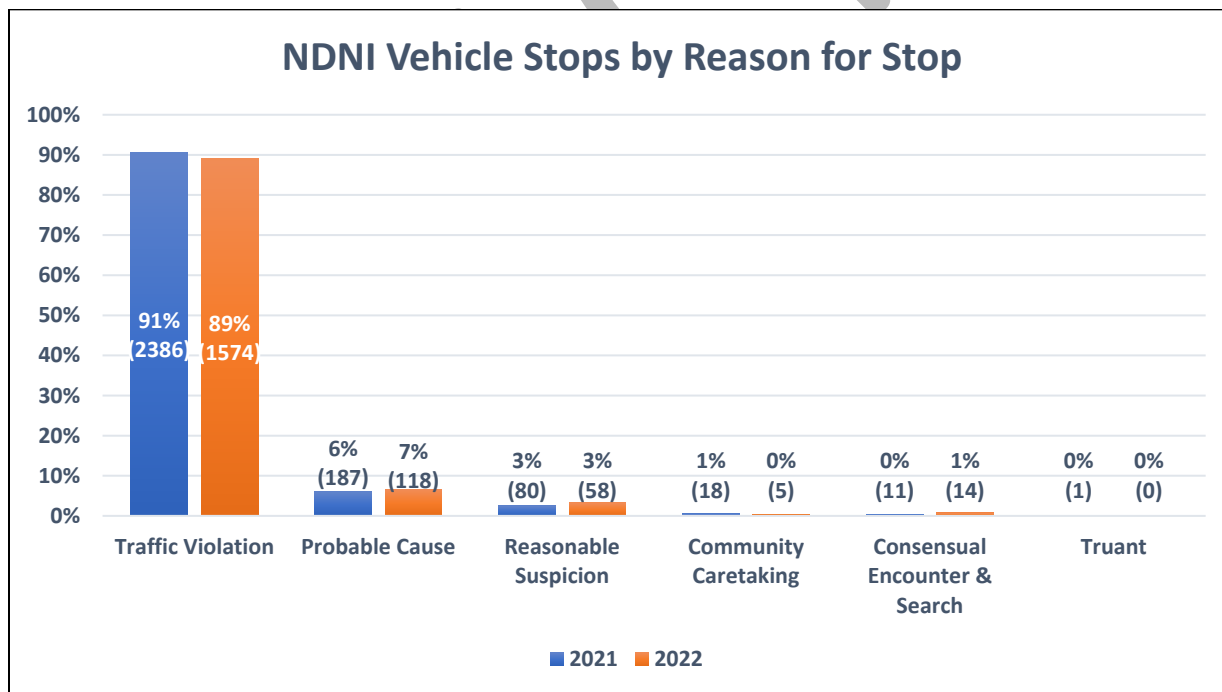
In 2022 through September, White, Asian and Other groups saw a decrease of 41-48% on NDNI stops. Black/African American and Hispanic subjects saw a smaller decrease than those of the other groups.

Types of NDNI Encounters

Stops are categorized as vehicle stops, pedestrian stops, bicycle stops, or other. In all of 2021, 89% of all NDNI stops were vehicle stops while 11% were pedestrian stops.



The Department also captures the type of stop, for example, traffic stop or reasonable suspicion. In 2021 91% (2,836) of NDNI vehicle stops were Traffic Stops. In 2022 YTD 89% (1,574) of NDNI vehicle stops were Traffic Stops. The overwhelming majority of vehicle stops, across both years’ worth of data, were “Traffic Stops.”



Traffic Stops

Within Traffic Stops there are a few sub-categories:

1. Moving violations: ex. speeding, running a red light
2. Equipment Violations: ex. headlights off or brake lights not working
3. Non-moving violation, including registration: ex. expired registration tags

During 2021 and 2022 YTD, commanders in the Department requested officers engage in moving violation-based vehicle enforcement stops, especially in areas the City's Department of Transportation has deemed "High Injury Networks (HIN)."¹ The chart below reflects at least one part of the Department's directive (prioritize moving violations over other types of vehicle code violations) was fulfilled.

Moving Violations

In 2022 YTD, moving violations were the top type of traffic stops for every race. The percentages were all very close to one another in each category.

Non-dispatched, Non-Intel Led Traffic Stops by Type and Race: January – September 2022

Types of Traffic Stop	Black	Hispanic	White	Asian	Other
Moving Violation	93% (613)	93% (579)	91% (114)	93% (106)	92% (68)
Equipment Violation	5% (35)	5% (29)	6% (7)	6% (7)	4% (3)
Non-Moving Violation	2% (14)	3% (17)	3% (4)	1% (1)	4% (3)

Location of Stops

The Department's Bureau of Field Operations is divided in two. There are 35 policing beats split between the two BFO areas (BFO 1 - West and BFO 2 - East). In 2022, the Department created a new Area, Area 6 which meant a shift in the Beat composition of each Area. For consistency, we are reporting area data using the old area breakdown where Beats 1-22 are within BFO 1 and Beats 23-35 are within BFO 2.

NDNI Stops by Beat²

The beats wherein over 5% of the NDNI stops were of Black / African American subjects citywide in 2022 YTD included: 19, 23, 27, 30X, 30Y, and 34.

The beats wherein over 5% of the NDNI stops were of Hispanic subjects citywide in 2022 YTD included: 19, 20, 23, 26, 27X, 27Y, 29, 30X, 33, and 34.

Ten of the 12 beats wherein the highest ratio of stops of Hispanic and Black/African American subjects are in BFO 2.

Within the beats wherein over 5% of the NDNI stops of Black/African American subjects citywide in 2022 YTD occurred, the following saw *increases* in the percentage of stops for that race group from 2021 to 2022 YTD: Beats 23, 27, 29, 30X, 30Y, 34. All of these identified beats are within BFO 2, geographically situated in east Oakland.

¹ <https://oakgis.maps.arcgis.com/apps/MapSeries/index.html?appid=fd47784582294d7b87cfb3ee1b047ea8>

² Appendix A

Within the beats wherein over 5% of the NDNI stops of Hispanic subjects citywide in 2022 YTD occurred, the following saw *increases* in the percentage of stops for that race group from 2021 to 2022 YTD: Beats 23, 26X, 26Y, 27, 29, 30Y, 33, 34. All of these identified beats are within BFO 2, geographically situated in east Oakland.

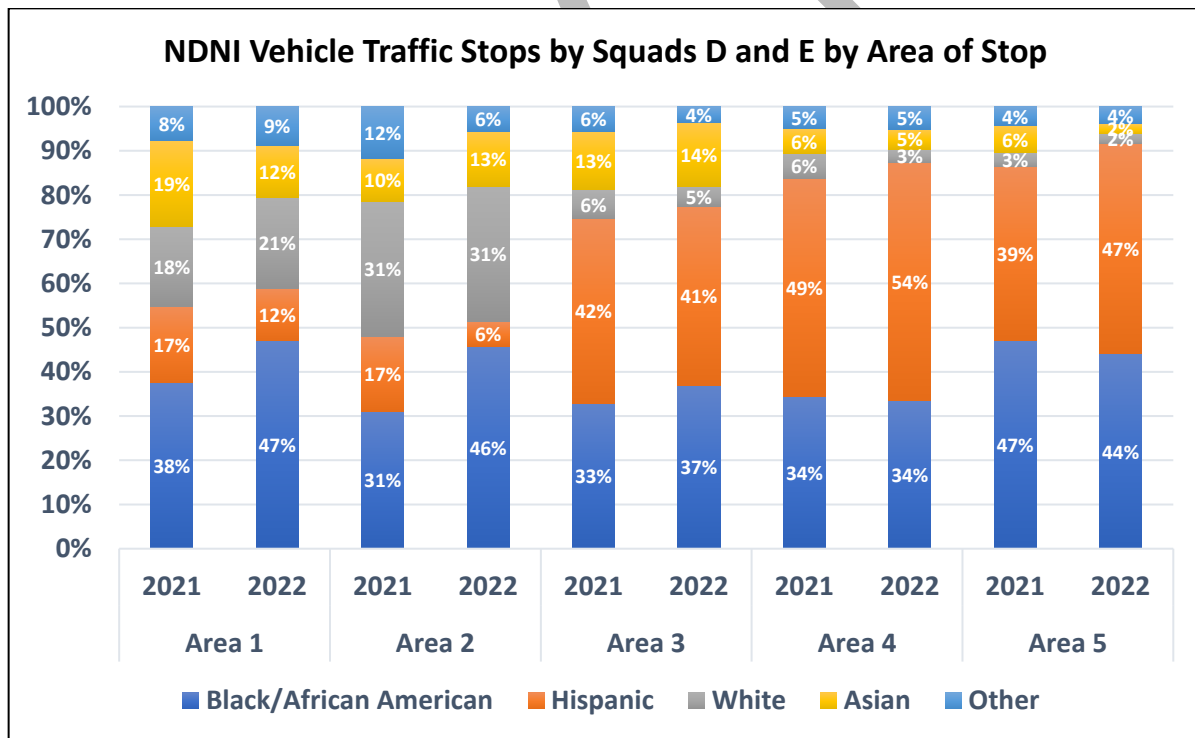
NDNI Stops by Squad

Appendix B displays the NDNI vehicle traffic stops by squad for the January 2021 to September 2022 period.

Two squads accounted for more than 50% of all NDNI vehicle traffic stops during the period. The two highlighted squads belong to the same section. These two squads combined were responsible for 1,999 stops which amounted to over 50% of *all* NDNI vehicle traffic stops from January 2021 – September 2022. Those two squads are labeled “Squad D” and “Squad E.” Both units were tasked with performing vehicle code violation enforcement and usually work day or swing shifts. (Morning or afternoon start times).

Analysis of Squad D and Squad E Data

Squads D and E performed the most NDNI vehicle traffic stops, by far, during 2022 YTD. Below is a chart of the stop rate by those enforcement teams by race across the areas:



In 2021, the squads stopped 564 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 37% of the NDNI stops done by those same squads.

In 2022 YTD, the squads stopped 244 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 41% of the NDNI stops done by those same squads.

If the rate of Hispanic stops by these two squads had remained flat from 2021 into 2022, they would have made 221 NDNI stops of Hispanic subjects. The current number of NDNI stops (244) represents a 23-stop increase within this category.³

In 2022 YTD, the squads stopped more Hispanic subjects than any other race in Areas 3, 4, and 5. Additionally, the squads increased the rate with which they conducted Hispanic stops from 2021 to 2022 YTD in Areas 4 and 5.

The squads' rate of Hispanic stops went down within Areas 1-3 from 2021-2022 YTD.⁴

In 2022 YTD, the squads stopped more Black subjects than any other race in Areas 1 and 2. Additionally, the rate at which they conducted Black/African American stops from 2021 to 2022 YTD increased in Areas 1, 2, and 3.

The squads' rate of Black/African American stops went down within Areas 4 and 5 from 2021-2022 YTD.

Squads D and E deliver drastically more citations than any other enforcement outcome.

NDNI Vehicle Traffic Stops Squads D and E by Outcome

Outcome	Black/African American	Hispanic	White	Asian	Other	Total
Arrest	1% (8)	0% (3)	2% (3)	1% (1)	1% (1)	1% (16)
2021	1% (7)	0% (2)	2% (3)	1% (1)	0% (0)	1% (13)
2022	0% (1)	0% (1)	0% (0)	0% (0)	4% (1)	1% (3)
Citation	97% (779)	98% (790)	97% (182)	97% (179)	95% (114)	97% (2044)
2021	97% (548)	98% (548)	97% (139)	96% (137)	96% (88)	97% (1460)
2022	98% (231)	99% (242)	98% (43)	100% (42)	93% (26)	98% (584)
No Action	1% (6)	0% (3)	0% (0)	1% (1)	0% (0)	0% (10)
2021	1% (5)	0% (2)	0% (0)	1% (1)	0% (0)	1% (8)
2022	0% (1)	0% (1)	0% (0)	0% (0)	0% (0)	0% (2)
Warning	1% (9)	1% (9)	2% (3)	2% (4)	4% (5)	1% (30)
2021	1% (7)	2% (9)	1% (2)	3% (4)	4% (4)	2% (26)
2022	1% (2)	0% (0)	2% (1)	0% (0)	4% (1)	1% (4)
Total	100% (802)	100% (805)	100% (188)	100% (185)	100% (120)	100% (2100)

Overall, 97% of NDNI vehicle traffic stops made by Squads D and E resulted in citations. There are small fluctuations between years and among races but all differences are within a few percentages indicating that although Black/African Americans and Hispanics are stopped more often, the outcomes by these squads are overwhelmingly the same.

³ See Appendix C for other squads' share of the increase from 2021-2022.

⁴ Area 6 was created in 2022 YTD and encompasses police beats previously assigned to Area 5. Comparing data from 2021 to 2022 YTD is not a perfect metric because of this structural change within the Department.

Initiating Offenses

For NDNI vehicle traffic stops conducted by Squads D and E in either 2021 or 2022 YTD where a specific violation accounted for 3% or more of either Black / African American or Hispanic group's total initiating stop reasons, the following was revealed:

For Hispanic stops, the top three initiating reasons for a stop by the squads were:

1. 28% 21461(a)VC: Driver Fail to Obey Sign/Etc.
2. 17% 22450(a)VC: Fail to Stop Vehicle at a Crosswalk, Stop Sign, Etc.
3. 15% 23123.5VC: Driving while Using a Handheld Device

For Black / African American stop, the top three initiating reasons for a stop by the squads were:

1. 22% 21461(a)VC: Driver Fail to Obey Sign/Etc.
2. 21% 22450(a)VC: Fail to Stop Vehicle at a Crosswalk, Stop Sign, Etc.
3. 11% 21655.5 VC: Disobey Traffic Lane Sign

Citing Offenses

Combining 2021 and 2022 YTD data, the top three cited offenses during NDNI vehicle traffic stops conducted by squads D and E, both as a total combined across all races and within the individual Hispanic and Black/African American race groups were:

1. 25% 21461(a)VC: Driver Fail to Obey Sign/Etc.
2. 19% 22450(a)VC: Fail to Stop Vehicle at a Crosswalk, Stop Sign, etc.
3. 14% 23123.5VC: Driving while Using a Handheld Device

Experience Level of Officers Assigned to Squads D and E

The average experience level of officers assigned to squads D and E 2022 YTD was 14.24 years.

The average experience level of all officers (including squads D and E) conducting NDNI stops Citywide in 2022 YTD was 9.01 years.

Summary of NDNI Stops of Black/African American and Hispanic Individuals

Based on the above analyses, non-dispatched, non-intel led stops of Black/African American and/or Hispanic subjects were likely to be:

- A Vehicle stop;
 - For a Traffic violation;
 - For either:
 - failing to obey or disregarding a traffic sign;
 - failing to stop at a stop sign; or
 - driving while using a handheld device.
 - In BFO 2;
 - Increasingly on beats 19, 20, 23, 26, 27, 29, 30, 33, and 34;
 - By an officer assigned to the squads D and E;

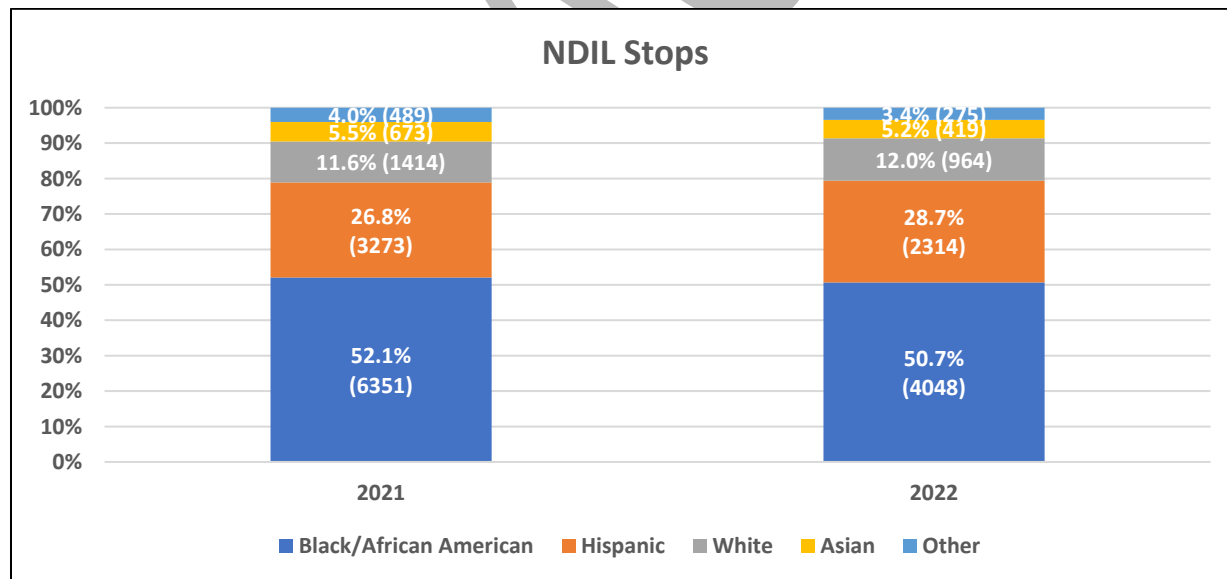
- Who has about 14 years’ experience, which is 5 more than the Department average; and
- Who will issue a citation 97% of the time for Black/African Americans and 98% of the time for Hispanics;
 - Most often for either:
 - failing to obey or disregarding a traffic sign;
 - failing to stop at a stop sign; or
 - driving while using a handheld device.

Part III Non-Dispatched Intel-Led (NDIL) Stops

Non-dispatched Intel Led Stops for Hispanic Subjects

From 2021 to 2022 the Department saw a numerical decrease of non-dispatched intel-led (NDIL) stops, but among all non-dispatched stops, the percentage of intel-led stops increased 9% from 2021 to 2022. Thus, it is worth inspecting to see if similar disparities exist within this other half of the non-dispatched stop category.

The chart below displays the breakdown of NDIL stops by race. The chart reflects a decrease in the rate of NDIL stops for Black/African American (-1.36%), Asian (-0.32%), and Other (-.60%). NDIL rates increased for white subjects (+.38%) and Hispanic subjects (+ 1.89%). The largest decrease was seen within the Black/African American race group while the Hispanic race group saw the largest increase.



Types of NDIL Encounters

From January 2021 – September 2022, the total number of NDIL stops was 3,272, of which, only 103 of which were bicycle or “other” stops. Nearly 97% of all NDIL stops were pedestrian and vehicle stops, the following will focus on Pedestrian and Vehicle stops.

Non-dispatched, Intel Led Stops by Encounter Type

Outcome	Black/African American	Hispanic	White	Asian	Other	Total
Pedestrian						
2021	64% (475)	20% (150)	9% (69)	3% (26)	3% (23)	100% (743)
2022	54% (304)	25% (139)	12% (69)	5% (27)	3% (19)	100% (558)
Vehicle						
2021	52% (506)	36% (349)	6% (55)	4% (35)	3% (28)	100% (973)
2022	47% (417)	36% (324)	9% (80)	4% (36)	4% (38)	100% (895)

NDIL stops of Black / African American subjects were the only percentage decrease among the race groups between 2021 and 2022. However, Black / African American subjects still account for the most NDIL stops out of any other race group in both pedestrian and vehicle stops.

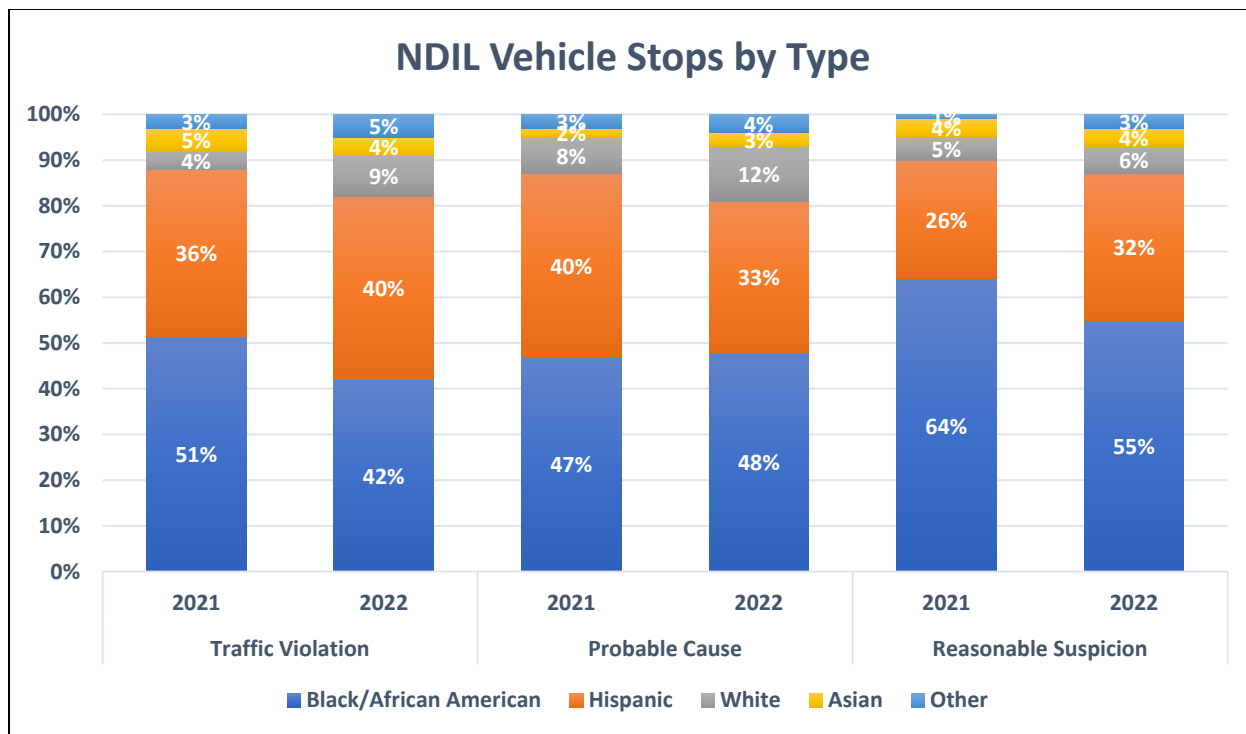
In 2022 YTD, pedestrian stops account for 37% of all NDIL stops and vehicle stops account for 60% of all NDIL stops. Sixty-nine percent of Hispanic and 56% of Black/African American NDIL stops are vehicle stops. These two areas account for the largest percentage of all categories of NDIL stops across all races.

NDIL Vehicle Stops

Within NDIL vehicle stops, in 2021 and 2022 YTD combined, below is the breakdown of the type of stop. Traffic violation stops accounted for 46%, the largest single category.

Non-dispatched, Intel Led Vehicle Stops by Type January 2021 – September 2022

Stop Type	% N
Traffic Violation	46% (866)
Probable Cause	33% (610)
Reasonable Suspicion	19% (354)
Community Caretaking	1% (13)
Probation/Parole	1% (13)
Consensual Encounter & Search	1% (11)
Total	100% (1867)



For Black/African American subjects, there was a decline in the rate of traffic violations and reasonable suspicion stops. There was a slight increase in the proportion of probable cause stops between the two years.

For Hispanics, there were rate increases between the two years for traffic violations and reasonable suspicion stops. There was a 6% increase in the proportion of reasonable suspicion stops that were Hispanic. Additionally, although we are only considering nine months of data for 2022, there has already been a numerical increase in the number of traffic and reasonable suspicion stops compared to all of 2021.

NDIL Vehicle Stops for Traffic Violations: Intel Led Reason

Many of the below categories saw a numerical decrease, but a rate increase. The most often listed intel led reasons were “Law Enforcement Notification⁵” and “Recent Crime Trends and Patterns.⁶”

- Black / African American subjects saw a rate increase in only one intel led reason category:
 - Daily Bulletin (same number of stops in 2021 and 2022: 4)
- Hispanic subjects saw a rate increase in many categories:
 - Civilian Notification
 - Communications Order (largest percentage increase – 17%, but only 1 stop in each year)

⁵ Law Enforcement Notification: Intelligence received from a law enforcement agency. This could be the Most Wanted Person list from Intel, a Trak flyer, wanted flyer, NCRIC bulletin, etc.

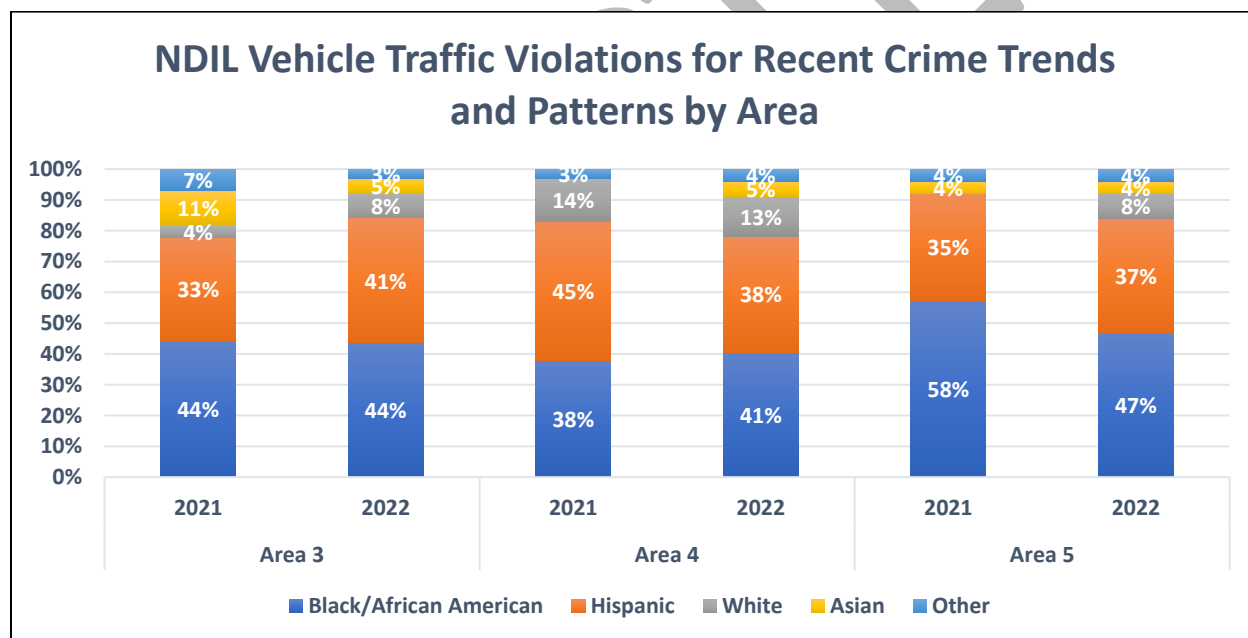
⁶ Recent Crime Trends & Patterns: “Recent” differentiates it from general or anecdotal knowledge about crime trends and patterns. A recent crime trend might involve a sudden spike in crime of a specific type in a specific area of the city.

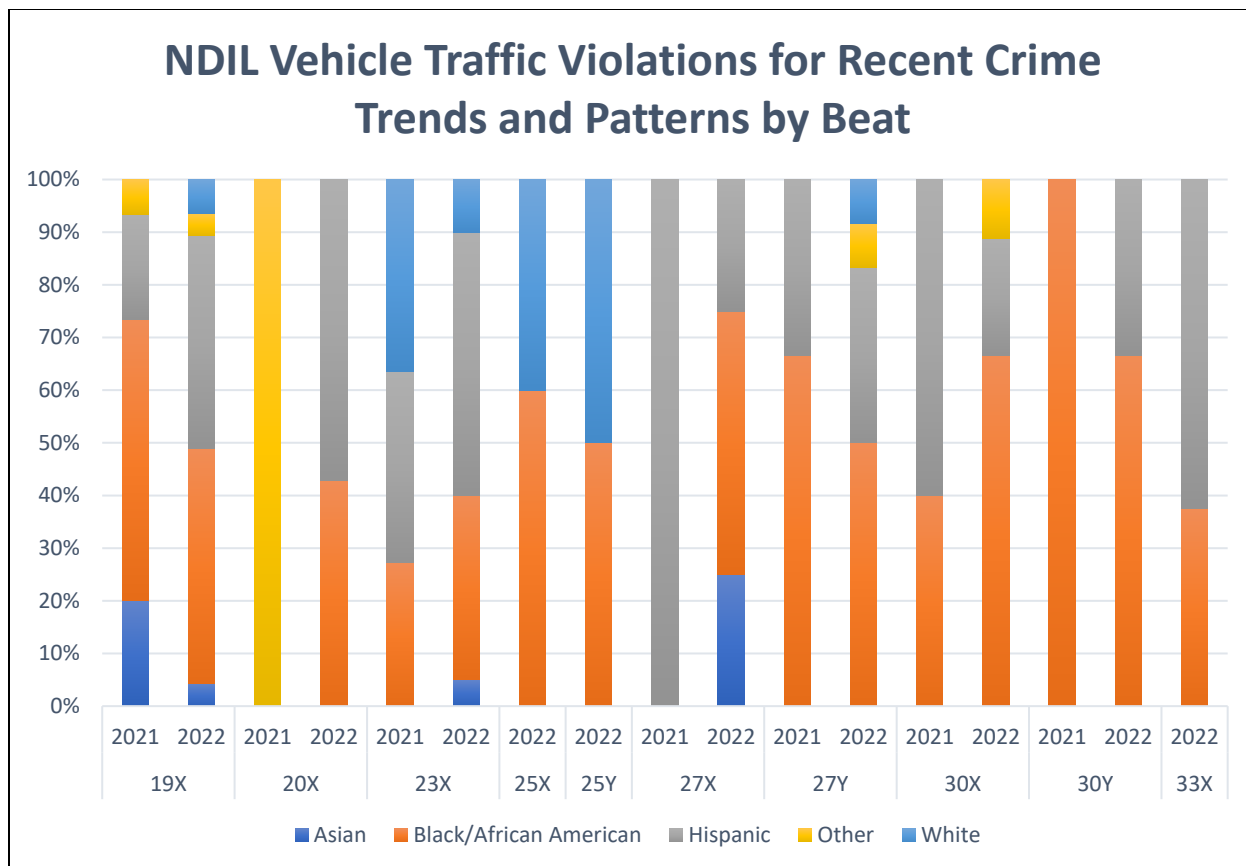
- Investigative Follow Up
- Law Enforcement Notification
- Other – Describe in Narrative
- Recent Crime Trends and Patterns (largest number increase, 36 more stops in 2022 than 2021)
- Undercover and/or Surveillance Directed
- Weekly Priorities

Area 1 and 2 accounted for only 31 non-dispatched intel-led vehicle stops for traffic violations with a listed intel led reason of recent crime trends & patterns for 2021 and 2022 combined. During the same period, Areas 3, 4, and 5 accounted for 253 such stops.

Of the more prolific areas, the area that saw an increase on the rate of these stops for Black / African American subjects was Area 4.

Of the more prolific areas, the areas that saw an increase on the rate of these stops for Hispanic subjects were Areas 3 and 5.





The beats within Areas 3, 4, and 5 that saw over 2% increases in the rate of all Hispanic stops included: 19, 20, 23, 27Y, and 30.

The beats within Areas 3, 4, and 5 that saw over 2% increases in the rate of all Black / African American stops included: 19, 20, 23, 25, 27, 30, and 33.

Squads Responsible for NDIL Vehicle Stops / Traffic Stops

Only three squads have stopped more than 40 subjects pursuant to NDIL vehicle traffic reasons during 2021-2022.

The squad responsible for the most NDIL vehicle traffic stops across all races was Squad A. However, Squad A stopped less Hispanic subjects and less Black/African American subjects than the other, below referenced squads.

The squad responsible for the most NDIL vehicle traffic stops of Hispanic subjects was Squad B. The squad responsible for the most NDIL vehicle traffic stops of Black/African American subjects was Squad C.

Combined, both squads stopped 40 Hispanic subjects and 34 Black/African American subjects from 2021 through 2022 YTD during NDIL vehicle traffic stops. The squads arrested 19 subjects, cited 18 subjects, took no action on 7 subjects, and warned 41 subjects. 47% of the time, the squads issued a warning to the detainee.

Comparing races within each category (row): 46% of the squads' stops, 48% of their arrests, and 44% of their warnings were of Hispanic subjects. 67% of their citations were for Black/African American subjects.

Top Outcomes for NDIL Vehicle Traffic Stops for Squads B and C

	Black/African American	Hispanic	White	Asian	Other	Grand Total
Arrest	19% (4)	48% (10)	19% (4)	0% (0)	5% (1)	100% (21)
2021	9% (1)	73% (8)	18% (2)	0% (0)	0% (0)	100% (11)
2022	30% (3)	40% (4)	20% (2)	0% (0)	10% (1)	100% (10)
Citation	67% (12)	33% (6)	0% (0)	0% (0)	0% (0)	100% (18)
2021	100% (3)	0% (0)	0% (0)	0% (0)	0% (0)	100% (3)
2022	60% (9)	40% (6)	0% (0)	0% (0)	0% (0)	100% (15)
No Action	14% (1)	57% (4)	14% (1)	0% (0)	14% (1)	100% (7)
2021	0% (0)	0% (0)	0% (0)	0% (0)	0% (0)	1000% (0)
2022	14% (1)	57% (4)	14% (1)	0% (0)	14% (1)	100% (7)
Warning	41% (17)	44% (18)	12% (5)	0% (0)	2% (1)	100% (41)
2021	32% (6)	58% (11)	11% (2)	0% (0)	0% (0)	100% (19)
2022	50% (11)	32% (7)	14% (3)	0% (0)	5% (1)	100% (22)
Total	39% (34)	46% (40)	11% (10)	0% (0)	3% (3)	100% (87)

The average experience level of an officer assigned to Squad B or C Patrol was 4.05 years.

While these squads are generally not stopping vehicles pursuant to equipment violations, the outcomes reveal the two squads cited Black / African American detainees of non-dispatched intel-led vehicle traffic stops for 5200(a)VC – Two License Plates required and 5204(a)VC – Expired Registration Tags.

For the two squads, the most often arrested vehicle or penal code violations for both Black / African American and for Hispanic subjects, resultant from NDIL Vehicle Traffic stops were the same:

- 10851(a)VC – Possession Stolen Vehicle
- 496(a)PC – Possession of Stolen Property.

For comparison, from **all** squads, the most often arrested vehicle or penal code violations by race, resultant from NDIL Vehicle Traffic stops were as follows:

- Black / African American: 29800(a)(1)PC – Illegal Possession of Firearm (14.81%)
- Hispanic: 23103(a)VC – Driving Under the Influence (38.64%)

Summary of NDIL Stops of Black/African American and Hispanic Individuals

Based on the above analyses, *non-dispatched, intel led stops* of Black/African American and/or Hispanic subjects are most likely to be:

- A Vehicle stop;
 - For a Traffic violation;
 - With an Intel-Led category of: Recent Crime Trends and Patterns
 - Mainly in BFO 2;
 - Increasingly on beats: 19, 20, 23, 25, 27, 30 and 33.
 - By an officer assigned to Squads B or C;
 - who has about 4 years' experience, which is 5 less than the Department average; and
 - Who will most likely:
 - Cite African Americans (67%, (12 stops))
 - Take No Action for Hispanics (57%, (4 stops))

Part IV Officers Who Conducted the most non-dispatched stops in 2022

The below listed officers⁷ conducted more than 100 non-dispatched (combined intel led and non-intel led) stops in 2022. Three of the five officers listed were assigned to Squads D and E. The percentages below reflect the amount of stops the officer made within the overall stops of any give race. Example: Officer Three stopped 2.05% of all the Black/African Americans subjected to non-dispatched stops in 2022.

Officers with 100+ Non-dispatched Stops in 2022: Proportion of All ND Stops

Officer (Names Redacted)	Black/African American	Hispanic	White	Asian	Other	Total
Five	2.29% (47)	4.36% (65)	6.56% (25)	2.22% (5)	0.60% (1)	3.31% (143)
Four	3.65% (75)	1.07% (16)	3.41% (13)	2.22% (5)	0.00% (0)	2.52% (109)
Three	2.05% (42)	2.95% (44)	1.84% (7)	5.33% (12)	1.80% (3)	2.50% (108)
Two	2.29% (47)	2.61% (39)	2.89% (11)	2.22% (5)	2.99% (5)	2.48% (107)
One	1.90% (39)	2.55% (38)	2.10% (8)	3.56% (8)	4.79% (8)	2.34% (101)

The two officers not assigned to squads D and E performed most of their stops while assigned to their normal assignment or to overtime assignments for Special Enforcement in Areas 4-6, within which they participated.

Of the above listed officers with the most non-dispatched stops, the below chart highlights those that increased their rate of Black/African American or Hispanic stops from 2021 to 2022.

⁷ While the names have been redacted for inclusion in this report, the individual officers' activities and assignment(s) have been discussed in detail during the Department's Citywide Risk Management Meetings.

Officers with 100+ Non-dispatched Stops in 2022, Breakdown by Race

Officer	Black/African American	Hispanic	White	Asian	Other	Grand Total
Five	26% (70)	54% (143)	17% (45)	2% (6)	0% (1)	100% (265)
2021	19% (23)	64% (78)	16% (20)	1% (1)	0% (0)	100% (122)
2022	33% (47)	45% (65)	17% (25)	3% (5)	1% (1)	100% (143)
Four	62% (142)	26% (59)	7% (17)	5% (11)	0% (0)	100% (229)
2021	56% (67)	36% (43)	3% (4)	5% (6)	0% (0)	100% (120)
2022	69% (75)	15% (16)	12% (13)	5% (5)	0% (0)	100% (109)
Three	36% (100)	41% (115)	8% (21)	11% (30)	4% (12)	100% (278)
2021	34% (58)	42% (71)	8% (14)	11% (18)	5% (9)	100% (170)
2022	39% (42)	41% (44)	6% (7)	11% (12)	3% (3)	100% (108)
Two	41% (84)	36% (74)	9% (19)	7% (15)	6% (12)	100% (204)
2021	38% (37)	36% (35)	8% (8)	10% (10)	7% (7)	100% (97)
2022	44% (47)	36% (39)	10% (11)	5% (5)	5% (5)	100% (107)
One	43% (119)	34% (95)	8% (23)	8% (22)	6% (18)	100% (277)
2021	45% (80)	32% (57)	9% (15)	8% (14)	6% (10)	100% (176)
2022	39% (39)	38% (38)	8% (8)	8% (8)	8% (8)	100% (101)
Total	41% (515)	39% (486)	10% (125)	7% (84)	3% (43)	100% (1253)

Part V The Relative Decrease

A ratio increase of Hispanic stops amidst an overall decrease in numbers indicates other categories decreased at a higher rate than the Hispanic race group. What decreased the most?

Citywide, Black/African American and Asian race categories experienced percentage decreases from 2021 – 2022. The Hispanic and White categories experienced percentage increases.

Non-dispatched Stops by Year: January 2021 to September 2022

	Black/African American	Hispanic	White	Asian	Other	Grand Total
2021	50% (3099)	31% (1890)	8% (513)	6% (381)	4% (259)	100% (6142)
2022	48% (2052)	35% (1492)	9% (381)	5% (225)	4% (167)	100% (4317)
Total	49% (5151)	32% (3382)	9% (894)	6% (606)	4% (426)	100% (10459)

Non-dispatched Stops by Area

	Black/African American	Hispanic	White	Asian	Other	Total
Area 1	58% (770)	15% (206)	13% (171)	9% (121)	5% (66)	100% (1334)
2021	58% (515)	15% (131)	12% (111)	10% (92)	4% (40)	100% (889)
2022	57% (255)	17% (75)	13% (60)	7% (29)	6% (26)	100% (445)
Area 2	44% (298)	15% (106)	25% (169)	9% (60)	7% (51)	100% (684)
2021	41% (177)	16% (70)	26% (112)	8% (34)	8% (36)	100% (429)
2022	47% (121)	14% (36)	22% (57)	10% (26)	6% (15)	100% (255)
Area 3	46% (1186)	33% (848)	8% (213)	9% (237)	4% (114)	100% (2598)
2021	46% (733)	33% (532)	8% (122)	9% (150)	5% (73)	100% (1610)
2022	46% (453)	32% (316)	9% (91)	9% (87)	4% (41)	100% (988)
Area 4	41% (1009)	44% (1088)	8% (203)	4% (90)	3% (78)	100% (2468)

2021	42% (562)	43% (567)	8% (107)	3% (46)	3% (42)	100% (1324)
2022	39% (447)	46% (521)	8% (96)	4% (44)	3% (36)	100% (1144)
Area 5	54% (1685)	35% (1099)	4% (114)	3% (94)	3% (107)	100% (3099)
2021	57% (964)	33% (568)	3% (53)	3% (58)	4% (62)	100% (1705)
2022	52% (721)	38% (531)	4% (61)	3% (36)	3% (45)	100% (1394)
Total	49% (4948)	33% (3347)	9% (870)	6% (602)	4% (416)	100% (10183)

- Area 1 – The proportion of Asian stops went down 3%, Black / African American stops went down 1%, and Hispanic stops went up 2%.
- Area 2 – The Black/African American proportion of stops went up 6% and for White subjects, down 4%.
- Area 3 – Stop proportions were generally flat for each race between the two years.
- Area 4 – Black/African American stops went down 3% while the stop proportion for Hispanics went up 3%.
- Area 5 – The proportion of Black/African American stops went down 5% and up 5% for Hispanics.

Overall trends:

- Black / African American ND stops were more substantially down in Areas 4 and 5, which is also where Hispanic stop rates were substantially up.
- Combined within Areas 4 and 5, the proportion of stops for Black/African American subjects dropped 4% and the proportion for Hispanic subjects increased 4%.
- In Areas 4 and 5, Black/African American and Hispanic stops account for over 80% of ND stops. No other race accounts for more than 8% of the of the stops for those Areas.

There appears to be an inverse correlation in these areas between increases and decreases of stop rates between the Hispanic and Black / African American race groups. For Black / African American stops within Area 4 and 5, the rate of intel led increased 6% for Black/African American subjects and 11% of Hispanic subjects.

	Black/African American	Hispanic	White	Asian	Other	Total
Yes	45% (1217)	39% (858)	45% (142)	32% (58)	29% (54)	42% (2329)
2021	43% (649)	34% (382)	37% (59)	25% (26)	24% (25)	38% (1141)
2022	49% (568)	45% (476)	53% (83)	40% (32)	36% (29)	47% (1188)
No	55% (1477)	61% (1329)	55% (175)	68% (126)	71% (131)	58% (3238)
2021	57% (877)	66% (753)	63% (101)	75% (78)	76% (79)	62% (1888)
2022	51% (600)	55% (576)	47% (74)	60% (48)	64% (52)	53% (1350)
Total	100% (2694)	100% (2187)	100% (317)	100% (184)	100% (185)	100% (5567)

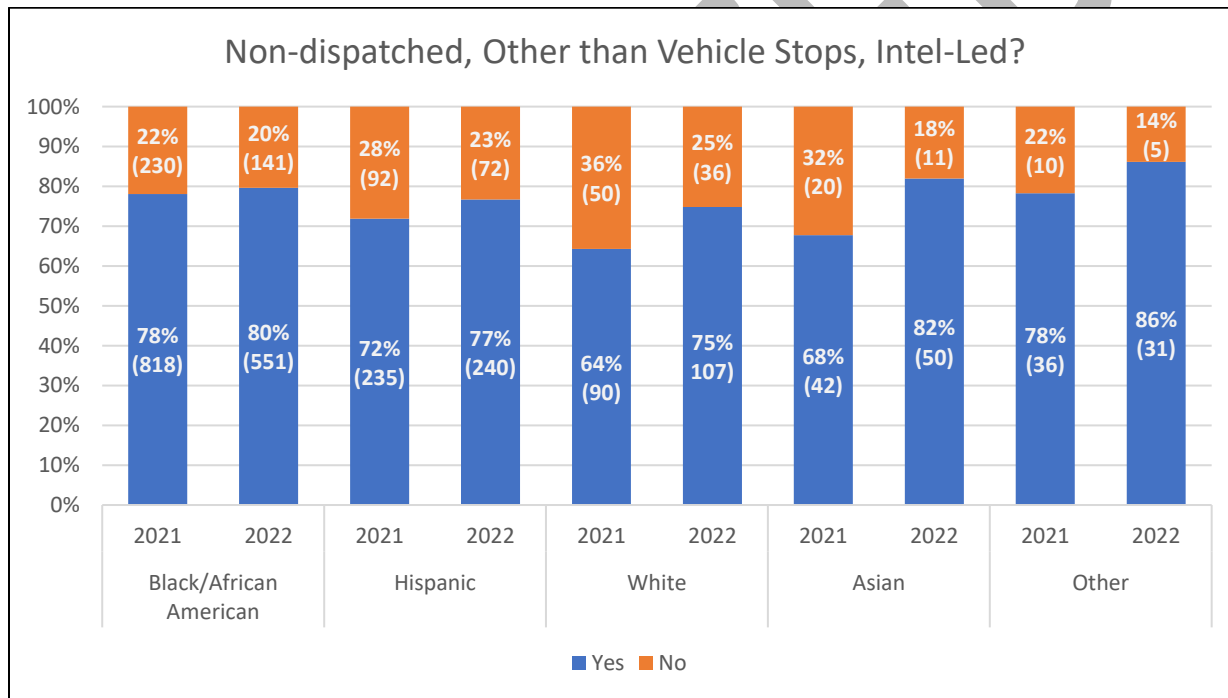
Part V

Part VI Non-Dispatched, Other Than Vehicle Stops

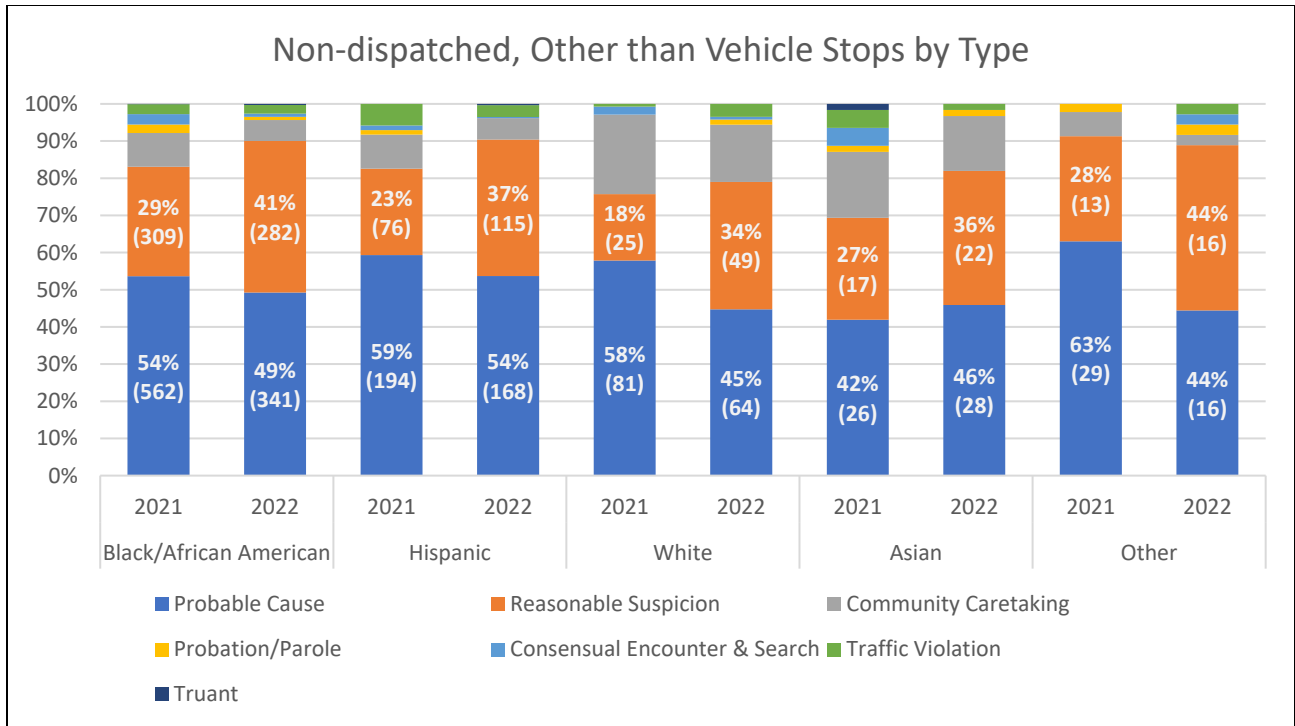
Vehicle stops were the dominant category (88.5%) of non-dispatched (combined intel-led and non-intel led) stops throughout 2021 and 2022.

Other than vehicle stops (bicycle, pedestrian, other) accounted for 11.5% of non-dispatched stops in 2021 and 2022 YTD. The split between non-dispatched other than vehicle stops occurred in BFO 1 (45.3%) and BFO 2 (54.7%).

Each race saw an increase in the intel-led rate in 2022 compared to 2021. The largest increase was for Asian individuals. In addition, numerically, even though 2022 data only runs through September, each race except Black/African American and Other experienced increases compared to all of 2021.

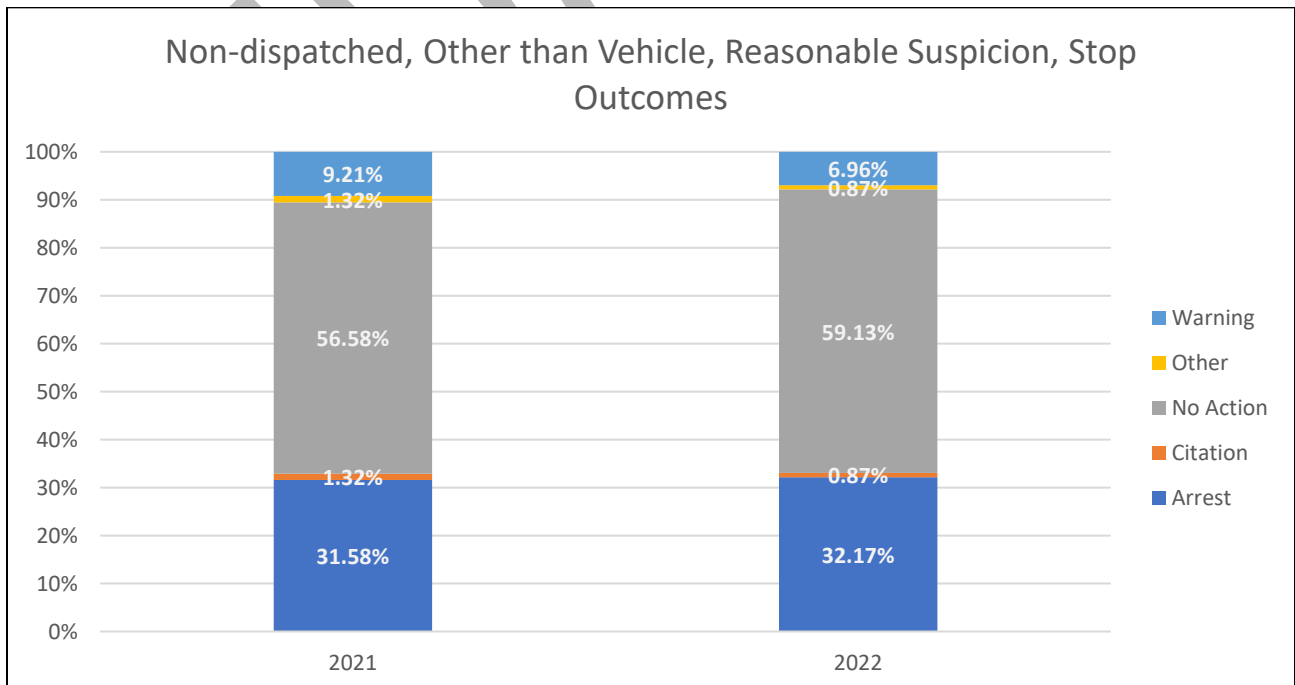


Reviewing the non-dispatched, other than vehicle stops by type, for both years, probable cause stops make up the largest proportion of stops. Reasonable suspicion stops are the next most frequent stop type. The proportion of reasonable suspicion stops for Hispanic subjects increased 14% between the two periods. Additionally, there was a numerical increase of 39 stops in 2022 even though the data only runs through the first three quarters.



Focusing on reasonable suspicion stops for Hispanic subjects by outcome, (39 stops more in 2022 than 2021, across all result types, chart below):

- Arrest rates increased less than 1% (13 more stops)
- No Action rates increased less than 3% (25 more stops)
- All other categories decreased.



Squads who performed 10⁸ or more Non-dispatched Other Than Vehicle Stops for Reasonable Suspicion of Hispanic Subjects in 2022

- Squad A
- Squad F CRT 1 – VCOC
- Squad G Gang Unit – Ceasefire
- Squad H SVS – Child Exploitation Detail⁹

These four squads accounted for 8 such stops in 2021, but for 46 stops in 2022. 45 of those 46 stops were Intel-led.

Squad A and Squad F assisted Squad H with child pornography search warrants and prostitution prevention operations, which accounted for 15 of the stops. Squad A also participated in a search warrant for an illegal casino, which accounted for 6 of the stops. Squad F and Squad G assisted with operations targeting violent criminals, accounting for 15 of the stops.

The initiating offenses for these stops included:

187(A)-PC-MURDER-F	330-PC-GAMBLING-M
25400(A)(2)-PC-CCW ON PERSON-F	331-PC-PERMIT GAMBLING IN HOUSE-M
25850(A)-PC-CRRY LOAD F/ARM PUB PLACE-M	647(B)-PC-PROSTITUTION-M
311.11(A)-PC-POSS/ETC OBS MTR:MNR:SEX-M	653.22(A)-PC-LOITER:INT:PROSTITUTION-M
32-PC-ACCESSORY-F	

The outcomes of those 46 stops are as follows:

Arrest:	11
No Action:	33
Warning:	2

During the illegal casino operation, multiple subjects were detained, but not all were arrested or subject to further criminal investigation. On the search warrant scenes, performed by Squad F and Squad G, multiple subjects were detained while securing the scene, but not all were arrested. Thus the No Action numbers are higher than the Arrest numbers.

⁸ 32 different squads performed non-dispatched other than vehicle stops for reasonable suspicion on Hispanic subjects during 2022. The four listed squads were the only ones to have stopped 10 or more. Many of the other 28 squads stopped only 1 person in this category in 2022.

⁹ These four squads' mandate is focused on violent crime prevention, follow-up, and in SVS' case: sex crime investigation. Their operations are narrowly tailored to achieve those goals, as opposed to a traffic section, whose goal of improving traffic safety can take on myriad forms.

Summary of Non-dispatched Other than Vehicle Stops on Hispanic Subjects

In contrast with non-dispatched vehicle stops, which were large in number, predominantly for traffic violations and had a mixture of intel-led and non-intel led stops, non-dispatched other than vehicle stops on Hispanic subjects were:

- Smaller in number.
- Dominantly intel led.
- Performed for non-traffic violations.
- Conducted by different squads than vehicle stops.
- Rates were affected by a few operations wherein multiple subjects were detained.

PART VII Overall Summary of Analyses

Over the past eight years, there has been a steep decline in the number of non-dispatched stops. The sharpest decline occurred for Black/African American subjects. Similarly, the proportion of non-dispatched stops for Black/African American subjects has also decreased. As this rate decreased, the rate for Hispanic subjects increased (though the raw number of Hispanic stops also decreased).

The analyses above reviewed the data in a number of ways in an attempt to better understand why the Hispanic rate increased. Though we are not able to draw any definitive conclusions at this point, we do have a better understanding of where these stops are happening, what they are for, and who is making them.

The squads contributing to the rate changes are identified:

Non-dispatched, non-intel led stops are largely vehicle stops and are mostly conducted by squads D and E, and a few additional squads in east Oakland.

Non-dispatched, intel-led stops are largely vehicle stops and are conducted by a squads B and C, who are doing all their stops in east Oakland.

The non-dispatched, other than vehicle stops, both intel-led and non-intel led are conducted by a few units (Squads A, F, G, H) as follow up efforts for ongoing investigations.

The major connectivity is *where* the stops are being done. The majority of all non-dispatched stops being done are in east Oakland, where an inverse correlation seems to exist between Hispanic and Black stops. There appears to be some correlation between geography (by police area) of the stops and the demographics of those stopped. This analysis did not provide other clear trends, events, personnel, or activities which may have motivated the fluctuation within the non-dispatched stop rates for Hispanic or Black / African American subjects.

The majority of non-dispatched, non-intel led stops, being vehicle traffic stops for moving violations, comports with the Chief's direction for the Department to emphasize dangerous driving actions over equipment violations or vehicle registration issues.

The majority of non-dispatched, intel-led stops listed, being motivated by reasonable suspicion and intel-led by “Recent Crime Trends and Patterns,” comports with the Chief’s direction for proactive enforcement measures to be data-driven and based on more than simply happenstance and discretion.

The majority of non-dispatched intel led, other-than-vehicle stops, being intel-led and largely enacted by a few specialized units conducting investigative follow up or operations designed to address specific areas of concern (singular gang activity, human trafficking, etc.), comports with the Chief’s directives to use targeted enforcement tactics when addressing the subjects responsible for the crime(s) in question.

The Chief and Department’s directives are discussed routinely at all levels of the Department, most substantially during monthly Risk Management Meetings wherein stop data is discussed at the Area, Squad, and Officer level and comportment with Department direction is routinely assessed and followed up on.

Submitted,

Nicholas Calonge

Lieutenant of Police

Office of Internal Accountability

REDACTED

Appendix A - NDNI Stops by Beat

Beat	Black/African American	Hispanic	White	Asian	Other	Total
01X	0.78% (7)	0.13% (1)	4.57% (8)	1.53% (2)	0.00% (0)	0.88% (18)
02X	0.89% (8)	0.13% (1)	0.00% (0)	0.76% (1)	2.41% (2)	0.59% (12)
02Y	0.89% (8)	0.13% (1)	0.57% (1)	0.76% (1)	0.00% (0)	0.54% (11)
03X	1.56% (14)	0.27% (2)	5.14% (9)	7.63% (10)	2.41% (2)	1.82% (37)
03Y	0.89% (8)	0.53% (4)	1.14% (2)	0.00% (0)	1.20% (1)	0.74% (15)
04X	2.34% (21)	0.80% (6)	4.00% (7)	1.53% (2)	1.20% (1)	1.82% (37)
05X	1.00% (9)	0.27% (2)	0.57% (1)	0.76% (1)	3.61% (3)	0.79% (16)
05Y	0.67% (6)	0.27% (2)	0.57% (1)	0.00% (0)	0.00% (0)	0.44% (9)
06X	0.67% (6)	0.40% (3)	0.57% (1)	0.76% (1)	0.00% (0)	0.54% (11)
07X	0.78% (7)	0.13% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.39% (8)
08X	1.11% (10)	0.53% (4)	1.14% (2)	0.00% (0)	2.41% (2)	0.88% (18)
09X	1.67% (15)	0.13% (1)	5.71% (10)	6.11% (8)	0.00% (0)	1.67% (34)
10X	0.00% (0)	0.13% (1)	0.57% (1)	0.76% (1)	1.20% (1)	0.20% (4)
10Y	0.89% (8)	0.27% (2)	2.86% (5)	1.53% (2)	1.20% (1)	0.88% (18)
11X	0.45% (4)	0.00% (0)	4.00% (7)	2.29% (3)	1.20% (1)	0.74% (15)
12X	2.12% (19)	0.67% (5)	2.86% (5)	3.05% (4)	1.20% (1)	1.67% (34)
12Y	0.22% (2)	0.27% (2)	3.43% (6)	2.29% (3)	1.20% (1)	0.69% (14)
13X	0.22% (2)	0.27% (2)	1.71% (3)	0.00% (0)	0.00% (0)	0.34% (7)
13Z	0.11% (1)	0.00% (0)	1.71% (3)	0.00% (0)	0.00% (0)	0.20% (4)
14X	0.33% (3)	0.13% (1)	2.29% (4)	2.29% (3)	1.20% (1)	0.59% (12)
14Y	0.22% (2)	0.00% (0)	0.57% (1)	0.76% (1)	0.00% (0)	0.20% (4)
15X	0.45% (4)	0.13% (1)	0.00% (0)	0.76% (1)	1.20% (1)	0.34% (7)
16X	0.00% (0)	0.13% (1)	0.57% (1)	0.00% (0)	0.00% (0)	0.10% (2)
16Y	0.11% (1)	0.13% (1)	1.14% (2)	0.00% (0)	0.00% (0)	0.20% (4)
17X	0.56% (5)	0.67% (5)	0.57% (1)	3.82% (5)	0.00% (0)	0.79% (16)
17Y	0.45% (4)	0.13% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.25% (5)

18X	0.56% (5)	0.67% (5)	0.00% (0)	0.00% (0)	2.41% (2)	0.59% (12)
18Y	0.45% (4)	0.27% (2)	0.00% (0)	0.00% (0)	0.00% (0)	0.29% (6)
19X	5.57% (50)	6.94% (52)	6.86% (12)	18.32% (24)	6.02% (5)	7.03% (143)
20X	4.79% (43)	6.41% (48)	1.14% (2)	6.87% (9)	2.41% (2)	5.11% (104)
21X	0.78% (7)	0.93% (7)	0.00% (0)	0.00% (0)	0.00% (0)	0.69% (14)
21Y	1.00% (9)	0.67% (5)	1.14% (2)	0.00% (0)	2.41% (2)	0.88% (18)
22X	0.45% (4)	0.40% (3)	1.14% (2)	0.00% (0)	2.41% (2)	0.54% (11)
22Y	0.00% (0)	0.00% (0)	0.57% (1)	0.76% (1)	0.00% (0)	0.10% (2)
23X	5.35% (48)	9.61% (72)	8.57% (15)	3.05% (4)	8.43% (7)	7.17% (146)
24X	0.56% (5)	1.87% (14)	0.57% (1)	0.76% (1)	1.20% (1)	1.08% (22)
24Y	0.45% (4)	0.53% (4)	0.57% (1)	1.53% (2)	1.20% (1)	0.59% (12)
25X	1.78% (16)	0.27% (2)	2.86% (5)	0.00% (0)	0.00% (0)	1.13% (23)
25Y	0.67% (6)	0.13% (1)	0.00% (0)	0.76% (1)	0.00% (0)	0.39% (8)
26X	2.34% (21)	6.94% (52)	2.86% (5)	3.05% (4)	2.41% (2)	4.13% (84)
26Y	3.46% (31)	5.07% (38)	2.29% (4)	5.34% (7)	6.02% (5)	4.18% (85)
27X	3.34% (30)	6.28% (47)	2.29% (4)	2.29% (3)	1.20% (1)	4.18% (85)
27Y	5.91% (53)	5.61% (42)	1.71% (3)	3.82% (5)	4.82% (4)	5.26% (17)
28X	1.23% (11)	0.40% (3)	0.00% (0)	0.00% (0)	3.61% (3)	0.84% (17)
29X	4.57% (41)	6.68% (50)	1.71% (3)	4.58% (6)	4.82% (4)	5.11% (104)
30X	8.58% (77)	5.34% (40)	2.29% (4)	3.05% (4)	3.61% (3)	6.29% (128)
30Y	6.47% (58)	3.47% (26)	1.14% (2)	0.76% (1)	4.82% (4)	4.47% (91)
31X	1.11% (10)	2.14% (16)	2.29% (4)	0.00% (0)	0.00% (0)	1.47% (30)
31Y	1.11% (10)	0.80% (6)	2.29% (4)	0.76% (1)	2.41% (2)	1.13% (23)
31Z	0.00% (0)	0.27% (2)	1.14% (2)	0.00% (0)	1.20% (1)	0.25% (5)
32X	4.12% (37)	4.54% (34)	5.14% (9)	0.76% (1)	3.61% (3)	4.13% (84)
32Y	2.23% (20)	2.00% (15)	0.57% (1)	0.76% (1)	4.82% (4)	2.01% (41)
33X	3.57% (32)	5.87% (44)	1.71% (3)	1.53% (2)	2.41% (2)	4.08% (83)
34X	6.91% (62)	7.34% (55)	2.29% (4)	2.29% (3)	4.82% (4)	6.29% (128)
35X	2.68% (24)	1.60% (12)	0.00% (0)	1.53% (2)	1.20% (1)	1.92% (39)
35Y	0.45% (4)	0.13% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.25% (5)

99X	0.11% (1)	0.13% (1)	0.57% (1)	0.00% (0)	0.00% (0)	0.15% (3)
Total	100% (897)	100% (749)	100% (175)	100% (131)	100% (83)	100% (2035)

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Appendix B - NDNI Vehicle Traffic Stops by Squad

Squad Assigned	Black/African American	Hispanic	White	Asian	Other	Total
1A-0600 - Patrol	0.49% (8)	0.14% (2)	0.56% (2)	0.31% (1)	0.00% (0)	0.33% (13)
1A-1400 - Patrol	0.55% (9)	0.28% (4)	0.00% (0)	0.00% (0)	0.00% (0)	0.33% (13)
1A-2100 - Patrol	0.12% (2)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.08% (3)
1B-0600 - Patrol	0.49% (8)	0.28% (4)	0.28% (1)	0.92% (3)	2.29% (5)	0.53% (21)
1B-1400 - Patrol	1.89% (31)	0.55% (8)	1.96% (7)	1.54% (5)	2.75% (6)	1.43% (57)
1B-1800 - Patrol	0.24% (4)	0.00% (0)	0.28% (1)	0.00% (0)	0.00% (0)	0.13% (5)
1B-2100 - Patrol	0.24% (4)	0.00% (0)	0.56% (2)	0.31% (1)	0.46% (1)	0.20% (8)
2A-0700 - Patrol	0.18% (3)	0.21% (3)	1.40% (5)	1.23% (4)	0.46% (1)	0.40% (16)
2A-0700 TAC - Patrol	0.00% (0)	0.00% (0)	0.00% (0)	0.31% (1)	0.00% (0)	0.03% (1)
2A-1400 - Patrol	0.55% (9)	0.28% (4)	0.00% (0)	0.62% (2)	0.92% (2)	0.43% (17)
2A-2200 - Patrol	0.18% (3)	0.07% (1)	0.84% (3)	0.62% (2)	0.46% (1)	0.25% (10)
2B-0700 - Patrol	0.43% (7)	0.14% (2)	0.56% (2)	0.92% (3)	0.46% (1)	0.38% (15)
2B-1400 - Patrol	1.41% (23)	1.31% (19)	3.91% (14)	1.23% (4)	1.38% (3)	1.58% (63)
2B-2100 TAC - Patrol	0.98% (16)	0.35% (5)	0.28% (1)	0.31% (1)	0.92% (2)	0.63% (25)
2B-2200 - Patrol	0.12% (2)	0.28% (4)	0.00% (0)	0.00% (0)	0.00% (0)	0.15% (6)
3A-0600 - Patrol	0.61% (10)	0.62% (9)	0.56% (2)	1.85% (6)	1.38% (3)	0.75% (30)
3A-1400 - Patrol	0.31% (5)	0.90% (13)	1.40% (5)	0.92% (3)	0.92% (2)	0.70% (28)
3A-2100 - Patrol	1.89% (31)	0.83% (12)	0.56% (2)	0.31% (1)	0.92% (2)	1.20% (48)
3B-0600 - Patrol	0.37% (6)	0.69% (10)	0.84% (3)	0.92% (3)	0.92% (2)	0.60% (24)
3B-1400 - Patrol	1.28% (21)	0.69% (10)	2.51% (9)	2.46% (8)	2.75% (6)	1.36% (54)
3B-1800 - Patrol	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
3B-2100 - Patrol	1.28% (21)	1.04% (15)	0.84% (3)	0.31% (1)	0.92% (2)	1.05% (42)
4A-0700 - Patrol	1.53% (25)	1.24% (18)	3.63% (13)	1.23% (4)	1.83% (4)	1.61% (64)
4A-1400 - Patrol	0.92% (15)	1.17% (17)	0.00% (0)	0.31% (1)	0.92% (2)	0.88% (35)
4A-2100 TAC - Patrol	0.92% (15)	1.04% (15)	0.00% (0)	0.00% (0)	0.00% (0)	0.75% (30)

4A-2200 - Patrol	1.10% (18)	0.76% (11)	0.28% (1)	0.62% (2)	0.92% (2)	0.85% (34)
4B-0700 - Patrol	1.34% (22)	1.24% (18)	0.00% (0)	0.62% (2)	0.46% (1)	1.08% (43)
4B-0700 TAC - Patrol	0.37% (6)	0.28% (40)	0.56% (2)	0.00% (0)	0.00% (0)	0.30% (12)
4B-1400 - Patrol	1.04% (17)	1.24% (18)	0.28% (1)	0.00% (0)	0.46% (1)	0.93% (37)
4B-2200 - Patrol	0.67% (11)	0.83% (12)	0.56% (2)	0.31% (1)	0.46% (1)	0.68% (27)
5A-0600 - Patrol	2.26% (37)	1.38% (20)	0.28% (1)	1.23% (4)	0.00% (0)	1.56% (62)
5A-1400 - Patrol	1.53% (25)	3.18% (46)	0.28% (1)	0.62% (2)	0.92% (2)	1.91% (76)
5A-2100 - Patrol	1.10% (18)	0.69% (10)	0.56% (2)	0.62% (2)	0.92% (2)	0.85% (34)
5B-0600 - Patrol	1.95% (32)	1.52% (22)	0.84% (3)	0.62% (2)	2.75% (6)	1.63% (65)
5B-1400 - Patrol	1.71% (28)	2.07% (30)	0.84% (3)	0.00% (0)	1.83% (4)	1.63% (65)
5B-1400 TAC - Patrol	1.34% (22)	0.69% (10)	0.56% (2)	0.00% (0)	0.46% (1)	0.88% (35)
5B-1600 - Patrol	0.06% (1)	0.35% (5)	0.00% (0)	0.31% (1)	0.00% (0)	0.18% (7)
5B-1800 - Patrol	0.61% (10)	0.69% (10)	0.00% (0)	0.00% (0)	0.00% (0)	0.50% (20)
5B-2100 - Patrol	2.57% (42)	2.83% (41)	0.56% (2)	0.31% (1)	1.83% (4)	2.26% (90)
6A-0700 - Patrol	1.10% (18)	1.31% (19)	1.12% (4)	0.92% (3)	0.46% (1)	1.13% (45)
6A-1400 - Patrol	0.49% (8)	0.55% (8)	0.84% (3)	0.31% (1)	0.00% (0)	0.50% (20)
6A-2200 - Patrol	0.92% (15)	0.48% (7)	0.84% (3)	0.31% (1)	0.46% (1)	0.68% (27)
6B-0700 - Patrol	0.12% (2)	0.55% (8)	0.00% (0)	0.00% (0)	0.00% (0)	0.25% (10)
6B-1400 - Patrol	1.83% (30)	0.76% (11)	0.00% (0)	0.31% (1)	0.46% (1)	1.08% (43)
6B-2200 - Patrol	0.79% (13)	0.28% (4)	0.56% (2)	0.00% (0)	1.38% (3)	0.55% (22)
BFO 2 East Admin	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
CRO B	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
CRO C	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
CRO D	0.31% (5)	0.76% (11)	0.00% (0)	0.31% (1)	0.92% (2)	0.48% (19)
CRO1	0.24% (4)	0.00% (0)	0.28% (1)	0.00% (0)	0.00% (0)	0.13% (5)
CRO2	0.12% (2)	0.14% (2)	1.12% (4)	1.54% (5)	0.00% (0)	0.33% (13)
CRO3	0.67% (11)	0.28% (4)	0.84% (3)	0.62% (2)	0.46% (1)	0.53% (21)
CRO4	0.12% (2)	0.00% (0)	0.28% (1)	0.00% (0)	0.00% (0)	0.08% (3)
CRO5	1.10% (18)	0.69% (10)	0.00% (0)	0.00% (0)	0.46% (1)	0.73% (29)
CRT1	0.12% (2)	0.48% (7)	0.00% (0)	0.00% (0)	0.00% (0)	0.23% (9)

CRT1 - VCOC	0.18% (3)	0.07% (1)	0.00% (0)	0.62% (2)	0.46% (1)	0.18% (7)
CRT2 - VCOC	0.06% (1)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.05% (2)
CRT3 - VCOC	0.06% (1)	0.21% (3)	0.00% (0)	0.00% (0)	0.46% (1)	0.13% (5)
CRT4	0.06% (1)	0.14% (20)	0.00% (0)	0.00% (0)	0.00% (0)	0.08% (3)
CRT6 - Ceasefire	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
FPU2	0.00% (0)	0.00% (0)	0.00% (0)	0.31% (1)	0.00% (0)	0.03% (1)
Gang Unit - Ceasefire	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
Intelligence Unit	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
OIG	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
Other	1.28% (21)	0.76% (11)	1.68% (6)	1.85% (6)	0.46% (1)	1.13% (45)
SIU 1 - Ceasefire	0.06% (1)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.05% (2)
SIU 2 - Ceasefire	0.00% (0)	0.41% (6)	0.56% (2)	0.00% (0)	0.00% (0)	0.20% (8)
SOS - ABAT, K9, Helicopter, Tac Team & Reserve Coord.	0.00% (0)	0.14% (2)	0.00% (0)	0.00% (0)	0.00% (0)	0.05% (2)
SOS - Special Events	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
Special Assign/Enforce - Area 1	3.36% (55)	1.52% (220)	7.82% (28)	7.69% (25)	2.75% (6)	3.41% (136)
Special Assign/Enforce - Area 2	0.37% (6)	0.35% (5)	1.40% (5)	2.15% (7)	1.38% (3)	0.65% (26)
Special Assign/Enforce - Area 3	0.67% (11)	0.76% (11)	1.12% (4)	1.23% (4)	0.46% (1)	0.78% (31)
Special Assign/Enforce - Area 4	1.41% (23)	1.73% (25)	1.40% (5)	0.92% (3)	1.38% (3)	1.48% (59)
Special Assign/Enforce - Area 5	1.34% (22)	1.31% (19)	1.12% (4)	0.92% (3)	1.38% (3)	1.28% (51)
Special Assign/Enforce - Area 6	0.92% (15)	0.83% (12)	0.28% (1)	0.62% (2)	0.46% (1)	0.78% (31)
SVS - Missing Persons	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
SVS - Vice & Child Exploitation Unit	0.00% (0)	0.07% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
ITU & Fleet	0.00% (0)	0.07% (1)	0.00% (0)	0.31% (1)	0.00% (0)	0.05% (2)

Traffic - Investigations	6.78% (111)	6.77% (98)	6.70% (24)	6.77% (22)	5.05% (11)	6.68% (266)
Traffic - Motor Squads	39.34% (644)	46.30% (670)	44.41% (159)	48.00% (156)	47.71% (104)	43.49% (1733)
Traffic - Veh Enforce Abandoned Auto	0.00% (0)	0.14% (20)	0.00% (0)	0.00% (0)	0.00% (0)	0.05% (2)
Traffic - Veh Enforce Port	0.06% (1)	0.00% (0)	0.00% (0)	0.00% (0)	0.00% (0)	0.03% (1)
Traffic - Veh Enforce Port Overweight/Commercial Veh	0.61% (10)	0.55% (8)	0.56% (2)	1.54% (5)	1.38% (3)	0.70% (28)
Traffic - Veh Enforce Vehicle Abatement	0.55% (9)	1.17% (17)	0.56% (2)	0.92% (3)	0.46% (1)	0.80% (32)
Grand Total	100% (1637)	100% (1447)	100% (358)	100% (325)	100% (218)	100% (3985)

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Appendix C NDNI Stops by Squad with Increased % Hispanic Stops from 2021-2022

NDNI Stops	Race					Grand Total
Squad	Asian	Black/African American	Hispanic	Other	White	Grand Total
1A-1400 - Patrol	1	14	7	1	3	26
2021		12	5	1	3	21
2022	1	2	2			5
1B-0600 - Patrol	5	17	7	5	2	36
2021	2	9	4	4	2	21
2022	3	8	3	1		15
1B-1400 - Patrol	8	55	16	7	11	97
2021	4	50	12	6	11	83
2022	4	5	4	1		14
2A-0700 - Patrol	4	6	5	2	7	24
2021	2	5	3	2	5	17
2022	2	1	2		2	7
3A-1400 - Patrol	4	11	16	2	9	42
2021	4	8	9	2	7	30
2022		3	7		2	12
3A-2100 - Patrol	2	44	21	3	4	74
2021	2	40	18	3	4	67
2022		4	3			7
3B-0600 - Patrol	8	17	17	5	5	52
2021	4	11	7	4	3	29
2022	4	6	10	1	2	23
3B-1400 - Patrol	11	51	27	8	27	124
2021	8	41	17	6	23	95
2022	3	10	10	2	4	29
4A-0700 - Patrol	5	36	26	5	16	88

2021	4	26	17	3	13	63
2022	1	10	9	2	3	25
4B-2200 - Patrol	4	36	37	5	7	89
2021	4	31	27	4	6	72
2022		5	10	1	1	17
5A-0600 - Patrol	8	67	32	2	2	111
2021	1	41	16	2	1	61
2022	7	26	16		1	50
5A-1400 - Patrol	2	50	66	6	2	126
2021	2	24	19	3	2	50
2022		26	47	3		76
5B-0600 - Patrol	3	53	29	7	7	99
2021	2	24	10	2	3	41
2022	1	29	19	5	4	58
5B-1400 - Patrol	2	53	46	4	4	109
2021	2	36	31	3	3	75
2022		17	15	1	1	34
5B-2100 - Patrol	4	79	67	10	6	166
2021	2	50	27	5	4	88
2022	2	29	40	5	2	78
CRO2	5	4	3		6	18
2021	4	4	2		5	15
2022	1		1		1	3
CRO5		25	16	2	1	44
2021		24	15	2	1	42
2022		1	1			2
Intelligence Unit			1			1
2021			1			1
SOS - Special Events	2	7	6		1	16
2021	2	7	4			13

2022			2		1	3
Traffic - Veh Enforce Port Overweight/Commercial Veh	7	13	9	3	4	36
2021	6	5	5	3	3	22
2022	1	8	4		1	14
Traffic - Veh Enforce Vehicle Abatement	4	9	20	1	2	36
2021	2	2	6		2	12
2022	2	7	14	1		24
Grand Total	89	647	474	78	126	1414

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Appendix C Analysis

The above-assessed Traffic squads were responsible for the largest portion of the increase in Hispanic NDNI stops from last year. There are other squads and assignments across the city that also contributed to the increase, including the below.

Temporary Assignments

Temporary Assignments refer to particular operations within which permanent squads from across various parts of the Department might collaborate to achieve a mission.

Sideshow Enforcement

In 2021, the Department stopped 31 Hispanic subjects during NDNI stops, which accounted for 63% of the NDNI stops labeled as related to sideshow.

In 2022 YTD, the Department stopped 26 Hispanic subjects during NDNI stops, which accounted for 72% of the NDNI stops labeled as related to sideshow.

If the rate of sideshow related Hispanic stops had remained flat from 2021 into 2022, then they would have made 22 NDNI stops of Hispanic subjects. The current number of NDNI stops (26) represents a 4-stop increase within this category, out of the approximately 78 additional stops that make up the 4% increase of NDNI Hispanic stops.

Violence Suppression

In 2021, the Department stopped 1 Hispanic subject during NDNI stop labeled as related to Violence Suppression. This was also the *only* stop labeled as related to Violence Suppression.

In 2022, the Bureau of Field Operations 2 initiated a regularly available overtime assignment, which was staffed routinely throughout the YTD. As of September 30, 2022 the Department stopped 11 Hispanic subjects during NDNI stops labeled as related to Violence Suppression. The current number of NDNI stops (11) represents a 10-stop increase out of the 78 additional stops that make up 4% increase of NDNI Hispanic stops.

These two temporary assignments overlap with the below section on Permanent Assignments. An officer permanently assigned to patrol squad 1A-1400 might work Violence Suppression overtime and will have listed both their permanent assignment as well as their temporary assignment on their report. Thus, the data from the Temporary Assignment cannot be simply combined with that listed below.

Permanent Assignments¹⁰

In 2022 patrol Area 6 was created, assuming beats which belonged to patrol Area 5 in the prior year. Comparing data between individual squads from 2021-2022 is thus an imperfect metric. However, in an effort to locate areas of the Department that drove the increase in NDNI Hispanic stops, the following squads appeared to increase their percentages of such stops from 2021 to 2022.

Patrol 1A – 1400

In 2021, the Patrol 1A-1400 squad stopped 5 Hispanic subjects during NDNI stops, which accounted for 24% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 1A-1400 squad stopped 2 Hispanic subjects during NDNI stops, which accounted for 40% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 1.2 NDNI stops of Hispanic subjects. The current number of NDNI stops (2) represents a 0.8 stop increase within this category.

Patrol 1B – 0600

In 2021, the Patrol 1B-0600 squad stopped 4 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 19% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 1B-0600 squad stopped 3 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 20% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 2.85 NDNI stops of Hispanic subjects. The current number of NDNI stops (3) represents a 0.15-stop increase within this category.

Patrol 1B – 1400

In 2021, the Patrol 1B-1400 squad stopped 12 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 14% of the NDNI stops done by that squad.

¹⁰ Data from the Chart at the beginning of Appendix C.

In 2022 YTD, the Patrol 1B-1400 squad stopped 4 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 29% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 1.96 NDNI stops of Hispanic subjects. The current number of NDNI stops (4) represents a 2.04-stop increase within this category.

Patrol 2A – 0700

In 2021, the Patrol 2A-0700 squad stopped 3 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 18% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 2A-0700 squad stopped 2 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 29% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 1.26 NDNI stops of Hispanic subjects. The current number of NDNI stops (2) represents a .74-stop increase within this category.

Patrol 3A – 1400

In 2021, the Patrol 3A-1400 squad stopped 9 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 30% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3A-1400 squad stopped 7 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 59% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 3.6 NDNI stops of Hispanic subjects. The current number of NDNI stops (7) represents a 3.4-stop increase within this category.

Patrol 3A – 2100

In 2021, the Patrol 3A-2100 squad stopped 18 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 27% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3A-2100 squad stopped 3 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 43% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 1.89 NDNI stops of Hispanic subjects. The current number of NDNI stops (3) represents a 1.11-stop increase within this category.

Patrol 3A – 2100

In 2021, the Patrol 3A-2100 squad stopped 18 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 27% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3A-2100 squad stopped 3 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 43% of the NDNI stops done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 1.89 NDNI stops of Hispanic subjects. The current number of NDNI stops (3) represents a 1.11-stop increase within this category.

Patrol 3B – 0600

In 2021, the Patrol 3B-0600 squad stopped 7 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 24% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3B-0600 squad stopped 10 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 43% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 5.52 NDNI stops of Hispanic subjects. The current number of NDNI stops (10) represents a 4.48-stop increase within this category.

Patrol 3B – 1400

In 2021, the Patrol 3B-1400 squad stopped 17 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 18% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3B-1400 squad stopped 10 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 34% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 4.5 NDNI stops of Hispanic subjects. The current number of NDNI stops (10) represents a 5.5-stop increase within this category.

Patrol 4A – 0700

In 2021, the Patrol 4A-0700 squad stopped 17 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 27% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 4A-0700 squad stopped 9 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 36% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 6.75 NDNI stops of Hispanic subjects. The current number of NDNI stops (9) represents a 2.25-stop increase within this category.

Patrol 4B-2200

In 2021, the Patrol 4B-2200 squad stopped 27 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 38% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 3B-1400 squad stopped 10 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 59% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 6.46 NDNI stops of Hispanic subjects. The current number of NDNI stops (10) represents a 3.54-stop increase within this category.

Patrol 5A – 0600

In 2021, the Patrol 5A-0600 squad stopped 16 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 26% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 5A-0600/Patrol 6A-0700 squad stopped 16 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 32% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 13 NDNI stops of Hispanic subjects. The current number of NDNI stops (16) represents a 3-stop increase within this category.

Patrol 5A – 1400

In 2021, the Patrol 5A-1400 squad stopped 19 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 38% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 5A-1400 squad stopped 47 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 62% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 29 NDNI stops of Hispanic subjects. The current number of NDNI stops (47) represents an 18-stop increase within this category.

Patrol 5B – 0600

In 2021, the Patrol 5B-0600 squad stopped 10 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 24% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 5A-1400 squad stopped 19 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 33% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 14 NDNI stops of Hispanic subjects. The current number of NDNI stops (19) represents a 5-stop increase within this category.

Patrol 5B – 1400

In 2021, the Patrol 5B-1400 squad stopped 31 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 41% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 5B-1400 squad stopped 15 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 44% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 14 NDNI stops of Hispanic subjects. The current number of NDNI stops (15) represents a 1-stop increase within this category.

Patrol 5B – 2100

In 2021, the Patrol 5B-2100 squad stopped 27 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 31% of the NDNI stops done by that squad.

In 2022 YTD, the Patrol 5B-2100 squad stopped 40 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 51% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 24 NDNI stops of Hispanic subjects. The current number of NDNI stops (40) represents a 16-stop increase within this category.

CRO 2

In 2021, the CRO 2 squad stopped 2 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 13% of the NDNI stops done by that squad.

In 2022 YTD, the CRO 2 squad stopped 1 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 33% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made .39 NDNI stops of Hispanic subjects. The current number of NDNI stops (1) represents a .61-stop increase within this category.

CRO 5

In 2021, the CRO 5 squad stopped 15 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 36% of the NDNI stops done by that squad.

In 2022 YTD, the CRO 5 squad stopped 1 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 50% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made .72 NDNI stops of Hispanic subjects. The current number of NDNI stops (1) represents a .28-stop increase within this category.

Intelligence Unit

In 2021, the Intelligence Unit stopped 14 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 27% of the NDNI stops done by that squad.

In 2022 YTD, the Intelligence Unit stopped 13 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 46% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 7.56 NDNI stops of Hispanic subjects. The current number of NDNI stops (13) represents a 5.44-stop increase within this category.

Special Events

In 2021, the Special Events Unit stopped 4 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 31% of the NDNI stops done by that squad.

In 2022 YTD, the Special Events Unit stopped 2 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 67% of the NDNI done by that squad.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made .93 NDNI stops of Hispanic subjects. The current number of NDNI stops (2) represents a 1.07-stop increase within this category.

Traffic – Vehicle Enforcement Vehicle Abatement

In 2021, the Traffic – Vehicle Enforcement Vehicle Abatement squad stopped 6 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 50% of that squad NDNI stops.

In 2022 YTD, the Traffic – Vehicle Enforcement Vehicle Abatement squad stopped 14 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 58% of that squad NDNI stops.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 12 NDNI stops of Hispanic subjects. The current number of NDNI stops (14) represents a 2-stop increase within this category.

Traffic-Vehicle Enforcement Port Overweight/Commercial Vehicle

In 2021, the Traffic – Vehicle Enforcement Port Overweight/Commercial Vehicle squad stopped 5 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 23% of their NDNI stops.

In 2022 YTD, the Traffic – Vehicle Enforcement Port Overweight/Commercial Vehicle squad stopped 4 Hispanic subjects during non-dispatched non-intel led stops, which accounted for 29% of their NDNI stops.

If the rate of Hispanic stops had remained flat from 2021 into 2022, the squad would have made 3.22 NDNI stops of Hispanic subjects. The current number of NDNI stops (4) represents a 0.78-stop increase within this category.

Analysis Summary

When considering *what* officers were attempting to address via their NDNI stops of Hispanic subjects, their listed *temporary* assignment was revealing.

- Five percent of the increase was conducted by officers working Sideshow enforcement details.
- Thirteen percent of the increase was conducted by officers working Violence Suppression details.

When considering *where* the officers were regularly assigned when performing their NDNI stops of Hispanic subjects, their listed *permanent* assignments reveals another aspect.

- 29% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of two Traffic Section squads (Investigations and Motor Squads).
- 23% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of Patrol 5A 1400 squad.
- 7% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of Patrol 3B 1400 squad.
- 7% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Intelligence Unit.
- 6.4% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Patrol 5B 0600 squad
- 6% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Patrol 3B 0600 squad.
- 4.5% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Patrol 4B 2200 squad.
- 4.5% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Patrol 3A 1400 squad.
- 4% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of the Patrol 5A 0600 squad.
- The remaining ~9% of the increase in NDNI Hispanic stops from 2021 to 2022 was a result of 13 other squads' efforts.

EXHIBIT 2

Working Methodology for IA Disparity Analyses

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Introduction and Overview

The Department is committed to ensuring Internal Affairs processes and outcomes are fair and equitable. The below methodology serves as a guide to a standardized analysis of Internal Affairs investigation data, intended to be used to identify whether disparities exist and how to determine contributing factors. The Department is grateful for its relationship with Stanford University professor Dr. Benoit Monin and Rochester Institute of Technology professor Dr. John Klofas for their input and guidance in developing the methodology. Appendix 1 and 2 in this document detail the workflow for the investigative and discipline processes. They were used as guides to develop this methodology.

The methodology has two main areas of comparative analyses.

1. Sustained Rate: The percentage of sustained cases within particular groups.
2. Discipline Rate: The levied discipline resultant from sustained cases within particular groups.

The analyses of internal affairs data involve two sets of dependent variables: the sustained rate and discipline imposed. The independent variables identified for these analyses are race, gender, and rank. Ultimately, the Department wants to test whether race, gender, or rank predict whether a case is sustained and the level of discipline imposed. The initial step is to calculate the sustained and discipline rates within the three independent variables. During this step, the data are separated by moderator variables (defined below). Once the sustained and discipline rates are calculated for each independent variable and moderator, determine if any noted disparities are statistically significant. If no statistically significant disparities are found in the initial analyses, additional analyses will not be necessary. If statistically significant disparities are found, further analysis will be conducted.

In the event disparity is found, begin a systematic process of narrowing in on the source of the disparity. This process involves controlling for variables in order to determine whether the identified disparity was present entirely within one of the initial groups (race, gender, rank) or if there was an intervening variable which impacted the relationship and led to the disparity. By controlling for variables, following the below step by step methodology, you can identify possible sources for the disparity which will then inform the Department's strategy and response in addressing the disparity.

Overview of Variables

The methodology for these analyses identifies variables in a few ways.

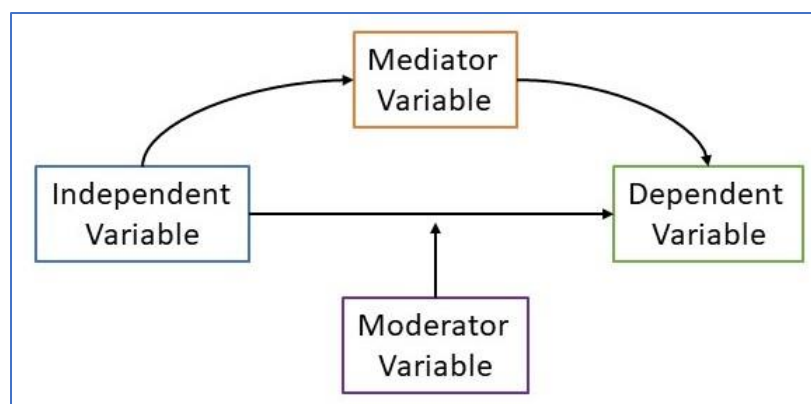
1. *Independent variables (influence the dependent variable)*: these are the variables controlled by the analyzer of the data.
 - a. Example: You limit the data set you're looking at to inspect the sustained rates of a certain race within one rank. You have manipulated the independent variables of race and rank in order to conduct your analysis.
2. *Dependent variables (result of the independent variable)*: these are the results, which were affected by manipulation of the independent variable.
 - a. Example (cont'd from above): Limiting the data set for sustained rates to a certain race within one rank reveals a disparity. This may be significant. This cause and effect between independent and dependent variables may indicate a need for further investigation.

3. *Moderators*: help answer questions about where or when. If a statistically significant disparity is found, a moderator variable enables you to identify where the disparity is the strongest and will give clues toward interventions.
 - a. For example, if a statistically significant racial disparity is identified within sustained rates, and the disparity appears greater among internally generated cases than externally generated cases, then case origin is a moderator variable in the relationship between race and whether a case is sustained. Identifying case origin as a moderator variable helps reveal where attention is warranted and where an intervention may be most propitious.
4. *Mediators* help answer questions about how or why. If a disparity is observed, a mediator variable may reveal the pathway by which the disparity arises.
 - a. Example: Assume a disparity is identified within sustained rates, specifically that Black officers are being sustained at a statistically significant higher rate than white officers.

You identify within the data that Black officers are disproportionately investigated for a certain misconduct allegation. You inspect that specific misconduct allegation and find the allegation is more often sustained than other allegations, and across all races.

The specific misconduct allegation is your mediator variable. If the specific allegation is truly sustained more frequently across all races, through the mediator variable, you have shown that race is not the cause of the disparity, it is that specific allegation. The next step would be to try to understand why Black officers were more likely to receive that particular allegation.

For these analyses, if the addition of a mediator variable does not remove the significant relationship between the independent and dependent variables, additional case review becomes necessary. While the case review may not pinpoint the direct cause of the disparity, it may identify certain additional variables that are only available following an in-depth review of the case. A full description of the case review can be found towards the end of this document.



After following the below step-by-step methodology, the Department will be able to determine whether there are disparities in the data, where those disparities are, and if there are any variables affecting the disparities. If the Department discovers specific factors that contribute to a disparity, the Department will identify a process to address the issues. These analyses will be completed on an annual basis.

Sustained Rate and Discipline Rate Analyses

Step 1: Data Collection

The Department produces an automated report that contains the following fields¹ for each complaint allegation:

- Case Number – the internal affairs case number for the incident
- Date of Complaint – the date the complaint was made
- Approval Date – the date the case was finalized with a finding
- Allegation Key – a unique identifier produced by Vision for each allegation (allows for the identification of duplicates)
- Violation Number – the specific Manual of Rules (MOR) violation
- Violation Description – the description of the MOR violation for each allegation
- Violation Class – Class I or Class II by allegation
- Internally Discovered MOR Violation – was the violation discovered during the investigation?
- Complaint Made By – who made the initial complaint to OPD (dropdown in Vision)
- Concurrent CPRA Investigation – Is there also an investigation into this incident by the CPRA (yes/no)
- Investigation Type – what type of investigation was conducted for the case (dropdown in Vision)?
- Finding – the outcome of the investigation (dropdown in Vision)
- Number of Aggravating Factors – If sustained, what was the number of aggravating factors?
- Number of Mitigating Factors – If sustained, what was the number of mitigating factors?
- Discipline- If sustained, what discipline did the individual receive (dropdown in Vision)
- Suspension Days – If suspended, number of days suspended
- Synopsis – A brief description of the allegation
- Subject Name
- Subject Serial Number
- Subject DOB
- Subject Race
- Subject Gender
- Subject Civilian Indicator – Is the individual professional staff or sworn?
- Assignment at Time of Complaint – Where was the subject assigned when the complaint was received?
- Rank at Time of Complaint – What was the subject's rank or job class at the time of the complaint?
- Sworn/Hire Date – For sworn employees, what was the date they were sworn in? For civilians, what was the date they were hired?
- Investigator Name
- Investigator Serial Number

¹ This list will be amended to include additional data as appropriate.

Step 2: Data Cleaning

- A. The first step is to ensure there are no duplicate allegations listed. Every allegation will include a unique number, automatically produced in Vision, in the Allegation Key. Although rare, any duplicates in this field need to be reviewed and removed.
- i. It appears the Assignment at Time of Complaint field is the source of the issue. The Department is continuing to work with ITD to address duplication issues.
- B. The spreadsheet includes every allegation against every member of the Department. Based on the type of analyses desired, the following additional variables should be reviewed and updated as necessary. The variables below are created based on the variables above and involve combining certain values into new categories to simplify future analyses. For the race, rank, and investigation origin fields below, the Department will work with ITD to have these additional variables automatically appear in the report.
- Employee Type – Prior analyses of IA data have separated professional staff from sworn members. These employee types have very different job responsibilities and there are more sworn members in the Department. Keeping the data separate ensures that complaints against professional staff are not lost within the complaints against sworn members. If the analyses will focus only on sworn members, complaints against professional staff will be removed or filtered out prior to analysis.
 - Board Findings - Since the Department is concerned with internal investigations, findings determined by a collision board, force board, or pursuit board will be removed. They are maintained in the IA section of Vision for tracking discipline. If an incident contains both a board and an internal investigation, only the allegations related to the internal investigation will be maintained. For example, the allegation, “Department Property and Equipment – Preventable Collision” is used every time an employee is in a collision. The synopsis for these cases is, “The subject member's City vehicle collision was determined to be preventable.” The investigation type for this incident should be listed as “Collision Board.” Similarly, for pursuits, findings related to a pursuit board will be marked as “Pursuit Board” and the synopsis will say, “The subject member's City vehicle pursuit was determined to be out of compliance.” Cases not involving boards will have other investigation types listed and the allegations and synopsis will be different.
 - Race – For the analyses of IA data, the Department separates race into five categories: Black, Hispanic, White, Asian, and Other/Unknown. The Human Resources data used to complete the race field contains many more categories. Since the number of sustained cases for some categories is low, the decision was made to combine some categories. For example: Filipino, Chinese, and Vietnamese individuals are combined into the Asian category. Individuals of Samoan, Hawaiian, and Native American descent are placed in the Other/Unknown category. Since the raw data includes these additional categories, a new field should be created to consolidate the data into the five categories listed above.
 - Rank – The Department does not have many sustained cases against lieutenants and above in any given year. For that reason, a new field that separates the data into two categories, officer and sergeant and above should be created.
 - Complaint Origin - Within Vision, investigators or intake personnel can select who made the initial complaint from a list of 13 choices. A new field should be created to identify whether the complaint was internally generated or externally generated based on this list.

- Discipline – Currently in Vision, there are 16 choices for discipline. Since chi-square tests will be used to determine statistical significance, each category of data should have a population size of more than five. Because of this and since 2x2 chi-square tests are easier to interpret, a variable for discipline should be created that indicates whether the discipline was less severe than a one-day suspension or a one-day suspension or greater.
- Patrol Assignment – Use the Assignment at Time of Complaint variable to create a new binary variable to indicate whether the member was in a patrol assignment at the time of the complaint.
- Age – Use the date of birth and date of complaint to calculate an age for each member at the time of the complaint.
- Years of Service – Use the Sworn/Hire Date field to calculate how many years of service the member has at the time of the complaint.

Step 3: Analyses at the Allegation Level

The Department analyzes sustained rates and discipline rates at the case level, but there are some analyses that can be conducted by allegation.

- A. The first analysis determines the average number of allegations per officer by race for each complaint. This is done by creating a unique identifier for each officer per case by combining the case number and the officer serial number. Using the example below, white officers received 1.69 allegations per case and Black officers received 1.64 allegations per case. If disparities are discovered, further work should be conducted to try to identify if a certain MOR violation is driving the disparity, if some other factor is driving it, or if it is an acceptable disparity.

Number of Allegations Example

	White Officers		Black Officers		Total
	%	n	%	n	n
1	62%	182	59%	82	264
2	22%	66	28%	39	105
3	9%	27	7%	9	36
4	3%	8	1%	2	10
5	1%	4	3%	4	8
6	1%	4	1%	2	6
7	0%	1	0%	0	1
8	0%	0	0%	0	0
9	0%	1	0%	0	1
Total	100%	294	100%	138	432

- B. An analysis could also be conducted on the types of violations received by race. This analysis would allow the Department to see if a particular race/gender/rank is receiving a disparate amount of a particular violation. Further work could be conducted to determine whether the complaint was internally or externally generated or if the violation was discovered during the investigation.

Allegations Description by Race

	White	Black	Hispanic	Asian	Other
Performance of Duty – Care of Property	50% (25)	33% (10)	38% (15)	50% (10)	30% (3)
Performance of Duty – Unintentional/Improper Search, Seizure, or Arrest	30% (15)	50% (15)	13% (5)	25% (5)	40% (4)
Conduct Towards Others - Demeanor	20% (10)	17% (5)	50% (20)	25% (5)	30% (3)
Total	100% (50)	100% (30)	100% (40)	100% (20)	100% (10)

Data included in this table were created for the purposes of this methodology. They do not represent real data.

Step 4: Sustained Rate Analyses at the Case Level

- A. The first step to analyze IA data at the case level is to take all the allegation data and transform it into case level data. For the purposes of these analyses, a case is identified as a case/officer combination. A complaint to Internal Affairs involving three officers and two allegations per officer would count as three cases. A unique identifier with the case number and the officer's serial number should be used to differentiate between cases.

To identify the sustained rate, a determination was made to classify a case as "sustained" if one or more allegation against an officer was sustained. The current process involves sorting all allegations by unique identifier and then by finding, with sustained Class 1 allegations being the first listed followed by sustained Class 2 allegations. Duplicate unique identifiers are then removed and only the first listed allegation remains. From this point, no analysis should be conducted on the allegations themselves since many of them were removed. Now, the remaining case/officer combinations can be classified as "sustained" or "other than sustained" and a rate can be calculated.

- B. The second step is to calculate the sustained rate for all cases for each independent variable. If disparities appear in this step but do not appear when the sustained rate is calculated using the moderating variables, additional work will need to be done to determine what is driving the overall sustained rate disparity.
- C. The third step is to identify moderating variables, that is, variables that impact the strength or direction of the relationship between two variables. The analyses of internal affairs data involve two sets of dependent variables: the sustained rate and discipline imposed. The independent variables identified for these analyses are race, gender, and rank. Ultimately, the Department wants to test whether race, gender, or rank predict whether a case is sustained and the level of discipline imposed.

Two primary moderating variables are investigation type and case origin.

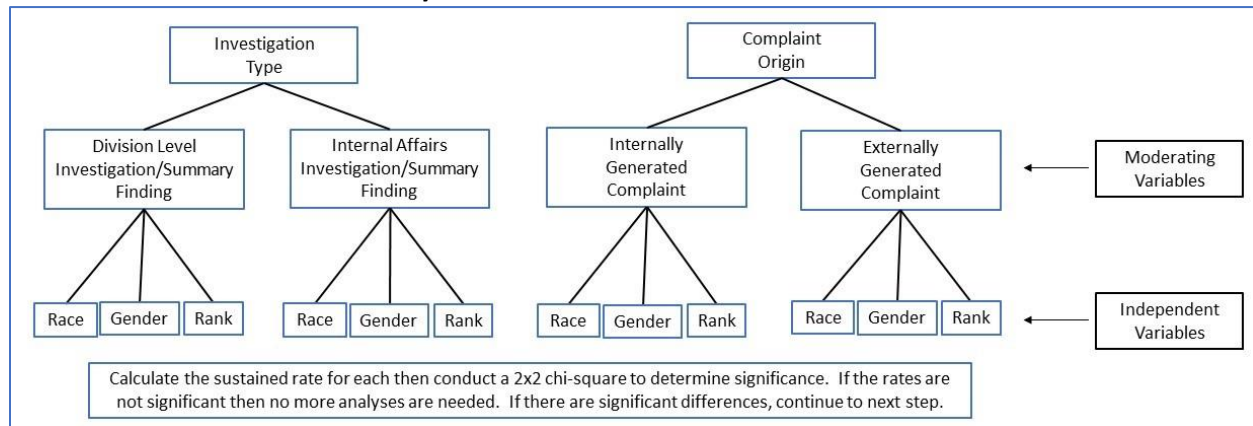
- a. *Investigation Type*. There are two main types of investigations: Division Level Investigations (DLI) and Internal Affairs (IA) Investigations. DLIs are generally conducted by field sergeants and typically contain less serious allegations. IA investigations involve the most serious allegations and are conducted by supervisors with more thorough

investigative training. Summary Findings² for each investigation type should also be included in the data.

- b. *Case Origin*. A variable was created in Step 2 that identifies whether a case originated outside the Department (external) or by a member of the Department (internal).

- D. After identifying the moderating variables, analyses can be conducted to determine the sustained rate for each moderator and independent variable. The example below includes the sustained rate by the moderating variables (investigation type and complaint origin) and race.

Flow Chart of Sustained Rate Analyses



Jan – Jun 2022 Sustained Rate by Race Example

	DLIs and DLI Summary Findings	IA Investigations and IA Summary Findings
White	11% (11/98)	18% (9/50)
Black	5% (3/59)	21% (7/34)
Hispanic	5% (5/105)	18% (8/45)
Asian/Filipino	3% (3/90)	14% (5/36)
Other/Unknown	15% (2/13)	20% (2/10)
Total	7% (24/365)	18% (31/175)

- E. Once the sustained rate is calculated, a chi-square test will be used to determine whether any differences between the sustained rates for each category are significant. After discussions with our Stanford research partner, it was decided to limit the test to a 2x2 chi-square. For gender (male/female) and rank (officer/supervisor and above), the 2x2 analysis is straightforward. For race, multiple 2x2 chi-squares will need to be calculated. For example, the sustained rate for Black officers compared to white officers, the sustained rate of Hispanic officers compared to white officers, etc. The chi-square can be calculated using the following link: <https://www.socscistatistics.com/tests/chisquare/>. A statistically significant difference between categories would be indicated by a *p* value of less than 0.05. In the example below, using actual data from 2019-2021, there was a statistically significant difference in the sustained rate between white officers and Black officers for DLIs in 2019. The significant difference did not appear in 2020 or 2021.

² A Summary Finding is an abbreviated internal investigation in which a finding can be reached without conducting a full formal internal investigation because the correct finding can be determined with no or minimal follow-up and be based on the existing documentation, evidence, statements, and crime information data.

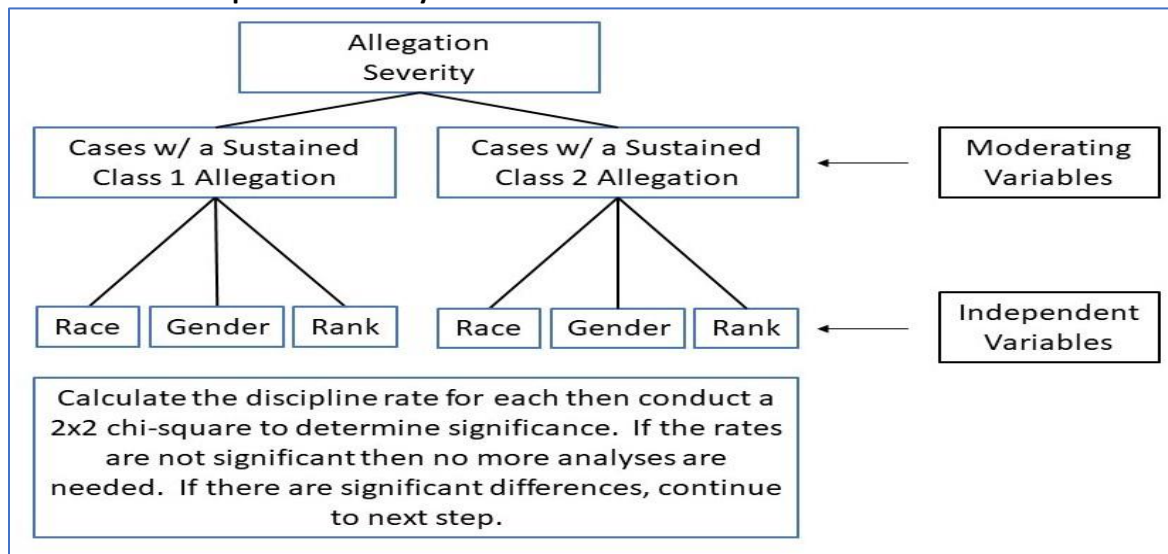
2019-2021 DLI Chi-Square for White v Black Officers

	Other than Sustained		Sustained		Chi-Square Value	p
	Observed	Expected	Observed	Expected		
2019						
White	94% (275)	90% (265)	6% (19)	10% (29)	12.32	0.000
Black	83% (115)	90% (125)	17% (24)	10% (14)		
2020						
White	92% (233)	92% (233)	8% (21)	8% (21)	0.00	0.950
Black	92% (130)	92% (130)	8% (12)	8% (12)		
2021						
White	93% (230)	92% (227)	7% (18)	8% (21)	1.53	0.216
Black	89% (122)	91% (125)	11% (15)	9% (12)		

Step 5: Discipline Rate Analyses at the Case Level

- A. The discipline rate analyses utilize the same base dataset as the sustained rate analyses. Because only sustained cases result in discipline, only cases that have at least one sustained allegation are used, which creates a much smaller dataset.
- B. Prior to separating the data by moderating variables, the discipline rate should be calculated for all the sustained cases together. As with the sustained rate, if disparities are revealed when looking at all the data but not when separated by the moderator, further work is necessary to identify what might be causing the disparity to disappear.
- C. Similar to the sustained rate, moderating variables need to be identified. For discipline, one proxy measure of the severity of an allegation is whether it is a Class 1 or a Class 2 allegation. Class 1 allegations are more serious offenses. Since our case dataset was sorted with sustained Class 1 allegations taking priority, we know whether a case had a sustained Class 1 or if the sustained allegation(s) were only Class 2. Since final discipline determinations are made by the Chief of Police, at this time, it was determined that the best moderator variable for discipline would be whether the case had a Class 1 allegation sustained.

Flow Chart of Discipline Rate Analyses



- D. There are multiple levels of discipline ranging from counseling to termination. For the purposes of this methodology, discipline is categorized into two groups (1. below a suspension and 2. suspension and above). Using the binary discipline variable, calculate discipline rates similar to the below example. The discipline rate should be calculated for race, gender, and rank.

Discipline Rate by Rank Example

	Officer		Sergeant and Above	
	Below a Suspension	Suspension and Above	Below a Suspension	Suspension and Above
Cases w/ a Sustained Class 1 Allegation	25% (15)	75% (45)	20% (6)	80% (24)
Cases w/ a Sustained Class 2 Allegation	60% (48)	40% (32)	40% (4)	60% (6)

Data included in this table were created for the purposes of this methodology. They do not represent real data.

- E. After the discipline rates are calculated, utilize a chi-square test to determine whether any of the differences are statistically significant (example below). Follow methodology from the Sustained Rate Analyses at the Case Level Step D. In the example above, there are fewer than five cases for sergeants and above with a Class 2 sustained case involving less than a suspension. Because of this, a chi-square should not be utilized to determine whether the differences are statistically significant. Instead, personnel in the Office of Internal Accountability and the Executive Team should discuss the data to determine whether additional analysis is warranted.

Chi-Square for Class 1 Offense Discipline by Rank

	Below a Suspension		Suspension and Above		Chi-Square Value	<i>p</i>
	Observed	Expected	Observed	Expected		
Class 1						
Officer	25% (15)	23% (14)	75% (45)	77% (46)	0.28	0.597
Sergeant and Above	20% (4)	23% (7)	80% (16)	77% (23)		

Data included in this table were created for the purposes of this methodology. They do not represent real data.

Step 6: Next Steps

- A. If it is determined there are no statistically significant differences in the sustained or discipline rates, no further analysis is needed. If statistically significant differences are found, further analyses should be conducted using the methodology detailed in the next section of this document.
- B. It is important to note the simplicity of both analyses and care needs to be taken when reviewing the rates. First, the number of sustained cases is small and further breaking the data down by race or discipline creates small sample sizes for certain categories. Second, for both the sustained rate and discipline, several mediating variables can impact the outcome of a case or the severity of discipline an officer receives. The above analyses do not consider other variables. If a statistically significant disparity is observed and is of some concern, additional steps can be taken

to deeper dive into the data to help determine what factor(s) could be driving the disparity. These steps are reviewed below.

Analyses if Disparities are Discovered

Mediating Variables

If disparities in the sustained or discipline rate for any of the independent variables are discovered, the next step in this methodology is to figure out whether some third variable directly impacts the relationship between the independent and dependent variables. As explained in the beginning of this document, a mediator variable may help reveal what pathways lead to a disparity. Mediating variables help explain the relationship between the independent and dependent variable and help understand how an effect takes place.

Step 1: Prepare Dataset

- A. The first step in this analysis is to limit the dataset to the independent variables of interest. For example, if a disparity was discovered between white and Hispanic officers, this current analysis would remove Black, Asian, and other/unknown officers. If disparities are discovered by gender or rank, all data would still need to be included since there are only two categories for each variable.

Step 2: Identify Mediating Variables

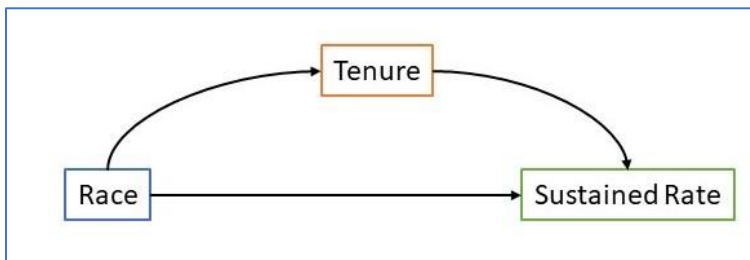
- A. Next, the mediating variables need to be identified. As appropriate, the Department will assess whether the current list of mediating variables is still relevant and whether additional variables need to be considered. Whether the data points already exist in Vision and whether it is feasible to add them will need to be considered. For the sustained rate, the following mediating variables have been identified:
 - Years of service (less than 5 years/5 years or more)
 - Number of allegations (1 allegation/more than one allegation)
 - Assignment type (patrol/other than patrol)For discipline, the following mediating variables have been identified:
 - Number of mitigating factors (2 or less/3 or more)
 - Number of aggravating factors (2 or less/3 or more)
 - Number of sustained allegations (1 allegation/more than one allegation)
 - Whether this is the first, second, etc. time the individual is being disciplined for the offense (first time/second time or more)
 - i. Currently this variable needs to be coded by hand. Future work could involve adding it into Vision.

Step 3: Mediation Analyses

- A. As with the analyses to determine whether a disparity exists in the first place, the mediation analyses will utilize a 2x2 chi-square to determine whether any of the mediating variables impact the relationship between the independent variable and the dependent variable. First, the 2x2

tables need to be created for each variable of interest. For example, using years of service for a disparity found between white and Black officers, two tables would be created. The first table would be the years of service breakdown for white and Black officers. The second table would include the years of service breakdown for the sustained rate.

Tenure as a Potential Mediator



For these variables, one could hypothesize that the disparity in the sustained rate between white and Black officers is not due to race but rather due to changes in recruitment which resulted in more Black officers being hired in recent years which would mean that a higher percentage of the complaints against Black officers would involve officers with less than five years of service. Officers with shorter tenure are less experienced and generally have more interaction with the public compared to officers with longer tenure, which may lead to more sustained complaints.

	Less than 5 Years of Service	5+ Years of Service
White	182	112
Black	85	54

	Less than 5 Years of Service	5+ Years of Service
Sustained	30	13
Other Than Sustained	237	153

B. Once all the necessary tables are created, the chi-square analysis can be conducted. The example below includes the chi-squares for the above years of service example. As you can see in the first table, percent of white officers and Black officers who received complaints and have less than five years of service is consistent. The chi-square analysis confirms there are no statistically significant differences since the *p* value is greater than 0.05.

Similarly, for the second table, most cases occur with officers with less than five years of experience. However, the sustained rate between officers with less than five years and officers with five years or more is similar and not statistically significant.

Since neither of the chi-square analyses identified a statistically significant difference, years of service does not impact the disparity in the sustained rate between white and Black officers. These analyses should be completed for all potential mediators.

	Less than 5 Years of Service		Greater than 5 Years of Service		Chi-Square Value	<i>p</i>
	Observed	Expected	Observed	Expected		
White	62% (182)	62% (181)	38% (112)	38% (113)	0.02	0.880
Black	61% (85)	62% (86)	39% (54)	38% (53)		

	Sustained		Other than Sustained		Chi-Square Value	p
	Observed	Expected	Observed	Expected		
Less than 5 Years of Service	11% (30)	10% (27)	89% (237)	90% (240)	1.33	0.249
Greater than 5 Years of Service	8% (13)	10% (16)	92% (153)	90% (150)		

- C. If none of the chi-square analyses show a statically significant difference, then the mediators do not impact the relationship between the independent and dependent variables. Further steps are needed and outlined in the next section.
- D. If the two chi-square analyses for a mediator are statistically significant, then it can be assumed the mediator has a direct impact on the relationship between the independent and dependent variables. When this occurs, additional review should be conducted to determine why this relationship occurred and if the relationship is problematic. For example, if there is a significant relationship between race and assignment and assignment and the sustained rate, further work should be done to determine why members of a certain race are more likely to be in a particular assignment.

If the Mediator does not Explain the Relationship Between the IV and DV

If the addition of mediating variables does not impact the statistical significance between the independent and dependent variable, the below steps should be taken to try to identify patterns in the data and to ensure cases came to an appropriate finding.

Sustained Case Review

Step 1: Sustained Cases per Subject

- A. It is not uncommon for subjects to have more than one sustained case during the review period. More review is required if an individual becomes an outlier with the number of sustained cases or if the number of people within a particular group that have multiple sustained cases is much higher than the comparison group. The example below from 2019 DLIs reveals that one Black officer had three sustained cases during the period. Given the low overall numbers, those three cases have a large impact on the sustained rate.
- B. If an outlier individual or group is identified, a qualitative review of their cases should be conducted.

Number of Officers with a Sustained DLI in 2019

	1 Case Sustained		2 Cases Sustained		3 Cases Sustained		Total
	%	n	%	n	%	n	n
White Officers	94%	17	6%	1	0%	0	18
Black Officers	71%	12	24%	4	6%	1	17

Step 2: Sustained Case Rate per Investigator

- A. It is important to identify if any one investigator is driving the sustained rate for a particular group. This analysis uses the sustained rate for each investigator for each race/gender/rank as that normalizes investigators that investigated significantly more cases than others.
- B. If one investigator has a much higher sustained rate for one group, additional review of their cases should be conducted to ensure they are reaching the correct findings.

Step 3: Discovered Allegations

- A. One of the findings from the review of 2019 DLIs was that Black officers had a higher rate of discovered violations than white officers. A discovered violation is an allegation that is added internally by an investigator during a complaint investigation. Discovered violations are more likely to be sustained since they are discovered by an investigator. For the 2019 analysis, this data point was collected manually by reviewing each case file. A box was added in Vision in the third quarter of 2022 that automates this process, however, any data analyzed prior to that period will need to be collected manually. Since this analysis involves allegations, a review will need to be conducted on the original data in case more than one violation was sustained and the sustained allegation that was discovered during the investigation was removed during the transition from the allegation level to the case level. Once this is completed, a discovered violation rate can be calculated. The chart below is an example of the discovered violation rate from 2019 DLIs.

Cases with Sustained Discovered Violations

	Yes		No		Total
	%	n	%	n	n
White Officers	16%	3	84%	16	19
Black Officers	26%	6	65%	15	23

- B. If a disparity in the rate of discovered violations is observed, further work should be done to identify whether any patterns in the specific allegations exist.
- C. If the allegations are eligible to be addressed via SNF, a review will need to be conducted on each employee's SNF history to determine if there was a pattern of that specific behavior which precluded them from receiving corrective training that could be documented in a SNF.

Step 4: In-Depth Sustained Case Review

- A. While the above analyses can generally be conducted by a review of the case and allegation spreadsheets, an in-depth review of each sustained case will be required to ensure the sustained finding was appropriate given the evidence in the case. For this analysis, the reviewer needs to have IAD investigative experience.
- B. During the review to determine if the sustained findings were appropriate, the reviewer should collect additional data points to determine the type of evidence used to sustain the allegations.
 - Did the officer admit to the violation?
 - Was there body camera evidence?
 - Was there other video evidence?
 - Where there OPD witnesses?
 - Were there non-OPD witnesses?

The review of this data from 2019 found that Black officers were more likely to admit to the violation and have body camera evidence support the finding. The table below presents the findings from this data.

2019 DLIs: Evidence in Each Sustained Case

	White Officers		Black Officers	
	Yes	No or N/A	Yes	No or N/A
Did the Officer Admit to the Violation?	42% (8)	58% (11)	57% (13)	43% (10)
Was there Body Camera Evidence?	63% (12)	37% (7)	83% (19)	17% (4)
Was there Other Video Evidence?	11% (2)	89% (17)	5% (1)	95% (22)
Were there OPD Witnesses?	53% (10)	47% (9)	52% (12)	48% (11)
Were there Non-OPD Witnesses?	5% (1)	95% (18)	17% (4)	83% (19)

- C. Based on the data collected, identify any patterns, and see if they help to explain any disparities. If patterns are found, determine whether it is feasible or logical to add the variable into Vision so the data is easily collected for all future cases.

Other than Sustained Case Review

In addition to the in-depth review of sustained cases, additional work should be conducted on cases that were not sustained. As opposed to qualitative research, this case review should be conducted to identify additional patterns and at a basic level to ensure officers of a certain race, gender, or rank are not being treated differently.

Step 1: Identify Cases

- A. The number of other than sustained cases to review can vary based on workload and the number of supervisors available to review cases. We suggest a minimum of 20 randomly selected cases. If the disparity occurred between white and Black officers, evenly split the selected cases between the two groups.
- B. Ensure the supervisor assigned to review each case was not involved in the incident or the internal investigation process.

Step 2: Review Cases

- A. OIA should provide reviewers with a data collection spreadsheet they can use to answer specific questions. Questions can vary based on areas of concern. For the 2019 DLI case review, the following questions were included on the spreadsheet and can be used as a starting point for future reviews.
- Was there a discovered violation for this officer in this case? (Y/N)
 - If there was a discovered violation, what was it for?
 - If there was a discovered violation, what was the outcome?
 - Was the complainant found to be credible? (Y/N)
 - BWC Based Finding? (Y/N)

- If NOT BWC, what was finding based on? (Witness Statement, Reports or Other Documents, Legal Argument) If YES, enter N/A
- Upon re-review of BWC and any other evidence, did you identify any additional MOR violations that were not previously considered? (Y/N)
 - If YES, what were they? (Please provide title of video, time within video, and perceived MOR.) If NO, put N/A
- Upon review of the DLI report, did you identify any unanswered questions, have any comments, or develop any concerns with the written investigation? (Y/N)
 - If YES, what are your questions, comments or concerns? (If NO, put N/A)
- Do you agree with the listed allegations in the investigative report? (Y/N)
 - If NO, please explain. (If yes, put N/A)
- Do you otherwise agree with the listed findings in the investigative report?
 - If NO, please explain. (If yes, put N/A.)

Step 3: Identify Patterns and any Concerns

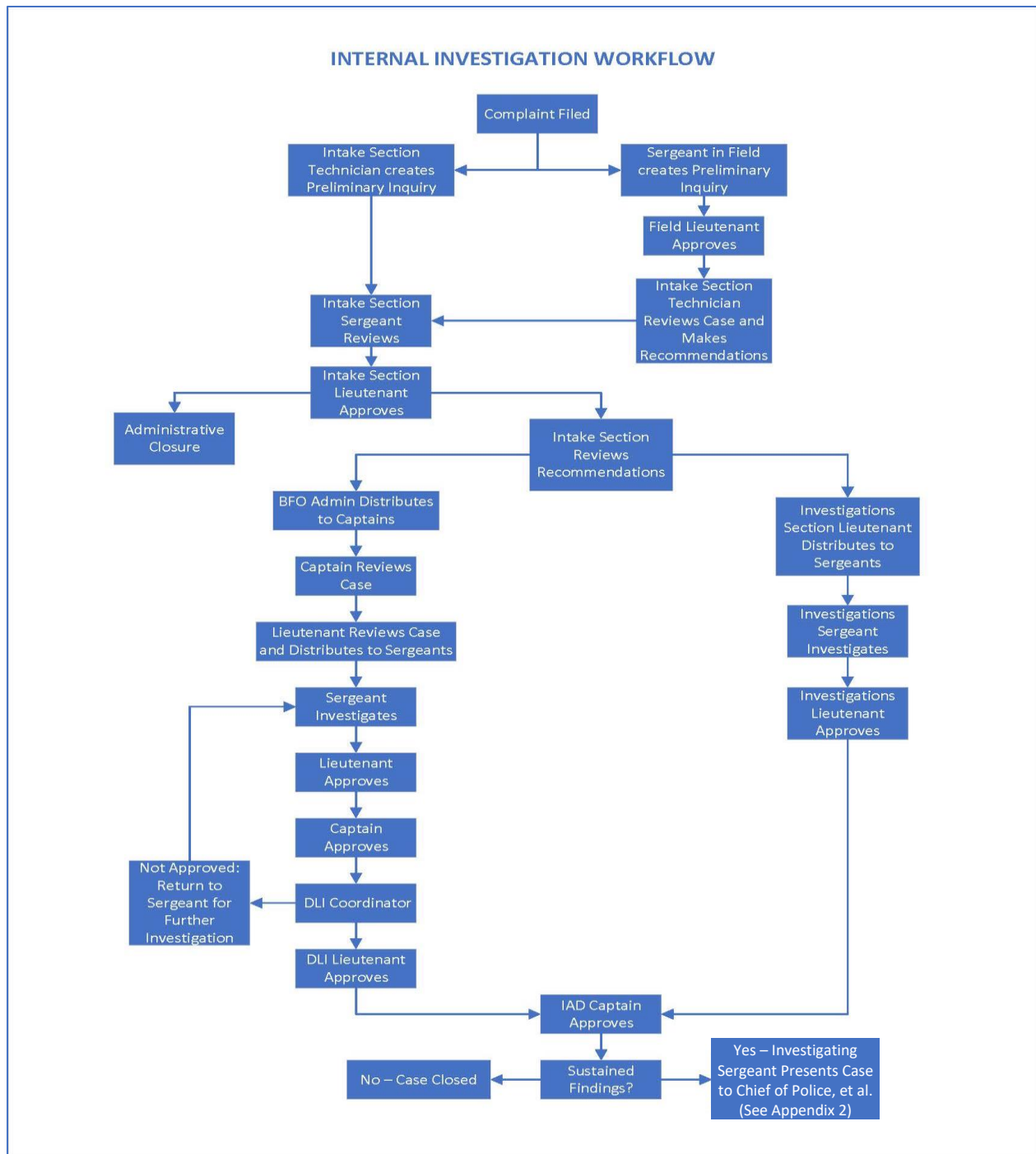
- A. Once the case review is complete, compile the data and identify any patterns or causes for concern. The case review will not determine why a disparity occurred, but it may reveal new datapoints that should be considered in the future. It also may identify areas of concern that can be addressed by the Department through policy change or clarification.

Annual Report

Based on the findings from all the analyses above, an annual report should be produced that details the review and the findings. As necessary, the report should include recommendations on how to improve data collection and steps the Department can take to reduce disparities. The report should be presented to the Executive Team.

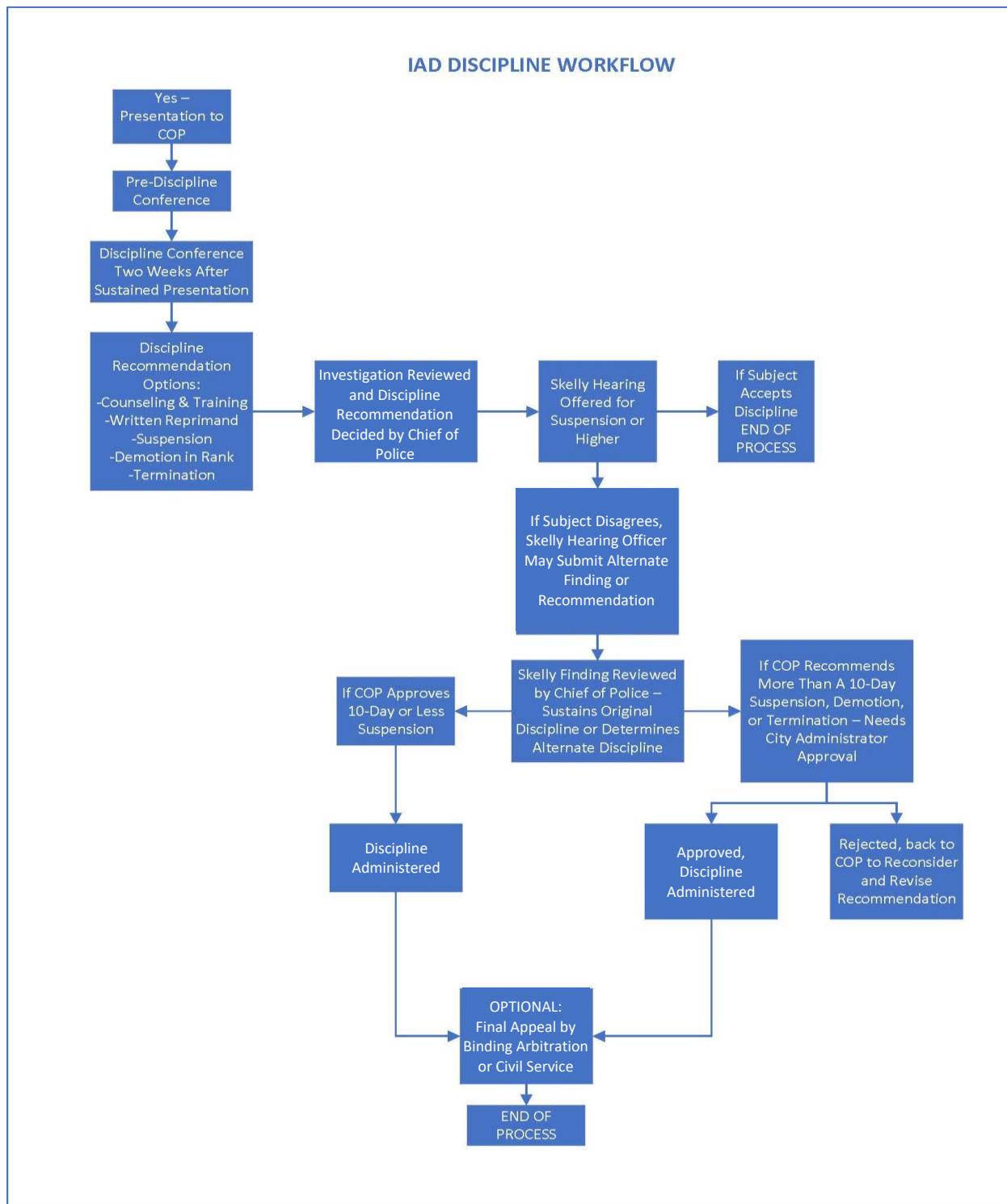
Appendix 1: Internal Investigation Workflow

The flowchart below details the investigative workflow when an allegation of misconduct is received. Complaints can be internally generated by OPD, can come to OPD from other City Departments, or can come from citizens. Citizens can file complaints in the field with a supervisor, over the phone by calling Communications or IA complaint hotline, through the Community Police Review Agency, by mail, or in person at several police buildings. Once an allegation is received, it follows the process below.



Appendix 2: Discipline Process Workflow

If an allegation against an employee is sustained, the below flowchart details the discipline workflow.





Weekly Crime Report — Citywide

09 Jan. – 15 Jan., 2023

Part 1 Crimes <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	76	305	295	193	-35%	264	-27%
Homicide – 187(a)PC	2	5	5	5	0%	5	0%
Homicide – All Other *	-	1	1	-	-100%	1	-100%
Subtotal - 187(a)PC + all other	2	6	6	5	-17%	6	-12%
Aggravated Assault	40	134	137	103	-25%	125	-17%
Assault with a firearm – 245(a)(2)PC	6	22	19	10	-47%	17	-41%
Subtotal - Homicides + Firearm Assault	8	28	25	15	-40%	23	-34%
Shooting occupied home or vehicle – 246PC	2	30	17	12	-29%	20	-39%
Shooting unoccupied home or vehicle – 247(b)PC	1	14	12	5	-58%	10	-52%
Non-firearm aggravated assaults	31	68	89	76	-15%	78	-2%
Rape	3	11	6	5	-17%	7	-32%
Robbery	31	155	147	80	-46%	127	-37%
Firearm	8	62	92	28	-70%	61	-54%
Knife	1	14	2	4	100%	7	-40%
Strong-arm	17	49	26	32	23%	36	-10%
Other dangerous weapon	-	6	1	-	-100%	2	-100%
Residential robbery – 212.5(a)PC	-	7	2	1	-50%	3	-70%
Carjacking – 215(a) PC	5	17	24	15	-38%	19	-20%
Burglary	44	274	481	156	-68%	304	-49%
Auto	16	214	378	95	-75%	229	-59%
Residential	8	38	59	17	-71%	38	-55%
Commercial	17	13	38	39	3%	30	30%
Other (Includes boats, aircraft, and so on)	2	5	5	2	-60%	4	-50%
Unknown	1	4	1	3	200%	3	13%
Motor Vehicle Theft	154	328	429	404	-6%	387	4%
Larceny	58	245	319	148	-54%	237	-38%
Arson	-	10	8	2	-75%	7	-70%
Total	332	1,163	1,533	903	-41%	1,200	-25%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (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.

* Justified, accidental, foetal, 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.



Weekly Gunfire Summary

09 Jan. – 15 Jan., 2023

Citywide <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	2	5	5	5	0%	5	0%
Homicide – All Other *	-	1	1	-	-100%	1	-100%
Subtotal - 187(a)PC + all other	2	6	6	5	-17%	6	-12%
Assault with a firearm – 245(a)(2)PC	6	22	19	10	-47%	17	-41%
Subtotal - 187 + 245(a)(2)	8	28	25	15	-40%	23	-34%
Shooting occupied home or vehicle – 246PC	2	30	17	12	-29%	20	-39%
Shooting unoccupied home or vehicle – 247(b)PC	1	14	12	5	-58%	10	-52%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	11	72	54	32	-41%	53	-39%
Negligent discharge of a firearm – 246.3PC	21	81	87	58	-33%	75	-23%
Grand Total	32	153	141	90	-36%	128	-30%

Area 1 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	1	1	3	2	-33%	2	0%
Homicide – All Other *	-	-	1	-	-100%	0	-100%
Subtotal - 187(a)PC + all other	1	1	4	2	-50%	2	-14%
Assault with a firearm – 245(a)(2)PC	-	3	4	-	-100%	2	-100%
Subtotal - 187 + 245(a)(2)	1	4	8	2	-75%	5	-57%
Shooting occupied home or vehicle – 246PC	1	5	3	2	-33%	3	-40%
Shooting unoccupied home or vehicle – 247(b)PC	-	2	2	-	-100%	1	-100%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	2	11	13	4	-69%	9	-57%
Negligent discharge of a firearm – 246.3PC	2	2	5	2	-60%	3	-33%
Grand Total	4	13	18	6	-67%	12	-51%

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* Justified, accidental, foetal, or manslaughter by negligence. Traffic collision fatalities are not included in this report.
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 All data extracted via Coplink Analytics.



Weekly Gunfire Summary

09 Jan. – 15 Jan., 2023

Area 2 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	-	-	-	PNC	-	PNC
Homicide – All Other *	-	-	-	-	PNC	-	PNC
Subtotal - 187(a)PC + all other	-	-	-	-	PNC	-	PNC
Assault with a firearm – 245(a)(2)PC	1	2	3	1	-67%	2	-50%
Subtotal - 187 + 245(a)(2)	1	2	3	1	-67%	2	-50%
Shooting occupied home or vehicle – 246PC	-	-	-	-	PNC	-	PNC
Shooting unoccupied home or vehicle – 247(b)PC	-	-	-	-	PNC	-	PNC
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	1	2	3	1	-67%	2	-50%
Negligent discharge of a firearm – 246.3PC	-	2	2	3	50%	2	29%
Grand Total	1	4	5	4	-20%	4	-8%

Area 3 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	2	-	-	PNC	1	-100%
Homicide – All Other *	-	-	-	-	PNC	-	PNC
Subtotal - 187(a)PC + all other	-	2	-	-	PNC	1	-100%
Assault with a firearm – 245(a)(2)PC	-	2	2	-	-100%	1	-100%
Subtotal - 187 + 245(a)(2)	-	4	2	-	-100%	2	-100%
Shooting occupied home or vehicle – 246PC	-	3	2	1	-50%	2	-50%
Shooting unoccupied home or vehicle – 247(b)PC	-	-	1	1	0%	1	50%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	-	7	5	2	-60%	5	-57%
Negligent discharge of a firearm – 246.3PC	4	4	12	7	-42%	8	-9%
Grand Total	4	11	17	9	-47%	12	-27%

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.](#)
All data extracted via Coplink Analytics.



Weekly Gunfire Summary

09 Jan. – 15 Jan., 2023

Area 4 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	1	2	-	-100%	1	-100%
Homicide – All Other *	-	-	-	-	PNC	-	PNC
Subtotal - 187(a)PC + all other	-	1	2	-	-100%	1	-100%
Assault with a firearm – 245(a)(2)PC	1	3	2	1	-50%	2	-50%
Subtotal - 187 + 245(a)(2)	1	4	4	1	-75%	3	-67%
Shooting occupied home or vehicle – 246PC	1	8	6	3	-50%	6	-47%
Shooting unoccupied home or vehicle – 247(b)PC	-	1	2	1	-50%	1	-25%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	2	13	12	5	-58%	10	-50%
Negligent discharge of a firearm – 246.3PC	5	13	15	15	0%	14	5%
Grand Total	7	26	27	20	-26%	24	-18%

Area 5 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	-	-	2	PNC	1	200%
Homicide – All Other *	-	-	-	-	PNC	-	PNC
Subtotal - 187(a)PC + all other	-	-	-	2	PNC	1	200%
Assault with a firearm – 245(a)(2)PC	2	6	1	3	200%	3	-10%
Subtotal - 187 + 245(a)(2)	2	6	1	5	400%	4	25%
Shooting occupied home or vehicle – 246PC	-	7	3	4	33%	5	-14%
Shooting unoccupied home or vehicle – 247(b)PC	-	8	5	2	-60%	5	-60%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	2	21	9	11	22%	14	-20%
Negligent discharge of a firearm – 246.3PC	4	31	25	13	-48%	23	-43%
Grand Total	6	52	34	24	-29%	37	-35%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (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 unbounding of crimes. Because crime reporting and data entry can run behind, all crimes may not be recorded.

* Justified, accidental, foetal, 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.



Weekly Gunfire Summary

09 Jan. – 15 Jan., 2023

Area 6 <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Homicide – 187(a)PC	1	1	-	1	PNC	1	50%
Homicide – All Other *	-	1	-	-	PNC	0	-100%
Subtotal - 187(a)PC + all other	1	2	-	1	PNC	1	0%
Assault with a firearm – 245(a)(2)PC	1	6	7	3	-57%	5	-44%
Subtotal - 187 + 245(a)(2)	2	8	7	4	-43%	6	-37%
Shooting occupied home or vehicle – 246PC	-	7	3	2	-33%	4	-50%
Shooting unoccupied home or vehicle – 247(b)PC	1	3	2	1	-50%	2	-50%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	3	18	12	7	-42%	12	-43%
Negligent discharge of a firearm – 246.3PC	6	27	27	18	-33%	24	-25%
Grand Total	9	45	39	25	-36%	36	-31%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (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.

* Justified, accidental, foetal, 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.



2023 Year-to-Date Recovered Guns

Recoveries through 15 Jan., 2023

Grand Total	55
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Crime Recoveries	
Felony	41
Felony - Violent	9
Homicide	2
Infraction	0
Misdemeanor	0
Total	52

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun						0
Other	3					3
Pistol	25	9	2			36
Revolver	3					3
Rifle	9					9
Sawed Off						0
Shotgun	1					1
Sub-Machinegun						0
Unknown/Unstated						0
Total	41	9	2	0	0	52

Non-Criminal Recoveries	
Death Investigation	0
Found Property	2
SafeKeeping	1
Total	3

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun				0
Other				0
Pistol		1		1
Revolver				0
Rifle		1		1
Sawed Off				0
Shotgun				0
Sub-Machinegun				0
Unknown/Unstated			1	1
Total	0	2	1	3



2023 vs. 2022 — Year-to-Date Recovered Guns

Recoveries through 15 Jan.

Gun Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Grand Total	71	55	-16	-23%

Crime Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Felony	42	41	-1	-2%
Felony - Violent	14	9	-5	-36%
Homicide	1	2	1	100%
Infraction	0	0	0	PNC
Misdemeanor	0	0	0	PNC
Total	57	52	-5	-9%

Non-Criminal Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Death Investigation	0	0	0	PNC
Found Property	11	2	-9	-82%
SafeKeeping	3	1	-2	-67%
Total	14	3	-11	-79%

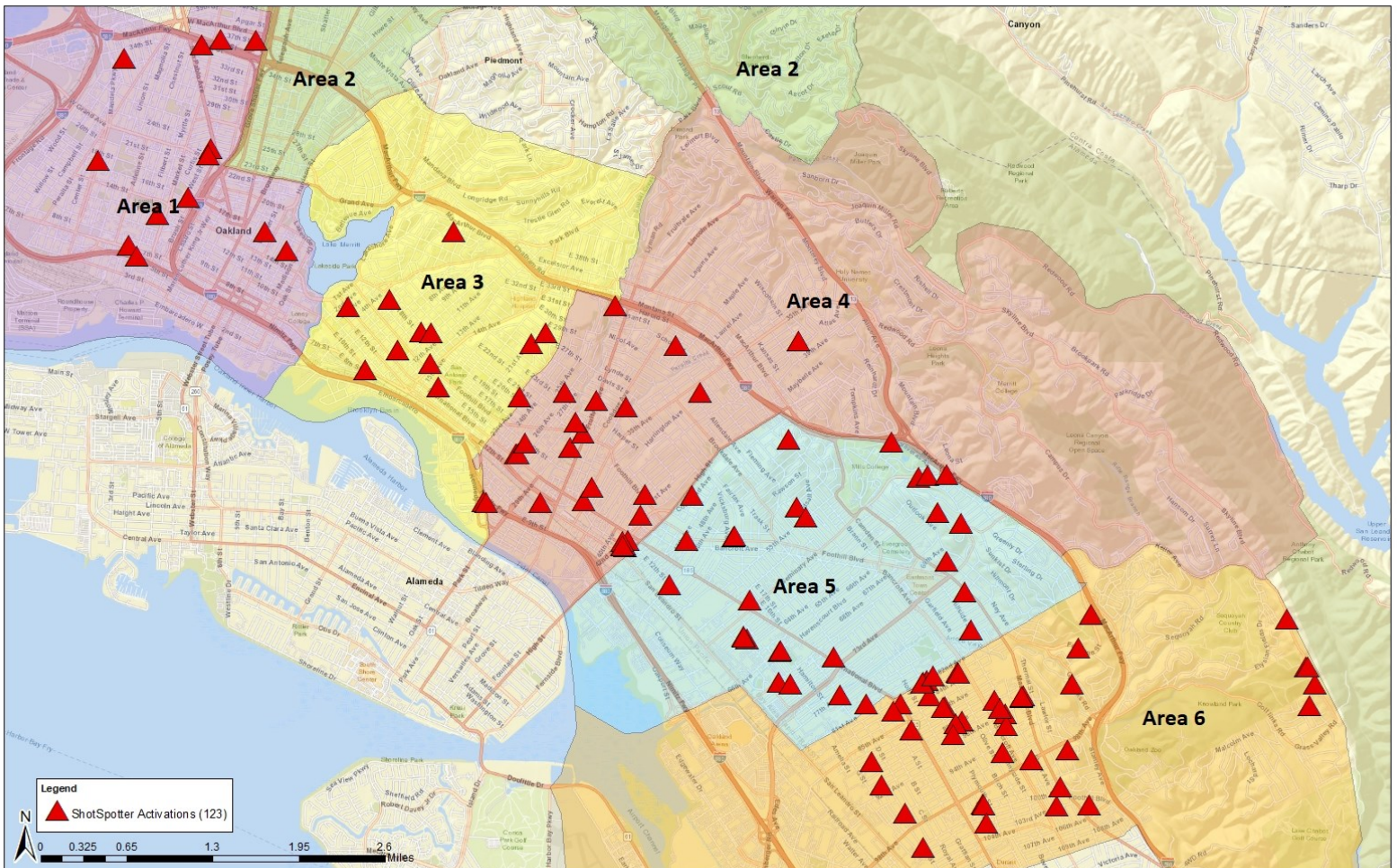
PNC = Percentage not calculated
[Percentage cannot be calculated.](#)



Weekly ShotSpotter Activations Report — Citywide

09 Jan. – 15 Jan., 2023

ShotSpotter Activations	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Citywide	123	348	418	406	-3%	391	4%
Area 1	13	24	42	21	-50%	29	-28%
Area 2	0	11	7	10	43%	9	7%
Area 3	12	35	41	35	-15%	37	-5%
Area 4	27	56	75	64	-15%	65	-2%
Area 5	27	110	121	121	0%	117	3%
Area 6	44	112	132	155	17%	133	17%



All data sourced via ShotSpotter Insight.



For Immediate Release January 11, 2023
OPD NEWS:

OPD Patrol Makes Arrest and Recovers Nearly Two Dozen Ghost Guns



The Oakland Police Department (OPD) is investigating a negligent discharge of a firearm that occurred on January 10, 2023, just before 7:45 PM, in the 3000 block of Broadmoor View. Patrol officers were dispatched to the area to investigate reports of multiple gunshots. As units arrived on scene, the gunshots continued.

During a systematic search of the area, officers observed an individual wearing body armor exiting a residence in the 3000 block of Broadmoor View. Officers discovered a bullet casing in the driveway of the residence and detained the individual pending further investigation.

Officers conducted a methodical search of the home to ensure there were no victims or individuals inside. Fortunately, officers did not locate any victims or nearby residences struck by gunfire.

However, multiple firearms were observed in plain view, including two assault rifles and dozens of bullet casings.

Patrol officers authored a search warrant for the recovery of the firearms. Due to their diligence, and as a direct result of their meticulous investigation, a minimum of 20 privately made assault rifles and handguns, otherwise known as “ghost guns”, were recovered from within the residence, along with items used to manufacture the ghost guns. Also, nearly 20 magazines, multiple tasers, and a 3D printer with accessories were recovered.

The individual detained was arrested for various firearm-related charges, as well as for the negligent discharge of a firearm.

OPD would like to thank our community members who have reported hearing gunfire in the area over the last few weeks. This information is beneficial to the investigation.

Last year, OPD recovered nearly 1400 firearms, of which, nearly 25% were ghost guns.



Monthly Risk Analysis Report – Citywide

Through December 31, 2022

	Jun '22- Nov '22 Avg	Dec 2022	% Change	YTD 2021	YTD 2022	% Change
Stops						
Total Stops	1,222.5	1,882	+54%	14,461	15,007	+4%
Dispatch Stops	601.7	590	-2%	8,319	7,370	-11%
Non-Dispatch Stops	620.8	1,292	+108%	6,142	7,637	+24%
Non-Dispatch % Intel Led	43% (266.2)	15% (195)	-28%	42% (2,607)	41% (3,123)	-1%
Non-Dispatch % Non Intel-Led	57% (354.7)	85% (1,097)	+28%	58% (3,535)	59% (4,514)	+1%
% Non-Intel Led African American	39% (137.2)	37% (403)	-2%	43% (1,536)	41% (1,832)	-2%
% Non-Intel Led Hispanic	38% (135.7)	37% (404)	-1%	34% (1,187)	37% (1,669)	+3%
% Non-Intel Led White	10% (37.0)	9% (98)	-1%	10% (348)	9% (420)	-1%
% Non-Intel Led Asian	7% (26.3)	10% (110)	+3%	8% (277)	8% (347)	0%
% Non-Intel Led Other/Unknown	5% (18.5)	7% (82)	+2%	5% (187)	5% (246)	0%
% Non-Intel Led Traffic Stops	89% (314.8)	97% (1,066)	+8%	81% (2,870)	88% (3,970)	+7%
Use of Force (all force by every officer and every subject)						
Level 1	0.0	0	0%	7	2	-71%
Level 2	1.5	1	-33%	16	11	-31%
Level 3	3.0	1	-67%	57	38	-33%
Level 4 (Excluding Type 32)	150.3	142	-6%	1,617	1,732	+7%
Total	154.8	144	-7%	1,697	1783	+5%
L4 Type 32s (Reporting began June 4, 2022)		302			2,275	
% African American (each subj counted once)	60% (108.2)	56% (92)	-4%	65% (605)	60% (988)	-5%
% Hispanic (each subj counted once)	24% (43.3)	23% (38)	-1%	22% (205)	24% (400)	+2%
% White (each subj counted once)	9% (16.0)	13% (22)	+4%	7% (65)	9% (142)	+2%
% Asian (each subj counted once)	3% (5.0)	3% (5)	0%	2% (19)	3% (48)	+1%
% Other/Unknown (each subj counted once)	4% (6.5)	4% (7)	0%	3% (31)	4% (61)	+1%
Officer Involved Shootings						
# of Incidents	0	0	0%	4	1	-75%
# of Officers that Discharged Their Firearm	0	0	0%	6	1	-83%
Canine Deployment						
Actual Deployments	3.3	0	-100%	59	40	-32%
Bites	0.3	0	-100%	2	2	0%
Complaints (by complaint date)						
Service Complaint Allegations	91.0	52	-43%	772	939	+22%
Total Allegations	385.5	268	-30%	3,734	4,311	+15%
Total Cases	76.2	73	-4%	807	879	+9%
Pursuits						
# of Incidents	11.7	5	-57%	93	130	+40%
# Units Involved		6		146	226	+55%
Ave # of Units per Pursuit	1.9	1.5	-21%	1.6	1.8	+13%
Collisions						
# of Incidents w/ Sworn Employees	11.3	9	-20%	111	112	+1%
# of Incidents w/ Civilian Employees	0.7	0	-100%	8	6	-25%



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
December 2022 Completed Investigations

Page 1 of 4
 (Total Completed = 10)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
ED	20-1406	11/3/2020	12/30/2022	2/6/2023	Subject 1	Use of Physical Force - Level 1	Exonerated
					Subject 2	Use of Physical Force - Level 3	Exonerated
CJ	21-1140	9/26/2021	12/28/2022	5/18/2023	Subject 1	Performance of Duty - General	Exonerated
					Subject 2	Supervisors - Authority and Responsibilities	Exonerated
					Subject 3	Performance of Duty - General	Exonerated
					Subject 4	Performance of Duty - General	Exonerated
					Subject 5	Commanding Officers - Authority and Responsibilities	Exonerated
MM	21-1569	4/5/2021	12/15/2022	12/26/2022 2	Subject 1	Performance of Duty - Care of Property	Unfounded
						Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	Exonerated
					Subject 2	Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	Exonerated
					Subject 2	Performance of Duty - Care of Property	Unfounded
					Subject 3	Supervisors - Authority and Responsibilities	Unfounded
						Failure to Accept or Refer a Complaint (Unintentional)	Sustained
						Performance of Duty - Care of Property	Unfounded
						Performance of Duty - Unintentional/Improper Search, Seizure, or Arrest	Exonerated
	Performance of Duty - Intentional, Search, Seizure, or Arrest	Unfounded					



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
December 2022 Completed Investigations

Page 2 of 4
 (Total Completed = 10)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
JS	22-0001	1/1/2022	12/16/2022	1/1/2023	Subject 1	Failure to Accept or Refer a Complaint (Unintentional)	Unfounded
						Use of Physical Force - Level 4, Type 32	Unfounded
						Use of Physical Force - Level 4, Type 32	Unfounded
					Subject 2	Use of Physical Force - Level 4, Type 32	Unfounded
						Subject 3	Use of Physical Force - Level 4, Type 32
					Subject 4	Use of Physical Force - Level 4, Type 32	Unfounded
						Subject 5	Use of Physical Force - Level 4, Type 32
					Subject 6	Use of Physical Force - Level 4, Type 32	Exonerated
						Subject 7	Use of Physical Force - Level 4, Type 32
					Subject 8		Performance of Duty - Intentional, Search, Seizure, or Arrest
Use of Physical Force - Level 4, Type 32	Unfounded						
MM	22-0018	1/8/2022	12/20/2022	1/7/2023	Subject 1	Use of Physical Force - Any	Unfounded
						Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
						Use of Physical Force - Any	Unfounded
					Subject 3	Use of Physical Force - Any	Unfounded
						Conduct Toward Others - Harassment and Discrimination / Race	Unfounded



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
December 2022 Completed Investigations

Page 3 of 4
 (Total Completed = 10)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
					Subject 4	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
						Use of Physical Force - Any	Unfounded
JS	22-0139	2/10/2022	12/29/2022	2/9/2023	Subject 1	Use of Physical Force – Level 3	Exonerated
						Use of Physical Force - Level 4	Unfounded
						Use of Physical Force - Level 4	Exonerated
						Use of Physical Force - Level 3	Exonerated
AL	22-0228	3/4/2022	12/22/2022	3/3/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / General	Unfounded
					Subject 2	Conduct Toward Others - Harassment and Discrimination / General	Unfounded
					Subject 3	Conduct Toward Others - Harassment and Discrimination / General	Unfounded
AL	22-0230	3/5/2022	12/30/2022	3/4/2023	Subject 1	Use of Physical Force Level 3	Unfounded
						Performance of Duty - General	Exonerated
					Subject 2	Performance of Duty - General	Exonerated
						Use of Physical Force - Level 3	Unfounded
					Subject 3	Use of Physical Force - Level 3	Unfounded
						Performance of Duty - General	Exonerated
					Subject 4	Use of Physical Force Level 3	Unfounded
					Subject 5	Use of Physical Force Level 3	Unfounded
						Performance of Duty - General	Exonerated



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
December 2022 Completed Investigations

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 (Total Completed = 10)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
AL	22-0532	5/8/2022	12/28/2022	5/7/2023	Subject 1	Use of Physical Force - Level 4	Unfounded
					Subject 2	Use of Physical Force - Level 4	Unfounded
AL	22-0741	6/15/2022	12/9/2022	6/14/2023	Subject 1	Use of Physical Force - Level 1-4	Not Sustained
						Performance of Duty - General	Not Sustained
						Conduct Toward Others - Demeanor	Not Sustained
						Peace Officer Status	Not Sustained
						Performance of Duty - General	Not Sustained

Definitions:

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

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

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

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

Not Mandated: The allegation was not one that CPRA is mandated to investigate under the Charter.

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

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



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Attachment 8
Page 1 of 6
 (Total Pending = 155)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
21-0993	08/25/2021	08/25/2021	08/25/2021	Investigator	MM	02/27/2022	Tolled	Use of Force	1	3	6	Use of Force, Performance of Duty, Supervision
21-1114	09/22/2021	09/22/2021	09/22/2021	Investigator	JS	03/22/2022	Tolled	Use of Force	1	3	3	Use of Force
21-1410	11/20/2021	11/20/2021	11/20/2021	Investigator	AL	05/19/2022	Tolled	Use of Force	1	14	17	Use of Force
21-1558	12/24/2021	12/28/2021	12/24/2021	Investigator	ED	06/22/2022	Tolled	Use of Force	1	1	4	Use of Force, Miranda, Performance of Duty
22-0622	05/25/2022	05/25/2022	05/25/2022	Investigator	MM	11/21/2022	Tolled	Use of Force	1	1	1	Use of Force
22-1379	10/17/2022	10/17/2022	10/17/2022	Investigator	MM	04/15/2023	Tolled	Use of Force	1	1	1	Use of Force
22-0040	01/15/2022	01/18/2021	01/15/2022	Investigator	AL	07/14/2022	01/14/2023	Use of Force	1	1	1	Use of Force
22-0145	02/12/2022	02/15/2022	02/12/2022	Investigator	JS	08/11/2022	02/11/2023	Use of Force Discrimination	1	4	11	Use of Force, Performance of Duty, Demeanor, Harassment/Discrimination
22-0155	02/15/2022	02/17/2022	02/16/2022	Investigator	JS	08/15/2022	02/16/2023	Use of Force	1	5	6	Use of Force, Unlawful Search, Performance of Duty
22-0203	02/28/2022	03/02/2022	02/28/2022	Investigator	JS	08/27/2022	02/27/2023	Obedience to Laws	1	2	3	Obedience to Laws, Performance of Duty
22-0212	03/02/2022	03/04/2022	03/02/2022	Investigator	AL	08/29/2022	03/01/2023	In-Custody Death	1	12	12	Performance of Duty, Supervisors Authorities and Responsibilities, General Conduct
21-0238	03/02/2021	03/02/2021	03/02/2021	Investigator	ED	08/29/2021	03/02/2023	Use of Force	1	4	4	Use of Force, Supervisors Authorities and Responsibilities
22-0225	03/05/2022	03/10/2022	03/05/2022	Investigator	ED	09/01/2022	03/04/2023	Use of Force	1	2	6	Use of Force; Performance of Duty
22-0227	03/02/2022	03/10/2022	03/05/2022	Investigator	JS	09/01/2022	03/04/2023	Use of Force	1	7	7	Use of Force
22-0247	03/04/2022	03/07/2022	03/07/2022	Investigator	JS	09/03/2022	03/07/2023	Use of Force Custody of Prisoners	1	4	6	Use of Force, Custody of Prisoners
22-0241	03/07/2022	03/10/2022	03/09/2022	Investigator	AL	09/05/2022	03/08/2023	Use of Force	1	1	3	Unlawful Arrest, Unlawful Search, Use of Force
22-0248	03/10/2022	03/15/2022	03/10/2022	Investigator	JS	09/06/2022	03/09/2023	Use of Force	1	3	6	Use of Force
22-0267	03/11/2022	03/15/2022	03/11/2022	Investigator	ED	09/07/2022	03/10/2023	Use of Force	1	1	1	Use of Force
22-0261	03/12/2022	03/15/2022	03/12/2022	Investigator	MM	09/08/2022	03/11/2023	Truthfulness	1	3	2	Demeanor, Truthfulness
22-0258	03/13/2022	03/15/2022	03/13/2022	Investigator	JS	09/09/2022	03/12/2023	Use of Force	1	1	1	Use of Force
22-0288	02/26/2022	03/22/2022	03/18/2022	Investigator	ED	09/14/2022	03/17/2023	Discrimination	1	1	3	Discrimination; False Arrest
22-0290	03/18/2022	03/22/2022	03/18/2022	Investigator	MM	09/14/2022	03/17/2023	Racial Profiling	1	2	6	Racial Profiling, False Arrest
22-0449	11/16/2010	04/21/2022	03/20/2022	Investigator	ED	10/17/2022	03/19/2023	Use of Force	1	1	1	Use of Force
22-0335	03/26/2022	03/30/2022	03/26/2022	Investigator	JS	09/22/2022	03/25/2023	Discrimination	1	1	1	Discrimination, Demeanor
22-0395	04/10/2022	04/12/2022	04/10/2022	Investigator	MM	10/07/2022	04/09/2023	Use of Force	1	2	4	Conduct/Demeanor, Use of Force
22-0403	04/12/2022	04/14/2022	04/12/2022	Investigator	MM	10/09/2022	04/12/2023	Use of Force	1	1	1	Use of Force
22-0409	04/13/2022	04/15/2022	04/13/2022	Investigator	JS	10/10/2022	04/13/2023	Use of Force Discrimination	1	1	6	Discrimination, Use of Force, Improper Arrest, Custody of Prisoners, Demeanor, Performance of Duty
22-0428	04/16/2022	04/19/2022	04/16/2022	Investigator	JS	10/13/2022	04/16/2023	Truthfulness Use of Force	1	2	2	Truthfulness, Use of Force
22-0464	04/21/2022	04/27/2022	04/22/2022	Investigator	MM	10/19/2022	04/21/2023	Racial Discrimination	1	3	3	Racial Profiling, False Arrest

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Police Commission Regular Meeting 1.26.23
 Oakland City Charter Section 804 (Measure L). "Other" indicates the case does not include any such allegations.
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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-0477	04/24/2022	04/27/2022	04/24/2022	Investigator	AL/CES	10/21/2022	04/23/2023	Racial Discrimination	1	2	2	Racial Discrimination
22-0494	04/28/2022	05/03/2022	04/28/2022	Investigator	MM	10/25/2022	04/27/2023	Use of Force	1	1	1	Use of Force
22-0528	05/05/2022	05/10/2022	05/05/2022	Investigator	MM	11/01/2022	05/04/2023	Use of Force	1	2	1	Use of Force
22-0563	05/13/2022	05/18/2022	05/13/2022	Investigator	JS	11/09/2022	05/12/2023	Use of Force Discrimination	1	2	4	Use of Force, Demeanor, Discrimination, Performance of Duty
22-0569	05/13/2022	05/18/2022	05/13/2022	Investigator	JS	11/09/2022	05/12/2023	Discrimination	1	2	5	Use of Force, Discrimination, Demeanor, Improper Seizure, Performance of Duty
22-0575	05/16/2022	05/18/2022	05/16/2022	Investigator	JS	11/12/2022	05/15/2023	Use of Force, Discrimination Truthfulness	1	1	3	Use of Force, Discrimination, Truthfulness
22-0576	05/16/2022	05/18/2022	05/16/2022	Investigator	AL	11/12/2022	05/15/2023	Truthfulness	1	1	1	Performance of Duty - general
22-0617	05/18/2022	05/20/2022	05/24/2022	Investigator	JS	11/13/2022	05/17/2023	Use of Force	1	9	25	Use of Force, Demeanor, Improper Detention, Performance of Duty
21-1140	09/26/2021	09/26/2021	09/26/2021	Investigator	ED	03/25/2022	05/18/2023	Other	2	5	5	Performance of Duty, Supervisors Authority and Responsibilities
22-1193	09/11/2022	09/16/2022	09/11/2022	Investigator	MM	03/10/2023	05/19/2023	Discrimination	1	1	2	Discrimination, Performance of Duty
22-0597	05/22/2022	05/24/2022	05/22/2022	Investigator	MM	11/18/2022	05/23/2023	Racial Discrimination Use of Force	1	1	2	Racial Discrimination; Use of Force
22-0618	05/24/2022	05/25/2022	05/24/2022	Investigator	AL	11/20/2022	05/23/2023	Racial Discrimination	1	1	2	Racial Discrimination Performance of Duty - false arrest
22-0626	05/25/2022	05/26/2022	05/25/2022	Investigator	ED	11/21/2022	05/24/2023	Racial Discrimination Use of Force	1	2	3	Racial Discrimination Use of Force
22-0630	05/26/2022	05/31/2022	05/26/2022	Investigator	MM	11/22/2022	05/25/2023	Use of Force	1	1	1	Use of Force
22-0635	05/26/2022	05/31/2022	05/26/2022	Investigator	MM	11/22/2022	05/25/2023	Use of Force	1	9	9	Use of Force
22-0638	05/28/2022	06/02/2022	05/28/2022	Investigator	ED	11/24/2022	05/27/2023	Racial Discrimination	1	1	3	Racial Discrimination Demeanor
22-0661	06/01/2022	06/07/2022	06/01/2022	Investigator	MM	11/28/2022	05/31/2023	Use of Force	1	4	5	Use of Force
22-0670	06/02/2022	06/07/2022	06/03/2022	Investigator	AL	11/30/2022	06/02/2023	Use of Force	1	1	2	Use of Force Performance of Duty
22-0667	06/02/2022	06/07/2022	06/03/2022	Investigator	JS	11/30/2022	06/03/2023	Racial Discrimination	1	3	12	Racial Discrimination; Demeanor
22-0729	06/12/2022	06/14/2022	06/12/2022	Investigator	ED	12/09/2022	06/11/2023	Use of Force	1	2	2	Use of Force
22-0728	06/11/2022	06/14/2022	06/12/2022	Investigator	JS	12/09/2022	06/12/2023	Use of Force	1	1	1	Use of Force
22-0744	06/14/2022	06/21/2022	06/14/2022	Investigator	MM	12/11/2022	06/13/2023	Use of Force	1	1	2	Unlawful Detention Use of Force
22-0740	06/15/2022	06/16/2022	06/15/2022	Investigator	JS	12/12/2022	06/14/2023	Use of Force	1	1	3	Use of Force, Demeanor No MOR Violation
22-0753	10/17/2021	06/21/2022	06/17/2022	Investigator	ED	12/14/2022	06/16/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-0783	06/22/2022	06/28/2022	06/22/2022	Investigator	JS	12/19/2022	06/21/2023	Use of Force	1	1	2	Use of Force
22-0800	06/25/2022	06/28/2022	06/25/2022	Investigator	ED	12/22/2022	06/24/2023	Racial Discrimination	1	1	1	Racial Discrimination

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Attachment 8
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 (Total Pending = 155)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-0796	06/26/2022	06/26/2022	06/26/2022	Investigator	ED	12/23/2022	06/25/2023	In-Custody Death; Truthfulness	1	2	23	Unauthorized pursuit; Truthfulness; Obedience to Laws; Reports and Bookings; Compromising Criminal Cases; Interfering with Investigations; Reporting Violations; General Conduct; Performance of Duty; BWC
22-0810	06/27/2022	06/29/2022	06/27/2022	Investigator	JS	12/24/2022	06/26/2023	Use of Force	1	5	5	Use of Force
22-0828	06/15/2022	07/01/2022	07/06/2022	Investigator	AL	12/28/2022	06/30/2023	Use of Force Discrimination	1	1	6	Use of Force; Discrimination; Performance of duty-false arrest; Demeanor
22-0835	07/01/2022	07/06/2022	07/01/2022	Investigator	AL	12/28/2022	07/01/2023	Racial Discrimination Use of Force	1	2	4	Racial Discrimination Use of Force
22-0836	07/02/2022	07/06/2022	07/02/2022	Investigator	AL/CES	12/29/2022	07/01/2023	Discrimination	1	2	3	Discrimination/Performance of Duty/Demeanor
22-0839	07/05/2022	07/06/2022	07/05/2022	Investigator	ED	01/01/2023	07/04/2023	Use of Force	1	1	5	Use of Force, Service, Demeanor
22-0850	07/05/2022	07/07/2022	07/06/2022	Investigator	AL	01/02/2023	07/05/2023	Use of Force	1	1	1	Use of Force
22-0864	07/04/2022	07/12/2022	07/06/2022	Investigator	MM	01/02/2023	07/05/2023	Discrimination	1	1	2	Discrimination, Performance of Duty
22-0877	07/08/2022	07/12/2022	07/08/2022	Intake	KC	01/04/2023	07/08/2023	Discrimination	1	1	2	Discrimination
22-0871	07/09/2022	07/12/2022	07/11/2022	Investigator	MM	01/05/2023	07/09/2023	Use of Force	1	2	2	Use of Force
22-0872	05/31/2022	07/18/2022	07/09/2022	Investigator	JS	01/05/2023	07/09/2023	Discrimination	1	1	2	Discrimination, Unlawful detention
22-0884	07/11/2022	07/13/2022	07/12/2022	Investigator	MM	01/08/2023	07/11/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-0893	07/14/2022	07/19/2022	07/14/2022	Investigator	AL	01/10/2023	07/14/2023	Discrimination	1	1	2	Discrimination
22-0904	7/15/2022	07/19/2022	07/15/2022	Investigator	CJ	01/11/2023	07/15/2023	Harassment (Gender)	1	1	5	Harassment, Performance of duty, Demeanor, service complaint
22-0912	07/18/2022	07/20/2022	07/18/2022	Investigator	CJ	01/14/2023	07/17/2023	Use of Force, Racial Discrimination, Truthfulness	1	1	5	Use of Force, Racial Discrimination, Truthfulness, Unlawful Detention
22-0919	07/11/2022	07/20/2022	07/19/2022	Investigator	JS	01/15/2023	07/18/2023	Discrimination	1	1	4	Demeanor, Performance of Duty, Discrimination, Retaliation
22-0945	06/10/2022	07/27/2022	07/26/2022	investigator	AL	01/22/2023	07/25/2023	Discrimination	1	2	2	Discrimination/ Performance of Duty
22-0977	07/07/2021	07/26/2022	07/26/2022	Investigator	JS	01/22/2023	07/25/2023	Use of Force	1	1	5	Use of Force, Performance of Duty
22-0984	04/14/2022	07/28/2022	07/28/2022	Investigator	MM	01/24/2023	07/27/2023	Harassment, Truthfulness	1	2	5	Retaliation, Harassment, Reports, Service, Truthfulness
22-0299	03/20/2022	07/29/2022	07/29/2022	Investigator	CJ	01/25/2023	07/28/2023	Harassment	1	1	2	Harassment, Obedience to Laws
22-1025	07/21/2022	08/10/2022	07/29/2022	Investigator	ED	01/25/2023	07/28/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-0974	07/30/2022	08/01/2022	07/30/2022	Investigator	MM	01/26/2023	07/29/2023	Use of Force	1	2	8	Use of Force, Performance of Duty, Demeanor
22-0997	07/13/2022	08/03/2022	08/03/2022	Investigator	ED	01/30/2023	08/02/2023	Truthfulness	1	1	3	Truthfulness, Demeanor
22-0998	08/05/2022	08/04/2022	08/05/2022	Investigator	AL	01/31/2023	08/03/2023	Use of Force	1	1	4	Use of Force
22-1009	08/05/2022	08/09/2022	08/05/2022	Investigator	MM	02/01/2023	08/04/2023	Sexual Harassment	1	2	3	Conduct, Performance of Duty
22-1081	08/07/2022	08/09/2022	08/07/2022	Investigator	JS	02/03/2023	08/06/2023	Discrimination	1	1	2	Discrimination, Demeanor
22-1026	08/08/2022	08/10/2022	08/08/2022	Investigator	AL	02/04/2023	08/07/2023	Use of Force	1	1	1	Use of Force
22-1047	08/13/2022	08/16/2022	08/13/2022	Investigator	MM	02/09/2023	08/12/2023	Racial Discrimination	1	2	2	Racial Discrimination

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1048	08/13/2022	08/16/2022	08/13/2022	Investigator	JS	02/09/2023	08/12/2023	Racial Discrimination Use of Force	1	2	4	Racial Discrimination; Use of Force
22-1075	08/18/2022	08/23/2022	08/18/2022	Investigator	ED	02/14/2023	08/17/2023	Racial Discrimination Use of Force	1	2	6	Racial Discrimination; Use of Force
22-1081	08/20/2022	08/23/2022	08/20/2022	Investigator	MM	02/16/2023	08/19/2023	Use of Force	1	1	1	Use of Force
22-1084	08/20/2022	08/23/2022	08/20/2022	Investigator	JS	02/16/2023	08/19/2023	Use of Force	1	1	2	use of Force/Performance of duty
22-1090	08/22/2022	08/23/2022	08/22/2022	Investigator	JS	02/18/2023	08/21/2023	Use of Force	1	1	1	Use of Force
22-1105	08/23/2022	08/25/2022	08/23/2022	Investigator	ED	02/19/2023	08/22/2023	Racial Discrimination	1	2	4	Racial Discrimination/False arrest
22-1106	08/23/2022	08/25/2022	08/23/2022	Investigator	ED	02/19/2023	08/22/2023	Use of Force	1	1	1	Use of Force
22-1110	08/24/2022	08/26/2022	08/24/2022	Investigator	AL	02/20/2023	08/23/2023	Harassment	1	1	1	Harassment/Discrimination
22-1138	08/30/2022	08/31/2022	08/30/2022	Investigator	JS	02/26/2023	08/29/2023	Use of Force	1	2	4	Use of Force, Demeanor
22-1145	08/31/2022	09/02/2022	08/31/2022	Investigator	AL	02/27/2023	08/30/2023	Harassment	1	2	4	Racial Harassment, Demeanor
22-1159	09/02/2022	09/12/2022	09/02/2022	Intake	KC	03/01/2023	09/01/2023	Use of Force	1	1	1	Use of Force
22-1212	09/02/2022	09/16/2022	09/02/2022	Investigator	JS	03/01/2023	09/01/2023	Use of Force	1	4	5	Use of Force, Performance of Duty, Refusal to Provide Name or Serial Number
22-1160	09/03/2022	09/12/2022	09/03/2022	Investigator	ED	03/02/2023	09/02/2023	Use of Force	1	2	3	Use of Force/False arrest
22-1169	09/03/2022	09/12/2022	09/03/2022	Intake	KC	03/02/2023	09/02/2023	Discrimination	1	5	4	Discrimination, Performance of Duty, Demeanor
22-1171	09/05/2022	09/12/2022	09/05/2022	Investigator	MM	03/04/2023	09/04/2023	Use of Force	1	3	6	Performance of Duty, Use of Force
22-1190	09/09/2022	09/16/2022	09/09/2022	Investigator	AL	03/08/2023	09/08/2023	Use of Force	1	2	3	Use of Force
22-1213	09/14/2022	09/16/2022	09/15/2022	Investigator	ED	03/14/2023	09/14/2023	Harassment	1	1	1	Harassment
22-1217	09/16/2022	09/16/2022	09/16/2022	Investigator	AL	03/15/2023	09/15/2023	Harassment	1	1	2	Harassment, Performance of Duty
22-1083	09/17/2022	09/20/2022	09/17/2022	Investigator	MM	03/16/2023	09/16/2023	Racial Profiling	1	1	1	Racial profiling
22-1241	09/21/2022	09/22/2022	09/21/2022	Investigator	JS	03/20/2023	09/20/2023	Harassment	1	1	1	Harassment
22-1257	09/23/2022	09/28/2022	09/23/2022	Investigator	ED	03/22/2023	09/22/2023	Use of Force Racial Harassment	1	2	3	Use of Force, Racial Harassment
22-1258	09/25/2022	09/28/2022	09/25/2022	Investigator	AL	03/24/2023	09/24/2023	Discrimination	1	3	3	Discrimination
22-1301	10/02/2022	10/05/2022	10/02/2022	Investigator	JS	03/31/2023	10/01/2023	Use of Force	1	1	1	Use of Force
22-1327	10/03/2022	10/06/2022	10/04/2022	Investigator	ED	04/02/2023	10/03/2023	Use of Force	1	1	4	Use of Force/Performance of duty
22-1345	10/08/2022	10/12/2022	10/08/2022	Investigator	MM	04/06/2023	10/07/2023	Use of Force Racial Harassment	1	1	2	Use of Force, Racial Harassment
22-1357	10/11/2022	10/14/2022	10/14/2022	Investigator	AL	04/09/2023	10/10/2023	Harassment	1	1	1	Harassment
22-1617	10/11/2022	12/07/2022	10/11/2022	Intake	FC	04/09/2023	10/10/2023	Use of Force	1	1	3	Use of Force, Demeanor, No MOR Violation
22-1380	10/13/2022	10/19/2022	10/13/2022	Investigator	JS	04/11/2023	10/12/2023	Use of Force	1	2	1	False Arrest, Use of Force
22-1372	09/05/2022	10/19/2022	10/14/2022	Investigator	MM	04/12/2023	10/13/2023	Truthfulness	1	1	1	Truthfulness
22-1375	06/27/2022	10/19/2022	10/14/2022	Intake	KC	04/12/2023	10/13/2023	Truthfulness	1	1	2	Truthfulness/Performance of duty
22-1387	10/17/2022	10/19/2022	10/17/2022	Investigator	ED	04/15/2023	10/16/2023	Use of Force Discrimination	1	3	3	Use of force, Discrimination
22-1395	09/28/2022	10/20/2022	10/19/2022	Investigator	AL	04/17/2023	10/18/2023	Use of Force	1	2	4	Use of Force, Demeanor, Performance of duty
22-1402	10/21/2022	10/26/2022	10/21/2022	Investigator	AL	04/19/2023	10/20/2023	Discrimination	1	1	4	Discrimination, Performance of Duty

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1423	10/25/2022	10/27/2022	10/25/2022	Investigator	MM	04/23/2023	10/24/2023	Discrimination	1	2	3	Discrimination, Performance of Duty
22-1427	10/25/2022	10/26/2022	10/26/2022	Intake	KC	04/24/2023	10/25/2023	Discrimination	1	1	3	Discrimination, Demeanor Performance of Duty, Use of Force
22-1465	10/27/2022	11/08/2022	10/27/2022	Intake	KC	04/25/2023	10/26/2023	Discrimination	1	2	6	Discrimination, Performance of Duty, Demeanor
22-1436	10/29/2022	11/02/2022	10/29/2022	Intake	KC	04/27/2023	10/28/2023	Use of Force	1	1	4	Use of Force, Performance of duty
22-1442	10/31/2022	11/02/2022	10/31/2022	Investigator	JS	04/29/2023	10/30/2023	Gender Harassment	1	2	6	Gender Harassment, General Conduct
22-1469	11/05/2022	11/08/2022	11/05/2022	Investigator	ED	05/04/2023	11/04/2023	Racial Harassment	1	1	1	Racial Harassment
22-1482	11/08/2022	11/09/2022	11/08/2022	Intake	FC	05/07/2023	11/07/2023	Use of Force	1	1	1	Use of Force
22-1493	11/09/2022	11/16/2022	11/09/2022	Intake	FC	05/08/2023	11/08/2023	Racial Harassment	1	2	2	Racial Harassment
22-1500	11/11/2022	11/16/2022	11/11/2022	Intake	KC	05/10/2023	11/10/2023	Use of Force	1	2	2	Use of Force
22-1511	02/01/2021	11/16/2022	11/15/2022	Intake	FC	05/14/2023	11/14/2023	Truthfulness	1	1	3	Unlawful Tow, Improper Investigation, Truthfulness
22-1518	11/14/2022	11/17/2022	11/15/2022	Intake	FC	05/14/2023	11/14/2023	Use of Force	1	1	1	Use of Force
22-1537	11/18/2022	11/22/2022	11/18/2022	Intake	KC	05/17/2023	11/17/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-1542	11/18/2022	11/22/2022	11/18/2022	Intake	KC	05/17/2023	11/18/2023	Truthfulness	1	1	4	Truthfulness, False Arrest, Performance of duty, Service complaint
22-1546	11/18/2022	11/22/2022	11/19/2022	Intake	FC	05/18/2023	11/18/2023	Use of Force	1	2	6	Use of Force, False Arrest, Demeanor
22-1550	11/19/2022	11/22/2022	11/19/2022	Intake	FC	05/18/2023	11/18/2023	Racial Harassment	1	1	1	Racial Harassment
22-1539	11/20/2022	11/22/2022	11/20/2022	Intake	FC	05/19/2023	11/19/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1547	11/20/2022	11/22/2022	11/20/2022	Intake	KC	05/19/2023	11/19/2023	Use of Force	1	1	3	Use of Force, False Arrest, Demeanor
22-1558	11/06/2022	11/23/2022	11/22/2022	Intake	KC	05/21/2023	11/21/2023	Use of Force	1	1	4	Use of Force, Performance of Duty, Demeanor
22-1560	11/22/2022	11/30/2022	11/24/2022	Intake	FC	05/23/2023	11/23/2023	Use of Force	1	1	3	False Arrest, Care of Property, Use of Force
22-1562	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Use of Force	1	1	2	Use of Force, Performance of duty
22-1565	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Racial Discrimination	1	1	2	Racial Discrimination, Performance of Duty
22-1578	11/29/2022	11/30/2022	11/29/2022	Intake	KC	05/28/2023	11/28/2023	Use of Force	1	4	8	Use of Force, Performance of Duty
22-1592	11/30/2022	12/02/2022	11/30/2022	Intake	FC	05/29/2023	11/29/2023	Use of Force	1	1	1	Use of Force
22-1605	12/03/2022	12/07/2022	12/03/2022	Intake	KC	06/01/2023	12/02/2023	Use of Force	1	1	1	Use of Force
22-1607	12/03/2022	12/07/2022	12/03/2022	Intake	FC	06/01/2023	12/02/2023	Use of Force Age Discrimination	1	1	2	Age Discrimination, Use of Force
22-1601	06/01/2022	12/07/2022	12/04/2022	Intake	KC	06/02/2023	12/03/2023	Use of Force	1	1	1	Use of Force
22-1604	12/03/2022	12/07/2022	12/04/2022	Intake	FC	06/02/2023	12/03/2023	Use of Force	1	1	2	Performance of Duty, Use of Force
22-1613	12/05/2022	12/07/2022	12/05/2022	Intake	KC	06/03/2023	12/04/2023	Use of Force	1	1	1	Use of Force
22-1615	03/26/2022	12/07/2022	12/06/2022	Intake	FC	06/04/2023	12/05/2023	Use of Force	1	1	1	Use of Force
22-1656	12/14/2022	12/16/2022	12/15/2022	Intake	SH	06/12/2023	12/13/2023	Use of Force	1	1	3	Use of Force, Sexual Assault, Performance of Duty
23-1731	12/29/2022	12/29/2022	01/03/2023	Intake	DC	06/02/2023	12/28/2023	Use of Force	1	1	2	Use of Force
22-1657	12/13/2022	12/16/2022	12/15/2022	Intake	SH	06/12/2023	12/13/2023	Use of Force	1	2	4	Use of Force, Performance of Duty

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Police Commission Regular Meeting 1.26.23
 Oakland City Charter Section 894 (Measure L). "Other" indicates the case does not include any such allegations.
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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of December 2022
(Sorted by One-Year Goal)

Attachment 8
Page 6 of 6
 (Total Pending = 155)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1660	12/13/2022	12/16/2022	12/13/2022	Intake	DC	06/11/2023	12/13/2023	Use of Force	1	1	2	Use of Force
22-1664	12/15/2022	12/21/2022	12/15/2022	Intake	KC	06/13/2023	12/14/2023	Use of Force	1	1	1	Use of Force
22-1684	12/19/2022	12/21/2022	12/19/2022	Intake	SH	06/17/2023	12/18/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1701	12/25/2022	12/28/2022	12/24/2022	Intake	KC	06/22/2023	12/23/2023	Use of Force	1	1	2	Use of Force, False Arrest, Demeanor

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Police Commission Regular Meeting 1.26.23
 Oakland City Charter Section 804 (Measure L). "Other" indicates the case does not include any such allegations.
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CITY OF OAKLAND

AGENDA REPORT**SUBJECT:** Agenda Items IX and X**DATE:** January 24, 2023

**Item IX. Presentation of
Proposed Amendments by City
Council related to Militarized
Equipment Policies**

**Item X. Presentation and
Possible Approval of Updated
Militarized Equipment Policies**

RECOMMENDATION

- Solicit public input about the City Council's proposed changes.
- Approve the incorporation of the updated policies with this staff report on the Commission's position, to be sent to the City Council at its next meeting.
- Consider requesting the Militarized Equipment Ad Hoc Committee to initiate a public process for exercising the Commission's authority under Charter Section 604(h) to recommend ways to improve future review process with the City Council "that will further the goals and purposes of this Charter section 604."
- Approve the updated militarized equipment policies from the Militarized Equipment Ad Hoc Committee as agendized under Item X.
 - o DGO I-26 (Ground Robots)
 - o DGO K-6 (Department Rifles)
 - o DGO K-7 (Military Equipment Funding, Acquisition and Use Policy)

BACKGROUND

At its October 13, 2022 meeting, the Commission approved a set of military equipment use policies submitted by the Oakland Police Department ("OPD"). The Commission held additional meetings to ensure that its review of policies proposed by OPD be within the timeframe required under Oakland Municipal Code § 9.65.020(D)(4). The set of military equipment policies would authorize the acquisition and use of multiple forms of military equipment, pursuant to local ordinance and state law Assembly Bill 481.

The set of policies were then placed on the City Council agenda on October 18, 2022 (referred to as "October Draft Ordinance" by the Office of the City Attorney). At its October 18, 2022 meeting, the Council voted to continue the October Draft Ordinance to the November 1, 2022 City Council meeting. During the November 1, 2022 meeting, the City Council was advised by the Office of the City Attorney that the City Council could

Oakland Police Commission
Meeting on January 26, 2023

accept or reject the proposed policies *but could not modify them*. The City Council adopted a motion to continue the item and requested that the Police Commission further review the policies and consider additional modifications based on public input.

At its November 10, 2022 meeting, the Commission recognized the City Council's request for consideration of additional modifications, and the Commission subsequently requested its Militarized Equipment Ad Hoc Committee to review the modification requests. The Ad Hoc met twice after the City Council's November 1, 2022 meeting and submitted the attached letter to the City Council that there are no additional modifications to the policies that the Commission provided in the October Draft Ordinance. The Commission's letter stated,

This is a new area of important policymaking for the Council and Commission to coordinate, so we are interpreting our role under the Charter and the Municipal Code, with the assistance of counsel. Our reading of this Ordinance is that under Municipal Code Section 9.65.020, the Council has power and authority to take up the Commission's recommendation as follows: "The City Council shall consider the police commission's recommendation within one hundred and twenty (120) days of the commission's vote on the department's proposed changes and may approve or reject the decision. If the council does not approve or reject the commission's decision, the commission's decision will become final." While the codified Ordinance does not technically entail back and forth between our respective legislative bodies, the Commission responds as a partner in public safety, and as a courtesy, hereby takes the Council up on its invitation to provide a second response on this important topic.

At the December 6, 2022 City Council meeting, Council President Bas asked whether the City Council could propose modifications to amend the policies included in the October Draft Ordinance. In a December 16, 2022 public opinion, the Office of City Attorney advised that the City Council could direct the Commission to consider modifications under Charter 604(b)(4).

At the January 17, 2023 meeting, the City Council voted on Resolution aligned with the City Attorney's advice, entitled: "Adopt A Resolution Directing The Oakland Police Commission To Propose Changes To The Following Oakland Police Department Policies: (1) Departmental General Order K-7 On Military Equipment Funding, Acquisition, And Use Policy; (2) Departmental General Order K-6 On Department Rifles; (3) Departmental General Order I-26 On Robots (Remote Controlled Ground Systems) For Submission To The City Council Pursuant To Section 604(B)(4) Of The Oakland City Charter."

The Militarized Equipment Ad Hoc Committee subsequently met twice to consider the proposed modifications.

The Commission (and its ad hoc committee) in its consideration and anticipated approval at its January 26, 2023 meeting are working with the current City Ordinance

Oakland Police Commission
Meeting on January 26, 2023

framework to maximize a collaborative partnership with the City Council in exercising community control over the Police Department's use of military and militaristic equipment. Yet, it needs to be recognized that the operating codified Ordinance does not technically entail back and forth between our respective legislative bodies.

Therefore, in case the proposed modifications by the City Council expressly listed in its Resolution do not fall within Charter Section 604(b)(4), the Commission will take up these proposed modifications within the 120 day timeline window.

As the Commission emphasized in its November 30, 2022 letter to the City Council, this is a new and important area of policymaking for the Council and Commission to get right. For that reason, the Commission should consider designating the Military Equipment Ad Hoc Committee to initiate an open and public dialogue about how the City Council and Commission's roles in this process can be optimized, with the goal of bringing back municipal code recommendations to the full Commission to agendaize and approve under Charter Section 604(h). Any effort to fine tune the militarized equipment policy process with technical fixes would aim to maximize community control over the Department's use of military equipment, including in conjunction with the City Council's Public Safety Committee and the full City Council.

AUTHORITIES

- Charter Sections 604 (b)(4), (b)(5), and (h)
- Municipal Code Sections 9.65.00, *et seq.*
(https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT9PUPEMOWE_CH9.65REACUSMIMIEQ)

ATTACHMENTS

- City Council Ordinance (1.17.23)
- Commission Letter to Council President Bas (11.30.22)
- OCA Public Legal Opinion: "City Council's Authority to Modify Oakland Police Department Military Equipment Use Policies" (12.16.22)

CITY OF OAKLAND



POLICE COMMISSION

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

November 30, 2022

Councilperson Nikki Fortunato Bas
President, Oakland City Council
Via email to nfbas@oaklandca.gov

Dear Honorable President Bas and City Council,

Thank you for your ongoing collaborative effort to advance constitutional police reform in Oakland, as well as your invitation to the Oakland Police Commission (“Commission”) to continue to play a role in the Oakland City Council’s (“Council”) approval of a recent set of use policies submitted by the Oakland Police Department (“OPD”) and approved by the Commission at our October 13, 2022 meeting.

Consistent with our shared approach to modifying and considering approvals of OPD’s Militarized Equipment Ordinance (OMC § 9.65.00) (“Ordinance”) submissions, the Council heard certain proposed revisions from members of the public to the approved use policy submissions at your November 1, 2022 meeting. The Council directed that before the City Council consider final approval of the submission, the Commission have an opportunity to weigh in and incorporate these proposals from the public.

This is a new area of important policymaking for the Council and Commission to coordinate, so we are interpreting our role under the Charter and the Municipal Code, with the assistance of counsel. Our reading of this Ordinance is that under Municipal Code Section 9.65.020, the Council has power and authority to take up the Commission’s recommendation as follows: “The City Council shall consider the police commission's recommendation within one hundred and twenty (120) days of the commission's vote on the department's proposed changes and may approve or reject the decision. If the council does not approve or reject the commission's decision, the commission's decision will become final.” While the codified Ordinance does not technically entail back and forth between our respective legislative bodies, the Commission responds as a partner in public safety, and as a courtesy, hereby takes the Council up on its invitation to provide a second response on this important topic.

The Commission’s Military Equipment Ad Hoc Committee (“Ad Hoc Committee”) met twice since the City Council’s November 1st meeting. The Ad Hoc Committee discussed the City Council’s request and the public’s proposal regarding these six topics: assault rifles, less lethals, robots, definition of "barricaded subject," definition of "high-risk search warrant," and coordination with outside agencies. We hereby confirm that the Militarized Equipment Ad Hoc Committee’s original report out to the full Commission properly reflected prior consideration of the substantive areas raised by the public, which were referred to us on November 1, 2022. The

Commission therefore proceeds with its recommendations that the Council received at its November 1st meeting. The only exception is the need for a written definition of “high-risk search warrant” which OPD said it will present to the Commission for consideration in the new year.

To explain the Commission’s process under the Ordinance that previously addressed these proposals: prior to the Commission’s October 13, 2022 approval of the submissions to City Council, the Ad Hoc Committee heard from the members of the public who submitted this same proposal as well as other important stakeholder inputs, and the Ad Hoc formulated a series of recommendations for the full Commission to consider and approve. Next, the Commission modified and/or approved Use Policies at its October 13, 2022 meeting, and finally, the Commission gave direction to the Ad Hoc Committee to coordinate with OPD, render certain final revisions, and then report back to the City Council with versions ready for Council consideration.

The Commission will continue to monitor closely the implementation of these policy recommendations through OPD’s annual reporting along with our investigations and review boards, as these policies are designed for a certain purpose now and could always be revised as Oaklanders and OPD experience their implementation.

Moving forward, Commissioner David Jordan will report to the City Council at its meetings on December 6, 2022, when we understand the Council’s Militarized Equipment approvals are anticipated to be raised for a final vote.

We appreciate the Council’s dedication to ensuring that the Commission continues to serve as a forum of residents of Oakland to influence and impact transformational reform of our City’s Police Department.

Thank you.

Sincerely,



Tyfahra Milele
Chair
Oakland Police Commission

MISSING EXECUTED LEGISLATION FORM

Resolution / Ordinance Number: 89559

City Council Meeting Date JAN 17 2023

Agenda Item No. # 59

Recorded Vote 8 Ayes

Status of Resolution/Ordinance:

- | | |
|---|--|
| <input type="checkbox"/> Filed without signature | <input type="checkbox"/> No signed version will be filed |
| <input checked="" type="checkbox"/> Council amended legislation | <input type="checkbox"/> No signed version will be filed |

Author Contact Information:

Department Council President Bas

Contact Person/Ext. Cinthya v. 7246

Notes (if any)

APPROVED AS TO FORM AND LEGALITY

2023 JAN 12 PM 5: 53

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Amadis Sotelo
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

BY INTRODUCED BY COUNCIL PRESIDENT NIKKI FORTUNATO BAS

RESOLUTION DIRECTING THE OAKLAND POLICE COMMISSION TO PROPOSE CHANGES TO THE FOLLOWING OAKLAND POLICE DEPARTMENT POLICIES: (1) DEPARTMENTAL GENERAL ORDER K-7 ON MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY; (2) DEPARTMENTAL GENERAL ORDER K-6 ON DEPARTMENT RIFLES; (3) DEPARTMENTAL GENERAL ORDER I-26 ON ROBOTS (REMOTE CONTROLLED GROUND SYSTEMS) FOR SUBMISSION TO THE CITY COUNCIL PURSUANT TO SECTION 604(B)(4) OF THE OAKLAND CITY CHARTER

WHEREAS, the City Council in June 2021 found “that the acquisition of military and militaristic equipment and its deployment in Oakland can adversely impact the public's safety and welfare, including introducing significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurring significant financial costs” and adopted Oakland Municipal Code Chapter 9.65; and

WHEREAS, the California state legislature stated in Assembly Bill 481 (2021) that “Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities”; and

WHEREAS, the California state legislature stated also in Assembly Bill 481 (2021) that a governing body shall only approve a military equipment use policy if it determines “The proposed military equipment use policy will safeguard the public’s welfare, safety, civil rights, and civil liberties”; and

WHEREAS, AB 481 defines “Unmanned, remotely piloted, powered aerial or ground vehicles” and “Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code” as “military equipment”; and

presence of minors, elderly, medically compromised, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people”, which variable “should be given special consideration due to the potential for trauma”; and that prohibits deployment of armored vehicles for “Recruitment, public relations, or promotional activities; Crowd control; or Routine patrol operations”; and

WHEREAS, the policy proposed for assault rifles would permit deployment by OPD of such rifles in unspecified conditions; in which pre-planned deployment of assault rifles would not require consideration of the presence of vulnerable people, including minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, or people with limited English

proficiency; and would not prohibit deployment of assault rifles for public relations, recruitment, crowd control, or routine patrol activities; and

WHEREAS, the proposed Department General Order I-26 on robots states the purpose of robots is to save lives, protect property, and detect dangers, yet robots are authorized for use against people as anti-personnel weapons by authorizing the use of force, including but not limited to chemical agents attached to robots (a policy that few other law enforcement agencies in California have proposed); and

WHEREAS, AB 481 requires that law enforcement agencies obtain approval by the governing body prior to “Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body”; and

WHEREAS, current Oakland Police Department General Order L-3 on mutual aid states that “Prior to deployment, outside law enforcement units shall . . . be told which weapons and munitions are prohibited according to Departmental policy”; and

WHEREAS, the Oakland Police Department proposed to the Oakland Police Commission Ad Hoc Committee on Military Equipment that, for explosive breaching tools, “Mutual aid shall not be utilized for the purpose of bypassing any listed prohibition, rule or procedure outlined in this Training Bulletin”; and

WHEREAS, the proposed Department General Order K-7 on military equipment would not restrict outside law enforcement agencies from using their own military equipment in Oakland, such as launchers, robots, drones, assault rifles, or armored vehicles, in a manner inconsistent with Oakland's policies for such equipment, potentially violating Oakland community standards or civil liberties; and

WHEREAS, outside law enforcement agencies whose assistance may be requested in Oakland, including the Alameda County Sheriff’s Office, have policies that are less protective of civil rights or restrictive of use for military equipment that is also approved for use by Oakland PD; for example, while Oakland prohibits the deployment of armored vehicles for crowd control and routine patrol, Alameda County Sheriff’s Office’s policy for armored vehicles contains no such restrictions; and

WHEREAS, Oakland City Charter Section 604(b)(4) provides in relevant part that the Police Commission may: “[p]ropose changes at its discretion *or upon direction, by adoption of a resolution, of the City Council, including modifications to [OPD’s] proposed changes to any policy*, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements . . . The City Council shall consider the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, *and may approve, modify and approve, or reject the changes*. If the Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications, the changes or modifications will become final.”(emphasis added); and

WHEREAS, the Oakland City Council seeks to direct the Oakland Police Commission to propose changes to the following Oakland Police Department Policies: (1) Departmental General Order K-7 on Military Equipment Funding, Acquisition, and Use Policy; (2) Departmental General Order K-6 on Department Rifles; and (3) Departmental General Order I-26 on Robots (Remote Controlled Ground Systems) for submission to the City Council pursuant to section 604(b)(4) of the Oakland City Charter; now therefore, be it

RESOLVED: that pursuant to Section 604(b)(4) of the Oakland City Charter, the City Council does hereby direct the Oakland Police Commission to propose changes to the following Oakland Police Department policies: (1) DGO K-7 on Military Equipment Funding, Acquisition and Use Policy; (2) DGO K-6 on Department Rifles; and (3) DGO I-26 on Robots (Remote Controlled Ground Systems); and be it

FURTHER RESOLVED: that pursuant to Section 604(b)(4) of the Oakland City Charter, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-7 on Military Equipment Funding, Acquisition and Use Policy that would require members of outside agencies in Oakland during a mutual aid deployment shall be briefed on Oakland's military equipment use policy before participating in any mutual aid activities; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-7 on Military Equipment Funding, Acquisition and Use Policy that would clarify that mutual aid shall not be utilized for the purpose of bypassing any Oakland Police Department policy, prohibition, rule, or procedure; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to prohibit rifle use for recruitment, public relations, promotional activities, crowd control, and routine patrol operations; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to direct Commanders shall make every effort to avoid the deployment of patrol rifles in the presence of minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people. (Reference DGO K-3 Use of Force for definition of "vulnerable people".); and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO K-6 on Department Rifles to clarify that all use not authorized by DGO K-6 is prohibited; and be it

FURTHER RESOLVED, the City Council does hereby direct the Oakland Police Commission to propose changes to Oakland Police Department policy DGO I-26 on Robots (Remote Controlled Ground Systems) to prohibit escalatory use, including use of force or other anti-personnel applications; and be it

FURTHER RESOLVED, that if the Commission Chair is unable to submit proposed changes to the City Council for review and consideration in accordance with Charter section 604(b)(4) on or before March 18, 2023, the Council hereby requests that the Police Commission submit and present a status report to the Council on or before March 18, 2023 to advise the Council of its progress.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the City of
Oakland, California

3235141v1

CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

PUBLIC LEGAL OPINION

TO: COUNCIL PRESIDENT BAS AND MEMBERS OF THE CITY COUNCIL

FROM: CITY ATTORNEY BARBARA J. PARKER

DATE: DECEMBER 16, 2022

RE: **CITY COUNCIL'S AUTHORITY TO MODIFY OAKLAND POLICE DEPARTMENT MILITARY EQUIPMENT USE POLICIES**

I. INTRODUCTION

State and local law require that the Oakland Police Department (“OPD”) obtain City Council approval to acquire and/or use “military equipment.” (Government Code section 7070 et. seq. and Oakland Municipal Code Chapter 9.65.) Before requesting City Council approval, OPD must draft a policy governing the use of military equipment (hereinafter a “Military Equipment Use Policy”) and present the draft policy to the Police Commission for feedback. After reviewing a Military Equipment Use Policy, the Police Commission must make a recommendation to the City Council.

Earlier this year OPD initiated this process and submitted various Military Equipment Use Policies to the Police Commission for feedback. In September 2022, the Police Commission completed its review of several Military Equipment Use Policies. OPD then scheduled an ordinance on the October 18, 2022 City Council agenda (hereinafter referred to as the “October Draft Ordinance”) that would authorize the acquisition and/or use of multiple forms of military equipment.¹

The Police Commission did not agree to recommend OPD’s initial proposals in the Military Equipment Use Policy governing robots. However, the OPD and the Commission ultimately agreed to terms for that policy after a collaborative process and revisions. The policy covering robots submitted with the October Draft Ordinance includes the modifications OPD ultimately decided to recommend to the City Council based on the Police Commission’s recommendations.

¹ These Military Equipment Use Policies are: (1) Department General Order K-7: **Military Equipment Funding, Acquisition and Use Policy**; (2) Department General Order K-6: **Department Rifles**; (3) Training Bulletin III-H: **Specialty Impact Munitions**; (4) Training Bulletin III-P.04: **Armored Vehicles**; (5) Training Bulletin III-G: **OPD Crowd Control and Crowd Management Policy (for Riot Helmets)**; (6) Training Bulletin V-F.2: **Chemical agent**; (7) Department General Order I-25: **Unmanned Aerial Systems (UAS)**; (8) Training Bulletin III-P.05: **Noise-Flash Diversion Devices** (“Flash Bangs”); and (9) Department General Order I-26: **Remoted Controlled Ground Systems (Robots) and Pole Cameras**,

TO: COUNCIL PRESIDENT BAS AND MEMBERS OF THE CITY COUNCIL
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 "MILITARY" EQUIPMENT POLICIES**

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At its October 18, 2022 meeting, the Council voted to continue the October Draft Ordinance to the November 1, 2022 City Council meeting. During the November 1, 2022 meeting, our office advised that the City Council could accept or reject the proposed policies but could not modify them. The City Council adopted a motion to continue the item and requested that the Police Commission further review the policies and consider additional modifications based on public input.

Following the November 1, 2022 meeting, the Police Commission did not recommend additional modifications to the policies provided in the October Draft Ordinance.

At the December 6, 2022 City Council meeting, Council President Bas asked whether the City Council could propose modifications to amend the policies included in the October Draft Ordinance. Our Office advised that the City Council could propose modifications; and the Council then passed a motion continuing to the December 20, 2022 Council meeting the October Draft Ordinance (as well as a separate draft ordinance that would approve other forms of Military Equipment). The October Draft Ordinance was is Item No. 7 and the other Military Equipment Draft Ordinance is Item No. 8 on the Council's December 20, 2022 meeting agenda. However, at its December 15, 2022 meeting, the Rules and Legislation Committee continued these items to the January 17, 2023 Council meeting.

We issue this public legal opinion to clarify our Office's advice regarding when and how the City Council can propose modifications to OPD's Military Equipment Use policies. Consistent with our Office's longstanding practice, this is a public legal opinion because it addresses the relative powers of the City Council and the Police Commission under the City Charter. Like all public opinions, this opinion will be posted on the City Attorney's web site at <https://www.oaklandcityattorney.org/Ops-Reps/Opinions.html>. This legal opinion also will be submitted to the Clerk's office for inclusion in the agenda packet for the January 17, 2023 City Council meeting.

II. QUESTIONS AND BRIEF ANSWERS

Question No. 1:

Does the Council have the power to modify a Military Equipment Use Policy?

Brief Answer:

Yes, the Council has the power to modify a Military Equipment Use Policy in the following circumstances:

- (1) the policies in question fall within the scope of Charter Section 604(b)(4); and

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- (2) either the Police Commission or the City Council (as opposed to OPD) *initiates* the policy-review process under Charter Section 604(b)(4).

To initiate the process, the City Council must adopt a resolution directing the Police Commission to review proposed changes to a Military Equipment Use Policy.

Question No. 2:

Does the City Council have the power to modify one or more of the Military Equipment Use Policies that Council was scheduled to consider at its December 20, 2022 meeting?²

Brief Answer:

No. The policy-review process that currently is underway was initiated by OPD, not by either the Police Commission or the City Council. The process therefore is not governed by Charter Section 604(b)(4). The applicable state and local laws only authorize the City Council to approve or reject the proposed policies.

Question No. 3:

Is there a deadline for City Council to approve or reject the Police Commission's recommendation to approve the military equipment use policies covered by the October Draft Ordinance (to be considered at the December 20, 2022 meeting)?

Brief Answer:

For military equipment acquired before January 1, 2022, City Council approval must occur within 180 days after such policies were first submitted for City Council consideration on October 18, 2022.

III. ANALYSIS

A. Scope of City Council's Authority to Modify OPD Military Equipment Use Policies

The City has two local laws that may be applicable in determining how equipment policies must be reviewed. If a policy governs OPD's acquisition and/or use of military equipment, the Oakland Municipal Code requires that the Police Commission review the policy before the City Council considers it.³ If a policy governs use of force, use of force review boards, profiling, or First Amendment assemblies, or if it directly relates to

² The Rules and Legislation Committee continued these items to the January 17, 2023 Council meeting at its December 15, 2023 meeting.

³ OMC Section 9.65.020.D.1.

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the City's duties under the Negotiated Settlement Agreement, the City Charter requires that the Police Commission review it, and further provides that the City Council must consider it under certain circumstances.⁴ Because the policies that the Council will consider at its December 20, 2022 meeting relate to military equipment *and* govern use of force and crowd control (i.e. First Amendment Assemblies), the process must comply with both the Charter and the Oakland Municipal Code.

As we explain below, there is only one circumstance in which the City Council may adopt its own changes to a policy that is before it for consideration. In all other circumstances, the City Charter, the Oakland Municipal Code and the California Government Code only authorize the City Council to approve or reject a proposed policy.

Charter Section 604(b)(4) explicitly allows the City Council to "approve, *modify and approve*, or reject" a policy that is before it for consideration. However, that section only applies when the Police Commission is the party that proposes changes to a policy, either on its own initiative or at the Council's direction.

Oakland City Charter Section 604(b)(4) provides in relevant part that the Police Commission may:

"[p]ropose changes at its discretion *or upon direction, by adoption of a resolution, of the City Council, including modifications to [OPD's] proposed changes to any policy*, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements . . . The City Council shall consider the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, *and may approve, modify and approve, or reject the changes*. If the Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications, the changes or modifications will become final."(emphasis added).

However, if OPD proposed the policies that the City Council is considering, Charter Section 604(b)(4) does *not* apply. Charter Section 604(b)(5) may apply under certain circumstances, but that section only authorizes the City Council to "approve or reject" the Police Commission's recommendation.

⁴ Oakland City Charter Sections 604(b)(4) and (5)

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OMC Section 9.65.020.G.2 provides in relevant part that "[t]he City Council shall consider the police commission's recommendation within one hundred and twenty days of the commission's vote *on the department's proposed changes and may approve or reject the decision.*" (emphasis added).

B. The Military Equipment Use Polices Covered by the October Draft Ordinance Do Not Fall Under Charter Section 604(b)(4).

OPD initiated the policy-review process for the Military Equipment Use Policies covered by the October Draft Ordinance, by proposing policy changes to the Police Commission. The process, as our Office understands it, was collaborative, and OPD changed its proposed policy provisions numerous times based on input from the Police Commission. OPD incorporated the Police Commission's input into new drafts of the policies until the Police Commission was comfortable recommending the proposals to the City Council. The Police Commission did not initiate the process by recommending changes to OPD's policies. The policies proceeded through iterations during the collaborative process, but it does not appear that at any point OPD and the Police Commission reached an impasse such that the Police Commission intended to proceed with its own, separate and alternative proposal. Therefore, Charter Section 604(b)(4) does not apply. Rather, pursuant to OMC Section 9.65.020.G.2, the City Council has authority only to *approve* or *reject* authorization.

Accordingly, the City Council could adopt a resolution directing the Police Commission to consider modifying an OPD Military Equipment Use Policy that falls under the enumerated subject matter specified in Charter Section 604(b)(4).

C. Deadline for City Council to Approve or Reject Military Equipment Use Policies on Equipment Acquired Prior to January 1, 2022

Government Code Section 7071(a)(2) provides:

"No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment . . . within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of the military equipment until it receives approval of the governing body . . ."

For any applicable military equipment covered by the October Draft Ordinance, the polices were first submitted to the City Council for consideration at the October 18, 2022 City Council meeting. Accordingly, any applicable military equipment would be

TO: COUNCIL PRESIDENT BAS AND MEMBERS OF THE CITY COUNCIL
DATE: DECEMBER 16, 2022
RE: **CITY COUNCIL'S AUTHORITY TO MODIFY OAKLAND POLICE DEPARTMENT
"MILITARY" EQUIPMENT POLICIES**

PAGE 6

subject to the 180 day timeline for City Council approval specified by Government Code Section 7071(a)(2). That deadline will expire March 30, 2023.

IV. CONCLUSION

For the reasons we addressed in this opinion, the City Council has authority only to approve or reject the proposed Military Equipment Use Policies covered by the October Draft Ordinance.

Although the current policy-review process does not fall under Charter section 604(b)(4), please be advised that the City Council can initiate a review process under that section in the future. As we explained above, a review process initiated under Charter section 604(b)(4) provides the City Council discretion to modify the policies that are presented to the Council for its consideration. To initiate that process, the policies must fall within the subject-matter scope of Charter Section 604(b)(4) and the City Council must pass a resolution directing the Police Commission to propose policy changes.

Very truly yours,



BARBARA J. PARKER
City Attorney

Attorney Assigned:
Amadis Sotelo

cc: City Administrator Ed Reiskin

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CITY OF OAKLAND

MEMORANDUM

DATE: January 11, 2023
TO: City Council and Members of the Public
FROM: Council President Nikki Fortunato Bas, District 2
SUBJECT: Resolution Directing The Oakland Police Commission To Propose Changes To Three Oakland Police Department Policies Regarding The Use Of Military Equipment

Dear City Council Colleagues, Oakland Police Commission Members, and Members of the Public,

I respectfully request that the Council discuss and adopt: **RESOLUTION DIRECTING THE OAKLAND POLICE COMMISSION TO PROPOSE CHANGES TO THE FOLLOWING OAKLAND POLICE DEPARTMENT POLICIES: 1) DEPARTMENTAL GENERAL ORDER K-7 ON MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY; 2) DEPARTMENTAL GENERAL ORDER K-6 ON DEPARTMENT RIFLES; 3) DEPARTMENTAL GENERAL ORDER I-26 ON ROBOTS (REMOTE CONTROLLED GROUND SYSTEMS) FOR SUBMISSION TO THE CITY COUNCIL PURSUANT TO SECTION 604(B)(4) OF THE OAKLAND CITY CHARTER.**

This resolution is a policy alternative to Item #7 on the January 17, 2023 Council agenda: Ordinance Approving Controlled Equipment Use Policies For The Oakland Police Department To Acquire And Use The Following Types Of “Militarized” Equipment In Conformance With Government Code Section 7070 And Oakland Municipal Code Chapter 9.65: (1) Departmental Rifles; (2) Chemical Agents; (3) Unmanned Aerial Systems; (4) Noise-Flash Diversion Devices (Flash Bangs); (5) Riot Helmets; (6) Specialty Impact Munitions; (7) Armored Vehicles; (8) Chemical Agents; And (9) Remote Controlled Ground Systems (Robots) And Pole Cameras.

This memo provides information on the process my office has engaged in to develop the below proposed amendments, which I would like the Police Commission to consider.

Proposed Amendments:

1. Departmental General Order K-7 On Military Equipment Funding, Acquisition, And Use Policy
 - a. Amend H: Coordination With Other Jurisdictions
 - i. **Replace:** “Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the category for the military equipment is approved for use in accordance with this policy.”
 - ii. **With:** “Members of outside agencies in Oakland during a mutual aid deployment shall be briefed on this policy before participating in any mutual aid activity managed by OPD. Mutual aid shall not be utilized for the purpose of bypassing any listed prohibition, rule or procedure outlined in this Training Bulletin.”

2. Departmental General Order K-6 On Department Rifles;
 - a. [pg 12 of 17] Amend XI: PROHIBITED USES
 - i. **Add a new Section XI(F):** “Rifles shall not be deployed for recruitment, public relations, or promotional activities.”
 - ii. **Add a new Section XI(G):** “Rifles shall not be deployed for crowd control purposes.”
 - b. [pg 9 of 17] Amend IX: AUTHORIZED DEPLOYMENT
 - i. **Add a new Section IX(B)4:** “Commanders shall make every effort to avoid the deployment of patrol rifles in the presence of minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people (as defined in DGO K-03).”
3. 3) Departmental General Order I-26 On Robots (Remote Controlled Ground Systems)
 - a. [pg 5 of 10] Amend III(A)(5)(c): GENERAL GUIDELINES / Authorized Use / Detachable Tools
 - i. **Strike Sections (ii), (iii), and (iv)**
 - ii. **Add a new Section III(A)(5)(c)(ii):** “Use of the detachable OC canister is prohibited as described below in III. B. Prohibited Use.”
 - b. [pg 7 of 10] Amend III(B): GENERAL GUIDELINES / Prohibited Use
 - i. **Add a new Section III(B)(7):** “Robots and their attachments shall not be deployed as a use of force on a person.”

Background

At the November 1, 2022 Oakland City Council Meeting, the Oakland City Council was scheduled to consider an item submitted for consideration by the Oakland Police Department. This agenda item was scheduled directly to the Council, bypassing Public Safety Committee, titled [#9 Approve OPD's Policies In Accordance With California Government Code § 7070 Et Seq. \(AKA “AB 481”\) And OMC Chapter 9.6.](#)

Prior to the meeting, our office as well as other Councilmembers received requests to meet and speak with community members regarding concerns they had on the policy. During the meeting on November 1, 2022, the public and members of the Council raised concerns as well as proposed amendments to the policies.

The item was withdrawn and rescheduled to the December 6, 2022 meeting of the Council to allow time to further understand the concerns raised. The Council’s intention was to allow for the Oakland Police Commission to review amendments proposed, and come back to the Council with an assessment of whether it would be willing to consider and advance the proposed changes.

The Police Commission delegated to its [Militarized Equipment Ad Hoc Committee](#) the task of responding to the Oakland City Council. The Ad Hoc Committee met twice since the November 1, 2022 meeting and a letter was drafted and sent to the City Council dated November 30, 2022. In the letter, the Commission confirmed that the Militarized Equipment Ad Hoc Committee’s original report to the full Commission properly reflected prior consideration of the substantive areas raised by the public and therefore proceeded with its recommendations to the Council, with

Item No.: _____
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 January 17, 2023
 Page 2

the only exception being the need for a written definition of “high-risk search warrant”, which OPD said it would present to the Commission for consideration in 2023.

During the [December 6, 2022](#) Council meeting, through discussion, the item was continued to the December 20, 2022 Council meeting. Subsequently, at the Rules and Legislation Committee on December 15, 2022 the item was scheduled for the January 17, 2023 meeting of the City Council.

My office has continued to engage in conversations and work with the City Attorney’s Office, the Oakland Police Commission, and the Oakland Police Department to come to a shared understanding of the goals of our proposed changes and feel confident we can move forward together.

I’d like to thank our City Attorney’s Office, Oakland Police Commission, Oakland Police Department and American Friends Service Committee as well as community stakeholders who have worked with us on advancing these changes.

Respectfully Submitted,



Nikki Fortunato Bas
Council President, District 2



DEPARTMENTAL GENERAL ORDER

**I-26: REMOTE CONTROLLED GROUND SYSTEM (ROBOTS)
and POLE CAMERAS**

Effective Date:

Coordinator: Electronic Services Unit, Special Operations Division

I. VALUE STATEMENT

The Oakland Police Department promotes approved and safe technology into its everyday policing. OPD strives in protecting and serving its diverse community and city through fair, equitable and constitutional policing. Robots and pole cameras are implemented into OPD's strategy for success. These fleets will never replace the police officers who have sworn to protect the community, but will assist in mitigating use of force, bring safe resolutions to critical incidents and help save lives. OPD is committed in safeguarding and respecting the privacy of the community and has brought measures and policies in place to ensure none are violated. Regardless of deployment, robots and pole cameras will be utilized in accordance with OPD Core Values and our Mission.

II. DESCRIPTION OF THE TECHNOLOGY
A. Robot and Pole Cameras Components

A Remote-Controlled Ground System (Robot): is an unmanned machine guided and remotely controlled by a human individual as well as all the supporting or attached systems designed for gathering information through imaging, recording or by any other means.¹ Generally, a Robot consists of:

- A Robot, composed of:
 - Platform/Body/Frame that is capable of remote movement,
 - Radio frequency and antenna equipment to communicate with a remote-control unit;
 - A computer chip for technology control;
 - A camera;

¹ This policy does not cover autonomous or partially autonomous robots, only those robots that are directly controlled by humans.

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- Battery charging equipment for the remote ground / aquatic vehicle and remote control.
- Two-way communication (talk/listen) with transmitter and receivers and Push to Talk functionality
- Robotic claw; and
- Single or Double (Twin) pan disrupter on telescoping arm with camera system
- Remote controlled unit (LCD display) with brightness control
- A Pole Camera, composed of:
 - Extendable pole with mounted camera, with thermal imaging capabilities;
 - Battery charging equipment for pole and LCD display with brightness control
 - Pole cameras do not require remote controlled devices. They are solely and human-operated by an ESU team member.

B. Purpose

Robots and Pole Cameras have been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. Robots and Pole Cameras can support first responders in hazardous incidents that would benefit from a ground, and or aquatic level perspective. In addition to hazardous situations, Robots and Pole Cameras have applications in locating and apprehending subjects, missing persons, and search and rescue operations as well as task(s) that can best be used in crawl spaces or confined isolated areas, or bodies of water. This immensely assists in searches for suspects, victims or evidence in an efficient and effective manner. Any use of a Robot or Pole Camera will be in strict accordance with constitutional and privacy rights and OPD Policy.

The robot or pole camera may not always be ideal for deployment and alternatives should always be considered prior to deployment.

C. How the System Works

1. Robots are remotely controlled by humans from a wireless remote-control unit. The wireless remote-control unit allows operators to remotely navigate the Robot and manipulate the robotic claw and

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any accessories and detachable tools.

ESU operators require time to make ready robots and install any detachable tools. Furthermore, not all attachments are ideal for each deployment.

2. Pole Cameras are human-operated and require kinetic energy to be operated.

III. GENERAL GUIDELINES**A. Authorized Use**

1. Only authorized operators who have completed the required training shall be permitted to operate the Robots and Pole Cameras.
2. Robots and Pole Cameras may only be used for the following specified situations:
 - a) Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
 - b) Disaster management;
 - c) Missing or lost persons;
 - d) Hazardous material releases;
 - e) Sideshow events where many vehicles and reckless driving is present;
 - f) Rescue operations;
 - g) Training;
 - h) Hazardous situations which present a high risk to officer and/or public safety, to include:
 - i. Barricaded suspects;
 - ii. Hostage situations;
 - iii. Armed suicidal persons;
 - iv. Arrest of armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime");
 - v. Service of high-risk search and arrest warrants involving armed and/or dangerous persons (as defined in OPD DGO J-04 "Pursuit Driving" Appendix A, H "Violent Forcible Crime"; and
 - vi. Exigent circumstances - A monitoring commander

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(Lieutenant or above) may authorize a Robot or Pole Camera deployment under exigent circumstances as defined in OPD DGO K-03 "Exigent Circumstances²." A report shall be completed and forwarded to the Chief of Police and the OPD Robot and Pole Camera Coordinator for all deployments authorized under exigent circumstances, for a full review to determine policy compliance.

3. Deployment Authorization

- a) Except as provided otherwise in this policy, deployment of an OPD Robot or Pole Camera shall only be for the authorized uses above and require the authorization of the incident commander, who shall be of the rank of Lieutenant of Police or above.
- b) Incident commanders of a lower rank may authorize the use of a Robot or Pole Camera during exigent circumstances. In these cases, authorization from a command-level officer shall be sought as soon as is reasonably practical.
- c) ESU Operators are encouraged to advise a supervisor or incident commanders when they believe they are incapable of operating a robot in a safe manner.

4. Deployment Logs

- a) A commander authorizing deployment of a Robot or Pole Camera shall send notification of the deployment via the military equipment deployment notification process.
- b) Deployment logs will provide all mission deployment details for each land, and or water deployment.

5. Detachable Tools

- a) Several ground robots have detachable tools. These detachable tools offer additional options to safely resolve a conflict consistent with OPD's Mission and Values. These detachable tools can be deployed when command believes the usage is in accordance with OPD policy, procedure and the law and such

² 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.

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usages places officers in a tactical advantage. The detachable tools include the following:

- i. 360 degree rotating robotic claw with telescoping camera on a telescoping arm.
 - ii. A detachable OC canister;
 - iii. A detachable glass and/or tire puncture;
 - iv. A detachable pan disrupter.
- b) 360 degree rotating robotic claw with telescoping camera on a telescoping arm.
- i. The rotating robotic arm is controlled through the remote control.
 - ii. The rotating robotic arm can be utilized to deliver packages or items such as food, water, telephone, etc.
 - iii. The robotic arm can also be utilized to open vehicle or structural doors.
 - iv. The robotic arm can also be utilized to pick up, retrieve or reposition items such as food, water, telephone, etc.
 - v. The robotic arm can be utilized to pick up firearms or suspicious packages believed to be explosives. However, such operation may only be at the direction of command staff and extreme caution must be used. The authorizing commander shall evaluate each scenario and coordinate with ESU.
- c) Detachable OC canister
- i. The detachable OC is controlled through the remote controller.
 - ii. [Use of the detachable OC canister is prohibited as described below in III.B. Prohibited Use.](#)
- d) Detachable Glass/Tire Puncture
- i. The detachable glass/tire puncture can deflate or immobilize tires and or shatter vehicle or structural glass. However, such operation may only be at the direction of command staff and extreme caution must be used. The authorizing commander shall evaluate each scenario and coordinate with ESU.
- e) Detachable Pan Disrupter
- i. This attachment utilizes a 12-gauge blank shotgun round and water to breach secured locks/doors or disrupt suspicious packages. However, such operation may only be at the direction of command staff and extreme caution must be used. The authorizing commander shall evaluate each scenario and coordinate with ESU. The ESU

Deleted: <#>Members shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance in accordance with Department General Order K-3, USE OF FORCE. ¶
Officers must be familiar with OPD Training Bulletin V-F.2, USE OF OLEORESIN CAPSICUM (OC), and, specifically, the risk factors associated with aerosol chemical agents and the treatment for individuals subjected to them. ¶
In crowd control situations in the City of Oakland, aerosol chemical agents shall not be used without the approval of a supervisor or command officer and in accordance with OPD Training Bulletin III-G Crowd Control and Crowd Management. ¶

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- ii. ESU Officers shall adhere to the Safety Checks of TB III-H Specialty Impact Munitions when loading the pan disruptor³.
- iii. The detachable pan disruptor can be loaded with a live ammunition round. This practice is prohibited as described below in III.B. Prohibited Use.

Commented [HJ(1): This section is inconsistent with the limitations section below.

6. Privacy Considerations

- a) Operators and observers shall not intentionally transmit images of any location where a person would have a reasonable expectation of privacy (e.g. residence, yard, enclosure). When the Robot or Pole Camera is being deployed, operators will take steps to ensure the camera is focused on the areas necessary to the mission and to minimize the inadvertent collection of data about uninvolved persons or places. Operators shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently transmitting images of areas where there is a reasonable expectation of privacy.

B. Prohibited Use

1. Robots and Pole Cameras shall not be equipped with any weapon systems or attachments not described in Section III.A. above; nor shall it be equipped with any analytic systems capable of identifying groups or individuals, including but not limited to facial recognition or gait analysis.
2. Robots and Pole Cameras shall not transmit any data except to their respective remote-controlled units (LCD Display).
3. Robots shall not be used for the following activities:
 - a. For any activity not defined by “Authorized Use” Section III.A. above.
 - b. Conducting surveillance.
 - c. Targeting a person or group of people based on their characteristics, such as but not limited to race, ethnicity, national origin, religion, disability, gender, clothing, tattoos, sexual orientation and/or perceived affiliation when not connected to actual information about specific

³ The similar Safety Checks of clearing the barrel, having a second officer clear the barrel and inspecting the rounds to ensure the rounds are blank rounds and having a second officer inspect the rounds to ensure the rounds are blank rounds shall be followed.

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individuals related to criminal investigations.

- d. For harassing, intimidating, or discriminating against any individual or group.
- e. To conduct personal business of any type.

4. Robots and their attachments shall not be deployed as a use of force⁴ on a person.

- a. It is not a violation of this policy to use the robotic arm to push, poke, or pull a person to gain their attention, nor is it a violation to grab or pull them with the robotic arm in an attempt to rescue them from a dangerous situation.

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Deleted: <#>The rotating robotic arm shall not be used as force³ on a person.⁵

Deleted: <#>The detachable pan disruptor and glass/tire puncture tool shall not be used as force on a person.

5. The detachable pan disruptor shall not be loaded with a live ammunition round.

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C. Communications

Notifications will be made to the Communications Section for notifying patrol personnel, when OPD Robot operations are authorized by a Commander.

IV. ROBOT DATA

A. Data Collection, Access and Sharing

Robot and Pole Cameras deployed by OPD shall not share any data with any external organizations via integrated technology. Robots and pole cameras only send data to the ground operator's controller via encrypted radio signals – there is no internet connection for external data sharing and no data recording.

V. ROBOT ADMINISTRATION

A. System Coordinator / Administrator

- 1. The ESU will appoint a program coordinator who will be responsible for the management of the Robot and Pole Camera program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best

⁴ "Force" is defined in DGO K-3 USE OF FORCE and includes all levels of force up to and including lethal force.

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practices.

2. The ESU Unit Supervisor, or other designated OPD personnel shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that covers all use of Robot and Pole Camera technology during the previous year. The report shall include all report components compliant with Ordinance No. 13489 C.M.S. The annual report will include a breakdown of incident type for each year.

3. **Submission and evaluation of requests for Robot use**

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a uniform protocol for submission and evaluation of requests to deploy a Robot and or Pole Camera, including urgent requests made during ongoing or emerging incidents.

B. Program improvements

The ESU Unit Supervisor, or other designated OPD personnel, shall recommend and accept program improvement suggestions, particularly those involving safety and information security.

C. Maintenance

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a Robot and Pole Camera inspection, maintenance and record-keeping protocol to ensure continuing deployment of the tracking purposes, and include this protocol in the Robot and Pole Camera procedure manual. Maintenance and record-keeping should also include expenditures such as purchase of new equipment and mechanical repairs.

D. Cost Analysis

The ESU Unit Supervisor, or designated OPD personnel, shall develop a protocol for developing and documenting data for a cost-benefit analysis. This cost benefit analysis will include amount of ESU personal involved, ESU equipment utilized, suspect(s) located (e.g. gender, race and age) and the recovery of evidentiary items (e.g. firearms, clothing, vehicles, etc).

E. Training

The ESU Unit Supervisor, or other designated OPD personnel, shall ensure that all authorized operators have completed all required

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department-approved training in the operation, applicable laws, policies and procedures regarding use of the Robot and Pole Camera.

F. Auditing and Oversight

The ESU Unit Supervisor, or other designated OPD personnel, shall develop a protocol for documenting all Robot and Pole Camera uses in accordance to this policy with specific regards to safeguarding the privacy rights of the community and include this in the Robot and Pole Camera procedure manual and the annual Robot and Pole Camera report. The Robot and Pole Camera supervisor will develop an electronic record of time, location, equipment, purpose of deployment, and number of Robot and Pole Camera personal involved. Whenever a deployment occurs, the authorizing commander, or operator, will send an electronic notification/submission to the SOS Commander to include the topics listed above. This protocol will allow the SOS Commander to have a running log of all deployments and assist in the annual report.

G. Reporting

The ESU Unit Supervisor, or other designated OPD personnel, shall monitor the adherence of personnel to the established procedures and shall provide periodic reports on the program to the Chief of Police.

The ESU Unit Supervisor, or other designated OPD personnel, shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that contains a summary of authorized access and use.

H. Inquiry and Complaint Process

(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.^[1] Refer to DGO K-7 for additional information.

^[1] DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."

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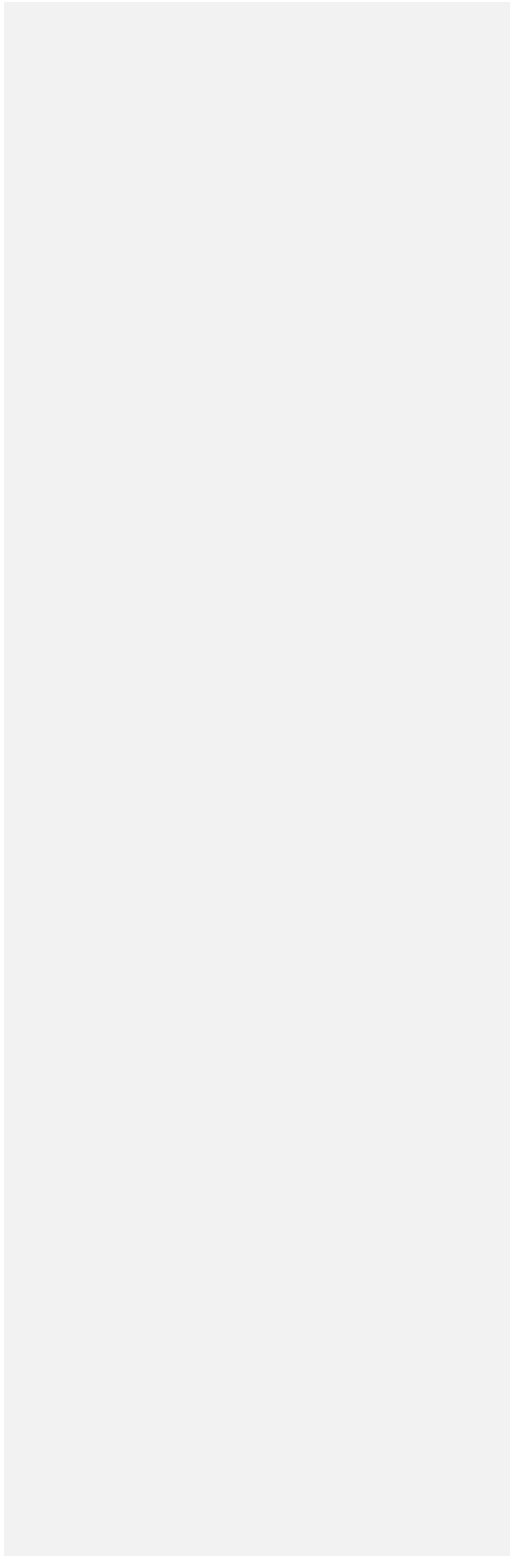
Effective Date _____

By Order of

LeRonne L. Armstrong

Chief of Police

Date Signed:





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GENERAL
ORDER

Effective Date:
XX XXX XX

K-6

Evaluation Coordinator:
Patrol Rifle Program Instructor Staff

Index as:

Department Rifles

DEPARTMENT RIFLES

The purpose of this order is to set forth Department policy and procedures to regulate the field deployment of Department Rifles and memorialization of their deployment; and establish selection, certification, and training protocols for Patrol Rifles issued to field officers within the Patrol Rifle Program (PRP).

I. VALUE STATEMENT

Recognizing officers are not normally equipped to safely address threats from persons wearing body armor, are at distances beyond the effective range of standard-issue pistols and shotguns, and encounter subjects armed with various firearms, the Department has implemented specially-trained Patrol Rifle Officers (PRO) who, along with qualified Tactical Operations Team members, may deploy rifles to enhance officer and public safety. The field deployment of any rifle shall be in accordance with the core values and mission of the Oakland Police Department.

II. DEFINITIONS

A. Department Rifle

The collective term for either a Patrol or Tactical Team Rifle.

B. Patrol Rifle

1. The department Patrol Rifle shall be an AR-15 semi-automatic carbine, utilizing .223 caliber/5.56 mm ammunition.

a. The present Patrol Rifle is the Colt LE6920 Rifle.

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- b. New or replacement Patrol Rifles shall be approved by the Patrol Rifle Program Instructor Staff, and pass requisite departmental approval before implementation.

C. Tactical Team Rifles

Members of the Entry and Sniper elements of the Tactical Operations Team utilize either AR or manual bolt action rifles.

1. The Tactical Team AR Rifle, as utilized by Entry and Sniper Team members, shall be an AR-15 semi-automatic carbine, utilizing .223 caliber/5.56 mm ammunition.
 - a. The present Tactical Team AR Rifles are the BCM CQB MCMR 11 Rifle, the Noveske N4 Rifle, and the Colt LE6920 Rifle.
 - b. New or replacement Tactical Team AR Rifles shall be approved by the Entry/Sniper Tactical Team Leaders, and pass requisite departmental approval before implementation.
2. The Sniper Rifle shall be either a manual bolt-action rifle or AR-10 semi-automatic carbine, utilizing .308 Winchester ammunition.
 - a. The present Sniper Rifles are the GA Precision Bolt Action .308 Win Rifle and the Seekins Precision SP10 AR-10.
 - b. New or replacement Sniper Rifles shall be approved by the Sniper Team Leaders, and pass requisite departmental approval before implementation.
3. Entry and Sniper Team members may utilize privately-owned AR-15 carbine rifles, or manual bolt-action or AR-10 Sniper Rifles (Sniper Team members only).
 - a. Privately-owned rifles shall be approved for use by the operator's respective Tactical Team Leader(s).
 - b. Operators utilizing a privately-owned rifle must pass the current team marksmanship qualification before deploying with the rifle in the field.
 - c. Privately-owned rifles used in place of Department Rifles shall be subject to this order and all related orders in the

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same fashion as Department Rifles. References in this order to Department Rifles categorically include authorized privately-owned rifles.

D. Patrol Rifle Program (PRP) Instructor Staff

Certified firearms instructors responsible for coordinating and providing selection and training for Patrol Rifle Officers in the Patrol Rifle Program, and collecting and reporting requisite statistics and data as required by the department.

E. Patrol Rifle Officer (PRO)

An officer that has successfully completed the selection and training process described in this order that has been issued a Patrol Rifle and is current on all training and qualifications set by the PRP Instructor Staff.

III. POLICY

- A. Only PROs and Entry and Sniper Team members shall be authorized to deploy Department Rifles (Patrol Rifle, Tactical Team AR Rifle, or Sniper Rifle) per section IX of this order.
- B. Discharge and/or deployment of a Department Rifle shall be in accordance with the provisions of Departmental General Order K-3, USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable. Officers discharging a rifle 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.
- C. Discharge and/or deployment of a Department Rifle shall be reported in accordance with the provisions of Departmental General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable.
- D. To ensure members of the Patrol Rifle Program maintain skill levels required by the Department, PROs shall successfully complete an initial Departmental training course, and additional training as determined by the PRP Instructor Staff (see section XIV).

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B. The following factors shall be considered prior to deploying a Department Rifle:

- 1. The engaged person is known to possess or is suspected to possess a deadly weapon or firearm.
- 2. The engaged person is beyond the effective range of Departmental pistols or shotguns (generally within 25 yards).

Effective shooting ranges vary. Factors evaluating effective shooting ranges for any firearm include, but are not limited to: the subject or target area/size, terrain, stability in stance or shooting platform, shooting position, shooter and/or target movement, marksmanship proficiency, and stress. Distance is one factor in the totality of circumstances in determining rifle use.

- 3. The engaged person is known to be wearing or is suspected of wearing body armor.

- 4. Commanders and officers shall make reasonable efforts to ascertain the presence of minors, the elderly, medically compromised people, people with physical, mental or intellectual disabilities, people with limited English proficiency, or other vulnerable people (as defined in DGO K-03).

If present, commanders and officers shall make reasonable efforts to avoid the deployment of patrol rifles in the immediate presence of the above people.

The above is not an exhaustive list of circumstances under which a rifle may be deployed, nor are the points necessarily automatic grounds for rifle deployment. The tactical need to deploy is based on the totality of circumstances, and the deploying member must be able to articulate the reasonable need to deploy.

- C. The deployment of a Department Rifle follows the same reporting criteria as other firearms regarding the KDE disposition code.
- D. Patrol Rifle Officers shall not be deployed as a substitute for use of the Department Tactical Operations Team (refer to Departmental General Order K-5, TACTICAL OPERATIONS TEAM).

Commented [TS1]: Rephrase so it's clear when it's deployable. As it reads, for example, it may read as if someone being far away is criteria enough, without other factors considered.

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- E. When a member is directed to deploy his/her rifle in what is believed to be an inappropriate circumstance, he/she shall advise the directing supervisor/commander prior to deploying. There may be instances in which the supervisor/commander has additional information to which the rifle officer is unaware, and time may not allow for an explanation of the circumstances before a rifle is deployed. When practical, the officer and supervisor/commander should brief the situation together. Though an officer may be directed to deploy their rifle, the discharge of a rifle shall still be in accordance with the provisions of Departmental General Order K-3, USE OF FORCE or K-5, TACTICAL OPERATIONS TEAM, as applicable.

Any such deployment in this subsection must still be memorialized per section XII of this order.

- F. Department Rifles shall only be discharged during actual duty deployment or at a firearms range that can accommodate rifle fire.
- G. Entry and Sniper Team members may deploy Tactical Team AR Rifles in the field during a Tactical Operations Team activation, or absent a Tactical Operations Team activation if the above-listed criteria in this section is met.
- H. Sniper Rifles may be deployed during a Tactical Operations Team activation, or absent a Tactical Operations Team activation, if the criteria in this section is met and the necessity for long-distance armed cover—beyond the capabilities of the Tactical Team AR Rifle—is required.
- I. Rifles shall be returned to the vehicle or place of storage as soon as practical after the purpose for deployment has been resolved (e.g., a yard search for a person has been completed, the person who was being sought or detained has been secured, etc.).

X. MODIFICATIONS

- A. Modifications to a Patrol Rifle (to include altering components, replacing them with alternative components, and additions to the rifle) are prohibited unless approved by the Patrol Rifle Program Instructor Staff and shall only be completed by a member of the staff. The following list, though not exhaustive, are components under which this section applies:

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that allows burst or fully-automatic firing is prohibited.

- F. No attachments that, by design, are considered weapons (e.g., bayonets, separate launchers, etc.) may be attached to any rifle.
- G. Personal magazine rifles may be used upon approval and inspection by the Patrol Rifle Program Instructor Staff (for Patrol Rifles) or a Tactical Team Leader (for Tactical Team Rifles). Marking magazines beyond the operator's name, serial number, or alpha-numeric numbering to differentiate magazines is prohibited.
- H. Morale patches or aftermarket emblems, stickers, tokens, or other artifacts shall not be attached or affixed to any rifle or magazine.

XI. PROHIBITED USES

Department Rifle deployment, to include privately-owned rifles deployed for departmental purposes, under conditions beyond those listed in section IX of this order are prohibited. Examples of prohibited deployments include, but are not limited to:

- A. During non-high-risk vehicle or pedestrian stops. High-risk stops are generally those involving a person or persons suspected of having committed a serious crime, or presenting an immediate or anticipated threat necessitating having armed cover throughout the detention process until the subject is handcuffed and otherwise deemed safely detained. Absent these circumstances, rifles should not be deployed during these stops.
- B. During routine patrol with no specific threat or articulable facts, as outlined in section IX, lending to the deployment of a rifle.
- C. Rifles shall not be slung and carried as a matter of course during an incident if deployment is not reasonably required or reasonably pending.
- D. Rifles shall not be used to dispatch² a dangerous animal, except when a Departmental pistol or shotgun is inappropriate (e.g., distance, type of animal, etc.).

² Reference DGO K-03, Section H-07 for rules on discharging firearms at animals.

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- E. Rifles shall not be used as impact weapons, unless any of the following circumstances exist (Department General Order K-3, USE OF FORCE):
 - 1. When an officer reasonably believes and can articulate that a person is attempting to take the rifle away from the officer;
 - 2. When lethal force is permitted; or
 - 3. When using specific defensive tactics muzzle strikes as taught by the PRP Instructor Staff, Entry or Sniper Tactical Team Leaders, or Firearms training staff.

F. Rifles shall not be deployed for recruitment, public relations, or promotional activities.

G. Rifles shall not be deployed for purposes of crowd management, crowd control, or crowd dispersal in connection with any demonstration or crowd event in the City of Oakland. Nothing about a crowd control situation eliminates or changes any of the constraints and criteria governing the use of lethal force in the Department's Use of Force Policy DGO K-03.

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XII. RIFLE LOGS AND DEPARTMENT RIFLE USE REPORTING

- A. Rifle deployments shall be documented in the Patrol Rifle Log Book assigned to that rifle, or by other means insomuch that the required data in subsection D are memorialized, and may be submitted as required to the PRP Instructor Staff (for PROs) or Tactical Team Leader (for Entry and Sniper Team members).
- B. Department rifle training shall also be logged for the purposes of memorializing rifle round counts and any significant maintenance.
- C. Each PRO shall submit his/her rifle deployments, round count, and maintenance entries to the PRP Instructor Staff on a quarterly basis.
- D. Each deployment log entry shall minimally include:
 - 1. The associated incident and RD number.

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2. The location of the deployment (specific address or block, and Area).
 3. The date and time of the deployment.
 4. The associated crime or reason for the deployment.
- E. The PRP Instructor Staff shall review and consolidate all PRO logs on a quarterly basis, and prepare and forward a quarterly report listing rifle deployment data in subsection D to the Special Operations Section Commander.
- F. After a Tactical Operations Team activation, deployments of Entry and Sniper Team rifles shall be reported by the respective element's Team Leaders to the Tactical Operations Support Team (TOST).
- G. Entry and Sniper Team members deploying rifles in the field during non-Tactical Operations Team activations shall maintain a deployment log as listed above, which shall be reviewed by the respective element's Team Leaders and reported quarterly to the Special Operations Section Commander.
- H. Personally-owned rifle deployments shall be memorialized categorically by type (i.e., as an AR-15, AR-10 sniper rifle, or manual bolt-action sniper rifle) for the purposes of reporting the deployment of military equipment.

XIII. STORAGE AND SECURITY

- A. When on-duty, PROs shall store their Patrol Rifles in one (1) of two (2) conditions:
1. In a gun case in the locked trunk or rear locked storage compartment of their assigned police vehicle.
 2. Locked in the designated rifle rack of a police vehicle.
- B. In either situation above, the rifle shall be in the following condition:
1. Safety placed on "Safe."
 2. Bolt/carrier group closed/forward on an empty chamber.

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2. The PRP Instructor Staff shall notify the BFO Deputy Chief of the satisfactory completion of the remedial training with a recommendation for recertification.
 3. Upon positive endorsement from the BFO Deputy Chief, the PRP Instructor Staff shall notify the subject PRO and his/her immediate supervisor of the recertification.
 4. If remedial training has not been satisfactorily completed, the PRP Instructor Staff shall forward a memorandum through channels to the BFO Deputy Chief detailing the remedial training provided and the PRO's failure to satisfactorily complete the training, and shall recommend the removal of the PRO from the program.
 5. Upon the negative endorsement from the BFO Deputy Chief, the PRP Instructor Staff shall notify the subject PRO and his/her immediate supervisor of the removal from the program.
- H. A PRO who is decertified for unacceptable performance or conduct shall have the right to appeal that action in the same manner and within the same time frames as a member may appeal a Performance Appraisal Report, with the final determination made by the Chief of Police.
- I. Refer to Departmental General Order K-5, TACTICAL OPERATIONS TEAM, for member decertification.

XVI. INQUIRY AND COMPLAINT PROCESS

(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3, COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.

By Order of

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LeRonne L. Armstrong
Chief of Police

Date Signed: _____



DEPARTMENTAL GENERAL ORDER

K-7: Military Equipment Funding, Acquisition and Use Policy

Effective Date: 20 May 2022

Coordinator: Special Operations Section

COMMAND INTENT

The purpose of this policy is to provide rules for the approval, acquisition, use, and reporting requirements of military equipment, as outlined in Government Code § 7070, Oakland Municipal Code (OMC) 9.65, et. seq., in order to safeguard the public's welfare, safety, civil rights, and civil liberties.

A. POLICY AND APPLICABILITY

It is the policy of the Oakland Police Department (OPD) to have legally enforceable safeguards, including transparency, oversight, and accountability, in place to protect the public's welfare, safety, civil rights, and civil liberties with respect to the funding, acquisition, and use of equipment defined by statute as military equipment. The acquisition of military equipment and its deployment in our communities may impact the public's safety and welfare. The public has a right to know about any funding, acquisition, or use of military equipment by local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment. Decisions regarding whether and how military equipment is funded, acquired, or used should consider the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input. The members of this Department will comply with the provisions of Assembly Bill 481, Government Code § 7070, Oakland Municipal Code (OMC) 9.65, et. seq. with respect to military equipment.

B. DEFINITIONS

The definitions related to this policy are defined in Government Code § 7070 and OMC 9.65:

Governing body – Means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff's department or a district attorney's office, "governing body" means the board of supervisors of the county. [Government Code § 7070(a)]. As it pertains to the City of Oakland, the Oakland City Council is the Governing body, but OPD must go through the Oakland Police Commission for requests or submitting reports pertaining to military equipment.

Law Enforcement Agency – A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges. [Government Code § 7070(b)(2)].

Military equipment – Defined military equipment includes, but not limited to, the following [Government Code § 7070(c)(1)-(15)] and [OMC 9.65]:

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Controlled equipment – This term and term “Military equipment” are used interchangeably.

- Unmanned, remotely piloted, powered aerial or ground vehicles [Government Code § 7070].
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision [Government Code § 7070].
- Wheeled vehicles that are built or modified to provide ballistic protection to their occupants, such as mine-resistant ambush protected (MRAP) vehicles or armored personnel carriers. Police versions of standard consumer vehicles are specifically excluded from this section [OMC 9.65]
- High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two-and-one-half (2½)-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision [Government Code § 7070].
- Wheeled vehicles that are built to operate both on-road and off-road, such as a high mobility multipurpose wheeled vehicle (HMMWV), commonly referred to as a Humvee, a two-and-one-half (2½)-ton truck, or a five (5)-ton truck, or vehicles built or modified to use a breaching or entry apparatus as an attachment. Unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this section [OMC 9.65].
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion [Government Code § 7070].
- Tracked vehicles that are built or modified to provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion [OMC 9.65].
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units [Government Code § 7070].
- Weaponized aircraft, vessels, or vehicles of any kind [Government Code § 7070].
- Weapon-bearing aircraft, vessels, or vehicles of any kind, whether manned or unmanned [OMC 9.65].

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- Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision [Government Code § 7070].
- Breaching apparatus designed to provide rapid entry into a building or through a secured doorway, including equipment that is mechanical, such as a battering ram, equipment that is ballistic, such as a slug, or equipment that is explosive in nature, but excluding handheld battering rams that can be operated by one person [OMC 9.65].
- Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision [Government Code § 7070] and [OMC 9.65].
- Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision [Government Code § 7070] and [OMC 9.65].
- Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in § 30510 and §30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or state agency [Government Code § 7070] and [OMC 9.65].
- Any firearm or firearm accessory that is designed to launch explosive projectiles [Government Code § 7070].
- Active area denial weapons, such as the taser shockwave, microwave weapons, water cannons, and the long-range acoustic device (LRAD). [Government Code § 7070]. [OMC 9.65].
- The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons, and "riot guns" used to disperse chemical agents [OMC 9.65]. [Government Code § 7070].¹
- Any weapon designed for hand-to-hand combat, including any knife designed to be attached to the muzzle of a rifle, shotgun, or long gun for purposes of hand-to-hand combat, but excluding service-issued telescopic or fixed-length straight batons [OMC 9.65].

¹ Riot guns was added to this section from OMC 9.65.

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- Explosives and pyrotechnics, such as "flashbang" grenades and explosive breaching tools, and chemical weapons such as "teargas" and "pepper balls" but excluding standard, service-issued handheld pepper spray [OMC 9.65] [Government Code § 7070].
- Crowd-control equipment, such as riot batons, riot helmets, and riot shields, but excluding service-issued telescopic or fixed-length straight batons [OMC 9.65].
- Military surplus equipment [OMC 9.65].
- Any other equipment as determined by a governing body (City Council) or a state agency to require additional oversight [Government Code § 7070] and [OMC 9.65].

Controlled Military Equipment Impact Report- means a publicly released, written document that includes, at a minimum, all of the following [OMC 9.65]:

1. Description: A description of each type of controlled equipment, the quantity sought, its capabilities, expected lifespan, intended uses and effects, and how it works, including product descriptions from the manufacturer of the controlled equipment.
2. Purpose: The purposes and reasons for which the Oakland Police Department (hereinafter, "Police Department") proposes to use each type of controlled equipment.
3. Fiscal Cost: The fiscal cost of each type of controlled equipment, including the initial costs of obtaining the equipment, the estimated or anticipated costs of each proposed use, the estimated or anticipated costs of potential adverse impacts, and the estimated or anticipated annual, ongoing costs of the equipment, including operating, training, transportation, storage, maintenance, and upgrade costs.
4. Impact: An assessment specifically identifying any potential impacts that the use of controlled equipment might have on the welfare, safety, civil rights, and civil liberties of the public, and what specific affirmative measures will be implemented to safeguard the public from potential adverse impacts.
5. Mitigations: Specific, affirmative technical and procedural measures that will be implemented to safeguard the public from such impacts.
6. Alternatives: A summary of all alternative method or methods the Police Department considered to accomplish the purposes for which the controlled equipment is proposed to be used, the annual costs of alternative method or methods, and the potential impacts of alternative method or methods on the welfare, safety, civil rights, and civil liberties of the public.

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7. Location: The location(s) it may be used, using general descriptive terms.
8. Third Party Dependence: Whether use or maintenance of the controlled equipment will require the engagement of third-party service providers.
9. Track Record: A summary of the experience (if any) other entities, especially government entities, have had with the proposed controlled equipment, including, if available, quantitative information about the effectiveness of the controlled equipment in achieving its stated purpose in other jurisdictions, and any known adverse information about the controlled equipment (such as unanticipated costs, failures, or civil rights and civil liberties abuses).
10. Additionally, the Annual Impact Report will include the following from the Government Code 7072:
 - A summary of any complaints or concerns received concerning the military equipment.
 - The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
 - The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
 - The quantity possessed for each type of military equipment.
 - If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

Some of these additions are already captured on Appendix A- Military Equipment List.

Controlled Equipment Use Policy- means a publicly released, legally enforceable written document governing the use of controlled equipment by the Oakland Police Department that addresses, at a minimum, all of the following [OMC 9.65] and [Government Code § 7070]:

A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment [Government Code § 7070] and Appendix A.

Purpose: The specific purpose or purposes that each type of controlled equipment is intended to achieve [OMC 9.65] and [Government Code § 7070].

Authorized Use: The specific uses of controlled equipment that are authorized, and rules and processes required prior to such use [OMC 9.65] and [Government Code § 7070].

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The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment [Government Code § 7070].

The legal and procedural rules that govern each authorized use [Government Code § 7070].

Prohibited Uses: A non-exclusive list of uses that are not authorized.

Training: The course of training that must be completed before any officer, agent, or employee of the Police Department is allowed to use each specific type of controlled equipment [OMC 9.65]. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy [Government Code § 7070].

Auditing and Oversight: The mechanisms to ensure compliance with the controlled equipment use policy, including which independent persons or entities have oversight authority, and what legally enforceable sanctions are put in place for violations of the policy [OMC 9.65] and [Government Code § 7070].

Transparency: The procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of controlled equipment, and how the Police Department will ensure that each complaint, concern, or question receives a response in a timely manner [OMC 9.65] and [Government Code § 7070].

Annual Controlled Equipment Report -means a publicly released written document that includes, at a minimum, all of the following information for the immediately preceding calendar year:

1. Production descriptions and specifications for controlled equipment and inventory numbers of each type of controlled equipment in the Police Department's possession. The Police Commission may waive the remaining obligations for annual reporting for a specific type of equipment if the Police Department certifies, in advance of issuing the Annual Controlled Equipment Report, that the equipment was not used or purchased in the immediately preceding calendar year.
2. A summary of how controlled equipment was used.
3. If applicable, a breakdown of where controlled equipment was used geographically by police area. For each police area, the Police Department shall

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report the number of days controlled equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.

4. A summary of any complaints or concerns received concerning controlled equipment.
5. The results of any internal audits, any information about violations of controlled equipment use policies to the extent permitted by law, and any actions taken in response.
6. The estimated annual cost for each type of controlled equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for controlled equipment in the calendar year following submission of the annual report.
7. Impact: An updated assessment specifically identifying any potential impacts that the use of the controlled equipment might have on the welfare, safety, civil rights, and civil liberties of the public, and what specific affirmative measures will be implemented to safeguard the public from potential adverse impacts.
8. Mitigations: Specific, affirmative technical and procedural measures that have been implemented to safeguard the public from such impacts.
9. Alternatives: An updated summary of all alternative method or methods the Police Department considered to accomplish the purposes for which the controlled equipment is proposed to be used, the annual costs of alternative method or methods, and the potential impacts of alternative method or methods on the welfare, safety, civil rights, and civil liberties of the public.

C. MILITARY EQUIPMENT COORDINATOR

The Chief shall designate the Special Operations Section Commander or designee as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

1. Acting as liaison to the governing body for matters related to the requirements of this policy.
2. Identifying equipment that qualifies as military equipment in the current possession of the Oakland Police Department, or the equipment OPD intends to acquire that requires approval by the governing body.
3. Facilitate an inventory of all military equipment at least annually.

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4. Collaborating with any allied agency that may use military equipment within the jurisdiction of Alameda County (Government Code § 7071).

5. Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

- a. Publicizing the details of the meeting.
- b. Preparing for public questions regarding the Oakland Police Department's funding, acquisition, and use of equipment.

6. Preparing the annual military equipment report for submission to the governing body and ensuring that the report is made available on the Oakland Police website (Government Code § 7072) (OMC 9.65).

D. APPROVAL FOR FUNDING, ACQUISITION, AND USE

The Oakland Police Department or authorized designee shall submit to the Oakland Police Commission a Controlled Equipment Impact Report and a Controlled Equipment Use Policy prior to engaging in any of the following:

- Requesting the transfer of Controlled Equipment pursuant to Section 2576a of Title 10 of the United States Code.
- Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- Accepting funds for Controlled Equipment, including, but not limited to, private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- Acquiring Controlled Equipment either permanently or temporarily, including by borrowing or leasing.
- Collaborating with another law enforcement agency, such as commanding, controlling, or otherwise directing that agency or its personnel, in the deployment or other use of Controlled Equipment within Oakland.
- Using any new or existing Controlled Equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to OMC 9.65.
- Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- Acquiring military equipment through any means not provided above.

The Police Department shall not accept funding for, acquire, or use Controlled Equipment without the review and recommendation, by the Police Commission, and approval, by City Council, of a Controlled Equipment Impact Report and a Controlled Equipment Use Policy submitted pursuant to OMC 9.65.

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The Police Department shall not seek or apply for state, federal or private funds or in-kind or other donations for Controlled Equipment without prior review and approval by the Police Commission at a regularly noticed meeting. The Police Department may seek such approval here without submitting an Impact Report and/or a Controlled Equipment Use Policy, by informing the Police Commission of the needs for the funds and/or equipment, or otherwise justifying the request.

Submission to the Police Commission

- When seeking the review and recommendation of the Police Commission, the Police Department shall submit to the Police Commission a Controlled Equipment Impact Report and Controlled Equipment Use Policy.
- The Controlled Equipment Impact Reports and Controlled Equipment Use Policies shall be made publicly available on the Department's website for as long as the Controlled Equipment is proposed or approved for use.
- The Police Commission shall consider Controlled Equipment Impact Reports and Controlled Equipment Use Policies as an agenda item for review at least one open session of regularly noticed meeting.

Annual Reports on the Use of Controlled Equipment

The Oakland Police Department shall submit an Annual Controlled Equipment Report to the Police Commission no later than March 15th of each year, unless the Police Commission advises the Police Department that an alternate date is preferred. The Police Department shall make each annual report available on its website for as long as the Controlled Equipment is available for use. Within 60 days of the Police Department's submission and publication of an Annual Controlled Equipment Report, the Police Commission shall place the report as an agenda item for an open session of a regular meeting.

Notwithstanding the above, the Oakland Police Department may acquire military equipment without first obtaining City Council approval in the following situations:

1. In the event of an emergency, the Oakland Police Department may acquire additional stock of approved military equipment without City Council approval only if the Chief determines that doing so is necessary to respond to the emergency.
2. If there is an unanticipated exhaustion or reduction in the stock of ammunition, flash bangs, or chemical agents covered by this policy that would impair the Oakland Police Department's ability to maintain essential public safety functions or ensure the safety and security of the jails, OPD may acquire the minimum

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additional stock necessary to maintain these functions until City Council approval can be obtained. This exception applies only to ammunition, flash bangs, or chemical agents, and does not permit OPD to acquire any other military equipment without prior Council approval.

3. The Chief of Police shall submit a report within 30 days through the Police Commission to the City Council documenting the emergency. At a minimum the report shall contain the following:
 - Summary
 - Dates of the emergency
 - Items purchased by OPD that are defined as “Military equipment.”
 - Describe if items were used and the reason for the use.
 - Fiscal Cost
 - Purchased items used during the emergency

E. MILITARY EQUIPMENT USE CONSIDERATIONS

Military equipment shall only be used by an OPD employee only after applicable training, including any course required by the Commission on Peace Officer Standards and Training (POST) has been completed, unless exigent circumstances arise. The military equipment acquired and authorized by the Oakland Police Department is:

1. Necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
3. The acquisition of the Military equipment is necessary to safe guard officer and public safety.

F. MILITARY EQUIPMENT REPORTING

Upon approval of a military equipment policy, OPD or the authorized designee shall submit a military equipment report to the Police Commission for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (OMC 9.65) [Government Code § 7072].

1. The Oakland Police Department shall also make each annual military equipment report publicly available on its internet website for as long as the military equipment is available for use.

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2. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:
- a. A summary of how the military equipment was used and the purpose of its use.
 - b. A summary of any complaints or concerns received concerning the military equipment.
 - c. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
 - d. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
 - e. The quantity possessed for each type of military equipment.
 - f. If OPD intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

G. COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Oakland Police Department through the Police Commission shall hold at least one well-publicized and conveniently located community engagement meeting, at which the department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

H. COORDINATION WITH OTHER JURISDICTIONS

Members of outside agencies in Oakland during a mutual aid deployment shall be briefed on this policy before participating in any mutual aid activity managed by OPD. Mutual aid shall not be utilized for the purpose of bypassing any listed prohibition, rule, or procedure outlined in this Training Bulletin.

The Department shall also provide an annual update to local mutual aid jurisdictions on this policy and other policies relevant to military equipment (controlled equipment) through the county mutual aid coordinator.

Mutual Aid requests for Crowd Management will be managed in accordance with General Order L-03, Training Bulletin III-G, and any other Court Order.

Deleted: Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the category for the military equipment is approved for use in accordance with this policy.

DEPARTMENTAL GENERAL ORDER K-7
OAKLAND POLICE DEPARTMENT

Effective Date
DD MMM YY

I. INQUIRY AND COMPLAINT PROCESS

(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.²

Any member of the public can also use the OPD Internal Affairs 24-hour Complaint Hotline at (866) 214-8834 to file your complaint - leave a detailed message describing the complaint.

Anyone can also send their complaint via U.S. Mail:
Oakland Police Department - Internal Affairs Division
455 - 7th Street
Oakland, CA 94607

Oakland Community Police Review Agency (CPRA):
Anyone can also file a complaint in person by visiting CPRA at 250 Frank Ogawa Plaza, Suite 6302 Oakland, CA 94612 (near City Hall) and file the complaint with an Intake Technician. The phone number at CPRA is (510) 238-3159. Office hours are Monday through Friday, 9:00 a.m. to 5:00 p.m.

For general inquiries regarding OPD Military equipment can be made by the following:

1. By email at militaryequipmentinquiries@oaklandca.gov.
2. By mail to:

Oakland Police Department
Special Operations Section

² DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."

DEPARTMENTAL GENERAL ORDER K-7
OAKLAND POLICE DEPARTMENT

Effective Date
DD MMM YY

Re: Military Equipment Coordinator
2651 73rd Ave
Oakland, CA 94607

General questions or concerns will be routed to the Military Equipment Coordinator for response in a timely manner. The Military Equipment Coordinator shall track all inquiries and responses for inclusion into the Military Equipment Report.

J. AUDITING AND OVERSIGHT

Government Code 7072 (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

*OMC 6.95 (5) 5. Auditing and Oversight: The mechanisms to ensure compliance with the controlled equipment use policy, including which **independent persons or entities** have oversight authority, and what legally enforceable sanctions are put in place for violations of the policy.*

The Oakland Police Department will conduct a yearly internal audit and provide any information on violations of this policy. This report will be added to the yearly Annual Report.

The Oakland Police Commission will be the independent entity with oversight authority. The Office of Inspector General (OIG) will conduct audits to ensure compliance and accuracy of the inventory list.

K. REPORTING/ RECORDS KEEPING

The Support Operations Commander will keep records of the Military equipment used by the Oakland Police Department. Defined Military equipment will have a reporting section in each of the policies to assure accurate usage is captured.

L. MILITARY EQUIPMENT INVENTORY

The attached list is the current qualifying list of equipment utilized by the Oakland Police Department. The Office does not currently possess controlled or prohibited equipment acquired from the United States military. Instead, the department's current inventory consists of commercially available equipment.

Please refer to the attached list.

- Appendix A – Military Equipment Inventory

DEPARTMENTAL GENERAL ORDER K-7
OAKLAND POLICE DEPARTMENT

Effective Date
DD MMM YY

By order of

LeRonne L. Armstrong
Chief of Police

Date Signed: _____

DRAFT



AGENDA REPORT

SUBJECT: Agenda Items IX and X

DATE: January 24, 2023

**Item IX. Presentation of
Proposed Amendments by City
Council related to Militarized
Equipment Policies**

**Item X. Presentation and
Possible Approval of Updated
Militarized Equipment Policies**

RECOMMENDATION

- Solicit public input about the City Council’s proposed changes.
- Approve the incorporation of the updated policies with this staff report on the Commission’s position, to be sent to the City Council at its next meeting.
- Consider requesting the Militarized Equipment Ad Hoc Committee to initiate a public process for exercising the Commission’s authority under Charter Section 604(h) to recommend ways to improve future review process with the City Council “that will further the goals and purposes of this Charter section 604.”
- Approve the updated militarized equipment policies from the Militarized Equipment Ad Hoc Committee as agendized under Item X.
 - o DGO I-26 (Ground Robots)
 - o DGO K-6 (Department Rifles)
 - o DGO K-7 (Military Equipment Funding, Acquisition and Use Policy)

BACKGROUND

At its October 13, 2022 meeting, the Commission approved a set of military equipment use policies submitted by the Oakland Police Department (“OPD”). The Commission held additional meetings to ensure that its review of policies proposed by OPD be within the timeframe required under Oakland Municipal Code § 9.65.020(D)(4). The set of military equipment policies would authorize the acquisition and use of multiple forms of military equipment, pursuant to local ordinance and state law Assembly Bill 481.

The set of policies were then placed on the City Council agenda on October 18, 2022 (referred to as “October Draft Ordinance” by the Office of the City Attorney). At its October 18, 2022 meeting, the Council voted to continue the October Draft Ordinance to the November 1, 2022 City Council meeting. During the November 1, 2022 meeting, the City Council was advised by the Office of the City Attorney that the City Council could

Oakland Police Commission
Meeting on January 26, 2023

accept or reject the proposed policies *but could not modify them*. The City Council adopted a motion to continue the item and requested that the Police Commission further review the policies and consider additional modifications based on public input.

At its November 10, 2022 meeting, the Commission recognized the City Council's request for consideration of additional modifications, and the Commission subsequently requested its Militarized Equipment Ad Hoc Committee to review the modification requests. The Ad Hoc met twice after the City Council's November 1, 2022 meeting and submitted the attached letter to the City Council that there are no additional modifications to the policies that the Commission provided in the October Draft Ordinance. The Commission's letter stated,

This is a new area of important policymaking for the Council and Commission to coordinate, so we are interpreting our role under the Charter and the Municipal Code, with the assistance of counsel. Our reading of this Ordinance is that under Municipal Code Section 9.65.020, the Council has power and authority to take up the Commission's recommendation as follows: "The City Council shall consider the police commission's recommendation within one hundred and twenty (120) days of the commission's vote on the department's proposed changes and may approve or reject the decision. If the council does not approve or reject the commission's decision, the commission's decision will become final." While the codified Ordinance does not technically entail back and forth between our respective legislative bodies, the Commission responds as a partner in public safety, and as a courtesy, hereby takes the Council up on its invitation to provide a second response on this important topic.

At the December 6, 2022 City Council meeting, Council President Bas asked whether the City Council could propose modifications to amend the policies included in the October Draft Ordinance. In a December 16, 2022 public opinion, the Office of City Attorney advised that the City Council could direct the Commission to consider modifications under Charter 604(b)(4).

At the January 17, 2023 meeting, the City Council voted on Resolution aligned with the City Attorney's advice, entitled: "Adopt A Resolution Directing The Oakland Police Commission To Propose Changes To The Following Oakland Police Department Policies: (1) Departmental General Order K-7 On Military Equipment Funding, Acquisition, And Use Policy; (2) Departmental General Order K-6 On Department Rifles; (3) Departmental General Order I-26 On Robots (Remote Controlled Ground Systems) For Submission To The City Council Pursuant To Section 604(B)(4) Of The Oakland City Charter."

The Militarized Equipment Ad Hoc Committee subsequently met twice to consider the proposed modifications.

The Commission (and its ad hoc committee) in its consideration and anticipated approval at its January 26, 2023 meeting are working with the current City Ordinance

Oakland Police Commission
Meeting on January 26, 2023

framework to maximize a collaborative partnership with the City Council in exercising community control over the Police Department's use of military and militaristic equipment. Yet, it needs to be recognized that the operating codified Ordinance does not technically entail back and forth between our respective legislative bodies.

Therefore, in case the proposed modifications by the City Council expressly listed in its Resolution do not fall within Charter Section 604(b)(4), the Commission will take up these proposed modifications within the 120 day timeline window.

As the Commission emphasized in its November 30, 2022 letter to the City Council, this is a new and important area of policymaking for the Council and Commission to get right. For that reason, the Commission should consider designating the Military Equipment Ad Hoc Committee to initiate an open and public dialogue about how the City Council and Commission's roles in this process can be optimized, with the goal of bringing back municipal code recommendations to the full Commission to agendaize and approve under Charter Section 604(h). Any effort to fine tune the militarized equipment policy process with technical fixes would aim to maximize community control over the Department's use of military equipment, including in conjunction with the City Council's Public Safety Committee and the full City Council.

AUTHORITIES

- Charter Sections 604 (b)(4), (b)(5), and (h)
- Municipal Code Sections 9.65.00, *et seq.*
(https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT9PUPEMOWE_CH9.65REACUSMIMIEQ)

ATTACHMENTS

- City Council Ordinance (1.17.23)
- Commission Letter to Council President Bas (11.30.22)
- OCA Public Legal Opinion: "City Council's Authority to Modify Oakland Police Department Military Equipment Use Policies" (12.16.22)



CITY OF OAKLAND | POLICE COMMISSION
250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CA 94612

Current Committees

Standing Committee	Commissioners
*NSA Transition – Post NSA <i>(Consideration to request Council)</i>	Harbin-Forte, Hsieh, Jackson

Ad Hoc Committee	Commissioners
Budget	Milele, Jordan, Jackson-Castain
Body Worn Camera Policy	Harbin-Forte, Peterson, Hsieh
Community Outreach	Howell, Hsieh, Jordan
Contracts	Peterson, Howell, Ordaz
OIG Policies	Peterson, Harbin-Forte, Jackson
CPRA Policies	Harbin-Forte, Jackson-Castain, Ordaz
Militarized Equipment Policy	Hsieh, Jackson-Castain, Jordan
Racial Profiling Policy	Committee of the Whole
Rules of Procedure	Hsieh, Howell, Jackson-Castain
Staff Searches (CPRA, CoS)	Milele, Jordan, Howell
Staff Evaluations (CPRA, IG, CoP, CoS)	Milele, Peterson, Ordaz
OBOA Association	Harbin-Forte, Jackson, Ordaz

Recently Completed/Paused/Dormant

Ad Hoc Committee	Commissioners
Annual Report	Milele, Jackson
Antidiscrimination Policy	Harbin-Forte, Hsieh, Jackson
Electronic Communication Devices	Howell, Harbin-Forte, Peterson
Police Chief Goals and Evaluation	Milele, Peterson, Jackson
Risk Management Policy	Peterson, Harbin-Forte, Howell
Social Media Policy	Milele, Hsieh, Jackson
White Supremacists and Other Extremist Groups	Harbin-Forte, Jackson
Community Policing (15-01)	Harbin-Forte, Howell, Hsieh

For a roster of current Commissioners and their emails, visit:
<https://www.oaklandca.gov/teams/police-commission>

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Annual evaluation of Chief of Police	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Feb/Mar 2023	Annual	Ord. Section 2.45.070(G)
Annual evaluation of Inspector General	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Dec/Jan 2023	Annual	Ord. Section 2.45.070(G)
Hiring CPRA Director including public forum	Staff Searches Ad Hoc	Commission responsible for hiring of Agency Director	Posting Close Date (10.31.22) to Anticipated Hiring Date (March 2023)	Incident-based	Charter - 604(e)(4)
Annual evaluation of CPRA Director	Conduct performance reviews of the Agency Director and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Mar/Apr 2024	Annual	Ord. Section 2.45.070(G)
Annual report to the Mayor/City Council/the public	Complete Annual Report		2022 Annual Report to Commission for Q1	Annual	

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
MEETINGS					
In-Person Meeting - Brown Act	After City Council provides guidance, agendaize to announce and discuss lifting of emergency exception & conduct in-person meetings		Jan/Feb 2023 (after City Council decides)	Incident-based	Ord. Section 2.45.090
Public Hearing on OPD Policies	Commission may shall determine which Department policies are subject of the hearing	Possible topic: racial disparity in policing	Apr 2023 meeting - coupled with community roundtable and public hearing requirement	Annual	Charter Section 604(b)(2)
Two meetings per year outside City Hall - "Community Roundtables"	Agendized ten days in advance	Commission shall consider inviting to each roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and formerly incarcerated members of the community	Apr 2023 meeting - coupled with community roundtable and public hearing requirement May 2023 meeting - combine with community roundtable with budget public hearing	Annual	Charter § 604(d)(1) and Ord. § 2.45.090

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
BUDGET					
Public Hearing on OPD Budget	Purpose of hearing is to "determine whether budgetary allocations for the Department are aligned with the Department's policies". Develop and Approve Recommendations to City Council re Mayor's Budget	Tentative release date of Mayor's proposed budget is May 1st of each year.	May 2023 meeting - coupled with community roundtable and budget public hearing	Annual	Charter Section 604(b)(7)
Propose a Commission Budget, in general	Propose staff position submission to City Administrator necessary to permit the Commission and the CPRA to fulfill its functions and duties.	Include budget for OIG, and Commission COS/ED and other positions	Jan 2023	Annual	Ord. Section 2.45.180
Review and Comment on Proposed Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Jobrelated Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Jan 2023 or May 2023	Annual	Charter § 604(d)(1) and Ord § 2.45.090
Propose a Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Job-related Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Jan 2023 or May 2023	Annual	Ord. § 2.45.070(C) & (D) (C) Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-

					traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. (D) Prepare and deliver to the Mayor, the City Administrator and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection C., above.
Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for CPRA					
Solicit/Consider Public Input re Quality of Interactions with CPRA and Commission		This doesn't have to be in the form of a meeting (could be survey solicitation) but a Commission discussion may be on methodology. What was done in the past? Maybe have it during the hiring process so Commission could take it into	March 2023 with public forum?	Continuous	Ord. § 2.45.070(Q)

		consideration for hiring and setting expectations for CPRA director?			
Establish Rules/Procedures re Mediation/Resolution of Complaints of Misconduct					Ord. § 2.45.070(N)
RFP for IAD transition to CPRA		Requested by CPRA			
Review the Agency's dismissal and/or administrative closure of all complaints of misconduct involving Class I offenses			August 2023 - maybe 6 mos. into new Director's time with OPC	Continuous	Ord. Section 2.45.070(M)
Provide policy guidelines to CPRA Director for determining case prioritization		Requested by Comm. Jackson (11.10.22) about Charlotte's August 2022 email; Chair is asking Charlotte when she can report on it	February 2023	Continuous	
Determine the number of existing CPRA staff who would work at a "street-level or ground-floor, visible office that is accessible by public transportation."			Possibly February 2023 before in-person mtgs	Continuous	Ord. Section 2.46.020
Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for OPD					
Notify Chief of required contents of Chief annual report	See enumerated list of topics		Possibly part of Chief's evaluation in February		Ord. Section 2.45.070(F)
Review And Comment On Department's Practices/Policies Re:					Ord. § 2.45.070(P)

Reporting And Publishing Data On Its Activities					
Revisit OPD's Grooming & Presentation policy		Requested by Comm. Gage (1.13.22)			
For the Chief: - Report on intentions regarding Militarized Equipment - Report on claims regarding bail and increase in crime		Requested by Comm. Hsieh & Harbin-Forte respectively (4.14.22)			
Update on OPD's Parole & Probation policy plus impact.		Requested by Comm. Jackson (2.10.22)			
Approve/Modify/Revoke OPD Use of "Military Equipment" via Annual Report Process			August 2023		Ord. Section 9.65.030
Report from Chief Armstrong regarding OPD's homelessness policy		Requested by Comm. Harbin-Forte (2.10.22)			
Presentation from the Department of Violence Prevention		Requested by Comm. Jackson (2.24.22)			
OPD annual update on impact of the missing person's policy		Requested 8.25.22			
Receive reports from Department via City Administrator on issues identified by the Commission					Ord. Section 2.45.070(R)

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for OIG					
Advise OIG of priorities and the functions and duties, including: <ul style="list-style-type: none"> • Prepare annual report • Monitor/eval # of officers receiving training on profiling, implicit bias, de-escalation, and other key topics • Develop and present a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn officers • Complete all audits/reviews requested by the Mayor, City Administrator, City Council • Monitor/eval/make recommendations re: <ul style="list-style-type: none"> • Recruiting and hiring sworn personnel • OPD Policies the Commission seeks to create or modify • OPD's risk mgmt. practices 					Ord. Section 2.45.120
Advise OIG of priorities for the 52 NSA Tasks		Part of Post-NSA Standing Committee	Jan/Feb/March 2023		Ord. Section 2.45.120; Charter 604(f)(5)

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for Commission					
Community Policing presentation/training		Requested by Comm. Hsieh/Commission Ad Hoc (5.26.22)			Ord. Section 2.45.070(O)
Ad Hoc to review and learn about OPD's Tow policy		Requested by Comm. Harbin-Forte (4.14)			
SB 16 & SB 1421 Training		Requested by Chair Milele & Vice Chair Peterson (5.26.22)			
Maintain/update bylaws			Summer 2023	Continuous	Ord. Section 2.45.040
L.D. Louis presentation on CARES Navigation Center		Invitation sent for 1.12.22 meeting	1.12.23 meeting		
Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of				Continuous	Ord. Section 2.45.070(I)
Mayor's Youth Commission		Requested by Comm. Jackson (8.25.22)			
Center for Violence Prevention update		Requested by Comm. Jackson (8.25.22)			
Bay Area Youth EMT		Requested by Comm Harbin-Forte (8.25.22)			
Case for Evidence-Based Oversight (NACOLE presenters)		Requested by VC Peterson (8.25.22)			
Presenation by Ian Appleyard on new HR process		Requested by Comm. Jackson (11.10.22)			
Minutes of meetings		Requested by Comm. Jackson (11.10.22) — generally recurring w/ consent agenda	12.8.22 meeting agenda	Ongoing	

OIG Policies for review and vote		Requested by Comm. Jackson (11.10.22)— in discussion with OIG Policies ad hoc			
Chief of Staff Search		Requested by Comm. Jackson (11.10.22) — generally recurring with ad hoc report	12.8.22 meeting agenda	Ongoing	
Ceasefire presentation		Requested by Comm. Jackson (1.12.23)			
Update on parole and probation numbers		Requested by Comm. Jackson (1.12.23)			
Half-day retreat on strategic planning		Requested by Comm. Jackson-Castain (1.12.23)			