



# OAKLAND POLICE COMMISSION

## REGULAR MEETING AGENDA

March 23, 2023

5:30 PM

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

**Pursuant to California Government Code Section 54953(e) having been rescinded, members of the Police Commission, as well as the Commission's Counsel and Community Police Review Agency staff, will no longer participate in public meetings via phone/video conference, and physical teleconference locations are required.**

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



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### PUBLIC PARTICIPATION

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

#### OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link <https://us02web.zoom.us/j/86967923953> 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:** 869 6792 3953

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

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

#### PROVIDE PUBLIC COMMENT IN PERSON:

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

#### E-COMMENT:

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



# OAKLAND POLICE COMMISSION

## REGULAR MEETING AGENDA

March 23, 2023

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

*Chair Tyfahra Milele*

**Roll Call:** *Vice Chair Jordan; Commissioner 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 Expanded Request to OPD and City of Oakland for Investigation Files and Records (Charter § 604(f)(2))**

In furtherance of its prior requests in 2022 and 2023, the Police Commission will formally request IAD and City personnel files and records, including complaints, related to IAD Case Nos: 22-0443, 22-0858, 22-1723, and 23-0034. ([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. Open Forum Part 1 (2 minutes per speaker, 15 minutes total)**

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

**V. Public Forum for Community Input on NSA Task 5 (Investigations) and Task 45 (Discipline Disparity) & Approval of Reform Plan to Bring the City of Oakland Into Sustained NSA Compliance. ([Attachment 5](#))**

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



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## REGULAR MEETING AGENDA

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### VI. 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; risk analysis; 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 6)***

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

### VII. 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.***

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

### VIII. Presentation and Possible Approval of DGO I-15 Body Worn Camera Policy (Attachment 8)

Officer Felicia Cervantes, Dr. Carlo Beckman, and Sergeant Urquiza-Leibin will present on DGO I-15 (Body Worn Camera Policy) with additional comments from the Body Worn Camera Policy Ad Hoc Committee.

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

### IX. Presentation and Possible Approval of Police Commission Biennial 2023-25 Budget Proposal

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

### X. Committee Reports

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

***This is a recurring item. (Attachment 10)***

- **Militarized Equipment (Commissioners Hsieh, Jordan, Jackson-Castain)**

The Militarized Equipment Ad Hoc Committee is tasked with drafting and updating policies regulating the acquisition and use of militarized equipment by the Oakland Police Department in accordance with the City of Oakland's Controlled Equipment Ordinance (OMC 9.65) and state law (AB 481; Gov Code 7070 et seq.)



# OAKLAND POLICE COMMISSION

## REGULAR MEETING AGENDA

March 23, 2023

5:30 PM

- **Staff Searches: CPRA Director, Chief of Staff, Police Chief (Commissioners Milele, Jordan, Howell)**  
The Staff Searches Ad Hoc Committee is responsible for the recruitment and hiring of staff vacancies, including the CPRA Executive Director, Commission Chief of Staff, and OPD Police Chief.
  - a. Discussion
  - b. Public Comment
  - c. Action, if any

### XI. 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 11](#))

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

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

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

### XIII. 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](mailto: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 HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Police Commission

March 23, 2023

**Via Electronic Submission**

Mr. Steven Falk  
Interim City Administrator  
[sfalk@oaklandca.gov](mailto:sfalk@oaklandca.gov)

Mr. Darren Allison  
Acting Chief of Police, Oakland Police Department  
[dallison@oaklandca.gov](mailto:dallison@oaklandca.gov)

**RE: Request for Investigation Files and Records (Charter § 604(f)(2))**

Dear Acting Chief Allison and Interim City Administrator Falk,

Per Oakland City Charter (“Charter”) § 604 (f)(2), the Oakland Police Commission (“Commission”) approved this request via affirmative vote on Thursday, March 23, 2023.

**Scope of Request for Secure File/Record Access.** The Commission renews its formal request for copies of all investigation files and records related to IAD Case Nos: 22-0443, 22-0858, 22-1723, and 23-0034 either in the specific possession, custody, or control of the Police Department or the City of Oakland, and to the extent possible the Independent Monitoring Team and the Monitor, and both reiterates its request to include any and all files related to either of these IAD case numbers, including the request for all complaints in any form.

List of requested investigation files and records:

- **All files and records in the City of Oakland’s possession, custody, or control** relating to these two IAD cases, including:
  - All Reports, including Reports of Investigation and Related Reports, issued by Clarence Dyer & Cohen, LLP
  - All Interview Recordings and Transcripts from Subjects, Witnesses, and/or Complainants
  - **All Complaints**

**Nexus to Commission Authority.** The Commission request directly relates to its authority under Charter Section 604(g)(5), as well as the policymaking topics specified in Sections 604(b)(4) and (5) of the Charter: in particular elements expressly listed the Negotiated Settlement Agreement, such as Task 5.

//

The request also relates to the Commission's authority to oversee the Department as codified in Section 604 (a)(1) and evaluate the performance of the Chief of Police, per Section 2.45.070 (G) of the Municipal Code, which is vested in the Commission by the City Council pursuant to Section 604(b)(13).

Finally, the request relates to the Commission's authority under Charter Section 604(f)(1) to direct the CPRA to investigate "any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint..."

Sincerely,

A handwritten signature in cursive script that reads "Tyfahra Milele".

Tyfahra Milele  
Chair, Oakland Police Commission



## Oakland Police Commission

250 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

**TO:** NSA Parties

**FROM:** Oakland Police Commission (OPC)  
Dr. Tyfahra Milele, Chair

**SUBJECT:** Discussion Outline of  
Reform Plan to Bring the City of  
Oakland Into Sustained NSA  
Compliance

**DATE:** March 20, 2023

### Introduction

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

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

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

To formulate a final plan to address the issues outlined below, the Commission will identify information gaps the City and OPD can address, grapple in its public meetings with important policy questions, survey its relevant Charter and Municipal Code authorities, and compile a final incident response plan for review by the NSA Parties and the Court.

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



## OUTLINE OF ISSUES AND REFORM PLAN

### A. SYSTEMIC AND STRUCTURAL ISSUES

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

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

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

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

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

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

Dozens of high profile IAD investigations have been handled by outside firms, yet there is no comprehensive policy that formally standardizes these referrals, governs the details of required notice to the other Charter entities in Oakland, or details the process and timeline for the City to implement discipline based on them, particularly discipline of the Police Chief or other non-union police officers. The City has been applying individual provisions of M-03, the OPD General Order

for processing and investigating allegations of Department employee misconduct, which on its face does not contemplate dozens of outside referrals.

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

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

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

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

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

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

**Proposed Solution:** The internal affairs investigation policy, including any policies related to referrals to outside investigations, must be reformed. In addition, a broader multi-pronged approach is needed to address the issue. The Chair of the NSA Ad Hoc Committee also serves as Chair of the CPRA Policies Ad Hoc Committee, and is hereby proposing to fold several conceptual ideas proposed by the CPRA Director into this set of proposed solutions, as follows:

- The Commission should review the referral process for the CPRA to take up non-civilian complaints, as well as the CPRA's policies and approach for taking on complaints that are traditionally handled internally by the Department.
- The City should enter into an MOU to require it to notify the Commission Chair and CPRA in writing whenever an internal complaint is referred to an outside agency for investigation. Such notification shall include sufficient information for the Commission and CPRA to understand all allegations that need to be investigated. The City shall also provide the Commission Chair and the CPRA a copy of any contract entered into with the outside agency.
- The Commission should direct OPD to report to the Commission on a monthly basis the number of public and internal IAD complaints, to track against the CPRA's monthly reported number.

- The Commission should direct OPD to submit all internal Complaint Investigation Reports (CIRs) to the CPRA via email, within 24 hours of initiation, with detailed allegations including brief narratives sufficient for the CPRA to clearly understand the allegations and the applicable policies and provisions of OPD’s Manual of Rules.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of determination, of any criminal allegations or implications that arise during the course of an administrative investigation.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of any decision being made, to have an outside entity investigate issues or allegations of police misconduct.
- The Commission should direct CPRA to document the numbers, types, and brief narratives of the internal complaints received from IAD.
- The Commission should direct CPRA to investigate mandated allegations for the internal complaints in the same manner as is done with mandated allegations for public complaints.
- The Commission should direct CPRA to investigate any mandated and non-mandated allegations against executive level supervisors ranked Captain or higher.
- The Commission should direct CPRA to determine if there is an administrative investigation that should be conducted in relation to any criminal investigation and to document the rationale for the decision.
- The Commission should direct CPRA to reopen a case and conduct an investigation if the Commission decides, based on a brief narrative of the closed internal cases, that reopening is merited.

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

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

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

## **B. CULTURAL ISSUES:**

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

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

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

## **2. Issue: Lack of City, Monitor, and IMT Coordination with OPC and CPRA**

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

**Proposed Solution:** In the short term, the City and OPD (and for the period of time when the Monitor is standing in the shoes of OPD) must immediately be required to provide regular closed session briefings to the Police Commission and CPRA on the status of compliance issues that pose a risk to the City's resolution of the NSA.

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

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

### **3. Issue: Lack of Distributed Leadership and Accountability at OPD**

Distributed leadership is a leadership model favoring the shared responsibility and accountability of multiple individuals within a workplace. Under a distributed leadership model, the CDC Report's findings about the Police Chief would have extended to the entire leadership team, including those who had knowledge of the pertinent events. There should have been documented standards setting the expectation of accountability for every individual in the decision-making chain, as well as witnesses to the decisions, that led to the Department failures culminating in the December 23, 2021 meeting.

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

### **4. Issue: Availability of Mental Health Services and Support for Sworn Officers**

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

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

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

### **5. Issue: OPD Officer Perception of Alleged Favoritism in Discipline**

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

**Proposed Solution:** OPD needs far more granular information about the widely expressed perception of unfair discipline, including information about what OPD employees perceive as "cliques." The Commission currently has an Ad Hoc Committee that is tasked with investigating allegations made by the members of the Oakland Black Officers Association (OBOA) that they

are subject to more severe discipline than other officers, and will continue to work with an outside investigating firm to review these claims.

### **Conclusion**

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

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

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

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



**2023 Year-to-Date Recovered Guns**

Recoveries through 12 Mar., 2023

<b>Grand Total</b>	<b>187</b>
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<b>Crime Recoveries</b>	
Felony	112
Felony - Violent	29
Homicide	8
Infraction	0
Misdemeanor	6
<b>Total</b>	<b>155</b>

<b>Crime Gun Types</b>	<b>Felony</b>	<b>Felony - Violent</b>	<b>Homicide</b>	<b>Infraction</b>	<b>Misdemeanor</b>	<b>Total</b>
Machine Gun	1					1
Other	3					3
Pistol	82	24	8		6	120
Revolver	8	1				9
Rifle	17	1				18
Sawed Off		1				1
Shotgun	1	2				3
Sub-Machinegun						0
Unknown/Unstated						0
<b>Total</b>	<b>112</b>	<b>29</b>	<b>8</b>	<b>0</b>	<b>6</b>	<b>155</b>

<b>Non-Criminal Recoveries</b>	
Death Investigation	5
Found Property	23
SafeKeeping	4
<b>Total</b>	<b>32</b>

<b>Non-Criminal Gun Types</b>	<b>Death Investigation</b>	<b>Found Property</b>	<b>SafeKeeping</b>	<b>Total</b>
Machine Gun				0
Other				0
Pistol	3	7	1	11
Revolver		3	1	4
Rifle		6	1	7
Sawed Off				0
Shotgun	1	6		7
Sub-Machinegun				0
Unknown/Unstated	1	1	1	3
<b>Total</b>	<b>5</b>	<b>23</b>	<b>4</b>	<b>32</b>



2023 vs. 2022 — Year-to-Date Recovered Guns

Recoveries through 12 Mar

Gun Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
<b>Grand Total</b>	<b>292</b>	<b>187</b>	<b>-105</b>	<b>-36%</b>

Crime Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Felony	180	112	-68	-38%
Felony - Violent	41	29	-12	-29%
Homicide	14	8	-6	-43%
Infraction	0	0	0	PNC
Misdemeanor	6	6	0	0%
<b>Total</b>	<b>241</b>	<b>155</b>	<b>-86</b>	<b>-36%</b>

Non-Criminal Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Death Investigation	4	5	1	25%
Found Property	28	23	-5	-18%
SafeKeeping	19	4	-15	-79%
<b>Total</b>	<b>51</b>	<b>32</b>	<b>-19</b>	<b>-37%</b>

PNC = Percentage not calculated  
[Percentage cannot be calculated.](#)



## Armed Individual Arrested in Connection to Robberies

OPD Media <opdmedia@oaklandca.gov>

Thu 3/9/2023 4:19 PM

To: OPD Media <opdmedia@oaklandca.gov>

📎 2 attachments (2 MB)

3800 Internatioanl Blvd 211PC News Release.pdf; Shellmound SW.PNG;



**For Immediate Release:**

**March 9, 2023**

## Armed Individual Arrested in Connection to Robberies



A nearly four-month investigation by the Oakland Police Department (OPD) leads to multiple arrests and several firearms off the streets. On November 20, 2022, just before 9:15 AM, officers responded to an armed robbery in the 3800 block of International Boulevard. The victim told officers that an individual entered the business posing as a customer before brandishing a firearm and demanding money. The armed individual took the money and fled the location. Robbery Investigators authored arrest and search warrants for the individual.

On March 7, 2023, officers from OPD's Violent Crime Operations Center (VCOC) teamed up with the US Marshals Task Force and implemented the search warrants, ultimately leading to the arrest of the individual responsible for the November 2022 robbery.

During the search, officers recovered two firearms and located evidence linking the individual to additional robberies in Alameda County. Two additional individuals were arrested at the scene.

The arrests and firearm recoveries are due to the tireless effort of officers from OPD's Robbery Section, Intel Unit, and the US Marshals Task Force.

This is an ongoing investigation. Anyone with information can contact the Oakland Police Department's **Criminal Investigation Division at (510) 238-3326**.

**Working together, we can reduce violence in Oakland.**

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Ofc. Darryl Rodgers  
Trust Building Officer - East  
Oakland Police Department

## OPD Makes Arrests Connected to ATM Robberies and Carjacking Series

OPD Media <opdmedia@oaklandca.gov>

Fri 3/10/2023 4:12 PM



For Immediate Release March 10, 2023

OPD NEWS:

## OPD Makes Arrests Connected to ATM Robberies and Carjacking Series



Due to the hard work and relentless efforts of the Oakland Police Department (OPD), four individuals in connection with numerous armed robberies and carjackings in Oakland, have been arrested. For the last two months, officers from OPD's Patrol Division, Area 3 Community Resource Section, Violent Crime Operations Center (VCOC), Ceasefire Section, and Robbery Division, worked collaboratively to take these armed and dangerous individuals off the streets.

On March 8, 2023, Ceasefire and VCOC units located a vehicle wanted in connection with a carjacking. With careful consideration and coordination, the officers devised a plan to safely take the occupants of the carjacked vehicle into custody.

Officers recovered two firearms from the individuals, both with an attachment making the firearm fully automatic (one of the two firearms pictured above, left). Additionally, officers recovered an assault rifle (pictured above, right), as well as a large capacity magazine (pictured above, middle).

Three of the individuals arrested are juveniles, and one is an adult. The group is believed to be connected to seven armed robberies, including three at an ATM, one at a bank, and multiple carjackings. The cases will be presented to the Alameda County District Attorney's Office for charging.

In an effort to keep our community safe, please consider the following safety tips.

### Reduce Your Risk:

- Always remain vigilant of your surroundings.
- Ensure you are not being followed (to/from the bank, your vehicle, and/or residence).
- Do not engage with the suspect(s).

### OPD'S Commitment:

- Collaborate with banks to strengthen their use of privatized security, and crime prevention through environmental design (CPTED).
- Deploy additional officers in areas impacted by the spike in armed robberies.
- Conduct operations to apprehend and arrest those committing violent crimes.

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**Kim Armstead**

Public Information Officer  
Office of Chief of Police  
Oakland Police Department  
[karmstead@oaklandca.gov](mailto:karmstead@oaklandca.gov)



# Overview of Internal Affairs Data

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OAKLAND POLICE COMMISSION MEETING

MARCH 23, 2023

# Findings Defined

**Preponderance of Evidence:** The standard of proof in internal investigations is “preponderance of evidence” rather than the criminal standard of “beyond a reasonable doubt”. Preponderance of the evidence has been described as a “slight tipping of the scales of justice” or “more than 50 percent” or “more likely than not.”

**Exonerated:** The investigation disclosed a preponderance of evidence to determine that the alleged conduct occurred, but it was in compliance with law and/or Department rules, regulations, or policies.

**Not Sustained:** The investigation did not disclose a preponderance of evidence to determine whether the alleged conduct occurred.

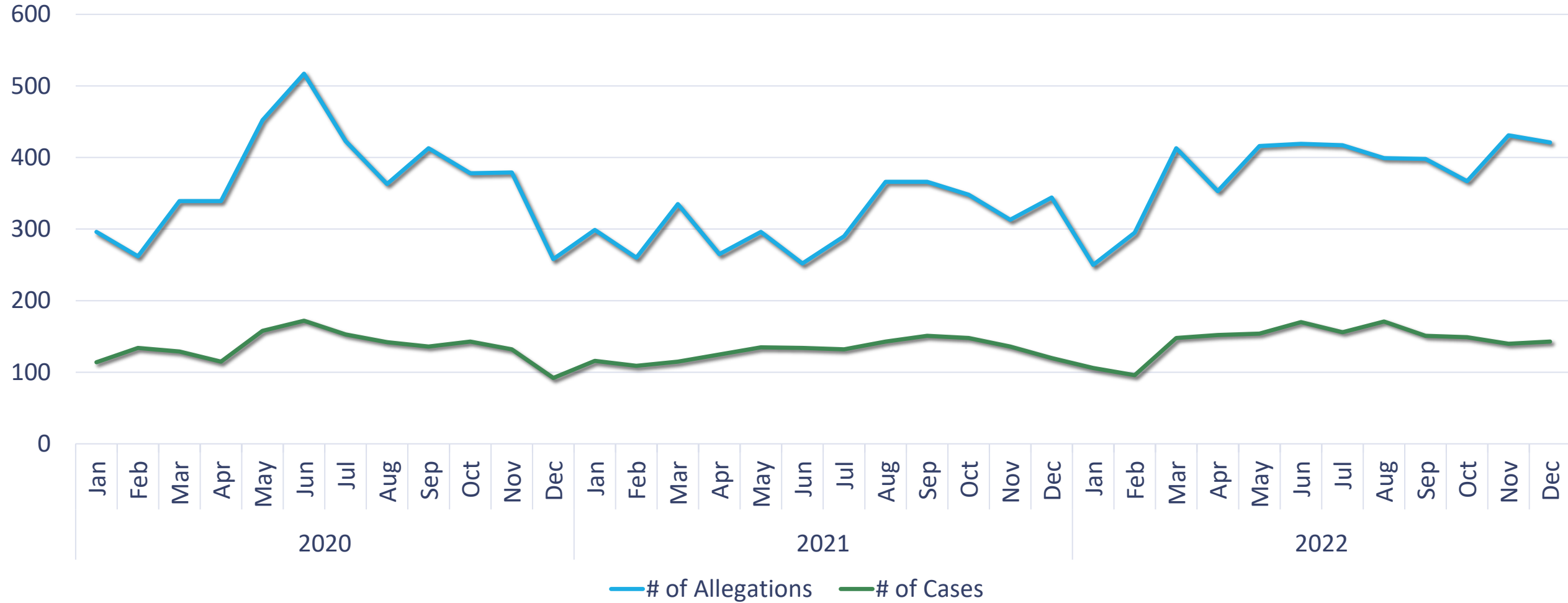
**Sustained:** The investigation disclosed a preponderance of evidence to determine that the alleged conduct did occur, and that it was in violation of law and/or Department rules, regulations, or policies.

**Unfounded:** The investigation disclosed a preponderance of evidence to determine that the alleged conduct did not occur.

**Informal Complaint Resolution:** A process that may be used to informally address service complaints or alleged acts of Class II misconduct against Departmental personnel that do not indicate a pattern of misconduct. The intent of the ICR process is to expedite the resolution of less serious types of complaints against members.

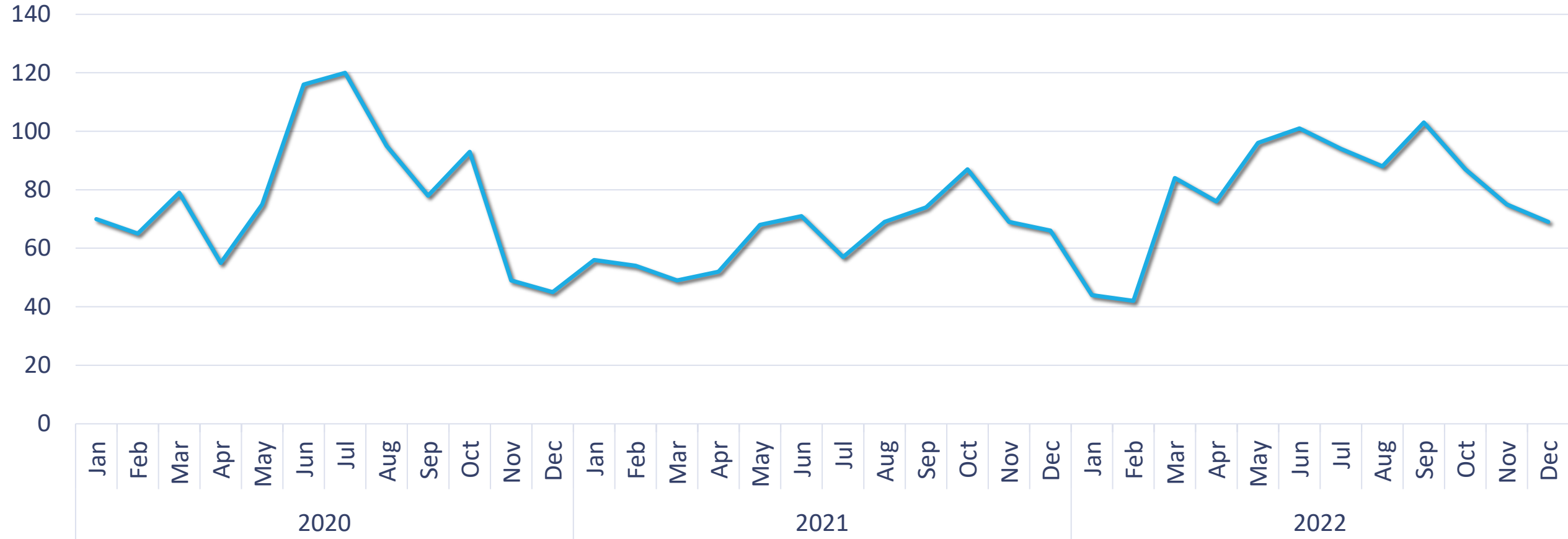
**Administrative Closure:** An administrative disposition indicating that an investigation or allegation cannot come to a normal investigative conclusion (finding). Reasons for Administrative Closure include, but are not limited to: allegations that do not rise to the level of an MOR violation; the complaint lacks specificity and the complainant is unwilling or unable to provide further clarification necessary to investigate the complaint; the subject is not employed by OPD at the time of the incident; or the complaint is limited to a California Vehicle Code citation and/or tow.

# Internal Investigations by Complaint Date



**Internal Investigation: Any administrative investigation conducted by the IAD or at the division-level with respect to a complaint of misconduct or procedure made by, or received from, any person. Supervisory counseling, training, instruction, or admonishment conducted in the normal course of duty does not constitute an internal investigation.**

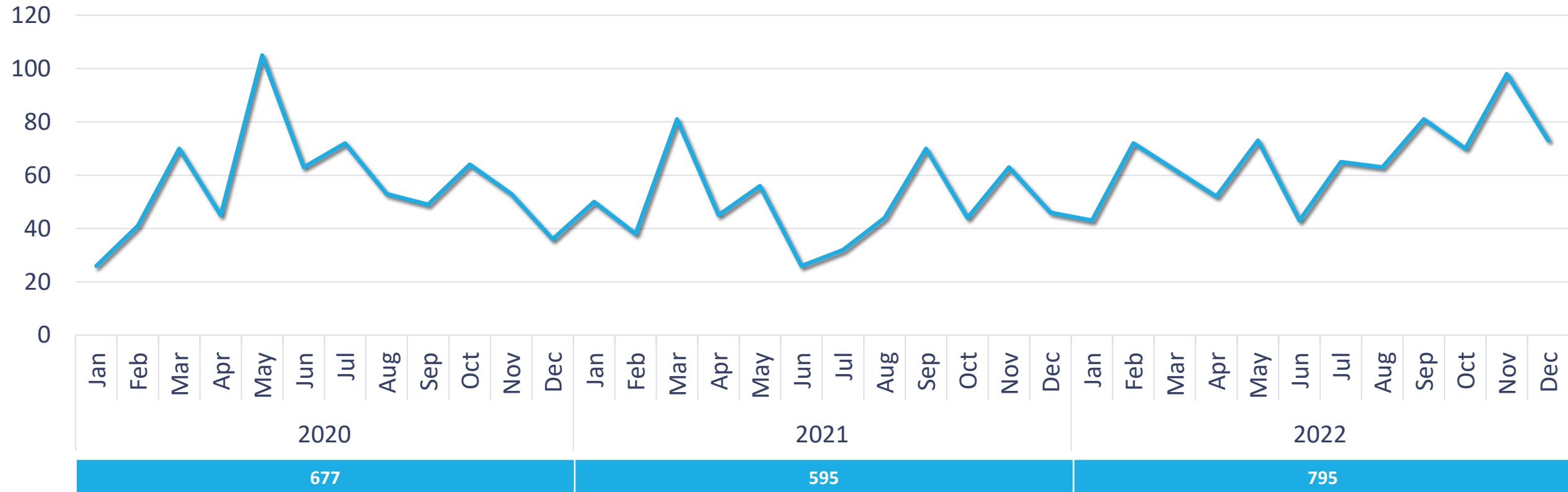
# Service Complaint Allegations



**A complaint from any source regarding an inadequate policy, procedure, practice, service level, or legal standard or statute required of the Department that would not result in discipline. Service complaints shall be assigned an IAD case number and documented in the IAD database. A service complaint is not an allegation of misconduct.**



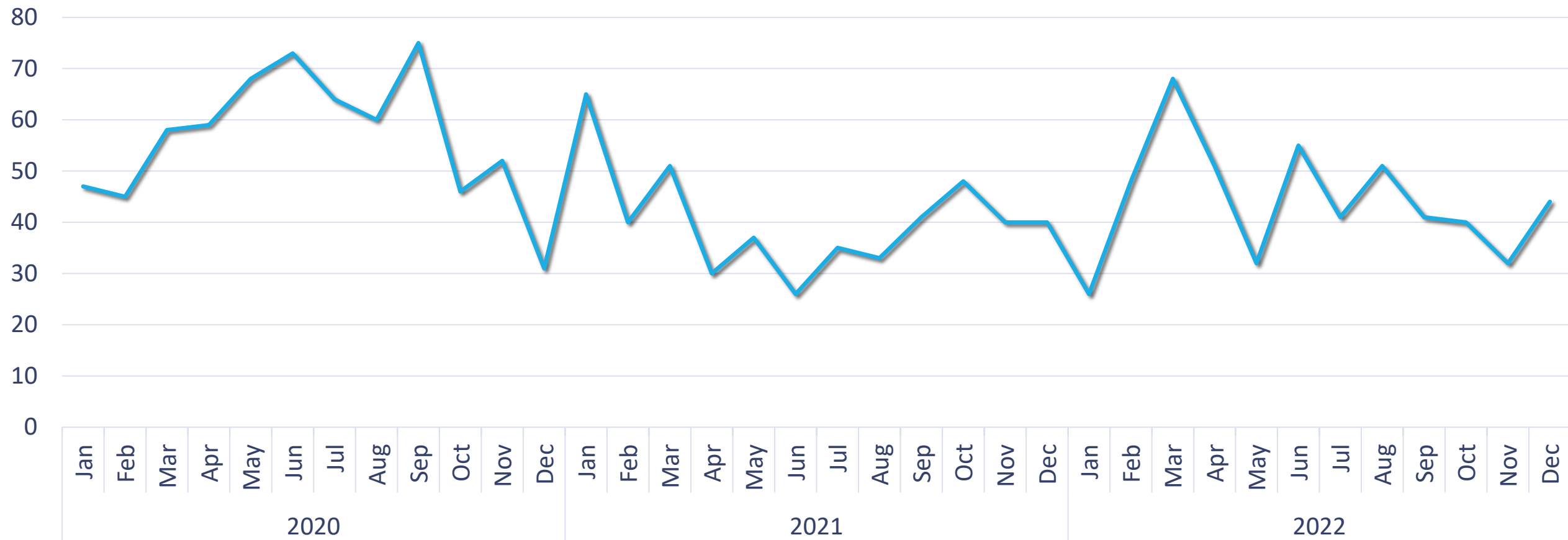
# Performance of Duty – Unintentional/Improper Search, Seizure, or Arrest Allegations



**Examples:**

- The complainant alleged false arrest.
- The complainant alleged false search of his person.
- The complainant alleged false search of her vehicle.
- The complainant alleged officers falsely searched her home because there was no search warrant.
- The complainant alleged he was falsely detained for a psychiatric evaluation.
- The complainant alleged false detention during the preliminary investigation of a reported theft.

# Performance of Duty – General Allegations

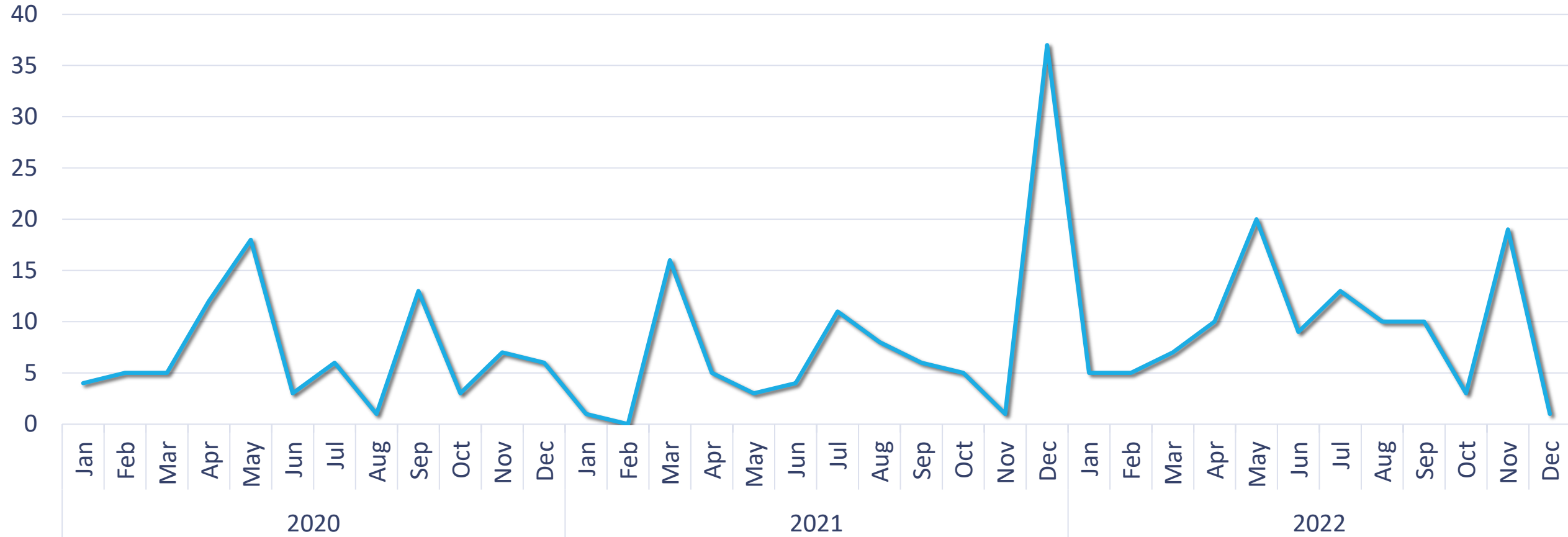


## Examples:

- It is alleged that an officer did not take a statement from a witness of a reported burglary.
- It is alleged that an officer did not properly document the complainant's crime involving domestic violence.
- It is alleged the officer did not write a police report for the complainant's stolen vehicle incident.
- It is alleged the officer did not collect video evidence of a reported robbery.
- It is alleged the officer did not respond to a call for service involving a residential alarm.
- It is alleged the officer did not check the perimeter of a business involving an alarm activation.

# Failure to Accept or Refer a Complaint (Unintentional) Allegations

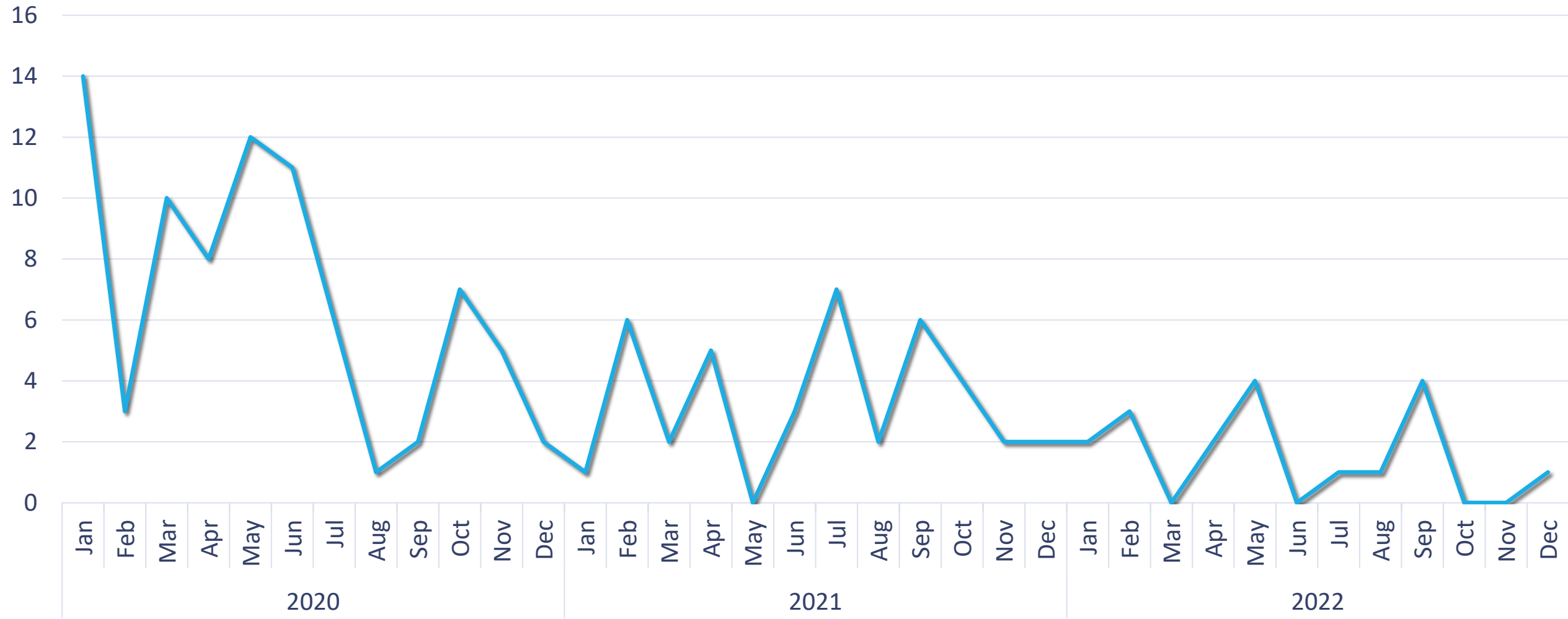
Attachment 6



Examples of this are seen when members are advised of a complaint or allegations of misconduct that should trigger the mandated follow up questions outlined in M-03, and the member does not accept or refer the complaint. Intentionality is evaluated and determined during the preliminary inquiry and investigation.

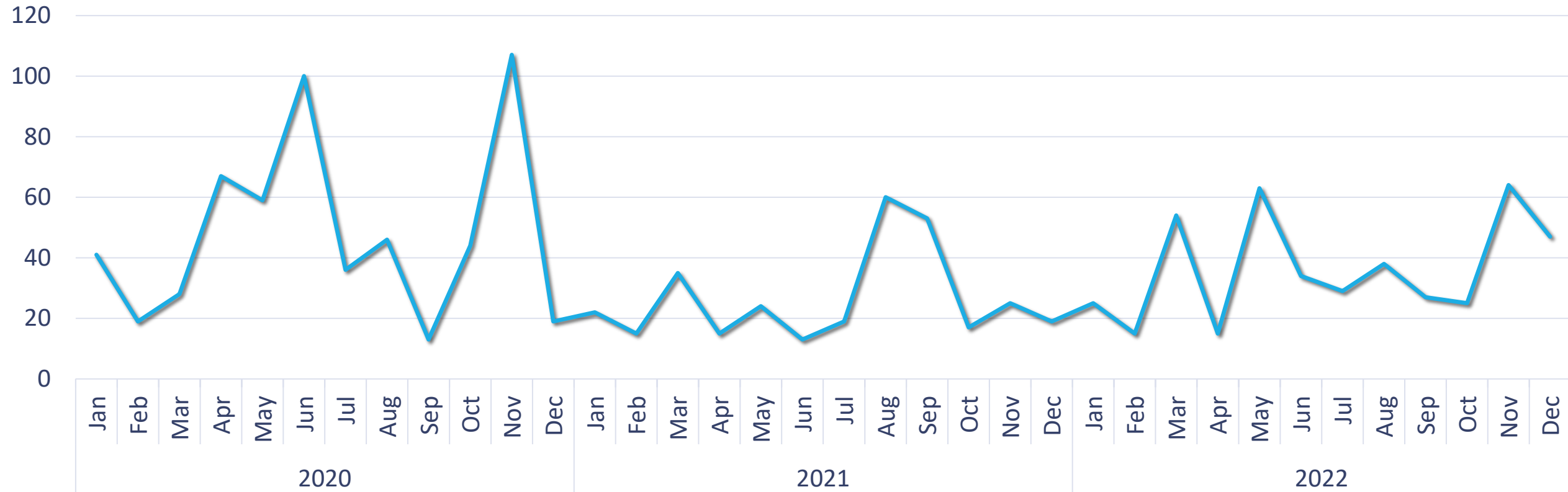
- It is alleged that an officer did not properly accept or refer a complaint.
- It is alleged that a supervisor did not conduct a proper preliminary investigation of a reported complaint (did not ask clarifying questions).

# Conduct Towards Others Allegations - Harassment, Discrimination, or Profiling



**Includes by race or ethnicity, sexual orientation, religion, disability, mental disability, and gender.**

# Use of Force Allegations



# of Allegations	2020	2021	2022
Use of Physical Force Comparable to Level 1	19	6	9
Use of Physical Force Comparable to Level 2	89	31	24
Use of Physical Force Comparable to Level 3	124	27	67
Use of Physical Force Comparable to Level 4	228	234	332
Use of Physical Force Any	119	2	0
Use of Physical Force – Non-reportable Use of Force	0	17	4

**PHYSICAL FORCE, USE OF – The use of physical force (Level 1-4) shall be restricted to circumstances specified by Departmental policies and law.**



## DEPARTMENTAL GENERAL ORDER

**I-15: BODY WORN CAMERA PROGRAM**

Effective Date: XX MMM YY

Coordinator: Information Technology Unit

The Oakland Police Department (OPD) strives to use technology that promotes accountability, transparency, and public trust. OPD uses a Body Worn Camera (BWC) system to document the actions of sworn members during field operations. OPD seeks to balance the benefits provided by digital documentation with the privacy rights of individuals who may be recorded during legal and procedurally just public interactions.

The intent of this order is to set forth Departmental policy and procedure for the BWC system. OPD has adopted BWC technology because of its usefulness in capturing audio/video evidence and enhancing the Department's ability to conduct criminal investigations, administrative investigations, and review of police procedures and tactics. Failure to adhere to this policy will subject members to discipline.

**A. GENERAL PROVISIONS****A - 1. General Provisions**

The following provisions apply to the BWC program:

- All sworn members shall be assigned a BWC.
- All members assigned a BWC shall wear, carry, and use the BWC in accordance with the provisions of this order.
- All BWC files are the property of the Oakland Police Department.
- The OPD Information Technology Unit is designated as the Custodian of Records for all BWC data files.

**A - 2. Specific Prohibitions**

Members shall follow the expressed prohibitions regarding the BWC system:

- Unauthorized use, duplication, editing, and/or distribution of BWC files is prohibited.
- Members shall not delete any BWC file, except as specified in this policy.
- Members shall not remove, dismantle or tamper with any hardware or software component or part of the BWC.
- Members are prohibited from wearing or using personally owned video recording devices in place of, or in conjunction with, an assigned BWC.
- Members shall not intentionally use the BWC recording functions to record any personal conversation of, or between, another member without the recorded member's knowledge.
- Members shall not intentionally use the BWC to record in public or private locker rooms, changing rooms, restrooms, or medical or hospital

facilities, unless there is a legal right to record and a Departmental requirement to record.

Members shall not intentionally use the BWC to record during any meetings with a Confidential Informant as defined in DGO O-04, *Informants*.

## **B. USE OF BWC**

### **B - 1. Wear Requirements**

Members are required to wear and use their BWC while working any uniformed field assignment. Members working non-field assignments (e.g., Criminal Investigation Division (CID), Training, or Internal Affairs Division (IAD)) shall wear and use the BWC if they go into the field in uniform or wearing uniform equipment (e.g., tac vest) for a law-enforcement assignment.

Uniformed assignments that are strictly ceremonial (e.g., assignments requiring Class A uniform) are exempt from BWC wear and use requirements.

### **B - 2. BWC Placement**

The position of the BWC may impact the clarity and sound of video files and could limit the quality of video and audio collected. Members required to **wear the BWC shall position and securely attach the BWC to the front of their uniform or uniform equipment**, as the primary recording location, to facilitate recording.

The BWC may be temporarily moved from the primary location to facilitate recording the encounter. This includes, but is not limited to, putting the BWC facing the rear of the patrol vehicle when a person is detained inside, setting the BWC in a static position to enhance safety or allow for distance from an engaged person, or moving the BWC to better focus on the key components of the incident.

Once the situation necessitating movement of the BWC has been resolved, the BWC shall be returned to the primary recording location as soon as practical.

### **B - 3. Carry Requirements**

Members working non-field assignments shall have their BWC easily accessible to them any time they go into the field for law enforcement assignments (e.g., to serve a search or arrest warrant), and activate it pursuant to section B-8, Required Activations.

### **B - 4. Undercover, Plainclothes, and Task Force Officer (TFO) Requirements**

Undercover or plainclothes members are not required to wear or carry a BWC unless they are wearing a police uniform or uniform equipment that identifies them as a law enforcement officers.

Officers deputized as federal task force officers (TFOs) shall follow the applicable Federal Law Enforcement agency guidelines for BWC use while conducting federal task force operations and investigations.

**B - 5. Function Check and Power On Prior to Shift**

Members utilizing a BWC shall test the BWC and have the BWC powered on in an allowed mode (see B-7, below) prior to every shift, to include ensuring that the BWC battery is fully charged.

If a member's camera is not functional, is not charged, or breaks during the shift, members shall – absent exigent circumstances – notify their supervisor, turn in a broken or non-functional camera, and be assigned a replacement camera by a supervisor or authorized user as soon as possible.

**B - 6. Signal Device Function Checks**

Members shall test all equipped signal devices (e.g., Axon Signal sidearm or Taser 7 Electronic Control Weapon [ECW]) prior to each shift to ensure the devices properly activate the BWC. All tests shall be conducted in a safe location and manner:

- Signal sidearm tests shall be done such that the firearm is partially removed from the holster only to the degree where the signal device recognizes the unholstered firearm; and
- Taser 7 ECW tests shall only be done on the safety switch signal trigger.

**B - 7. Allowed BWC Modes for Field Use**

Members shall have their BWC powered on while in the field. The following modes shall be used during fieldwork:

*Sleep Mode*

The BWC is in sleep mode when the camera is powered on and specifically switched to sleep mode. Sleep mode allows for immediate recording of events with the event button but does not have the 30-second buffer or automatic activation via signal technology.

Sleep mode is authorized for:

- Members who are at police or government facilities (e.g. Police Administration Building (PAB), Eastmont substation (EMM), transportation parking lot), if they are not in contact with detainees or arrestees;
- Members who are in the field on breaks (e.g., 908A and 908B) and are not in contact with detainees or arrestees;
- Members in non-uniformed assignments who are carrying a BWC in the field (refer to B-3), and
- At the direction of a commander or supervisor, including but not limited to debriefs or purely administrative functions.

*Ready Mode*



The BWC is in the ready mode when the camera is powered on and the 30-second buffer is active. Members shall have the BWC in ready mode while in the field unless sleep mode is authorized by this policy.

### **B - 8. Body Worn Camera Activation Defined**

Activation is defined as initiating the audio and visual recording capabilities of the BWC, either by the member utilizing the event button or via automatic trigger (i.e. blue-tooth signal technology).

When the BWC is staged in Ready Mode it is passively recording video at all times. When the BWC is activated, it saves a video-only (no audio) clip of the 30-second period prior to activation.

### **B-9. Required Activation**

Members wearing a BWC shall activate it **prior to** participating in any of the following circumstances:

1. Contacts with a person to confirm or dispel a suspicion that the person may be involved in criminal activity as a suspect;
2. Detentions and arrests;
3. Actively searching<sup>1</sup> for a person or vehicle to detain or arrest them for criminal activity.
  - An officer is actively searching when engaged in a purposeful quest to find a person or vehicle for which the officer possesses reasonable suspicion to believe is associated with criminal activity.
4. Assessment or evaluation for a psychiatric detention pursuant to Welfare and Institutions Code § 5150;
5. Engaging in or trailing a vehicle pursuit<sup>2</sup>, as defined in DGO J-04, *Pursuit Driving*;
6. Serving a search or arrest warrant;
7. Conducting any search of a person or property;
8. Escorting a detained or arrested person who is in custody at a police facility (e.g., from a patrol vehicle to an interview room or from the interview room to the restroom);
9. Transporting by vehicle any detained or arrested person (members working as the prisoner wagon transport officer may deactivate their BWC

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<sup>1</sup> Actively searching does not include routine patrol or officers being on general alert for criminal suspects, BOLO vehicles, or hot sheet vehicles during their routine duties.

<sup>2</sup> DGO J-4, II A

during transport if they are transporting persons in the separate video-recorded prisoner wagon compartment);

10. Following incidents where a department member is involved in a vehicle collision while utilizing a department vehicle, the member is wearing or carrying a BWC, and it is practical and safe to do so
11. When conducting any photographic<sup>3</sup> or in-person<sup>4</sup> line-up that is not recorded by some other means (e.g., interview room camera system);
12. Whenever taking any enforcement action or when ordered to activate their BWC by a supervisor or commander during a crowd control situation in the City of Oakland<sup>5</sup> (Training Bulletin III-G).

#### **B - 9. Deactivation of the BWC**

**Prior to deactivating the BWC for any reason, members shall verbally note the reason they are deactivating the recording.**

Once activated pursuant to B-6, members shall not deactivate their BWC until one of the following occurs:

1. They determine that there is no person who is being investigated, detained, or arrested present (e.g., cold report, subject of a call for service gone on arrival);
2. They are no longer actively searching for the suspect or subject of the call for service, or the possibility of enforcement activity is unlikely;
3. Their involvement in the contact, detention, search, or arrest has concluded;
4. The contact, detention, or arrest becomes a hospital guard;
5. They receive an order from a higher-ranking member. That higher-ranking member shall note the reasoning for deactivation via Computer-aided Dispatch (CAD), their BWC, or report;
6. They are discussing administrative, tactical, or law enforcement sensitive information away from non-law enforcement personnel;
7. They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);

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<sup>3</sup> Reference [Training Bulletin I-T](#), *Double-Blind Sequential Photographic Line-Ups*

<sup>4</sup> Reference [DGO M-06](#), *Prisoner Lineups*

<sup>5</sup> Training Bulletin III-G Crowd Control Management

8. A pursuit has been terminated and the member performs the required terminating action as specified in DGO J-04 or notifies the Communications Division that they are back in service;
9. They are interviewing a prospective informant for the purpose of gathering intelligence. At the conclusion of the interview, the BWC shall be re-activated until no longer required by policy;
10. They are meeting with an undercover officer. At the conclusion of the interview, the BWC shall be re-activated until no longer required by policy.

**If circumstances arise requiring re-activation members shall re-activate pursuant to B-8, above.**

**B - 10. When BWC Activation is Not Required**

BWC activation is not required under any of the following circumstances but is permitted:

- Members taking a report when available information indicates the suspect is not on scene;
- Members on a guard assignment at a police, medical, psychiatric, jail, or detention facility. Members shall assess the circumstances (e.g. suspect's demeanor/actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to discretionarily activate or de-activate their BWC.

**B - 11. Discretionary Activation and De-Activation**

When not *required* to activate or *prohibited* from activation as described above (see B-8 – B-10), members may use their discretion when deciding to activate or de-activate their BWC.

**B - 12. Recording Statements with BWC**

Members are authorized to use the BWC to record statements in lieu of a written statement. BWC statements shall not be used to record statements from child abuse or sexual assault victims.

Members taking BWC statements shall follow the BWC statement guide set forth in Report Writing Manual S-01.

**B - 13. BWC Use Documentation**

Members are required to document all activations of their BWC, except for tests or accidental and false signal recordings. Documentation shall be made in at least one of the following reports, as appropriate:

- Crime Report
- Consolidated Arrest Report or Juvenile Record

- Field Interview Report
- Computer-aided Dispatch (CAD) notes, or
- Use of Force Report.

**Delayed or non-activations of the BWC, when activation was required by policy, shall be documented in the appropriate report, and reported to the member's supervisor.**

#### **B - 14. Data Upload**

Members shall upload BWC data files (videos) at the end of and, if needed, during their shift to ensure storage capacity is not exceeded.

#### **B - 15. Annotation and Categorization of BWC Files**

All members shall annotate BWC data files (videos) daily, or, if not feasible, by the end of the member's next regularly scheduled workday. The following information shall be annotated on every BWC data file:

- Report number associated with the incident recorded (in the ID field); or
- Incident number (in the ID field if there is no report number associated with the incident being recorded)
- The category of the video using the appropriate retention category. See Appendix A for the Department's category and BWC file retention schedule.

If neither the report number nor the incident number exists, members may use the letters "NA" or leave the ID field blank.

Members are authorized to view their video in order to identify the file for annotation unless otherwise prohibited by policy.

During incidents that require exceptional resources or large-scale activation of Department members (e.g. natural disaster), the incident commander may approve delayed annotation of BWC files except in cases that require an investigative call-out. The incident commander shall document any such orders in the appropriate after-action report.

### **C. VIEWING OF BWC FILES**

#### **C - 1. Member Review of Their Own BWC Files**

Members are authorized to review their BWC recordings to properly identify the data files and, refresh their memory regarding an incident, or for any other work-related purpose, unless otherwise prohibited by policy.

Personnel viewing any video file shall document the reason for access in the "Notes" field of each video file viewed.

#### **C - 2. When Members are Prohibited from Reviewing BWC Files**

1. Members designated as involved in a Level 1 Investigation. Members who are involved in a Level 1 Investigation<sup>6</sup> are prohibited from reviewing their BWC files until the Level 1 investigator allows the review pursuant to section D-7.
2. Criminal Investigation of a Member. Personnel who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon approval, as specified below, by the CID or Internal Affairs Division (IAD) Commander.
3. Administrative Investigation of a Member. Personnel having received notification (Complaint Notification Report [CNR]) from the IAD and who are considered to be a subject or witness officer, may not view any audio/video recordings related to the incident except upon approval, as specified below, by the IAD Commander.

**C - 3. Supervisor and Command Viewing of Subordinate BWC Files**

Unless prohibited under C-2, above, supervisors and commanders are authorized to review their own BWC video files, all video files of their subordinates' and, as necessary to complete required duties, any associated video files of non-subordinate members, unless otherwise prohibited by policy.

**C - 4. Review of BWC Files by Criminal Investigation Personnel**

Personnel assigned to CID or other investigatory units are authorized to view any BWC video file associated to their active or ongoing investigations, unless otherwise prohibited by policy.

Investigators conducting criminal investigations shall:

- Review the file to determine whether the BWC file is of evidentiary value and add categories to it as necessary to modify retention and/or access restrictions; and
- Notify the System Administrator to remove any access restriction when the criminal investigation is closed.

**C - 5. Use of BWC Files for Training**

Training staff is authorized to view BWC files regarding incidents which may serve as learning or teaching tool. A BWC file may be utilized as a training tool for individuals, specific units, or the Department as a whole. A recommendation to utilize a BWC file for such a purpose may come from any source.

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<sup>6</sup> Reference [BOI P&P 19-01](#), *Level 1 Investigations*

A person recommending utilizing a BWC file for training purposes shall submit the recommendation through the chain of command to the Training Section Commander.

The Training Section Commander shall review the recommendation and determine how best to utilize the BWC file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means.

#### **D. ACCOUNTABILITY AND INTERNAL INVESTIGATION REVIEWS**

##### **D - 1. Review Considerations for all Supervisor or Commander Reviews of BWC**

Supervisors and commanders have the ability to review their subordinates' [C-3 BWC recordings] during the course of normal supervision and have the obligation to review certain recordings pertaining to specific events. In addition to required assessments during other reviews, all BWC recording reviews by supervisors and commanders shall follow these guidelines:

1. Supervisor and command review of subordinate BWC recordings shall include an assessment of:
  - a. Officer performance and training needs;
  - b. Policy compliance, including compliance with the provisions of this policy; and
  - c. Consistency between written reports and video files.
2. When a member does not activate or de-activate their BWC as required by policy, supervisors and commanders shall determine if the delayed or non-activation was reasonable, based upon the circumstances.
3. If the supervisor or commander determines that the delay or non-activation was reasonable, they shall document the justification in the appropriate report. If no report is generated, this shall be documented in a Supervisory Notes File (SNF)<sup>7</sup> for the officer. The supervisor's commander shall be advised, and their (commander) name noted in the SNF.
4. Supervisors, commanders, and managers who discover Class II misconduct during the review of the BWC video, that does not indicate a pattern of misconduct, may address the Class II misconduct through non-disciplinary corrective action. Any Class II violations of this policy shall be documented by SNF in the member's file, with the SNF entry including

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<sup>7</sup> **Practice note (Dec 2022):** In the Department's VISION system, notes documenting a **reasonable** BWC delay or non-activation should use the SNF Category "Supervisory Observations" and the Type "N/A". Such notes that a delay or non-activation was reasonable do not constitute a pattern and should not be used for the purposes of discipline or misconduct investigation (refer to DGO M-03).

documentation that a review of the member's SNF was completed, and that the violation was not evidence of a pattern of misconduct<sup>8</sup>.

**D - 2. Supervisor Random Accountability Review**

In addition to other required video recording reviews, all supervisors shall conduct a random review of at least one BWC recording for each of their subordinates on a monthly basis. Supervisors shall ensure that each selected recording has a minimum length of ten (10) minutes or the longest video if there is no 10-minute video.

**D - 3. Supervisor Specified Incident Review**

In addition to other required video recording reviews, all supervisors shall conduct a review of relevant BWC recordings of the arresting officer(s) involving:

- 69 PC (Resist or Deter Peace or Executive Officer)
- 148 PC (Resist, Delay, or Obstruct Peace Officer); and
- 243(b) or (c) PC (Battery on Peace or Government Officer)

For the above arrests/incidents, supervisors shall at minimum review the BWC recordings of the primary arresting officer(s) and the officer(s) who were victims of the engaged person (if different), starting from the officer(s) initial interaction with the subject of the arrest until the arrestee has been controlled.

During incidents involving multiple officers, and absent a reported Use of Force, supervisors are not required to view all of the involved officer's BWC recordings where doing so would be redundant.

**D - 4. Force Investigation Review (Level 2-4 UOF)**

When investigating a Use of Force (UOF) categorized under Level 2 or Level 3, supervisors shall conduct a review of the pertinent section of BWC recordings for all members who are **witnesses to** or **involved in** the UOF.

When approving a UOF categorized under Level 4, supervisors shall conduct at least a review of the pertinent section of BWC recordings **of the specific member(s) who used force**, for the purpose of determining if the Use of Force was in compliance with department policy.

In circumstances where the BWC video of the specific member(s) who used force is not sufficient to determine compliance (e.g., BWC obscured, clear angle captured from other BWC, force-using member's BWC fell off or wasn't activated, etc.), then supervisors shall conduct sufficient BWC review to be able to determine if the force was in compliance with department policy.

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<sup>8</sup> Refer to DGO M-03 at III, A, 9.

BWC related to a documented Level 4 Type 32 Use of Force where Type 32 is the only force type is only required under certain circumstances; reference [Special Order 9208](#).

**D - 5. Vehicle Pursuit Investigation Review**

When investigating a Vehicle Pursuit, Supervisors shall conduct a review of the pertinent section of BWC recordings for all members who were involved in the pursuit as a pursuing unit (at any point during the pursuit). This review shall include the BWC recordings of members from the beginning of their involvement in the pursuit, until the termination of their involvement in the pursuit.

For involved members who were riding together in the same vehicle during the pursuit, the approving or investigating supervisor may review only one member's BWC footage if the footage is redundant.

**D - 6. Internal Investigation Review**

When completing an internal investigation, the assigned investigator shall at minimum review BWC footage that is pertinent to the investigation, and which provides evidentiary value or assists in completing the investigation.

**D - 7. Level 1 Investigation Review**

In the event of a Level 1 investigation (reference [BOI P&P 19-01](#), *Level 1 Investigations*), all BWC recordings shall be uploaded to evidence.com as soon as practical.

An involved or witness member's BWC shall be taken from them and secured by a supervisor, commander, or appropriate investigator, as necessary. The recordings shall be uploaded by personnel designated by the CID investigator.

After the recordings are uploaded, the CID investigator or designee shall turn the BWC into property until the CID and IAD Commander determine it may be released back to the member. The CID investigator shall ensure the chain of custody is documented in their report.

Personnel uploading secured BWC video files shall not view the files unless authorized by the CID investigator.

No personnel involved in or a witness to a Level 1 incident may view any BWC recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.

Once a member's report(s) has been submitted and approved and/or the member has been interviewed by the appropriate investigator, the investigator may show the member his/her audio/video. This will occur prior to the conclusion of the interview process.



Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.

**D - 8. Command Review (Level 2 or 3 Use of Force)**

Following the investigation of a Level 2 or Level 3 Use of Force by a supervisor, both the investigator's first level commander and the division commander shall conduct a review of the pertinent section of BWC recordings for all members who are witnesses to or involved in the UOF.

**D - 9. Auditing and Other Review**

OIA staff (when conducting audits), supervisors, commanders, active Field Training Officers (FTOs), and the FTO Coordinator are authorized to view BWC files to assist with the conduct of audits and inspections (OIA) or evaluate the performance of subordinate or trainee members unless otherwise prohibited by policy.

**E. COPYING OF BWC FILES**

**E - 1. Court and Judicial Proceeding BWC File Copies**

Personnel requiring a copy of BWC audio/video file(s) for court (e.g., for Traffic court, or a proceeding in a different county) shall contact their first line supervisor or their designated System Administrator (for non-patrol assignments). If the first line supervisor is unavailable, personnel shall contact any System Administrator. Any BWC copies not entered into evidence shall be returned to the first line supervisor or a System Administrator for destruction.

CID and other investigative personnel taking a case to the District Attorney (DA) for charging are responsible for obtaining copies of, and/or using the evidence.com secure sharing capability to share, all applicable BWC files for presentation to the DA.

Prior to copying the BWC video file, members authorized to make copies shall document the reason for making the copy and the name of the person receiving the copy in the "Notes" field of each video file copied. If applicable, the name entry shall also include the person's rank and serial number.

The person receiving the copy shall maintain the copy in a secure location until it is needed for court or custody is transferred to another person. Additionally, they shall document, as soon as practical, the name and/or position of the person receiving the copy in the "Notes" field of each video file.

The documentation of the chain of custody and responsibility to secure the copy shall transfer to the person receiving the copy until:

- The copy is received by non-Department personnel (e.g. District Attorney, City Attorney, Court Clerk, etc.);
- The copy is admitted into evidence; or
- The copy is returned to a system administrator for destruction.

**E - 2. Public Records Requests for BWC File Copies**

Public Records requests shall be accepted and processed, in accordance with the provisions of federal, state, local statutes and DGO M-09.1, Public Records Access, and forwarded to the Project Administrator.

Copies of BWC video files for release pursuant to a public records request, or as authorized by the Chief of Police or designee, shall be redacted as required by prevailing law and Department procedures prior to release.

**E - 3. Copying BWC Recordings for Reasons other than Court**

Members may make copies of BWC recordings to facilitate their review and accountability authorities and responsibilities, as set forth in Sections C and D of this order.

Prior to copying the BWC video file, members authorized to make copies shall document the reason for making the copy and the name of the person receiving the copy in the “Notes” field of each video file copied. If applicable, the name entry shall also include the person’s rank and serial number.

Copies of BWC video files for internal use shall be maintained in the appropriate case file or a secure location. When the copy is no longer needed, it shall be returned to a system administrator for destruction. The system administrator shall make an entry in the “Notes” field of the video file that the copy was destroyed.

**E - 4. Prohibited Copies and File Sharing**

All personnel are prohibited from the following:

- Making unauthorized copies, digital and/or hard copies, of an original or copied BWC video file;
- Giving or showing copies of BWC video files to anyone without a lawful right to know and need to know, unless authorized by the Chief of Police or designee and;
- Posting or having another person post a copied BWC video file on any social media site or public site unless authorized by the Chief of Police or designee.

**F. DELETION OF BWC FILES AND AUDIT LOGS**

**F - 1. Removal Requests for Accidental Recordings**

In the event of an unintended or inappropriate activation of the BWC where the resulting recording is of no investigative or evidentiary value, the respective member may request that the BWC file be deleted by submitting an email request to their first level commander with sufficient information to locate the BWC file. The first level commander shall approve or deny the request.

Approved requests shall be submitted to the Project Administrator at [BWC@oaklandca.gov](mailto:BWC@oaklandca.gov) and the Project Administrator or designee will delete the accidental recordings.

#### **F - 2. Data Retention and Scheduled Deletion of Files**

BWC files shall be retained for a period of two years unless it is required for:

1. A criminal investigation;
2. An administrative investigation;
3. Research;
4. Civil litigation;
5. Training; and/or
6. No recordings shall be deleted while any request for the recordings is pending, including but not limited to a public records request or litigation hold request

BWC files that are not flagged for retention for any of the above reasons will be automatically deleted by the File Management System's data retention processes, which are set and maintained by the Project Administrator or designee.

#### **F - 3. Access and Deletion Logs**

Audit logs of access, review, copying and deletion of BWC files shall be retained permanently.

### **G. ADMINISTRATIVE INFORMATION**

#### **G - 1. Project Administrator**

The Project Administrator is the commander over the Information Technology unit unless otherwise designated by the Chief of Police. The Project Administrator has oversight responsibilities that include, but are not limited to, the following:

- Document and track malfunctions and equipment failures;
- Policy and procedure review and evaluation;
- Ensure BWC files are secured and retained for the appropriate time period. Such security shall include FBI Criminal Justice Information Services

(CJIS) compliant safeguards that protect information from unauthorized access, including encryption and access control mechanisms.

- Ensure BWC files are reviewed and released in accordance with federal, state, local statutes, and Departmental General Order M-9.1, Public Records Access;
- Train the System Administrators to ensure consistency; and
- Establish policy and procedures for the replacement of non-functioning BWCs and the check-out of spare BWCs;
- The BWC Program Administrator shall provide the Chief of Police, Privacy Advisory Commission, and Public Safety Committee with an annual report that contains all components required by the Surveillance Technology Ordinance, as listed in Oakland Municipal Code 9.64.

#### **G - 2. System Administrators**

System Administrators shall be designated by the Bureau Commander for non-patrol assignments or the CID Commander for CID personnel. All Sergeants of Police assigned to the Bureau of Field Operations are System Administrators.

System Administrator responsibilities shall include, but are not limited to, the following:

- Ensure officers are assigned a fully functional BWC. Malfunctioning BWCs shall be replaced as soon as practical, in the manner specified by the Project Administrator;
- Refresher training for members as needed;
- Ensuring the return of damaged equipment to the Project Administrator;
- Making copies of BWC files for court or other authorized activities;
- Destruction of copied BWC files not admitted as evidence in court or no longer needed internally. System Administrators receiving a video file copy for destruction shall ensure the copy is destroyed and make an entry in the “Comments” field of the video file that the copy was destroyed.

#### **G - 3. Training**

The Training Section shall ensure that members receive department-approved training as needed for those who are assigned a BWC, and training regarding the process for uploading and downloading BWC data.

#### **G - 4. Description of the Technology BWCs**

The BWC is a combination camera and microphone that collects audio and video in a digital format.

#### **G - 5. Description of the Technology BWC File Management System**

The BWC system employed by OPD features BWC docking stations and an internet web interface for controlling how files are uploaded and archived. The interface allows for Internet Protocol restriction features to control the locations where the system can be accessed. These restrictions limit BWC video file access to only authorized OPD personnel. Videos that are tagged for any reason as part of an investigation are moved to separate folders where they cannot be deleted. The cloud-based archive system has built-in redundancy with multiple servers to ensure data integrity and CJIS compliance.

By order of

Darren Allison  
Acting Chief of Police

Date Signed: \_\_\_\_\_

**Appendix A**

<b>Category Name</b>	<b>Retention Period</b>	<b>Legal Retention Requirements</b>
Incident / Citizen Contact (No Crime)	2 yrs	Basic (set by policy DGO I-15)
Traffic / Bike / Ped Stop	2 yrs	Basic
Accidental / False Signal / Signal Testing	2 yrs or sooner if deleted per policy	Basic
Test / Vehicle Inspection	2 yrs or sooner if deleted per policy	Basic
Mental Health	2 yrs	Basic
Violent Felony / DOA	Indefinite	Statute of Limitations (SOL)
Misdemeanor Case (including report, statements, cite, or arrest)	2 yrs	SOL
Felony Case (including report, statements, cite, or arrest - no violent felonies or sex crimes)	3 yrs	SOL
Domestic Violence	5 yrs	SOL, prior action charging
Collision	5 yrs	13552 Traffic Collisions non-fatal is 5 years for reports - matching to keep digital evidence the same

Missing Person / Runaway	Indefinite	SOL (Possible homicide)
DUI	10 yrs	SOL, prior action charging
Sex Crimes	Indefinite	SOL
Vehicle Pursuit	5 yrs	Administrative SOL
Sergeants / Commanders Admin	2 yrs	Possible IA/DLI - intake/Sergeant/etc. to update category if so
IA/DLI	Indefinite	Administrative SOL
Never Delete	Indefinite	Administrative SOL
Use of Force - Levels 1 and 2	Indefinite	Administrative SOL
Use of Force - Levels 3 and 4	Indefinite	Administrative SOL
Felony - Filed by DA	20 yrs	SOL plus appeals
Homicide	Indefinite	SOL
Misdemeanor - Filed by DA	10 yrs	SOL plus appeals
Missing Person / Runaway - Returned (replace other missing person category)	2 yrs	Basic (cures possible homicide SOL of other Missing Person category)
Legal - OCA/Records/Authorized Users Only	Indefinite	City Attorney's Office (CAO) Order
Collision - 901C	Indefinite	CAO Order
Collision - Major Injury / Fatal	Indefinite	SOL
Training	2 yrs	Basic



DEPARTMENTAL  
GENERAL  
ORDER

Effective Date  
16 July 15

I-15.1 Evaluation Coordinator: Information Systems Manager  
Index as:

Portable Video Management  
System

Evaluation Due Date:  
18 Jan 16

Modified By:  
[SO 9191](#) (27 Nov 18)

## PORTABLE VIDEO MANAGEMENT SYSTEM

The purpose of this order is to set forth Departmental policy and procedures for the Portable Video Management System (PVMS), which includes a Portable Digital Recording Device (PDRD), designed to record both audio and video of field activity.

Progressive police departments are increasingly utilizing a variety of audio/video technology to further the mission of their departments. The Oakland Police Department has adopted PDRD technology because of its flexibility to capture audio/video evidence and enhance the Department's ability to conduct criminal investigations, administrative investigations, and review police procedures and tactics.

### I. POLICY

- A. All personnel in an assignment with primarily field based responsibilities, as determined by the Chief of Police (COP), shall be assigned a PDRD for the duration of the assignment.

Other personnel, as determined by the COP, may also be assigned a PDRD.

- B. All personnel assigned a PDRD shall carry and use the PDRD in accordance with the provisions of this order.
- C. All PDRD files are the property of the Oakland Police Department. Unauthorized use, duplication, editing, and/or distribution of PDRD files is prohibited.
- D. Personnel shall not delete any PDRD file, except as specified in Part VII, C.
- E. Personnel shall not remove, dismantle or tamper with any hardware/software component or part of the PDRD.



- F. Personnel are prohibited from wearing or using personally owned video recording devices in place of or in conjunction with an assigned PDRD.
  
- G. The Project Resource Management Unit is designated as the Custodian of Record for all PDRD data files.
  
- H. Personnel shall not intentionally use the PDRD recording functions to record any personal conversation of, or between another member/employee without the recorded member/employee's knowledge.
  
- I. Personnel shall not intentionally use the PDRD to record at Department facilities where a reasonable expectation of privacy exists (e.g., bathrooms, locker rooms, showers) unless there is a legal right to record and a Departmental requirement to record.
  
- J. Part II also applies to cover officers.

## **II. PDRD ACTIVATION AND DE-ACTIVATION**

### **A. Required activation**

Members shall activate their PDRD under any of the following circumstances:

1. Citizen contacts to confirm or dispel a suspicion that the citizen may be involved, as a suspect, in criminal activity;
2. Detentions and Arrests;
3. Assessment or evaluation for a psychiatric detention (5150 W&I);
4. Involved personnel, as defined by DGO J-4, PURSUIT DRIVING, during a vehicle pursuit;
5. Serving a search or arrest warrant;
6. Conducting any of the following searches of a person and/or property:

- a. Incident to arrest;
- b. Cursory\* (i.e., patdown or limited weapons search);

\* Refer to Training Bulletin (TB) I-O.02, THE LEGAL ASPECTS OF SEARCHING PERSONS

- c. Probable Cause;
- d. Probation/Parole;

e. Consent; or

f. Inventory

7. Transporting any detained or arrested citizen (excluding prisoner wagon transports); or
8. Upon the order of a higher ranking member.

**Members shall activate their PDRD prior to initiating the circumstances enumerated in Part II. A. 1-7, above.**

**B. Crowd Control Operations**

During crowd control, protest or mass arrest incidents members shall use their PDRD consistent with this policy, and when directed by the Incident Commander. The Incident Commander shall document their orders in an appropriate report (e.g. Operations Plan or After Action Report) and provide the orders to all personnel.

**C. PDRD Activation is not required under any of the following circumstances:**

1. Members taking a report when the information available to them indicates the suspect is not on the scene;
2. During a preliminary investigation with a child abuse victim or a victim of a sexual assault;

3. Members meeting with any Confidential Informant, as defined in DGO O-4, INFORMANTS; or
  4. Members on a guard assignment at a Police, Medical, Psychiatric, Jail or Detention facility. Members shall assess the circumstances (e.g., suspect's demeanor/ actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to discretionarily activate or de-activate their PDRD.
- D. De-activation of the PDRD
1. Members shall not de-activate their PDRD, when it was activated as required by this policy, until one of the following occurs:
    - a. Their involvement in the citizen contact, arrest or detention has concluded or becomes a hospital guard (see part II, C, 4 above);
    - b. They receive an order from a higher ranking member;
    - c. They are discussing administrative, tactical or law enforcement sensitive information away from the citizen;
    - d. They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);
    - e. The searches requiring activation as enumerated in Part II, A have concluded and the member believes they will have no further interaction with the person;
    - f. They reasonably believe the recording at a hospital may compromise patient confidentiality;
    - g. A pursuit has been terminated and the member performs the required actions, as specified in DGO J-4, or notifies Communications they are in-service;
    - h. They are interviewing an informant for the purpose of gathering intelligence. At the conclusion of the interview,

the PDRD shall be re-activated until no longer required by policy; or

- i. They are meeting with an undercover officer. At the conclusion of the meeting, the PDRD shall be re-activated until no longer required by policy.

After a member de-activates their PDRD, it is their responsibility to ensure they re-activate their PDRD should the circumstances require it.

2. Statement taking

Personnel are authorized to use the PDRD to record statements in lieu of taking a written statement. PDRDs, however, shall not be used to record statements from child abuse or sexual assault victims.

- a. Personnel shall advise or obtain consent from victims or witnesses when taking a PDRD recorded statement.
  
- b. PDRD statements shall be recorded as an individual separate file, barring exigent circumstances. Therefore, during a required activation, where none of the de-activation criteria have been met, members may temporarily de-activate their PDRD to record individual separate statements.
  
- c. Personnel shall follow the steps below when de-activating their PDRD for statement taking:
  - 1). Prepare to immediately take the statement;
  - 2). De-activated the PDRD then immediately re-activate the PDRD and begin taking the statement; and
  - 3). Upon completion of the statement, de-activate the PDRD then immediately re-activate the PDRD, if continued recording is required.

Members shall repeat the above steps when de-activating/activating their PDRD to take multiple statements.

- d. Personnel whose PDRD is not already activated shall activate it before and deactivate it after each statement is taken to create a separate individual file.

Refer to Report Writing Manual (RWM) S-01, STATEMENTS.

E. Discretionary Activation and De-Activation

Members, when not prohibited from or required to activate their PDRD, may use their own discretion when deciding to activate and de-activate the PDRD.

### III. USE OF THE PORTABLE VIDEO MANAGEMENT SYSTEM

A. PDRD Operability

Members shall not utilize or wear a PDRD unless it is properly functioning. If at any time, after deploying to the field, a PDRD malfunctions or becomes inoperable it shall be replaced as soon as practical.

1. Function Check

- a. Members assigned or checking out a PDRD shall test the equipment prior to every shift. Once activated, the indicator light of a fully functioning PDRD should change from solid green to blinking green. If this does not occur, the PDRD is not fully functional and a backup camera shall be checked out prior to deploying in the field.
- b. Members shall report all malfunctioning or inoperable PDRD issues to a supervisor as soon as practical. Additionally any unresolved PDRD equipment malfunctions/problems shall be reported to the Project Administrator for camera replacement or repair.
- c. Absent exigent circumstances, members shall check out a backup camera prior to deploying in the field and utilize it as required until such time as their assigned camera is operational or a new camera is assigned.

2. Battery Maintenance

- a. Members shall ensure their PDRD battery is fully charged at the beginning of their shift.
- b. Personnel assigned to maintain and issue backup PDRDs shall ensure the batteries are fully charged before issuing.

3. Data Upload

Members shall upload PDRD data files at the end of and, if needed, during their shift to ensure storage capacity is not exceeded.

B. PDRD Placement

1. Members shall position and securely attach the PDRD to the front of their uniform or uniform equipment, as the primary recording location, to facilitate recording.
2. The PDRD may be temporarily moved from the primary location to facilitate recording in furtherance of a police objective. Upon completion of the objective, the PDRD shall be returned to the primary recording location as soon as practical.

C. PDRD Use Documentation

1. Personnel are required to document all activations of their PDRD, except for test or accidental recordings.

Documentation shall be provided in at least one of the following reports, as appropriate:

- a. Crime Report;
- b. Consolidated Arrest Report, electronic or paper, or Juvenile Record;
- c. Field Interview;
- d. CAD notes; or
- e. Use of Force Report

2. Personnel are required to document and explain in one of the reports specified above any delayed or non-activation of their PDRD when PDRD activation was required.

#### **IV. VIEWING PDRD VIDEO FILES**

Viewing PDRD video files is authorized, restricted or prohibited as follows (refer to Part V for required documentation):

##### **A. Level 1 Use of Force, Level 1 Pursuit or In-Custody Death**

1. In the event of a Level 1 use of force, Level 1 pursuit or an in-custody death, all PDRD recordings shall be uploaded to the server as soon as practical.
  - a. An involved or witness member's PDRD shall be taken from them and secured by a supervisor, commander or appropriate investigator, as necessary. The recordings shall be uploaded by personnel designated by the CID investigator.
  - b. After the recordings are uploaded, the CID investigator or designee shall turn the PDRD in to property until the CID and IAD Commander determine it may be released back to the member. The CID investigator shall ensure the chain of custody is documented in their report.
  - c. All personnel uploading secured PDRDs shall document that fact in their report and the "Comment" field of each video file they uploaded.
  - d. Personnel uploading secured PDRD video files shall not view the files unless authorized by the CID investigator.
2. No personnel involved in or a witness to the incident may view any audio/video recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.
3. Once a member's report(s) has been submitted and approved and the member has been interviewed by the appropriate investigator, the investigator will show the member his/her audio/video. This will occur prior to the conclusion of the interview process

Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.

B. Investigation of a Member

1. Criminal - Personnel who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon approval, as specified below, by the CID or IAD Commander.
2. Administrative – Personnel having received notification (Complaint Notification Report [CNR]) from the IAD and who are considered to be a subject or witness officer, may not view any audio/video recordings related to the incident except upon approval, as specified below, by the IAD Commander.

3. Requesting Review of Audio/Video Recordings

Subject or witness personnel wanting to view any of the audio/video recordings related to the incident shall make a request to do so, in writing or via email, to the CID or IAD Commander, as appropriate.

4. Approval or Denial to Review Audio/Video Recordings

- a. The CID or IAD Commander receiving the above request shall notify the member, in writing or via email, of the approval or denial to view the recordings.

The CID or IAD Commander shall document the approval or denial in the case file notes/log or include a copy of the approval or denial correspondence in the case file.

- b. Approval to view the audio/video recordings may be made by the CID or IAD Commander as long as he/she has determined that allowing the recordings to be viewed will not be detrimental to the investigation.

C. Investigatory Review

Personnel assigned to CID or other investigatory units are authorized to view any PDRD video file associated to their active investigations, unless otherwise prohibited by policy.



Investigators conducting criminal or internal investigations shall:

1. Advise the Project Administrator or a System Administrator to restrict public disclosure of the PDRD file in criminal or internal investigations, as necessary;
2. Review the file to determine whether the PDRD file is of evidentiary value and process it in accordance with established protocols; and
3. Notify the System Administrator to remove the access restriction when the criminal/internal investigation is closed.

D. Supervisor and Commander Review

Supervisors and commanders are authorized to review their own PDRD video files, all video files of their subordinates and, as necessary to complete required duties, any associated video files of non-subordinate members, unless otherwise prohibited by policy.

1. In addition to other required video recording reviews, all supervisors shall conduct a random review of at least one PDRD recording for each of their subordinates on a monthly basis. The selected recordings shall be viewed in their entirety and shall have a minimum length of ten (10) minutes.
2. When a supervisor is approving or investigating a UOF or vehicle pursuit they shall review the PDRD recordings of all members who are a witness to or involved in the use of force.

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3. Supervisors review of subordinate PDRD recordings shall include an assessment of:
  - a. Officer performance and training needs;
  - b. Policy compliance; and
  - c. Consistency between written reports and video files.
4. When a member does not activate or de-activate their PDRD as required, supervisors and commanders shall determine if the delayed or non-activation was reasonable, based upon the circumstances.

If the supervisor determines that the delay or non-activation was reasonable they shall document their justification in the UOF report or, if no UOF report is generated, in the officer's SNF. The supervisor's commander shall be advised and their name noted in the SNF.

5. Supervisors, commanders, and managers who discover Class II misconduct during the review of PDRD video, that does not indicate a pattern of misconduct, may address the Class II misconduct through non-disciplinary corrective action. Supervisors shall, at a minimum, document any Class II violation of this policy in the officer's SNF.

E. Member Review

Members are authorized to review their own PDRD recordings to properly identify the data files, refresh their memory regarding an incident or any other work related purpose, unless otherwise prohibited by policy.

F. Other Review

1. OIG staff (when conducting audits), supervisors, commanders, active FTOs and the FTO Coordinator are authorized to view PDRD files to investigate allegations of misconduct or evaluate the performance of members, unless otherwise prohibited by policy.
2. Training staff is authorized to view PDRD video files regarding incidents which may serve as learning or teaching tool.

- G. When personnel are authorized to view a PDRD video file by this policy, the video file shall be reviewed on a Department computer by logging onto the VERIPATROL system.

## V. VIDEO FILE DOCUMENTATION AND CHAIN OF CUSTODY

To ensure accountability for the proper identification, tracking and chain of custody for all original PDRD video files stored on the Department server and external copies of the PDRD video files, all personnel shall follow the protocols below.

### A. PDRD File Information Documentation

1. Members shall enter in VERIPATROL the RD # associated with each video file. If no RD # is created for the video, the full CAD incident number shall be entered. Members shall add this data to the file by using the “Add Details” button in the VERIPATROL software program:
  - a. Category column- Select the appropriate category from the drop down menu; and
  - b. Case # column- Enter the report number if one exists, or if none exists, the full 15 digit incident number (i.e. LOP141002001196); or
  - c. If a PDRD video file was created and does not have an associated RD or incident number, the member shall enter “NONE” in the comment column.

This task should be completed by logging into VERIPATROL Mobile in the patrol vehicle where viewing and annotation can be completed daily throughout the member’s shift.

2. Members are authorized to view their video in order to properly identify the data file unless otherwise prohibited by policy.
3. Entering the information specified in Section 1, above, shall be completed daily. Should conditions exist that prohibit completion during the member’s shift, it shall be completed minimally by the end of the member’s next regularly scheduled work day.

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During incidents that require a large scale activation of the Department's members, (i.e. protest, natural disaster, etc.), the incident commander may approve delayed information entry, except in cases that require an investigative callout (e.g. Level 1 UOF, ICD, VPRD, criminal investigation of a member or employee.) The Incident Commander shall document their orders in the After Action Report.

B. Viewing a PDRD video file

Authorized personnel viewing any video file shall document the reason for access in the "Comments" field of each video file viewed. The entry shall be made either prior to viewing the video or immediately after viewing the video.

C. Copying a PDRD video file other than for court

1. Personnel authorized to make copies of PDRD video files shall document the reason for making the copy and the name of the person receiving the copy in the "Comments" field of each video file copied. If applicable the name entry shall also include the person's rank and serial number.

The entry shall be made either prior to copying the video file or immediately upon completion.

2. Copies of PDRD video files for internal use shall be maintained in the appropriate case file or a secure location. When the copy is no longer needed, it shall be returned to a system administrator for destruction. The system administrator shall make an entry in the "Comments" field of the video file that the copy was destroyed.
3. Copies of PDRD video files for release pursuant to a public records request or as authorized by the Chief of Police or designee, shall be redacted, as required by prevailing law and Department procedures, prior to release. (Refer to Part VII regarding public records access.)
4. All personnel are prohibited from:
  - a. Making unauthorized copies of an original or copied PDRD video file;

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- b. Giving or showing copies of PDRD video files to anyone without a lawful right to know and need to know, unless authorized by the Chief of Police; and
  - c. Posting or having another person post a copied PDRD video file on any social media site or public site, unless authorized by the Chief of Police.
- D. Copying a PDRD video file for court
- 1. Personnel authorized to make copies of PDRD video files shall document the reason for making the copy and the name of the person receiving the copy in the “Comments” field of each video file copied. If applicable, the name entry shall also include the person’s rank and serial number.  
  
The entry shall be made either prior to copying the video file or immediately upon completion.
  - 2. The person receiving the copy shall maintain the copy in a secure location until it is needed for court or custody is transferred to another person. Additionally, they shall document, as soon as practical, the name and/or position of the person receiving the copy in the “Comments” field of each video file.  
  
The documentation of the chain of custody and responsibility to secure the copy shall transfer to the person receiving the copy until:
    - a. The copy is received by non-Department personnel (e.g. District Attorney, City Attorney, Court Clerk, etc.);
    - b. The copy is admitted in to evidence; or
    - c. The copy is returned to a system administrator for destruction.
  - 3. System Administrators receiving a video file copy for destruction shall ensure the copy is destroyed and make an

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entry in the “Comments” field of the video file that the copy was destroyed.

4. CID or other investigative personnel taking a case to the District Attorney for charging are responsible for obtaining copies of all applicable PDRD files for presentation to the DA.

## VI. RESPONSIBILITIES

### A. Project Administrator

The Project Administrator is designated by the Chief of Police and has oversight responsibilities to include, but not limited to, the following:

1. Document and track malfunctions and equipment failures;
2. Policy and procedure review and evaluation;
3. Ensure PDRD files are secured and retained for a minimum of two (2) years;
4. Ensure PDRD files are reviewed and released in accordance with federal, state, local statutes, and Departmental General Order M-9.1,  
PUBLIC RECORDS ACCESS;
5. Train the System Administrators to ensure consistency; and
6. Establish policy and procedures for the replacement of non-functioning PDRDs and the check-out of spare PDRDs.

### B. System Administrators

System Administrators shall be designated by the Bureau Commander for non-patrol assignments or the CID Commander for CID personnel. All Sergeants of Police assigned to the Patrol Division are System Administrators.

System Administrator responsibilities shall include, but are not limited to, the following:

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1. Ensure officers are assigned a fully functional PDRD. Malfunctioning PDRDs shall be replaced as soon as practical, in the manner specified by the Project Administrator;
2. User training;
3. Ensure the return of damaged equipment to the Project Administrator;
4. Make copies of PDRD files for court or other authorized activities;
5. Destruction of copied PDRD files not admitted as evidence in court or no longer needed internally; and
6. Approve/disapprove requests for deleting accidental recordings.

**VII. PDRD FILE REQUESTS**

**A. Departmental Requests**

Personnel requiring a copy of PDRD audio/video file(s) for court shall contact their first line supervisor. If the first line supervisor is unavailable, personnel shall contact any System Administrator.

1. In non-patrol assignments, requests for PDRD audio/video file(s) shall be forwarded to the designated System Administrator.
2. Any PDRD copies not entered into evidence shall be returned to the first line supervisor or a System Administrator for destruction.

**B. Non-Departmental Requests.**

Public Records requests shall be accepted and processed, in accordance with the provisions of federal, state, local statutes and DGO M-9.1, PUBLIC RECORDS ACCESS, and forwarded to the Project Administrator.

**C. Request for deletion of an accidental recording.**

In the event of an accidental activation of the PDRD and the resulting recording is of no investigative or evidentiary value, the respective personnel may request that the PDRD file be deleted by submitting an

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email request to their immediate supervisor with sufficient information to locate the PDRD file.

Approved requests shall be submitted to the Project Administrator at PDRD@oaklandnet.com.

- D. A PDRD file may be utilized as a training tool for individuals, specific units, and the Department as a whole. A recommendation to utilize a PDRD file for such purpose may come from any source.
1. A person recommending utilizing a PDRD file for training purposes shall submit the recommendation through the chain-of-command to the Training Section Commander.
  2. The Training Section Commander shall review the recommendation and determine how best to utilize the PDRD file considering the identity of the person(s) involved, sensitivity of the incident and the benefit of utilizing the file versus other means.



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**VII. REPLACEMENT PROCEDURES**

- A. Personnel shall report any recognized problems with the PDRD as well as a lost, stolen or damaged PDRD to their immediate supervisor as soon as practical. Upon notification, the supervisor shall facilitate the replacement of the PDRD as soon as practical.
  
- B. Supervisors shall document a lost, stolen or damaged PDRD as specified in DGO N-5, LOST, STOLEN, DAMAGED CITY PROPERTY, unless the PDRD stops functioning properly for no apparent reason and the supervisor does not observe any sign of damage.

By Order of



Sean Whent  
Chief of Police

Date Signed: 21 Jul 15

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## DEPARTMENTAL GENERAL ORDER

**I-15: BODY WORN CAMERA PROGRAM**

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Coordinator: Information Technology Unit

The Oakland Police Department (OPD) strives to use technology that promotes accountability, transparency, and public trust. OPD uses a Body Worn Camera (BWC) system to document the actions of sworn members during field operations. OPD seeks to balance the benefits provided by digital documentation with the privacy rights of individuals who may be recorded during the course of legal and procedurally just public interactions.

The intent of this order is to set forth Departmental policy and procedures for the BWC system. OPD has adopted BWC technology because of its usefulness in capturing audio/video evidence and enhancing the Department's ability to conduct criminal investigations, administrative investigations, and review of police procedures and tactics. Failure to adhere to this policy will subject members to discipline.

**A. GENERAL PROVISIONS****A - 1. General Provisions**

The following provisions apply to the BWC program:

- All sworn members shall be assigned a BWC.
- All members assigned a BWC shall wear, carry, and use the BWC in accordance with the provisions of this order.
- All BWC files are the property of the Oakland Police Department.
- [The OPD Information Technology Unit is designated as the Custodian of Records for all BWC data files.]

**A - 2. Specific Prohibitions**

Members shall follow the expressed prohibitions regarding the BWC system:

- Unauthorized use, duplication, editing, and/or distribution of BWC files is prohibited.
- Members shall not delete any BWC file, except as specified in this policy.
- Members shall not remove, dismantle or tamper with any hardware or software component or part of the BWC.
- Members are prohibited from wearing or using personally owned video recording devices in place of, or in conjunction with, an assigned BWC.
- Members shall not intentionally use the BWC recording functions to record any personal conversation of, or between, another member without the recorded member's knowledge.
- Members shall not intentionally use the BWC to record in public or private locker rooms, changing rooms, restrooms, or medical or hospital

**Commented [JMG1]:** Monitoring Team comments: Who is assigned to this Unit, and where does it reside in the Table of Organization?

**Commented [TJ2R1]:** OPD's ITU is under the Bureau of Services (DD Suttle) and has a Manager II (Dr. Beckman) as its commander.

Currently assigned to the unit are a PST II (Victor Lim), two Police Officers (David Pullen and Christopher Mar), and a Business Analyst III (Avisa Tehrani). OPD ITU also works on VISION and other technology projects within OPD, and liaises with the City's ITD.

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facilities, unless there is a legal right to record and a Departmental requirement to record.

Members shall not intentionally use the BWC to record during any meetings with a Confidential Informant as defined in DGO O-04, *Informants*.

## B. USE OF BWC

### B - 1. Wear Requirements

Members are required to wear and use their BWC while working any uniformed field assignment. Members working non-field assignments (e.g., Criminal Investigation Division (CID), Training, or Internal Affairs Division (IAD)) shall wear and use the BWC if they go into the field in uniform or wearing uniform equipment (e.g., tac vest) for a law-enforcement assignment.

Uniformed assignments that are strictly ceremonial (e.g., assignments requiring Class A uniform) are exempt from BWC wear and use requirements.

### B - 2. BWC Placement

The position of the BWC may impact the clarity and sound of video files and could limit the quality of video and audio collected. Members required to wear the BWC shall position and securely attach the BWC to the front of their uniform or uniform equipment, as the primary recording location, to facilitate recording.

The BWC may be temporarily moved from the primary location to facilitate recording the encounter. This includes, but is not limited to, putting the BWC facing the rear of the patrol vehicle when a person is detained inside, setting the BWC in a static position to enhance safety or allow for distance from an engaged person, or moving the BWC to better focus on the key components of the incident.

Once the situation necessitating movement of the BWC has been resolved, the BWC shall be returned to the primary recording location as soon as practical.

### B - 3. Carry Requirements

Members working non-field assignments shall have their BWC easily accessible to them any time they go into the field for law enforcement assignments (e.g., to serve a search or arrest warrant), and activate it pursuant to section B-8, Required Activations.

### B - 4. Undercover, Plainclothes, and Task Force Officer (TFO) Requirements

Undercover or plainclothes members are not required to wear or carry a BWC unless they are wearing a police uniform or uniform equipment that identifies them as a law enforcement officers.

Officers deputized as federal task force officers (TFOs) shall follow the applicable Federal Law Enforcement agency guidelines for BWC use while conducting federal task force operations and investigations.

**Commented [TJ3]:** An additional comment from 12 Dec:

Regarding the "Wear Requirements" on page 2 (B-1.) of the draft, there is good argument for a BWC if an officer, in uniform for example, is transporting a vehicle, attending a meeting, working at an A's game/special Home Depot-type detail, etc. What would happen if such an officer was compelled by circumstance to initiate a police action? What happens if an officer, in uniform and off his/her regular shift is going to court? Under those circumstances, would an officer be reluctant to take police action because s/he did not have a BWC? Would s/he be excused from taking action?

**Commented [TJ4R3]:** I believe that the 2<sup>nd</sup> sentence of this paragraph, requiring officers to wear and use their BWC if they go to the field in uniform for a law-enforcement assignment, would cover most of these situations. For instance, all of these would likely be considered either law-enforcement or field assignments:  
-A's game  
-Home depot or similar overtime  
-Transporting a vehicle

The exception was written mainly for our building staff who might walk out of the building to do something like go to a local restaurant for lunch.

Even then, B-3 (requiring members to carry their BWC when going into the field for a LE assignment) would likely cover any gap such that any hesitance to act would not be due to an unavailability of the BWC.

**Commented [JMG5]: Monitoring Team comments:** Do Area Commanding Officers (Captains) fall into this category?

**Commented [TJ6R5]:** They do – all sworn (including Chiefs and Deputy Chiefs) are issued BWCs and are expected to wear them during uniformed field assignments (since Captains and above are often in uniforms but have day-to-day assignments that are administrative, they typically will only wear their BWC when they leave their offices for the field, however).

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#### B - 5. Function Check and Power On Prior to Shift

Members utilizing a BWC shall test the BWC and have the BWC powered on in an allowed mode (see B-7, below) prior to every shift, to include ensuring that the BWC battery is fully charged.

If a member's camera is not functional, is not charged, or breaks during the shift, members shall – absent exigent circumstances – notify their supervisor, turn in a broken or non-functional camera, and be assigned a replacement camera by a supervisor or authorized user as soon as possible.

#### B - 6. Signal Device Function Checks

Members shall test all equipped signal devices (e.g., Axon Signal sidearm or Taser 7 Electronic Control Weapon [ECW]) prior to each shift to ensure the devices properly activate the BWC. All tests shall be conducted in a safe location and manner:

- Signal sidearm tests shall be done such that the firearm is partially removed from the holster only to the degree where the signal device recognizes the unholstered firearm; and
- Taser 7 ECW tests shall only be done on the safety switch signal trigger.

#### B - 7. Allowed BWC Modes for Field Use

Members shall have their BWC powered on while in the field. The following modes shall be used during fieldwork:

##### *Sleep Mode*

The BWC is in sleep mode when the camera is powered on and specifically switched to sleep mode. Sleep mode allows for immediate recording of events with the event button but does not have the 30-second buffer or automatic activation via signal technology.

Sleep mode is authorized for:

- Members who are at police or government facilities (e.g. Police Administration Building (PAB), Eastmont substation (EMM), transportation parking lot), if they are not in contact with detainees or arrestees;
- Members who are in the field on breaks (e.g., 908A and 908B) and are not in contact with detainees or arrestees;
- Members in non-uniformed assignments who are carrying a BWC in the field (refer to B-3), and
- At the direction of a commander or supervisor, including but not limited to debriefs or purely administrative functions.

##### *Ready Mode*

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Commented [JMG7]: Monitoring Team comments: As written, this applies to cameras that are not charged. Is the intent to issue a new camera in that situation?

Commented [TJ8R7]: The intent is to provide a charged camera, yes – this can be accomplished with a new one or with a camera that is assigned to another officer, thanks to the way the Axon system works. I've made a slight edit to address that.

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The BWC is in the ready mode when the camera is powered on and the 30-second buffer is active. Members shall have the BWC in ready mode while in the field unless sleep mode is authorized by this policy.

**B - 8. Body Worn Camera Activation Definition**

Activation is defined as initiating the audio and visual recording capabilities of the BWC, either by the member utilizing the event button or via automatic trigger (i.e. blue-tooth signal technology).

When the BWC is staged in Ready Mode and becomes active, the BWC saves a 30-second video-only clip (buffering period captures no audio) of the period leading up to the activation input.

**B - 9. Required Activation**

Members wearing a BWC shall activate it **prior to** participating in any of the following circumstances:

1. Contacts with a person to confirm or dispel a suspicion that the person may be involved in criminal activity as a suspect;
2. Detentions and arrests;
3. Actively searching<sup>1</sup> for a person or vehicle to detain or arrest them for criminal activity.

➤ An officer is considered to be actively searching when engaged in a purposeful quest to find person(s), place(s) or vehicle(s) which the officer possesses reasonable suspicion to believe is associated with criminal activity.

**OPTION 2 FOR #3**

Engaging in fresh pursuit investigative activities.

A fresh pursuit is an "investigatory" pursuit where officers are actively attempting to apprehend a suspect. Fresh pursuits do not require a physical chase.

4. Assessment or evaluation for a psychiatric detention pursuant to Welfare and Institutions Code § 5150;
5. Engaging in or trailing a vehicle pursuit<sup>2</sup>, as defined in DGO J-04, *Pursuit Driving*;
6. Serving a search or arrest warrant;

<sup>1</sup> Actively searching does not include routine patrol or officers being on general alert for criminal suspects, BOLO vehicles, or hot sheet vehicles during the course of their routine duties.

<sup>2</sup> DGO J-4, II A

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Commented [sk10]: Monitoring Team comments: ...

Commented [TJ11R10]: Agree with the idea, and we ...

Commented [TJ12R10]: Added #3 with a footnote ...

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Commented [CN13]: I feel like we're getting closer. ...

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7. Conducting any search of a person or property;
8. Escorting a detained or arrested person who is in custody at a police facility (e.g., from a patrol vehicle to an interview room or from the interview room to the restroom);
9. Transporting by vehicle any detained or arrested person (members working as the prisoner wagon transport officer may deactivate their BWC during transport if they are transporting persons in the separate video-recorded prisoner wagon compartment);
10. Following incidents where a department member is involved in a vehicle collision while utilizing a department vehicle, the member is wearing or carrying a BWC, and it is practical and safe to do so
11. When conducting any photographic<sup>3</sup> or in-person<sup>4</sup> line-up that is not recorded by some other means (e.g., interview room camera system);
12. Whenever taking any enforcement action or when ordered to activate their BWC by a supervisor or commander during a crowd control situation in the City of Oakland<sup>5</sup> (Training Bulletin III-G).

#### **B - 10. Deactivation of the BWC**

**Prior to deactivating the BWC for any reason, members shall verbally note the reason they are deactivating the recording.**

Once activated pursuant to B-6, members shall not deactivate their BWC until one of the following occurs:

1. They determine that there is no person who is being investigated, detained, or arrested present (e.g., cold report, subject of a call for service gone on arrival);
2. They are no longer actively searching for the suspect or subject of the call for service, or the possibility of enforcement activity is unlikely;
3. Their involvement in the contact, detention, search, or arrest has concluded;
4. The contact, detention, or arrest becomes a hospital guard;

<sup>3</sup> Reference [Training Bulletin I-T](#), *Double-Blind Sequential Photographic Line-Ups*

<sup>4</sup> Reference [DGO M-06](#), *Prisoner Lineups*

<sup>5</sup> Training Bulletin III-G Crowd Control Management

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5. They receive an order from a higher-ranking member. That higher ranking member shall note the reasoning for deactivation via Computer-aided Dispatch (CAD), their BWC, or report;
6. They are discussing administrative, tactical, or law enforcement sensitive information away from non-law enforcement personnel;
7. They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);
8. A pursuit has been terminated and the member performs the required terminating action as specified in DGO J-04 or notifies the Communications Division that they are back in service;
9. They are interviewing a prospective informant for the purpose of gathering intelligence. At the conclusion of the interview, the BWC shall be re-activated until no longer required by policy;
10. They are meeting with an undercover officer. At the conclusion of the interview, the BWC shall be re-activated until no longer required by policy.

**If circumstances arise requiring re-activation members shall re-activate pursuant to B-8, above.**

**B - 11. When BWC Activation is Not Required**

BWC activation is not required under any of the following circumstances but is permitted:

- Members taking a report when available information indicates the suspect is not on scene;
- Members on a guard assignment at a police, medical, psychiatric, jail, or detention facility. Members shall assess the circumstances (e.g. suspect’s demeanor/actions, spontaneous statements, etc.) of each guard assignment, on a continuing basis, to determine whether to discretionarily activate or de-activate their BWC.

**B - 12. Discretionary Activation and De-Activation**

When not required to activate or prohibited from activation as described above (see B-8 – B-10), members may use their discretion when deciding to activate or de-activate their BWC.

**B - 13. Recording Statements with BWC**

**Commented [JMG14]:** Monitoring Team comments: “CAD” should be in parentheses.

**Commented [RW15R14]:** Should there also be an “open option” on this list? That is, any other reason other than those listed above?

**Commented [TJ16R15]:** Sorry I realize now this may be a bit unclear. This sub-section is already the “open option,” allowing for a higher-ranking member to give an order for deactivation. Since this allows for discretion, the list of options for capturing the reasoning for that discretionary decision is presented here.

**Commented [JMG17]:** Monitoring Team comments: Is the intent here that only one of these means be used? If any one of the three are used, it is compliant?

**Commented [TJ18R17]:** Yes, to both questions – the intent is to capture the reasoning of the higher-ranking officer giving the order, and any of the three methods used would be compliant.

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**Commented [sk19]:** Monitoring Team comments: This reads as though there is discretion even when activation is prohibited. We suggest some clarification in this wording.

**Commented [TJ20R19]:** Thanks, this was unclear. Re-organized the sentence to put the requirements first. Also italicized to focus on the fact that requirements and prohibitions are spelled out earlier and must be followed.

**Deleted:** when not required to activate or prohibited from activation as described above



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Members are authorized to use the BWC to record statements in lieu of a written statement. BWC statements shall not be used to record statements from child abuse or sexual assault victims.

Members taking BWC statements shall follow the BWC statement guide set forth in Report Writing Manual S-01.

#### **B - 14. BWC Use Documentation**

Members are required to document all activations of their BWC, except for tests or accidental and false signal recordings. Documentation shall be made in at least one of the following reports, as appropriate:

- Crime Report
- Consolidated Arrest Report or Juvenile Record
- Field Interview Report
- Computer-aided Dispatch (CAD) notes, or
- Use of Force Report.

**Delayed or non-activations of the BWC, when activation was required by policy, shall be documented in the appropriate report, and reported to the member's supervisor.**

#### **B - 15. Data Upload**

Members shall upload BWC data files (videos) at the end of and, if needed, during their shift to ensure storage capacity is not exceeded.

#### **B - 16. Annotation and Categorization of BWC Files**

All members shall annotate BWC data files (videos) daily, or, if not feasible, by the end of the member's next regularly scheduled workday. The following information shall be annotated on every BWC data file:

- Report number associated with the incident recorded (in the ID field); or
- Incident number (in the ID field if there is no report number associated with the incident being recorded)
- The category of the video using the appropriate retention category. See Appendix A for the Department's category and BWC file retention schedule.

If neither the report number nor the incident number exists, members may use the letters "NA" or leave the ID field blank.

Members are authorized to view their video in order to identify the file for annotation unless otherwise prohibited by policy.

During incidents that require exceptional resources or large-scale activation of Department members (e.g. natural disaster), the incident commander may

**Commented [JMG21]:** Monitoring Team comments: Leaving blank should not be one of the acceptable responses in this situation. There is no way to discern if the field was inadvertently skipped, or a report/incident # does not exist. NA should be the only acceptable response in this situation.

**Commented [TJ22R21]:** The system does allow us to relatively easily discern whether a report or incident # exists based on the retention category selected. However, I do think a demonstration will assist in clarifying this and also allow us to brainstorm a way to solve this issue, if change is needed.

**Commented [TJ23R21]:** Resolved in demonstration on 25 Jan 23

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approve delayed annotation of BWC files except in cases that require an investigative call-out. The incident commander shall document any such orders in the appropriate after-action report.

**C. VIEWING OF BWC FILES**

**C - 1. Member Review of Their Own BWC Files**

Members are authorized to review their BWC recordings to properly identify the data files and, refresh their memory regarding an incident, or for any other work-related purpose, unless otherwise prohibited by policy.

Personnel viewing any video file shall document the reason for access in the "Notes" field of each video file viewed.

**C - 2. When Members are Prohibited from Reviewing BWC Files**

1. Members designated as involved in a Level 1 Investigation. Members who are involved in a Level 1 Investigation<sup>6</sup> are prohibited from reviewing their BWC files until the Level 1 investigator allows the review pursuant to section D-7.
2. Criminal Investigation of a Member. Personnel who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon approval, as specified below, by the CID or Internal Affairs Division (IAD) Commander.
3. Administrative Investigation of a Member. Personnel having received notification (Complaint Notification Report [CNR]) from the IAD and who are considered to be a subject or witness officer, may not view any audio/video recordings related to the incident except upon approval, as specified below, by the IAD Commander.

**C - 3. Supervisor and Command Viewing of Subordinate BWC Files**

Unless prohibited under C-2, above, supervisors and commanders are authorized to review their own BWC video files, all video files of their subordinates' and, as necessary to complete required duties, any associated video files of non-subordinate members, unless otherwise prohibited by policy.

**C - 4. Review of BWC Files by Criminal Investigation Personnel**

Personnel assigned to CID or other investigatory units are authorized to view any BWC video file associated to their active or ongoing investigations, unless otherwise prohibited by policy.

Investigators conducting criminal investigations shall:

Commented [sk24]: Monitoring Team comments: This should be "their."

Commented [TJ25R24]: Fixed

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Commented [sk26]: Monitoring Team comments: Should add "for" before the word "any."

Commented [TJ27R26]: Fixed

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Commented [JMG28]: Monitoring Team comments: It should be made clear that they are subject to the same restrictions identified above when they are the subjects of investigations.

Commented [TJ29R28]: Agree, modified.

<sup>6</sup> Reference [BOI P&P 19-01](#), *Level 1 Investigations*

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- Review the file to determine whether the BWC file is of evidentiary value and add categories to it as necessary to modify retention and/or access restrictions; and
- Notify the System Administrator to remove any access restriction when the criminal investigation is closed.

#### **C - 5. Use of BWC Files for Training**

Training staff is authorized to view BWC files regarding incidents which may serve as learning or teaching tool. A BWC file may be utilized as a training tool for individuals, specific units, or the Department as a whole. A recommendation to utilize a BWC file for such a purpose may come from any source.

A person recommending utilizing a BWC file for training purposes shall submit the recommendation through the chain of command to the Training Section Commander.

The Training Section Commander shall review the recommendation and determine how best to utilize the BWC file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means.

Commented [JMG30]: Monitoring Team comments: Missing a comma.

Commented [TJ31R30]: Fixed

#### **D. ACCOUNTABILITY AND INTERNAL INVESTIGATION REVIEWS**

##### **D - 1. Review Considerations for all Supervisor or Commander Reviews of BWC**

Supervisors and commanders have the ability to review their subordinates' [C-3 BWC recordings] during the course of normal supervision and have the obligation to review certain recordings pertaining to specific events. In addition to required assessments during other reviews, all BWC recording reviews by supervisors and commanders shall follow these guidelines:

1. Supervisor and command review of subordinate BWC recordings shall include an assessment of:
  - a. Officer performance and training needs;
  - b. Policy compliance, including compliance with the provisions of this policy; and
  - c. Consistency between written reports and video files.
2. When a member does not activate or de-activate their BWC as required by policy, supervisors and commanders shall determine if the delayed or non-activation was reasonable, based upon the circumstances.
3. If the supervisor or commander determines that the delay or non-activation was reasonable, they shall document the justification in the appropriate report. If no report is generated, this shall be documented in a Supervisory

Notes File (SNF)<sup>7</sup> for the officer. The supervisor's commander shall be advised, and their (commander) name noted in the SNF.

4. Supervisors, commanders, and managers who discover Class II misconduct during the review of the BWC video, that does not indicate a pattern of misconduct, may address the Class II misconduct through non-disciplinary corrective action. Any Class II violations of this policy shall be documented by SNF in the member's file, with the SNF entry including documentation that a review of the member's SNF was completed and that the violation was not evidence of a pattern of misconduct<sup>8</sup>.

**D - 2. Supervisor Random Accountability Review**

In addition to other required video recording reviews, all supervisors shall conduct a random review of at least one BWC recording for each of their subordinates on a monthly basis. Supervisors shall ensure that each selected recording has a minimum length of ten (10) minutes or the longest video if there is no 10-minute video.

**D - 3. Supervisor Specified Incident Review**

In addition to other required video recording reviews, all supervisors shall conduct a review of relevant BWC recordings of the arresting officer(s) involving:

- 69 PC (Resist or Deter Peace or Executive Officer)
- 148 PC (Resist, Delay, or Obstruct Peace Officer); and
- 243(b) or (c) PC (Battery on Peace or Government Officer)

For the above arrests/incidents, supervisors shall at minimum review the BWC recordings of the primary arresting officer(s) and the officer(s) who were victims of the engaged person (if different), starting from the officer(s) initial interaction with the subject of the arrest until the arrestee has been controlled.

During incidents involving multiple officers, and absent a reported Use of Force, supervisors are not required to view all of the involved officer's BWC recordings where doing so would be redundant.

**D - 4. Force Investigation Review (Level 2-4 UOF)**

When investigating a Use of Force (UOF) categorized under Level 2 or Level 3, supervisors shall conduct a review of the pertinent section of BWC recordings for all members who are **witnesses to or involved in** the UOF.

<sup>7</sup> Practice note (Dec 2022): In the Department's VISION system, notes documenting a reasonable BWC delay or non-activation should use the SNF Category "Supervisory Observations" and the Type "N/A". Such notes that a delay or non-activation was reasonable do not constitute a pattern and should not be used for the purposes of discipline or misconduct investigation (refer to DGO M-03).

<sup>8</sup> Refer to DGO M-03 at III, A, 9.

**Commented [JMG32]: Monitoring Team comments:** Does such a SNF count towards a pattern? It probably should not, if the delay or non-action was determined reasonable. There should be a way to ensure consistent interpretation of this.

**Commented [TJ33R32]:** It does not count towards a pattern, and I addressed it with a footnote.

**Commented [JMG34]: Monitoring Team comments:** Should this read, "discovered pursuant to this policy?" This should apply to all Class II misconduct – not just violations of THIS policy.

**Commented [TJ35R34]:** This section is actually brought over from current policy (at IV, D, 5, page 10) – the line between misconduct and management blurs when we speak about certain Class II misconduct and I believe the Department maintains its ability to address performance issues in ways other than the misconduct apparatus. However, violations of this policy specifically must always be documented because of how critical BWC is to accountability.

**Commented [sk36]: Monitoring Team comments:** Should add verbiage here that states that the SNF must include documentation that a review was done for any pattern and the outcome of this review.

**Commented [TJ37R36]:** Agree, added.

**Commented [JMG38]: Monitoring Team comments:** Are there guidelines anywhere to ensure that this is truly random?

**Commented [TJ39R38]:** There are at least an IB (<https://powerdms.com/docs/493198?q=random%20review>) and training for supervisors on this point.

**Deleted:** These notes do not constitute a pattern for the purposes of discipline or misconduct investigation (refer to DGO M-03). **Current p**

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When approving a UOF categorized under Level 4, supervisors shall conduct at least a review of the pertinent section of BWC recordings of the specific member(s) who used force, for the purpose of determining if the Use of Force was in compliance with department policy.

In circumstances where the BWC video of the specific member(s) who used force is not sufficient to determine compliance (e.g., BWC obscured, clear angle captured from other BWC, force-using member's BWC fell off or wasn't activated, etc.), then supervisors shall conduct sufficient BWC review to be able to determine if the force was in compliance with department policy.

BWC related to a documented Level 4 Type 32 Use of Force where Type 32 is the only force type is only required under certain circumstances; reference [Special Order 9208](#).

#### D - 5. Vehicle Pursuit Investigation Review

When investigating a Vehicle Pursuit, Supervisors shall conduct a review of the pertinent section of BWC recordings for all members who were involved in the pursuit as a pursuing unit (at any point during the pursuit). This review shall include the BWC recordings of members from the beginning of their involvement in the pursuit, until the termination of their involvement in the pursuit.

For involved members who were riding together in the same vehicle during the pursuit, the approving or investigating supervisor may review only one member's BWC footage if the footage is redundant.

#### D - 6. Internal Investigation Review

When completing an internal investigation, the assigned investigator shall at minimum review BWC footage that is pertinent to the investigation, and which provides evidentiary value or assists in completing the investigation.

#### D - 7. Level 1 Investigation Review

In the event of a Level 1 investigation (reference [BOI P&P 19-01, Level 1 Investigations](#)), all BWC recordings shall be uploaded to evidence.com as soon as practical.

An involved or witness member's BWC shall be taken from them and secured by a supervisor, commander, or appropriate investigator, as necessary. The recordings shall be uploaded by personnel designated by the CID investigator.

After the recordings are uploaded, the CID investigator or designee shall turn the BWC into property until the CID and IAD Commander determine it may be released back to the member. The CID investigator shall ensure the chain of custody is documented in their report.

Personnel uploading secured BWC video files shall not view the files unless authorized by the CID investigator.

**Commented [sk40]:** Monitoring Team comments: Suggest adding here that in some circumstances, additional BWC may need to be reviewed beyond the officer using the force. For example, instances where the view provided by the involved officer BWC does not clearly show what occurred and other officers are present with better views, the officer's BWC fell off or was otherwise inactivated, etc. Sufficient BWC should be reviewed to ensure sufficient review of the use of force, even if it includes reviewing BWC by other members.

**Commented [TJ41R40]:** Agree – added paragraph to address.

**Deleted:** Division-Level

**Commented [JMG42]:** Monitoring Team comments: This applies to all IAD investigations, whether a DLI or completed in IAD – correct? Not all IAD investigations are Level 1 investigations.

**Commented [TJ43R42]:** Correct – I've modified this slightly to capture that.

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No personnel involved in or a witness to a Level 1 incident may view any BWC recordings prior to being interviewed by the appropriate investigative unit and receiving command approval.

Once a member's report(s) has been submitted and approved and/or the member has been interviewed by the appropriate investigator, the investigator may show the member his/her audio/video. This will occur prior to the conclusion of the interview process.

Personnel will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators.

**D - 8. Command Review (Level 2 or 3 Use of Force)**

Following the investigation of a Level 2 or Level 3 Use of Force by a supervisor, both the investigator's first level commander and the division commander shall conduct a review of the pertinent section of BWC recordings for all members who are witnesses to or involved in the UOF.

**D - 9. Auditing and Other Review**

OIA staff (when conducting audits), supervisors, commanders, active Field Training Officers (FTOs), and the FTO Coordinator are authorized to view BWC files to assist with the conduct of audits and inspections (OIA) or evaluate the performance of subordinate or trainee members unless otherwise prohibited by policy.

**E. COPYING OF BWC FILES**

**E - 1. Court and Judicial Proceeding BWC File Copies**

Personnel requiring a copy of BWC audio/video file(s) for court (e.g., for Traffic court, or a proceeding in a different county) shall contact their first line supervisor or their designated System Administrator (for non-patrol assignments). If the first line supervisor is unavailable, personnel shall contact any System Administrator. Any BWC copies not entered into evidence shall be returned to the first line supervisor or a System Administrator for destruction.

CID and other investigative personnel taking a case to the District Attorney (DA) for charging are responsible for obtaining copies of, and/or using the evidence.com secure sharing capability to share, all applicable BWC files for presentation to the DA.

Prior to copying the BWC video file, members authorized to make copies shall document the reason for making the copy and the name of the person receiving the copy in the "Notes" field of each video file copied. If applicable, the name entry shall also include the person's rank and serial number.

The person receiving the copy shall maintain the copy in a secure location until it is needed for court or custody is transferred to another person.

Additionally, they shall document, as soon as practical, the name and/or position of the person receiving the copy in the “Notes” field of each video file.

The documentation of the chain of custody and responsibility to secure the copy shall transfer to the person receiving the copy until:

- The copy is received by non-Department personnel (e.g. District Attorney, City Attorney, Court Clerk, etc.);
- The copy is admitted into evidence; or
- The copy is returned to a system administrator for destruction.

**E - 2. Public Records Requests for BWC File Copies**

Public Records requests shall be accepted and processed, in accordance with the provisions of federal, state, local statutes and DGO M-09.1, Public Records Access, and forwarded to the Project Administrator.

Copies of BWC video files for release pursuant to a public records request, or as authorized by the Chief of Police or designee, shall be redacted as required by prevailing law and Department procedures prior to release.

**E - 3. Copying BWC Recordings for Reasons other than Court**

Members may make copies of BWC recordings to facilitate their review and accountability authorities and responsibilities, as set forth in Sections C and D of this order.

Prior to copying the BWC video file, members authorized to make copies shall document the reason for making the copy and the name of the person receiving the copy in the “Notes” field of each video file copied. If applicable, the name entry shall also include the person’s rank and serial number.

Copies of BWC video files for internal use shall be maintained in the appropriate case file or a secure location. When the copy is no longer needed, it shall be returned to a system administrator for destruction. The system administrator shall make an entry in the “Notes” field of the video file that the copy was destroyed.

**E - 4. Prohibited Copies and File Sharing**

All personnel are prohibited from the following:

- Making unauthorized copies, digital and/or hard copies, of an original or copied BWC video file;
- Giving or showing copies of BWC video files to anyone without a lawful right to know and need to know, unless authorized by the Chief of Police or designee and;

**Commented [JMG44]: Monitoring Team comments:** Does everyone who potentially touches the recording have the appropriate level of access for this purpose?

**Commented [TJ45R44]:** They do – evidence.com roles and permissions are well-thought-out and allow for this.

Additionally, this is now a low-frequency event since evidence.com allows for secure sharing via the system, without burning physical copies.

**Commented [JMG46]: Monitoring Team comments:** How is this documented? Is there a report other than the Notes field?

**Commented [TJ47R46]:** There isn’t, and the notes field is the best because of the auditing abilities of the evidence.com system. However, as mentioned above, this is a low-frequency event now with secure sharing.

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- Posting or having another person post a copied BWC video file on any social media site or public site unless authorized by the Chief of Police or designee.

**F. DELETION OF BWC FILES AND AUDIT LOGS**

**F - 1. Removal Requests for Accidental Recordings**

In the event of an unintended or inappropriate activation of the BWC where the resulting recording is of no investigative or evidentiary value, the respective member may request that the BWC file be deleted by submitting an email request to their first level commander with sufficient information to locate the BWC file. The first level commander shall approve or deny the request.

Approved requests shall be submitted to the Project Administrator at [BWC@oaklandca.gov](mailto:BWC@oaklandca.gov) and the Project Administrator or designee will delete the accidental recordings.

**F - 2. Data Retention and Scheduled Deletion of Files**

BWC files shall be retained for a period of two years unless it is required for:

1. A criminal investigation;
2. An administrative investigation;
3. Research;
4. Civil litigation;
5. Training; and/or
6. No recordings shall be deleted while any request for the recordings is pending, including but not limited to a public records request or litigation hold request

BWC files that are not flagged for retention for any of the above reasons will be automatically deleted by the File Management System’s data retention processes, which are set and maintained by the Project Administrator or designee.

**F - 3. Access and Deletion Logs**

Audit logs of access, review, copying and deletion of BWC files shall be retained permanently.

**G. ADMINISTRATIVE INFORMATION**

**G - 1. Project Administrator**

The Project Administrator is the commander over the Information Technology unit unless otherwise designated by the Chief of Police. The Project Administrator has oversight responsibilities that include, but are not limited to, the following:

**Commented [JMG50]:** Monitoring Team comments: Who currently holds this assignment?

**Commented [TJ51R50]:** I (Lt. Joe Turner) am currently the project administrator.

**Commented [JMG52]:** Monitoring Team comments: This should be clarified. It appears overly broad.

**Commented [RW53R52]:** Are these circumstances consistent with State law? Has OCA weighed in on this?

**Commented [TJ54R52]:** This has been reviewed by OCA, and was one of the sections scrutinized by the Oakland Privacy Advisory Committee when we first purchased the system.



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- Document and track malfunctions and equipment failures;
- Policy and procedure review and evaluation;
- Ensure BWC files are secured and retained for the appropriate time period. Such security shall include FBI Criminal Justice Information Services (CJIS) compliant safeguards that protect information from unauthorized access, including encryption and access control mechanisms.
- Ensure BWC files are reviewed and released in accordance with federal, state, local statutes, and Departmental General Order M-9.1, Public Records Access;
- Train the System Administrators to ensure consistency; and
- Establish policy and procedures for the replacement of non-functioning BWCs and the check-out of spare BWCs;
- The BWC Program Administrator shall provide the Chief of Police, Privacy Advisory Commission, and Public Safety Committee with an annual report that contains all components required by the Surveillance Technology Ordinance, as listed in Oakland Municipal Code 9.64.

#### G - 2. System Administrators

System Administrators shall be designated by the Bureau Commander for non-patrol assignments or the CID Commander for CID personnel. All Sergeants of Police assigned to the Bureau of Field Operations are System Administrators.

System Administrator responsibilities shall include, but are not limited to, the following:

- Ensure officers are assigned a fully functional BWC. Malfunctioning BWCs shall be replaced as soon as practical, in the manner specified by the Project Administrator;
- Refresher training for members as needed;
- Ensuring the return of damaged equipment to the Project Administrator;
- Making copies of BWC files for court or other authorized activities;
- Destruction of copied BWC files not admitted as evidence in court or no longer needed internally. System Administrators receiving a video file copy for destruction shall ensure the copy is destroyed and make an entry in the "Comments" field of the video file that the copy was destroyed.

#### G - 3. Training

The Training Section shall ensure that members receive department-approved training as needed for those who are assigned a BWC, and training regarding the process for uploading and downloading BWC data.

#### G - 4. Description of the Technology BWCs

**Commented [JMG55]:** Monitoring Team comments: What does this consist of?

**Commented [TJ56R55]:** This is discussion and formation of practice around things like roles and permissions, administration, etc. Since there are such a small number of true system administrators (7 total, including myself), this is handled informally through discussions, meetings, and email.

For sergeants and above (limited system administrators, as seen below in G-2), the training is about 30 minutes after the general training for users, where their roles and abilities are explained.

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The BWC is a combination camera and microphone that collects audio and video in a digital format.

**G - 5. Description of the Technology BWC File Management System**

The BWC system employed by OPD features BWC docking stations and an internet web interface for controlling how files are uploaded and archived. The interface allows for Internet Protocol restriction features to control the locations where the system can be accessed. These restrictions limit BWC video file access to only authorized OPD personnel. Videos that are tagged for any reason as part of an investigation are moved to separate folders where they cannot be deleted. The cloud-based archive system has built-in redundancy with multiple servers to ensure data integrity and CJIS compliance.

**Commented [JMG57]:** Monitoring Team comments: Stylistically, this content appears better suited towards the beginning of the policy.

**Commented [TJ58R57]:** I see that perspective, but we decided to keep it at the end to ensure that compliance and rules for users are kept at the forefront. Attention spans are limited and I want to ensure that officers get the most important parts up front.

This is by no means a dealbreaker and we could definitely move it to the A section if needed.

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By order of

LeRonne L. Armstrong  
Chief of Police

Date Signed: \_\_\_\_\_

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**Appendix A**

<b>Category Name</b>	<b>Retention Period</b>	<b>Legal Retention Requirements</b>
Incident / Citizen Contact (No Crime)	2 yrs	Basic (set by policy DGO I-15)
Traffic / Bike / Ped Stop	2 yrs	Basic
Accidental / False Signal / <u>Signal Testing</u>	2 yrs or sooner if deleted per policy	Basic
Test / Vehicle Inspection	2 yrs or sooner if deleted per policy	Basic
Mental Health	2 yrs	Basic
Violent Felony / DOA	Indefinite	Statute of Limitations (SOL)
Misdemeanor Case (including report, statements, cite, or arrest)	2 yrs	SOL
Felony Case (including report, statements, cite, or arrest - no violent felonies or sex crimes)	3 yrs	SOL
Domestic Violence	5 yrs	SOL, prior action charging
Collision	5 yrs	13552 Traffic Collisions non-fatal is 5 years for reports - matching to keep digital evidence the same

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Missing Person / Runaway	Indefinite	SOL (Possible homicide)
DUI	10 yrs	SOL, prior action charging
Sex Crimes	Indefinite	SOL
Vehicle Pursuit	5 yrs	Administrative SOL
Sergeants / Commanders Admin	2 yrs	Possible IA/DLI - intake/Sergeant/etc. to update category if so
IA/DLI	Indefinite	Administrative SOL
Never Delete	Indefinite	Administrative SOL
Use of Force - Levels 1 and 2	Indefinite	Administrative SOL
Use of Force - Levels 3 and 4	Indefinite	Administrative SOL
Felony - Filed by DA	20 yrs	SOL plus appeals
Homicide	Indefinite	SOL
Misdemeanor - Filed by DA	10 yrs	SOL plus appeals
Missing Person / Runaway - Returned (replace other missing person category)	2 yrs	Basic (cures possible homicide SOL of other Missing Person category)
Legal - OCA/Records/Authorized Users Only	Indefinite	City Attorney's Office (CAO) Order
Collision - 901C	Indefinite	CAO Order
Collision - Major Injury / Fatal	Indefinite	SOL
Training	2 yrs	Basic



**CITY OF OAKLAND | POLICE COMMISSION**  
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### Current Committees

Ad Hoc Committee	Commissioners
Budget	Milele, Jordan, Jackson-Castain
*Body Worn Camera Policy	Harbin-Forte, Peterson, Hsieh
Community Outreach	Howell, Jordan, Ordaz
*CPRA Policies	Harbin-Forte, Jackson-Castain, Ordaz
*Militarized Equipment Policy	Hsieh, Jackson-Castain, Jordan
Negotiated Settlement Agreement	Harbin-Forte, Hsieh, Milele
Racial Profiling Policy	Committee of the Whole Chair: Peterson
Rules of Procedure	Hsieh, Howell, Jackson-Castain
Staff Searches (CPRA, CoS, Chief)	Milele, Jordan, Howell
Staff Evaluations (IG, CPRA)	Harbin-Forte, Jordan, Howell
OBOA Allegations	Harbin-Forte, Jackson, Ordaz
Annual Report	Jackson, Peterson

*\* Estimated to sunset in April 2023*

### Recently Completed/Paused/Dormant

Ad Hoc Committee	Commissioners
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
OIG Policies	Peterson, Harbin-Forte, Jackson
Contracts	Peterson, Howell, Ordaz

For a roster of current Commissioners and their emails, visit:  
<https://www.oaklandca.gov/teams/police-commission>

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Annual evaluation of Chief of Police	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Postponed	Annual	Ord. Section 2.45.070(G)
Annual evaluation of Inspector General	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Postponed	Annual	Ord. Section 2.45.070(G)
Hiring CPRA Director including public forum	Staff Searches Ad Hoc	Commission responsible for hiring of Agency Director	Anticipated Hire in Q2	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 first review in Q1	Annual	
Hiring of Police Chief	Complete search for new Chief of Police and recommend candidates to Mayor	The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least three (3) candidates and transmit the names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission.		Incident-based	Charter - 604(b)(10)
<b>MEETINGS</b>					
In-Person Meeting - Brown Act	After City Council provides guidance, agendaize to announce and discuss lifting of emergency exception & conduct in-person meetings		March 2023	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)

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Two meetings per year outside City Hall - "Community Roundtables"	Agendized ten days in advance	Commission shall consider inviting to each roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and formerly incarcerated members of the community	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
<b>BUDGET</b>					
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 Commission and CPRA	Feb/March 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	April/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	April/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.
Quarterly budget review and regular updates on the agenda		Requested by Comm. Jackson (12.8.23; 2.9.23; 2.23.23)			
<b>OTHER ITEMS: for CPRA</b>					
Solicit/Consider Public Input re Quality of Interactions with CPRA and Commission			Public Forum for CPRA Director Search	Continuous	Ord. § 2.45.070(Q)



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
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
Update on CPRA training for investigators and timeline		Requested by Comm. Peterson (1.26.23; 2.23.23; 3.9.23)		Continuous	
<b>OTHER ITEMS: for OPD</b>					
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: Reporting And Publishing Data On Its Activities					Ord. § 2.45.070(P)
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; 1.12.23)			
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)			
OPD annual update on impact of the missing person's policy		Requested by Comm. Jackson (8.25.22)			
Receive reports from Department via City Administrator on issues identified by the Commission				Continuous / Incident-Based	Ord. Section 2.45.070(R)
Informational report of data from MACRO, OPD, and CARES	(1) how many intakes CARES has received from OPD and MACRO; (2) a report from MACRO on their OPD referrals and the outcomes of those referrals for tracking purposes; (3) and finally, from OPD to see; the numbers of arrests that are eligible for CARES, the dispatches to MACRO and the types of cases involved, and the juvenile cases that are appropriate for juvenile pre-filing diversion and the outcomes of those cases	Requested by Comm. Hsieh (2.23.23)	July 2023	Annual	
<b>OTHER ITEMS: for OIG</b>					

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
Advise OIG of priorities and the functions and duties, including: <ul style="list-style-type: none"> <li>• Prepare annual report</li> <li>• Monitor/eval # of officers receiving training on profiling, implicit bias, de-escalation, and other key topics</li> <li>• Develop and present a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn officers</li> <li>• Complete all audits/reviews requested by the Mayor, City Administrator, City Council</li> <li>• Monitor/eval/make recommendations re:               <ul style="list-style-type: none"> <li>• Recruiting and hiring sworn personnel</li> <li>• OPD Policies the Commission seeks to create or modify</li> <li>• OPD's risk mgmt. practices</li> </ul> </li> </ul>					Ord. Section 2.45.120
OIG Policies for review and vote		Requested by Comm. Jackson (11.10.22) — in discussion with OIG Policies ad hoc			
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)
Presentation from the Department of Violence Prevention		Requested by Comm. Jackson (2.24.22; 8.25.22; 2.9.23)			
<b>OTHER ITEMS: for Commission</b>					
Community Policing presentation/training		Requested by Comm. Hsieh/Commission Ad Hoc (5.26.22)			Ord. Section 2.45.070(O)
Maintain/update bylaws		Rules of Procedure Ad Hoc	Summer 2023	Continuous	Ord. Section 2.45.040
Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of litigation			Previous: 10/27/22 Next: April 2023	Continuous	Ord. Section 2.45.070(I)
Mayor's Youth Commission		Requested by Comm. Jackson (8.25.22)			
Bay Area Youth EMT		Requested by Comm Harbin-Forte (8.25.22)			
Presentation by Ian Appleyard on new HR process		Requested by Comm. Jackson (11.10.22)			
Chief of Staff Search		Requested by Comm. Jackson (11.10.22; 12.8.22; 2.9.23) — recurring with ad hoc		Incident-Based	
Presentation on Ceasefire		Requested by Comm. Jackson (1.12.23)			
Half-day strategic planning session		Requested by Comm. Jackson-Castain (1.12.23)			
Discussion on content of future OPD reports		Requested by Comm. Jackson-Castain (1.26.23)		Continuous	
Monthly report on calls diverted to MACRO and OPD training on utilizing MACRO		Requested by Comm. Peterson (2.9.23)		Continuous	
Letter of support or resolution for Commission advisory oversight at county level		Requested by Comm. Jordan (2.9.23)			
Audit compliance update		Requested by Comm. Jackson (2.9.23)			
Juvenile Miranda Policy and juvenile detention program update		Requested by Comm. Hsieh (2.9.23)			
Followup presentation on stop data by Dr. Grossman		Requested by Comm. Jackson-Castain (2.23.23)			