OAKLAND POLICE COMMISSION
REGULAR MEETING AGENDA
October 13, 2022
6:30 P.M.

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

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

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PUBLIC PARTICIPATION

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

OBSERVE:
- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: https://us02web.zoom.us/j/83594884927 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: 835 9488 4927

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

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

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

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

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

  If you have any questions about these protocols, please e-mail opc@oaklandcommission.org.

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

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

II.   **Adoption of Renewal Resolution Electing to Continue Conducting Meetings Using Teleconferencing in Accordance with California Government Code Section 54953(E), a Provision of AB-361.** The Commission will re-adopt findings to permit it to continue meeting via teleconference under the newly amended provisions of the Brown Act.
This is a recurring item. (**Attachment 2**).
   a.   Discussion
   b.   Public Comment
   c.   Action, if any

III.   **Open Forum Part 1** (2 minutes per speaker, 15 minutes total)
Members of the public wishing to address the Commission on matters that are not on tonight's agenda but are related to the Commission's work should raise their hands and they will be called on in the order their hands were raised. Comments regarding agenda items should be held until the agenda item is called for discussion. Speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2.

IV.   **Update from Oakland Police Department (OPD)**
OPD Deputy Chief Cliff Wong and representatives of the Department will provide an update.
This is a recurring item. (**Attachment 4**).
   a.   Discussion
   b.   Public Comment
   c.   Action, if any

V.   **Update from Jim Chanin on Negotiated Settlement Agreement (N.S.A.)**
Jim Chanin will present on the N.S.A. and provide updates.
   a.   Discussion
   b.   Public Comment
   c.   Action, if any

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VI. **Review of First Sustainability Report by the Independent Monitoring Team**
The Oakland Police Commission will review a report about OPD's progress in maintaining full N.S.A. compliance throughout the One-Year Sustainability Period that the Honorable Judge William H. Orrick ordered on May 12, 2022. The Court is officially scheduled to receive a final report in May of 2023 and may consider potentially resolving Court-mandated oversight at or around that time. (**Attachment 6**).
    a.   Discussion
    b.   Public Comment
    c.   Action, if any

VII. **Presentation and Possible Approval of Policy DGO I-27 (Long-Range Acoustic Devices)**
The Commission will review and discuss Policy DGO I-27 (Long-Rang Acoustic Devices).
This is a postponed item from 9/22/22. (**Attachment 7 – Supplement**).
    a.   Discussion
    b.   Public Comment
    c.   Action, if any

VIII. **Presentation and Possible Approval of Policy DGO I-28 (Mobile Command Vehicles)**
The Commission will review and discuss Policy DGO I-28 (Mobile Command Vehicles).
This is a postponed item from 9/22/22. (**Attachment 8 – Supplement**).
    a.   Discussion
    b.   Public Comment
    c.   Action, if any

IX. **Update on NACOLE Conference**
Vice Chair Peterson will provide an update on the 2022 Annual NACOLE Conference.
    a.   Discussion
    b.   Public Comment
    c.   Action, if any

X. **Committee Reports**
Representatives from Standing and Ad Hoc Committees will provide updates on their work.
This is a recurring item.

Police Commission Retreat
(Commissioners Jackson, Peterson, Milele)
An update on the 2022 Police Commission Retreat will be provided.

Body Worn Cameras Policy
(Commissioners Harbin-Forte, Hsieh, Peterson)
This Ad Hoc Committee is tasked with the review and revision of the Oakland Police Department's Body Worn Camera Policy.

Community Outreach
(Commissioners Howell, Hsieh, Jordan)
The objective of this Ad Hoc is to increase public awareness and knowledge of the Commission's work and ensure broad community voices, especially from the most marginalized, are elevated.

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

XI. **Open Forum Part 2** (2 minutes per speaker, 15 minutes total)
Members of the public wishing to address the Commission on matters that were not on tonight's agenda but are related to the Commission's work should raise their hands and they will be called on in the order their hands were raised.

XII. **Upcoming/Future Agenda Items**
The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. ***This is a recurring item.***
 a. Discussion
 b. Public Comment
 c. Action, if any

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 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.

OAKLAND POLICE COMMISSION

RESOLUTION NO. 22-13

ADOPT A RESOLUTION DETERMINING THAT CONDUCTING INPERSON MEETINGS OF THE OAKLAND POLICE COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. *See* https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf; and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. *See* https://www.cdc.gov/coronavirus/2019ncov/prevent-getting-sick/prevention.html; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. *See* https://www.cdc.gov/coronavirus/2019ncov/your-health/about-covid-19/caring-for-children/families.html; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. *See* https://www.cdc.gov/aging/covid19/covid19-olderadults.html; and

WHEREAS, the CDC, the California Department of Public Health, and the Alameda

County Public Health Department all recommend that people experiencing COVID-19

symptoms stay home. *See* https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/stepswhen-sick.html; and

WHEREAS, persons without symptoms may be able to spread the COVID-19 virus. *See* https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html; and

WHEREAS, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. *See* https://www.cdc.gov/coronavirus/2019ncov/vaccines/fully-vaccinated.html; and

WHEREAS, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

WHEREAS, attendees would use ride-share services and/or public transit to travel to inperson meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

WHEREAS, on October 14, 2021 the Oakland Police Commission adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

RESOLVED: that the Oakland Police Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

FURTHER RESOLVED: that, based on these determinations and consistent with federal, state and local health guidance, the Oakland Police Commission renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

FURTHER RESOLVED: that the Oakland Police Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

FURTHER RESOLVED: that the Oakland Police Commission will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Oakland Police Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.

ON OCTOBER 13, 2022, AT A MEETING OF THE OAKLAND POLICE COMMISSION IN OAKLAND, CALIFORNIA **PASSED BY THE FOLLOWING VOTE:**

AYES –

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

Oakland Police Commission
City of Oakland, California

AGENDA REPORT

CITY OF OAKLAND

TO:	Edward D. Reiskin City Administrator	**FROM:**	LeRonne L. Armstrong Chief of Police
SUBJECT:	Report On OPD Calls For Service	**DATE:**	June 14, 2022

City Administrator Approval _(signature)_   Date: Jun 16, 2022

RECOMMENDATION

Staff Recommends That The City Council Receive A Report And Recommendation From The City Administrator On Police Department Calls For Service Pursuant To Resolution No. 88717 C.M.S. With Recommendations For The Additional Transfer Of Certain Categories Of Non-Violent, Non-Criminal Calls For Service From The Police Department To Other Departments.

EXECUTIVE SUMMARY

This report provides a response from the Oakland Police Department (OPD), to the Calls for Service Analysis produced by the National Institute for Criminal Justice Reform (NICJR) for years 2018-2020 and is provided in response to a FY 2021-23 Council Policy Directive.

BACKGROUND / LEGISLATIVE HISTORY

The City of Oakland's Fiscal Year (FY) 2021-2023 BUDGET POLICY DIRECTIVES #11b requires the removal of low-level and non-violent calls for service from the police department. It reads:

Provide detailed analysis and recommendations for operationalizing the removal of low-level, non-violent calls for service from the Police Department's responsibilities and options for an alternative response. Low-level, non-violent calls for service include what the Police Department classifies as "Administrative, Animal-related, Homeless, Mental Health, Noise-related, Ambulance Requested, and Other."

OPD presented a report to the Public Safety Committee on February 8, 2022 for the agenda item titled below:

Receive A Report And Recommendation Directing The City Administrator To Report Back On The Implementation Of The Council Public Safety Budget Policy Directives, Including Status Of Conducting (1) An Analysis Of Calls For Service And Recommendations To Transfer Certain Calls To Alternative Response By April 2022, (2) An Independent Audit Of The Police

Department By December 2022, And (3) Analysis Of Restructuring Investigation Units To Improve Solve Rates By Increasing Civilian Staff And Reducing Sworn Staff.

OPD presented an informational report to Public Safety Committee on March 8, 2022 for an agenda item entitled:

Receive A Report And Recommendation Directing The City Administrator To Report Back On The Implementation Of The Council Public Safety Budget Policy Directives, Including Status Of Conducting (1) An Analysis Of Calls For Service And Recommendations To Transfer Certain Calls To Alternative Response By April 2022, (2) An Independent Audit Of The Police Department By December 2022, And (3) Analysis Of Restructuring Investigation Units To Improve Solve Rates By Increasing Civilian Staff And Reducing Sworn Staff.

OPD contracted with the National Institute for Criminal Justice Reform (NICJR) to conduct a comprehensive analysis for calls for service for 2018-2020. The scope of the study was described in an informational memorandum dated November 12, 2021. OPD received a draft of the NICJR report (**Attachment A**) and provided comments.

ANALYSIS AND POLICY ALTERNATIVES

As noted several times in the NICJR report, OPD's outdated computer-aided dispatch (CAD) system provided data that limited the accuracy and depth of the subsequent analyses.

- Initial call types are captured but can be changed during or following a call for service. If initial call types were stored and later compared to final call types, a more meaningful analysis of the perceived and actual need for police response could be made. While CAD has disposition codes indicating the resolution of the incident, this does not capture the nature of the incident.
- On scene times are inconsistently entered or recorded in CAD and limited the response time and time spent on call analyses. Reopening an incident changes the closure time of an incident and affects the calculation of time spent on scene.
- The number of officers on scene captured in CAD does not appear correct as it is limited to only four names. Because many scenes have more than four officers, the number of officers appears to be underreported.
- CAD incidents with on-scene times have units assigned, but these units include personnel such as OPD Police Service Technicians (non-sworn) and Oakland Housing Authority Units. This impacts the types and numbers of calls that appear to be assigned to OPD sworn personnel, even though OPD sworn personnel were not assigned.
- Due to the data issues stated above, assumptions had to be made and the exclusion of data had to occur. NICJR consulted with OPD staff for clarification of data such as incident types, disposition codes, and categorization of call types. The data cleaning should be revisited by the NICJR team so these steps are clearly documented and understood because they impact the interpretation of the findings; NICJR staff did consult with OPD staff regarding some of the CAD data, but these talks should be revisited and expanded in the next iteration of this process.

Further Analysis Needed

Further analysis of "non-criminal" and "on-view" categories is needed to determine the need for the type of response required. Each category contains call types that can be handled by non-sworn members of the OPD and call types that can be diverted to non-OPD resources. Using the call types, priority, and dispositions codes in the CAD data, one can get an initial indication, but merging that information with police report and crime data provides a fuller picture. Because there are numerous call types and they can vary within a single type, each call type should be evaluated individually to decide the best approach for response. This granular analysis was more time-consuming and resource intensive than intended at the onset of this study.

The study used three years of CAD data to group and count incidents based on initiation source, call type, response time, time on scene, and other measures. While there are many tables and charts displaying the results of the incident counts, data cleanliness negatively affected the ability to analyze the significance of the observations. Furthermore, considering the primary purpose of the study was to identify calls for service that could be diverted to non-OPD resources, more effort is needed to delve into how the findings in the report could help OPD reduce the number of calls requiring a response.

Despite the data challenges and the need for further work, the current Analysis provides several recommendations that are worth consideration. OPD is currently developing a new CAD and reporting system expected to deploy in late 2022. OPD is also constantly looking for opportunities to leverage resources to free up sworn personnel to address violent crime and conduct follow-up criminal investigations. With that said, OPD's patrol function is staffed at minimum staffing currently and patrol officers perform important functions that need to continue to have staff assigned, regardless of the types of calls that may ultimately be diverted or otherwise addressed by the City.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this report beyond the standard City Council agenda noticing procedures.

COORDINATION

The National Institute for Criminal Justice Reform (NICJR) conducted an analysis of OPD's calls for service for the years 2018-2020.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

Race & Equity: OPD staffing and subsequent response times directly impact the ability to support public safety and the quality of life of all Oakland residents and visitors.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive A Report And Recommendation From The City Administrator On Police Department Calls For Service Pursuant To Resolution No. 88717 C.M.S. With Recommendations For The Additional Transfer Of Certain Categories Of Non-Violent, Non-Criminal Calls For Service From The Police Department To Other Departments.

For questions regarding this report, please contact Deputy Chief Clifford Wong, cwong@oaklandca.gov.

Respectfully submitted,

LeRonne L. Armstrong
OPD, Chief of Police

Reviewed by:
Darren Allison, Assistant Chief
OPD, Office of the Chief

Clifford Wong, Deputy Chief
OPD, Bureau of Risk Management

Prepared by:
Tracey Jones, Police Services Manager
OPD, Bureau of Services

Attachments (1)
A: National Institute for Criminal Justice Reform Analysis of OPD Calls for Service 2018-2020

Oakland Police Department
Calls for Service Analysis
2018-2020

Introduction and Summary

The National Institute for Criminal Justice Reform (NICJR) conducted an analysis of Calls for Service (CFS) received by the Oakland Police Department over the three years spanning 2018-2020 in compliance with a City Council directive. For this report, NICJR defines Calls for Service as 911 Calls, officer-initiated calls/activity, and calls to the OPD non-emergency line. OPD provided NICJR three years of data from its CAD (Computer Aided Dispatch) system in order to conduct this study.

The City Council directed OPD "to provide a detailed analysis and recommendations for operationalizing the removal of low-level, non-violent calls for service from the Police Department's responsibilities and options for an alternative response. Low-level, non-violent calls for service include what the Police Department classifies as '"Administrative, Animal-related, Homeless, Mental Health, Noise-related, Ambulance Requested, and Other."'

Over the three-year study period, OPD received nearly 1.3 million CFS. Of those calls, one or more officers responded to 56.7% (722,815). After discussion with OPD command staff it was determined another 96,900 CFS should be removed from the analysis due to having a disposition code of Cancel, Administrative, or Duplicate. The subsequent analysis is based on a review of the remaining 49.1% of CFS (625,915). One of the main objectives of this study was to determine which types of CFS could safely and responsibly be responded to by non-police alternatives, like community-based responders. Therefore, NICJR focused its assessment on those CFS where one or more officers arrived on scene.

Based on the California Penal Code and our own analysis, NICJR categorizes CFS in four different types:
   1) Non-Criminal (calls for incidents or issues that are not a violation of the penal code, like noise complaints, but may be a violation of a local ordinance)
   2) Misdemeanor (or Low Level, like a stolen bicycle)
   3) Non-Violent Felony (like car theft)
   4) Serious and violent felony (like an armed robbery)

NICJR assessed the type of calls for service, the time it took officers to respond to a call, the amount of time officers spent on a call, and how calls were initiated. The following report includes findings from the assessment with recommendations on how OPD could more effectively and efficiently use its limited resources given alternative response models. NICJR's call categorization themselves are not recommendations for alternatives responses, for instance there are some call types in the non-criminal category that will still require an officer to respond.

The assessment of Calls for Service conducted by NICJR is based on data from OPD's CAD system.

As noted in the report, the CAD system is archaic and is in need of improvements and upgrades. Due to the data limitations, some of the findings in the report need to be verified by reviewing the notes made by responding officers in association with calls for service. Due to the extremely large volume of calls, NICJR will review notes from a sample number of calls from each call category in OPD's Records Management System (RMS). This extended review will take another eight to twelve weeks to complete once initiated. Until then, the findings of this report should be considered preliminary.

OPD's Motorola Legacy system that serves as its CAD, does not contain some fields that other police agencies capture, and it is difficult to search for certain data in the system. This may have some impacts on this analysis. OPD is in the process of replacing CAD and its accompanying records management system; these improved systems may help with more accurate CFS assessments in the future.

Findings

A review of 625,915 CFS that had an on-scene arrival time, covering the period 2018-2020, found that nearly 60% of OPD calls were for Non-Criminal events. Approximately 18% of calls were associated with felonies of any kind, and 9% of calls over the three year period were for serious and violent felonies. Although serious and violent felonies comprised less than 10% of calls, the total number of such incidents was still extremely large for a city the size of Oakland. During the three-year period there were nearly 60,000 such incidents that officers responded to, an average of nearly 54 serious violent calls for service each day.

Officers may also self-initiate a CFS. For example, a self-initiated call can include an instance when a patrol officer notices something that requires a response, such as a crime in progress. These calls are very generally categorized in the CAD data as "On-View" [1] incidents. On-view incidents accounted for 9.9% of CFS over the review period. Details about what types of incidents make up the On-View CFS require an assessment of call details that NICJR will conduct when it receives additional information from the RMS. There are other officer initiated CFS that are detailed in CAD and categorized by the type of call.
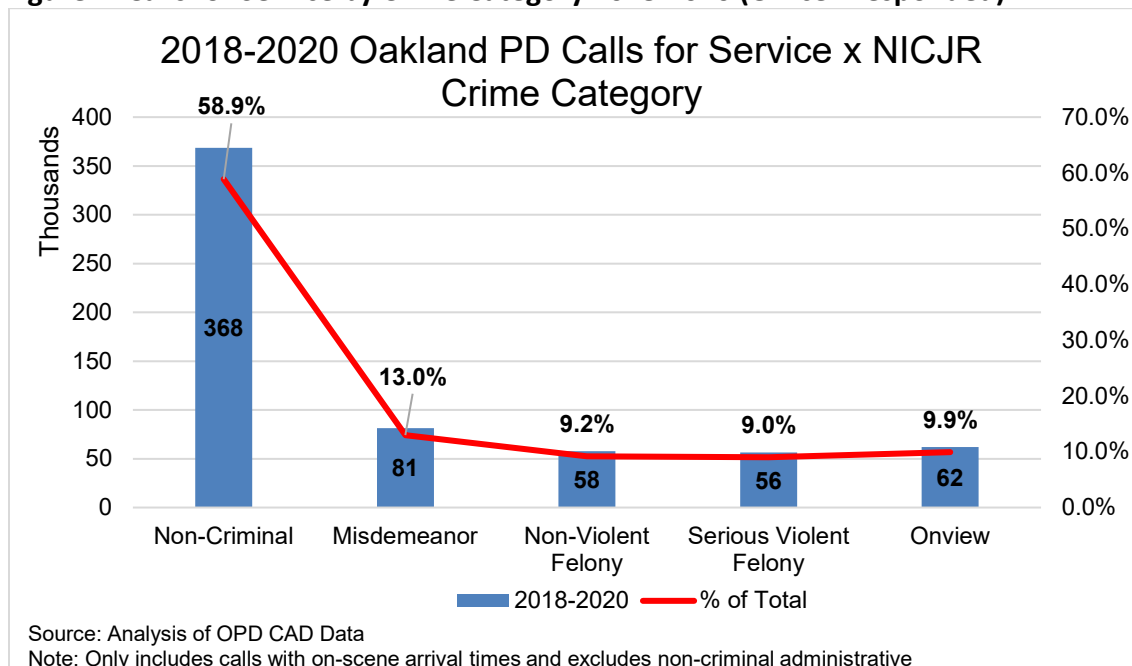
For Serious Violent events, officers took an average of 1 hour and 5 minutes to respond and spent 2 hours and 15 minutes on-scene. But for Priority 1, Serious Violent Felony CFS which require an expedited response, over the three-year study period, OPD officers took an average of 18 minutes and 57 seconds to respond from the time of the call to an officer arriving on scene. Priority 1 Calls are usually crimes in progress.

For Non-Criminal CFS, officers spent an average of 1 hour and 4 minutes on scene handling these calls, which may also include follow up or report writing about the incident after the initial response to the call. The CAD data does not differentiate the time spent on scene of the

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[1] On-View is the code used in the OPD CAD data for when an officer on patrol observes something that needs to be responded to and therefore NICJR categorizes it as Officer Initiated. One of the limitations of the CAD data is that the information on the reason or the purpose of the officer stopping is not included so NICJR is not able categorize the call by non-criminal, misdemeanor, non-violent felony, or serious and violent felony. There are other Officer Initiated calls that information for the calls are included in the CAD data.

initial call and time spent following up on the call. But for non-criminal CFS, there is likely less time spent on following up on such low-level calls. Given OPD's high call volume and attention paid to more serious calls, officers took an average of 1 hours and 39 minutes to respond to Non-Criminal events. It should be noted that according to data in CAD, some calls were not responded to for two or more days. OPD reports that this is likely inaccurate and an example of one of the data challenges in CAD. But there are some CFS that are not responded to for more than 24 hours due to the low level nature of the call. For Misdemeanor event types, officers took an average of 2 hours and 15 minutes to respond and spent an average of 1 hours and 11 minutes on-scene. For Non-Violent Felony event types, officers took an average of 2 hours and 55 minutes to respond and spent 1 hour and 30 minutes on-scene.   These response times appear to be inaccurate and another illustration of the problems with the data, but these are correct calculations based on the information that is in the CAD system.

Figure 1. Calls for Service by Crime Category 2018-2020 (Officer Responded)

2018-2020 Oakland PD Calls for Service x NICJR Crime Category

Source: Analysis of OPD CAD Data
Note: Only includes calls with on-scene arrival times and excludes non-criminal administrative

It is worth noting, that although serious and violent felonies only account for 9% of all calls responded to by OPD, that is 56,000 calls over three years, an average of 18,666 calls per year and 51 serious and violent felony calls every single day.

Figure 2. Calls for Service by Crime Category (All Calls)

2018-2020 Oakland PD Calls for Service

Source: Analysis of OPD CAD Data.
Note: All calls
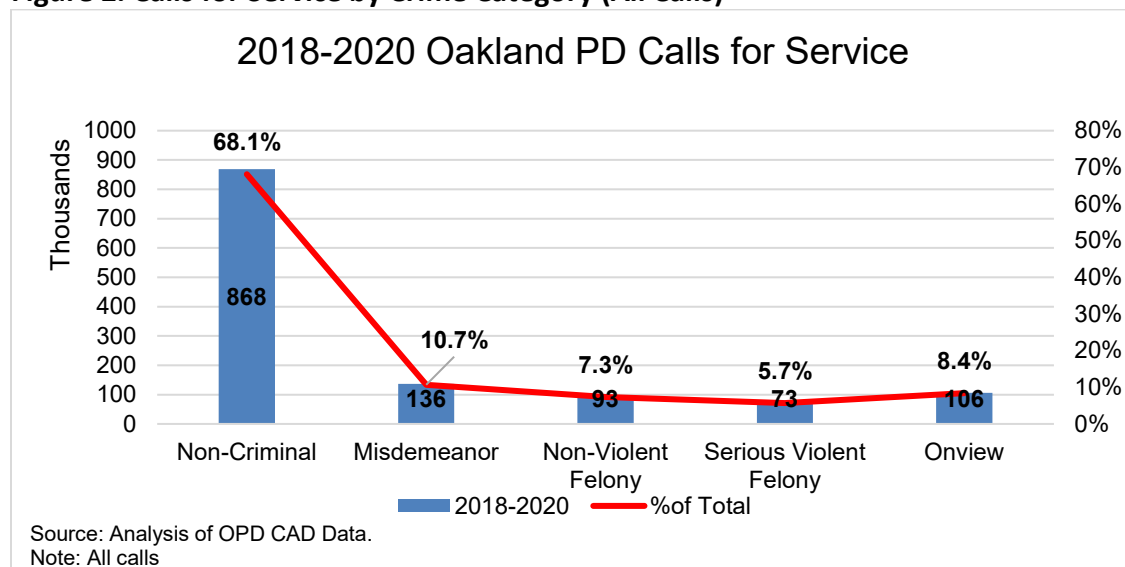
Table 1. Top 10 Call Types Overall 2018-2020

Call Types	Total Events
ON VIEW	62,138
SECURITY CHECK	41,605
CAR STOP	21,544
STOLEN VEHICLE	19,540
ALARM-RINGER	16,533
MENTALLY ILL	12,485
911 HANG UP FROM ACC	12,275
415 UNKNOWN	10,083
DISTURBING THE PEACE	9,632
BURGLARY	7,262

The top 10 call types account for 33% of all events.

Note: Only Includes Calls with On-Scene Arrival Time
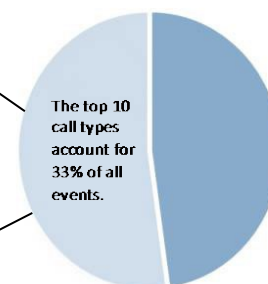
Although the OPD utilized between 208 and 348 unique call types during the study period, just ten comprised more than 33% of all events.

An average of slightly more than 1 officer responded to each CFS, spending an average of 1.45 hours per event, as measured by arrival on-scene to call clearance.

Table 2. Time Spent Responding to Events 2018-2020

Crime Category	Total Hours Arrival to Close	Average Hours Per Event	Proportion of Total Officer Time
Non-Criminal	387,075	1.04	50.1%
Misdemeanor	96,512	1.18	12.5%
Non-Violent Felony	84,616	1.50	11.0%
Serious Violent Felony	126,294	2.26	16.4%
On View (officer initiated)	76,738	1.25	10.0%
Total	771,235	1.45	100%

Note: Only Includes Calls with On-Scene Arrival Time

NICJR has developed a tailored approach to the analysis of CAD calls for service data based on hands-on experience in multiple cities nationwide. NICJR CFS analyses use the following categorization of *call type incident description of* CAD events: Non-Criminal (NC), Misdemeanor (MISD), Non-Violent Felony (NV FEL), and Serious Violent Felony (SV FEL). NICJR crime categorization cross walked with OPD incident type descriptions can be found in Appendix A. NICJR categories are aligned with state specific penal codes and their associated penalties. If a call type is not found in the penal code, it is placed into the Non-Criminal Category. NICJR uses this method of categorizing events because it affords the most linear correlation between the event and its associated criminal penalty. By categorizing events in this manner, NICJR can clearly identify the portion of CFS that are either non-criminal, low-level, non-violent, and serious violent offenses.

OPD provided NICJR with a comprehensive CFS data set for each of the three calendar years 2018-2020, representing a total of 1,274,154 unique calls for service. Each year's dataset included the call type descriptions for the respective reporting period. There were between 208 and 348 available call type descriptions for each year. The data did not include Racial Identity and Profiling Advisory (RIPA) Board disposition codes associated with vehicle, pedestrian, and bike stops as required by Assembly Bill 953, which requires law enforcement agencies to collect "perceived demographic and other detailed data regarding pedestrian and traffic stops." RIPA data is collected and reported through an OPD system outside of CAD.

Table 3. NICJR Crime Categories

Crime Category	Description
Non-Criminal (NC)	Any event not identified in the California State Penal Code
Misdemeanor (MISD)	Any event identified in the California State Penal Code as a Misdemeanor
Non-Violent Felony (NV FEL)	Any event identified in the California State Penal Code as a Non-Violent Felony
Serious Violent Felony (SV FEL)	Any event identified in the California State Penal Code as a Serious Violent Felony

Call type initiation source variables also allowed NICJR to determine CFS initiation source – officer-initiated activity or On-View, non-emergency line, 911 emergency line, or alarm.

In addition, CFS response time data was used to determine how long it takes OPD officers to respond to CFS and how much time officers spend on CFS by incident type once they arrive on-scene. There were five time variables provided in the data. To determine how long it took officers to respond to CFS, NICJR assessed the length of time between call dispatch and an officer arriving on-scene. To determine how long officers spent resolving events, NICJR analyzed the length of time between an officer arriving on-scene and clearing the call. NICJR was also able to use CAD data to determine the mean number of officers responding to each type of call by Crime Category. The time value for officers while enroute to an incident was not included.

Table 4. Oakland CAD Data Time Variable Descriptions

| CAD Data Variable Label	CAD Translation
Transmit TimePrimaryUnit	Time call was transmitted over the radio to the primary unit
CreateTimeIncident	Time the call was created in the CAD system
DispatchTimePrimaryUnit	Time call was first dispatched to an officer
ArrivalTimePrimaryUnit	Time officer arrived on-scene
ClosedTimeIncident	Time officer is back in service to take new calls

Characteristics of Calls

Analysis of 625,915 events with on-scene arrival times from 2018-2020

NICJR analyzed the CFS data set across a number of metrics including overall call type frequency, call initiation source, and call NICJR Crime Category. Figures and tables in this section draw from a sample of 625,915 unique calls for service with an on-scene arrival time covering the period 2018-2020 within the CAD files NICJR obtained from OPD.

Event Initiation
Calls for service may be initiated in three primary ways: by calling 911, by calling the OPD non-emergency line, or by an officer initiating a call. Figure 2 shows the proportion of events by initiation source. Approximately 35% of all calls during the 2018-2020 period were initiated by an officer.

Figure 3. Events by Initiation Source 2018-2020

Source: Analysis of OPD CAD Data with on-scene arrival time. Excludes administrative officer initiated calls
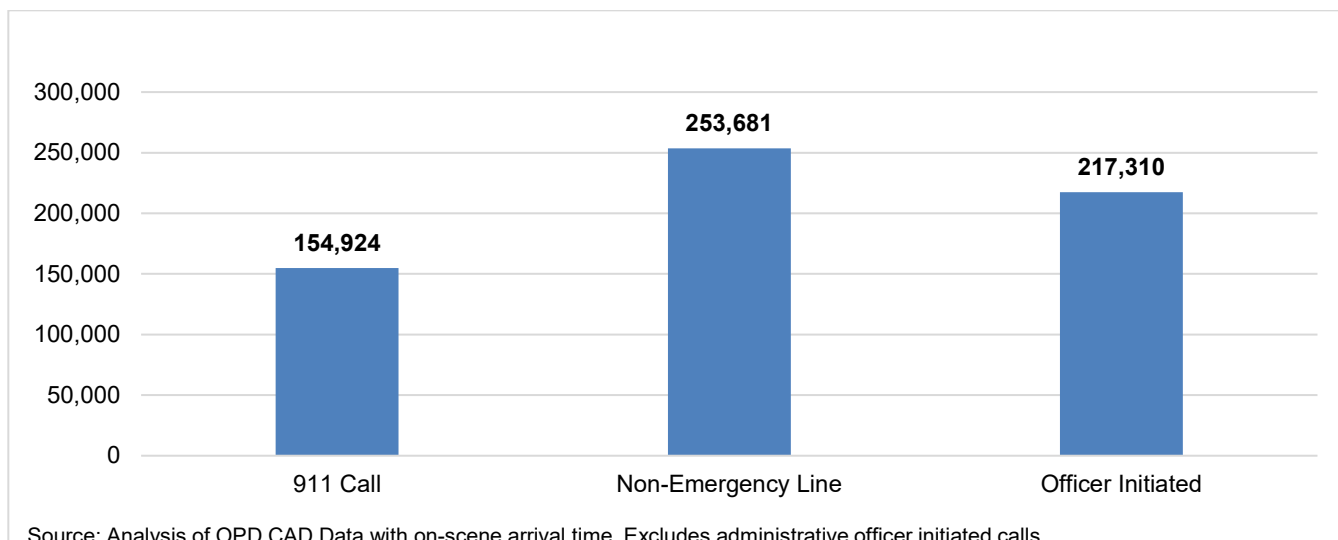
Top Ten Events

Table 5 provides the top ten events by Initiation Source. Together, these call types comprised 46% of all OPD events over the study period. Initiation source by year can be found in Appendix B.

Table 5. Top 10 Calls by Initiation Source 2018-2020

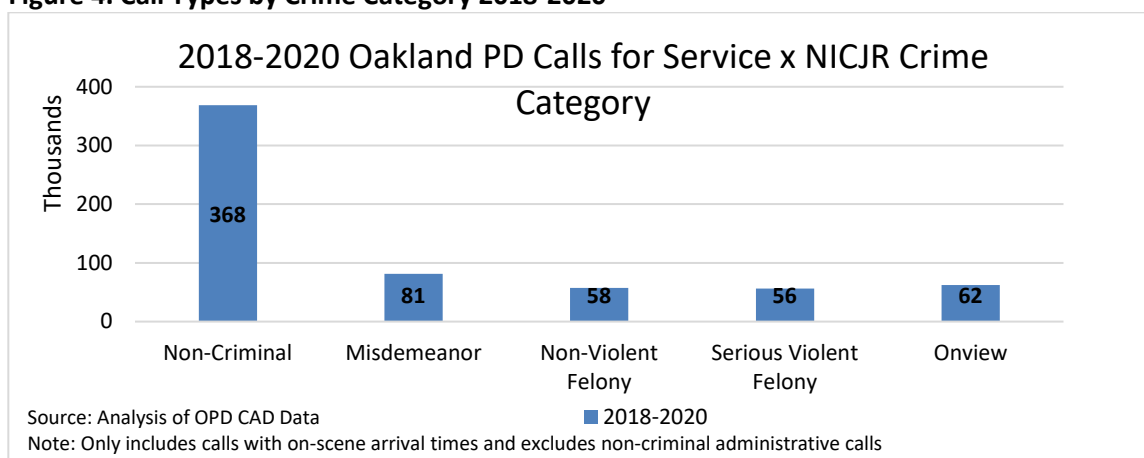| Officer Initiated	911 Emergency	Non-Emergency Line
ON VIEW	911 HANG UP FROM ACC	ALARM-RINGER
SECURITY CHECK	415 UNKNOWN	STOLEN VEHICLE
CAR STOP	MENTALLY ILL	AUTO BLOCKING DRIVEW
ABANDONED AUTOMOBILE	BATTERY	415 SHOT SPOTTER GUN
TOW REQUESTED	415 FAMILY	MENTALLY ILL
THEFT	BATTERY ON CO-HABITANT	TRESPASS
WALKING STOP	STOLEN VEHICLE	DISTURBING THE PEACE
EMERGENCY TRAFFIC ON	DISTURBING THE PEACE	RECOVERED STOLEN VEH
CHECK VEHICLE	EVALUATION	BATTERY
BURGLARY	SUSPICIOUS PERSON	SUSPICIOUS PERSON

Note: Only includes call with on-scene arrival times

Events by Crime Category

Figure 4 shows the frequency of call types by Crime Category. OPD averaged 424,719 total events and 208,638 events with an on-scene arrival time per year during the analysis period. The majority of these CFS, 68.1% for all calls and 58.9% for calls with an on-scene arrival time, are

classified as Non-Criminal; as reflected in Appendix C, Non-Criminal CFS consistently comprised a majority of events during the 2018 to 2020 period.

Figure 4. Call Types by Crime Category 2018-2020

2018-2020 Oakland PD Calls for Service x NICJR Crime Category

Source: Analysis of OPD CAD Data   ■ 2018-2020
Note: Only includes calls with on-scene arrival times and excludes non-criminal administrative calls

During the three-year period reviewed, an average of 36.1% of Officer Initiated events were Non-Criminal and an average of 20.5% of 911 calls comprised Non-Criminal events. As traditionally expected, non-emergency line calls were the most likely to be Non-Criminal.

Table 6. Percent of Non-Criminal Events by Initiation Source

Event Initiation Source	Year		
	2018	2019	2020
911 Calls	16.2%	24.1%	21.3%
Non-Emergency Calls	39.2%	42.0%	42.0%
Officer-Initiated	37.6%	33.9%	36.7%

Note: Only Includes Calls with On-Scene Arrival Time

Figure 5 identifies the number of events by Crime Category over the review period. The total number of events in the aggregate declined between 2018 and 2020. When looking at non-violent and serious violent felonies alone, there was an observed increase of 28.1% and 32.1%.

Figure 5. Number of Events by Crime Category 2018-2020

Source: Analysis of OPD CAD Data with an on-scene arrival time
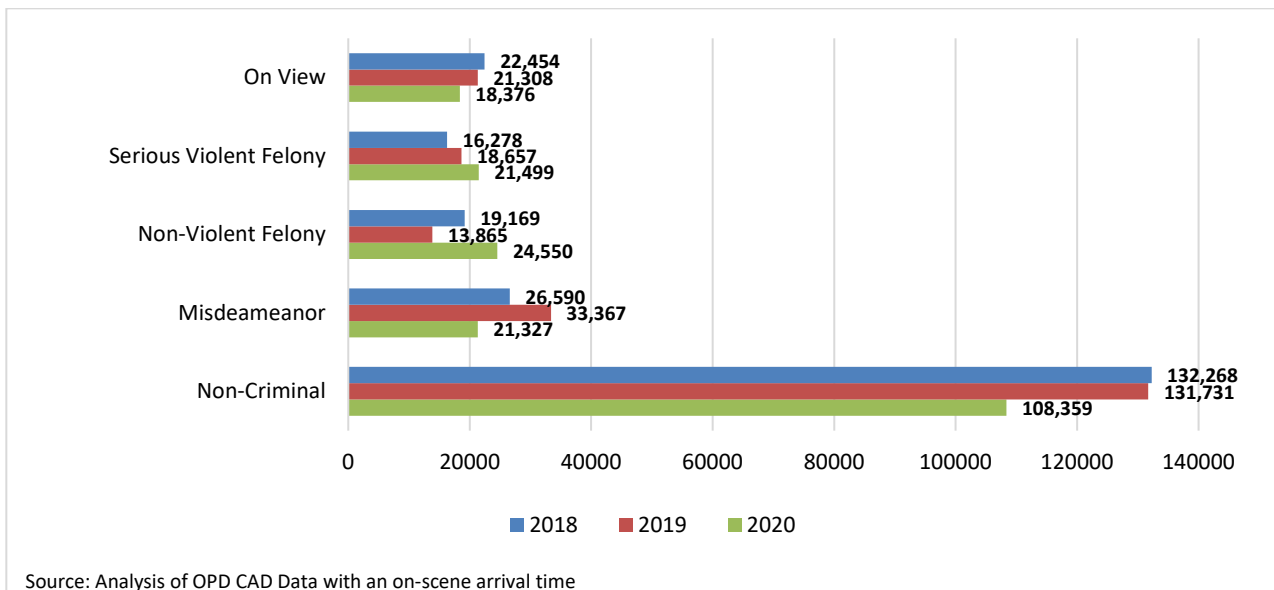
Number of Responding Personnel

The number of personnel who responded to CFS varied depending on the event type. Table 7 shows the average number of personnel who responded to a CFS by Crime Category based on the data in CAD. As expected, when dealing with a call that is more serious in nature, the average number of responding officers was higher than for a less serious event. The average number of responding personnel across all event types was 1.4. NICJR will also further assess Priority 1 calls, which will very likely find many more officers respond to Priority 1, Serious and Violent CFS. It is very possible that many more officers respond to serious violent felony CFS that is not being accurately captured in CAD as the CAD system has a limitation on the number of officers than can be counted.

Table 7. Responding Personnel by Crime Category 2018-2020

	Non-Criminal	Misdemeanor	Non-Violent Felony	Serious Violent Felony	On View
2018	1.3	1.3	1.3	1.4	1.3
2019	1.3	1.3	1.3	1.5	1.3
2020	1.4	1.5	1.3	1.6	1.3

Note: Only Includes Calls with On-Scene Arrival Time

Response Time to Calls

Tables 8 through 11 note the average response time for the top five incident types from call creation to an officer arriving on-scene by crime category. More detailed information can be found by year in Appendix D. It should be noted that a call describing someone with potential mental illness in need of service has an average response time more than an hour and a half. This is an example of how the use of MACRO can help improve responses to such calls.

Table 8. Average Response Time for Non-Criminal Calls

2018-2020: Top 5 Non-Criminal Calls			
Call Type Description	Count	Avg Time to Respond (Hrs,Mins,Sec)	% of Total
SECURITY CHECK	41,604	0:21:19	6.5%
CAR STOP	28,065	0:00:01	4.4%
ALARM-RINGER	25,788	2:43:27	4.0%
MENTALLY ILL	19,581	1:33:36	3.1%
ABANDONED AUTOMOBILE	16,912	N/A	2.7%

Note: Only Includes Calls with On-Scene Arrival Time

Table 9. Average Response Time for Misdemeanor Calls

2018-2020: Top 5 Misdemeanor Calls			
Call Type Description	Count	Avg Time to Respond (Hrs,Mins,Sec)	% of Total
BATTERY	15,045	1:06:13	2.4%
DISTURBING THE PEACE	9,951	1:56:27	1.6%
TRESPASS	8,270	2:52:00	1.3%
415 THREATS	7,195	4:38:47	1.1%
THEFT	3,911	2:33:57	1.0%

Note: Only Includes Calls with On-Scene Arrival Time

Table 10. Average Response Time for Non-Violent Felony Calls

2018-2020: Top 5 Non-Violent Felony Calls			
Call Type Description	Count	Avg Time to Respond (Hrs,Mins,Sec)	% of Total
STOLEN VEHICLE	19,439	2:55:38	3.1%
BURGLARY	9,657	2:23:02	1.5%
AUTO BURGLARY	3,943	2:46:12	1.0%
VIOLATION OF COURT ORDER	2,424	4:10:28	0.6%
HIT & RUN (PROPERTY)[2]	2,284	2:16:07	0.4%

Note: Only Includes Calls with On-Scene Arrival Time

Table 11. Average Response Time for Serious Violent Felony Calls

2018-2020: Top 5 Serious Violent Felony Calls

[2] These are wobbler cases and can be charged as felonies or misdemeanors

Call Type Description	Count	Avg Time to Respond (Hrs,Mins,Sec)	% of Total
BATTERY ON CO-HABITANT W/ SERIOUS INJURY	10,796	0:46:43	1.7%
415 SHOT SPOTTER GUN	10,032	0:57:56	1.6%
ROBBERY	7,431	1:12:25	1.2%
415 GUNSHOTS	5,869	1:15:28	0.9%
ASSAULT W/DEADLY WEA	5,723	0:44:57	0.9%

Note: Only Includes Calls with On-Scene Arrival Time

Time Spent on Calls

Tables 12 and 13 outline the total amount of time spent on CFS by Crime Category. In determining the time spent on event response, NICJR analyzed two time periods. First, the time period beginning when an officer arrived on-scene to when the officer closed or "cleared" the call and was back "in-service" and able to take other calls and second, the period beginning when the call came in and when an officer arrived on-scene. There are a number of CFS that spanned more than two or three days. Due to the unreliability of the time values associated with these types of CFS, NICJR capped the maximum time a CFS could take was 24 hours. Using this methodology, NICJR was able to better identify how much time officers spent handling a specific call. An alternate and more comprehensive view of officer response time accounts for the time from event initiation to close.

Table 12. Time Spent Responding to Events, On-Scene to Close 2018-2020

Crime Category	Total Hours Arrival to Close	Average Hours Per Event	Proportion of Total Officer Time
Non-Criminal	387,075	1.04	50.1%
Misdemeanor	96,512	1.18	12.5%
Non-Violent Felony	84,616	1.50	11.0%
Serious Violent Felony	126,294	2.26	16.4%
On-View	76,738	1.25	10.0%
Grand Total	771,235	1.45	100%

Note: Excludes calls with missing on-scene arrival time values.

Table 13. Time Spent Responding to Events, Initiation to Close 2018-2020

Crime Category	Total Hours Initiation to Close	Average Hours Per Event	Proportion of Total Officer Time
Non-Criminal	964,481	2.9	57.8%
Misdemeanor	223,529	3.2	13.4%
Non-Violent Felony	240,412	4.2	14.4%
Serious Violent Felony	162,739	3.2	9.8%
On View	76,791	1.3	4.6%
Grand Total	1,667,952	3.0	100.0%

Note: Excludes calls with missing on-scene arrival time values.

Recommendations

Based on our analysis, NICJR developed the following recommendations:

1) **Improve the OPD CAD system:**
   - OPD should include Final Call Type in the CAD data**.** The final call type, which reflects an officer's assessment from the scene, may differ from the initial call classification based on information from the caller. Unless CAD data includes the final call type, it will not accurately reflect the nature of crime-related calls and other problems that are phoned into the communications center.
   - Need for linkages to other Systems: Linkages to other information systems could enhance the utility of the OPD's CAD system even further.[3] For example, most CAD systems assign a complaint number to crimes and traffic accidents. Reports on serious incidents usually are entered into separate databases for analyzing the characteristics of these events.[4] However, it is rare that linkages are established between these systems and the CAD data. The technical obstacles for making these linkages are not significant. The complaint number is usually the key between them. With most database applications, it is fairly simple to merge records together using the common complaint number as a key.

2) **Increase utilization of alternative responders**

   With more than half of all Calls for Service responded to by OPD patrol officers being for low level, non-criminal activity, OPD can safely and responsibly reduce its use of sworn officers responding to those incidents, once alternative responders are up and running and effectively responding to some subset of CFS. Due to the challenges of the CAD system as pointed out several times in this report, further assessment is needed before certain call categories can be responsibly assigned to community based alternative response. Therefore, NICJR has the following recommendations on alternative calls for service:
   - Include the following type of calls MARCO responds to:
     - Abandoned Automobile: Over the three-year study period, there were more than 13,000 such calls, of which a sworn officer responded to 2,000.
     - Loud Music: Over the three-year study period, there were just under 1,600 such calls, of which a sworn officer responded to more than 1,000.
   - Increase use of OPD civilian crime technicians to respond to calls for service that are not crimes in progress, like burglaries that occurred several hours or even days earlier.

3) **After a successful alternative response program is up and running and well staffed, OPD can re-examine deployment strategies to increase focus on serious crime and violence.**

   With the expansion of community responders, which may free time of patrol officers, OPD can examine priorities for patrol officers and increase the focus of every section of the

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[3] Improving Information-Sharing Across Law Enforcement: Why Can't We Know? | RAND
[4] Integrating Computer-Aided Dispatch Data with Traffic Management Centers - Chapter 4 - FHWA Operations (dot.gov)

Department towards serious crime, violence, and incidents which impact the safety of the community.

OPD Report - Resource Links

6/21/22 Special Concurrent Meeting of the Oakland Redevelopment Successor Agency/City Council:

https://oakland.legistar.com/MeetingDetail.aspx?ID=981074&GUID=29324AEE-6E3A-4711-8FD5-631EAAEC329F&Options=info|&Search=

Video of meeting (#13 at 7:35):

https://oakland.granicus.com/player/clip/4972?view_id=2&redirect=true&h=48da68839e3f75624f27b42de4229cb9

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

CRIME ANALYSIS

Weekly Crime Report — Citywide
26 Sep. – 02 Oct., 2022

Part 1 Crimes *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	92	4,395	5,040	4,717	-6%	4,717	0%
Homicide – 187(a)PC	4	75	98	97	-1%	90	8%
Homicide – All Other *	-	5	8	2	-75%	5	-60%
Subtotal - 187(a)PC + all other	4	80	106	99	-7%	95	4%
Aggravated Assault	41	2,434	2,808	2,409	-14%	2,550	-6%
Assault with a firearm – 245(a)(2)PC	5	340	475	366	-23%	394	-7%
Subtotal - Homicides + Firearm Assault	9	420	581	465	-20%	489	-5%
Shooting occupied home or vehicle – 246PC	3	283	429	282	-34%	331	-15%
Shooting unoccupied home or vehicle – 247(b)PC	2	146	220	127	-42%	164	-23%
Non-firearm aggravated assaults	31	1,665	1,684	1,634	-3%	1,661	-2%
Rape	2	174	115	134	17%	141	-5%
Robbery	45	1,712	2,019	2,077	3%	1,936	7%
Firearm	17	515	825	872	6%	737	18%
Knife	1	131	91	78	-14%	100	-22%
Strong-arm	13	748	606	576	-5%	643	-10%
Other dangerous weapon	4	61	56	66	18%	61	8%
Residential robbery – 212.5(a)PC	1	62	68	46	-32%	59	-22%
Carjacking – 215(a) PC	9	195	373	439	18%	336	31%
Burglary	40	7,233	7,342	8,538	16%	7,704	11%
Auto	13	5,221	5,885	6,615	12%	5,907	12%
Residential	7	1,000	794	764	-4%	853	-10%
Commercial	12	822	467	946	103%	745	27%
Other (Includes boats, aircraft, and so on)	2	140	137	101	-26%	126	-20%
Unknown	6	50	59	112	90%	74	52%
Motor Vehicle Theft	110	6,783	6,803	7,180	6%	6,922	4%
Larceny	22	4,790	4,572	5,097	11%	4,820	6%
Arson	2	146	138	132	-4%	139	-5%
Total	266	23,352	23,903	25,666	7%	24,307	6%

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

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

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

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POLICE DEPARTMENT
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CRIME ANALYSIS

Weekly Gunfire Summary
26 Sep. – 02 Oct., 2022

Citywide *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Homicide – 187(a)PC	4	75	98	97	-1%	90	8%
Homicide – All Other *	-	5	8	2	-75%	5	-60%
Subtotal - 187(a)PC + all other	4	80	106	99	-7%	95	4%
Assault with a firearm – 245(a)(2)PC	5	340	475	366	-23%	394	-7%
Subtotal - 187 + 245(a)(2)	9	420	581	465	-20%	489	-5%
Shooting occupied home or vehicle – 246PC	3	283	429	282	-34%	331	-15%
Shooting unoccupied home or vehicle – 247(b)PC	2	146	220	127	-42%	164	-23%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	14	849	1,230	874	-29%	984	-11%
Negligent discharge of a firearm – 246.3PC	26	837	1,425	1,209	-15%	1,157	4%
Grand Total	40	1,686	2,655	2,083	-22%	2,141	-3%

Area 1 *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Homicide – 187(a)PC	2	7	11	26	136%	15	77%
Homicide – All Other *	-	-	-	1	PNC	0	200%
Subtotal - 187(a)PC + all other	2	7	11	27	145%	15	80%
Assault with a firearm – 245(a)(2)PC	2	42	64	68	6%	58	17%
Subtotal - 187 + 245(a)(2)	4	49	75	95	27%	73	30%
Shooting occupied home or vehicle – 246PC	-	35	66	38	-42%	46	-18%
Shooting unoccupied home or vehicle – 247(b)PC	-	21	33	19	-42%	24	-22%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	4	105	174	152	-13%	144	6%
Negligent discharge of a firearm – 246.3PC	4	69	115	83	-28%	89	-7%
Grand Total	8	174	289	235	-19%	233	1%

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CRIME ANALYSIS

Weekly Gunfire Summary
26 Sep. – 02 Oct., 2022

Area 2 *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	1	6	3	-50%	3	-10%
Homicide – All Other *	-	1	-	-	PNC	0	-100%
Subtotal - 187(a)PC + all other	-	2	6	3	-50%	4	-18%
Assault with a firearm – 245(a)(2)PC	-	21	33	23	-30%	26	-10%
Subtotal - 187 + 245(a)(2)	-	23	39	26	-33%	29	-11%
Shooting occupied home or vehicle – 246PC	-	10	15	7	-53%	11	-34%
Shooting unoccupied home or vehicle – 247(b)PC	-	2	8	3	-63%	4	-31%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	-	35	62	36	-42%	44	-19%
Negligent discharge of a firearm – 246.3PC	-	14	37	28	-24%	26	6%
Grand Total	-	49	99	64	-35%	71	-9%

Area 3 *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Homicide – 187(a)PC	-	9	20	16	-20%	15	7%
Homicide – All Other *	-	-	-	-	PNC	-	PNC
Subtotal - 187(a)PC + all other	-	9	20	16	-20%	15	7%
Assault with a firearm – 245(a)(2)PC	2	51	70	64	-9%	62	4%
Subtotal - 187 + 245(a)(2)	2	60	90	80	-11%	77	4%
Shooting occupied home or vehicle – 246PC	-	22	30	30	0%	27	10%
Shooting unoccupied home or vehicle – 247(b)PC	-	17	24	16	-33%	19	-16%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	2	99	144	126	-13%	123	2%
Negligent discharge of a firearm – 246.3PC	3	101	151	147	-3%	133	11%
Grand Total	5	200	295	273	-7%	256	7%

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CRIME ANALYSIS

Weekly Gunfire Summary
26 Sep. – 02 Oct., 2022

Area 4 *All totals include attempts except homicides.*	**Weekly Total**	**YTD 2020**	**YTD 2021**	**YTD 2022**	**YTD % Change** 2021 vs. 2022	**3-Year YTD Average**	**YTD 2022 vs. 3-Year YTD Average**
Homicide – 187(a)PC	-	16	14	19	36%	16	16%
Homicide – All Other *	-	1	1	-	-100%	1	-100%
Subtotal - 187(a)PC + all other	-	17	15	19	27%	17	12%
Assault with a firearm – 245(a)(2)PC	-	38	71	46	-35%	52	-11%
Subtotal - 187 + 245(a)(2)	-	55	86	65	-24%	69	-5%
Shooting occupied home or vehicle – 246PC	2	44	59	48	-19%	50	-5%
Shooting unoccupied home or vehicle – 247(b)PC	1	20	30	22	-27%	24	-8%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	3	119	175	135	-23%	143	-6%
Negligent discharge of a firearm – 246.3PC	7	152	232	203	-13%	196	4%
Grand Total	10	271	407	338	-17%	339	0%

Area 5 *All totals include attempts except homicides.*	**Weekly Total**	**YTD 2020**	**YTD 2021**	**YTD 2022**	**YTD % Change** 2021 vs. 2022	**3-Year YTD Average**	**YTD 2022 vs. 3-Year YTD Average**
Homicide – 187(a)PC	-	22	23	14	-39%	20	-29%
Homicide – All Other *	-	-	2	1	-50%	1	0%
Subtotal - 187(a)PC + all other	-	22	25	15	-40%	21	-27%
Assault with a firearm – 245(a)(2)PC	1	91	103	72	-30%	89	-19%
Subtotal - 187 + 245(a)(2)	1	113	128	87	-32%	109	-20%
Shooting occupied home or vehicle – 246PC	-	94	146	83	-43%	108	-23%
Shooting unoccupied home or vehicle – 247(b)PC	1	49	69	33	-52%	50	-34%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	2	256	343	203	-41%	267	-24%
Negligent discharge of a firearm – 246.3PC	5	233	436	370	-15%	346	7%
Grand Total	7	489	779	573	-26%	614	-7%

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

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

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

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

CRIME ANALYSIS

Weekly Gunfire Summary
26 Sep. – 02 Oct., 2022

Area 6 *All totals include attempts except homicides.*	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Homicide – 187(a)PC	2	20	24	19	-21%	21	-10%
Homicide – All Other *	-	3	5	-	-100%	3	-100%
Subtotal - 187(a)PC + all other	2	23	29	19	-34%	24	-20%
Assault with a firearm – 245(a)(2)PC	-	85	119	76	-36%	93	-19%
Subtotal - 187 + 245(a)(2)	2	108	148	95	-36%	117	-19%
Shooting occupied home or vehicle – 246PC	1	74	111	76	-32%	87	-13%
Shooting unoccupied home or vehicle – 247(b)PC	-	36	51	33	-35%	40	-18%
Subtotal - 187 + 245(a)(2) + 246 + 247(b)	3	218	310	204	-34%	244	-16%
Negligent discharge of a firearm – 246.3PC	7	254	442	355	-20%	350	1%
Grand Total	10	472	752	559	-26%	594	-6%

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

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

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

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CRIME ANALYSIS

2022 Year-to-Date Recovered Guns
Recoveries through 02 Oct., 2022

Grand Total	1,149

Crime Recoveries	
Felony	617
Felony - Violent	163
Homicide	26
Infraction	0
Misdemeanor	33
Total	**839**

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun	5					5
Other	4					4
Pistol	514	114	23		27	678
Revolver	14	10	1		2	27
Rifle	50	27	2		3	82
Sawed Off	4					4
Shotgun	8	8			1	17
Sub-Machinegun	1					1
Unknown/Unstated	17	4				21
Total	**617**	**163**	**26**	**0**	**33**	**839**

Non-Criminal Recoveries	
Death Investigation	9
Found Property	228
SafeKeeping	73
Total	**310**

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun				0
Other		4	1	5
Pistol	5	77	36	118
Revolver	2	40	8	50
Rifle	1	60	18	79
Sawed Off		2		2
Shotgun		31	8	39
Sub-Machinegun		3		3
Unknown/Unstated	1	11	2	14
Total	**9**	**228**	**73**	**310**

Produced by the Oakland Police Dept. Crime Analysis Unit.

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CRIME ANALYSIS

2022 vs. 2021 — Year-to-Date Recovered Guns
Recoveries through 02 Oct.

Gun Recoveries	2021	2022	Difference	YTD % Change 2021 vs. 2022
Grand Total	857	1,149	292	34%

Crime Recoveries	2021	2022	Difference	YTD % Change 2021 vs. 2022
Felony	449	617	168	37%
Felony - Violent	171	163	-8	-5%
Homicide	22	26	4	18%
Infraction	0	0	0	PNC
Misdemeanor	24	33	9	38%
Total	666	839	173	26%

Non-Criminal Recoveries	2021	2022	Difference	YTD % Change 2021 vs. 2022
Death Investigation	16	9	-7	-44%
Found Property	88	228	140	159%
SafeKeeping	87	73	-14	-16%
Total	191	310	119	62%

PNC = Percentage not calculated
Percentage cannot be calculated.

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CRIME ANALYSIS

Weekly ShotSpotter Activations Report — Citywide
26 Sep. – 02 Oct., 2022

ShotSpotter Activations	Weekly Total	YTD 2020	YTD 2021	YTD 2022	YTD % Change 2021 vs. 2022	3-Year YTD Average	YTD 2022 vs. 3-Year YTD Average
Citywide	139	4,398	6,669	5,853	-12%	5,640	4%
Area 1	19	371	722	586	-19%	560	5%
Area 2	5	156	210	169	-20%	178	-5%
Area 3	15	472	739	597	-19%	603	-1%
Area 4	29	775	1,052	1,054	0%	960	10%
Area 5	26	1,400	2,080	1,648	-21%	1,709	-4%
Area 6	45	1,224	1,866	1,799	-4%	1,630	10%
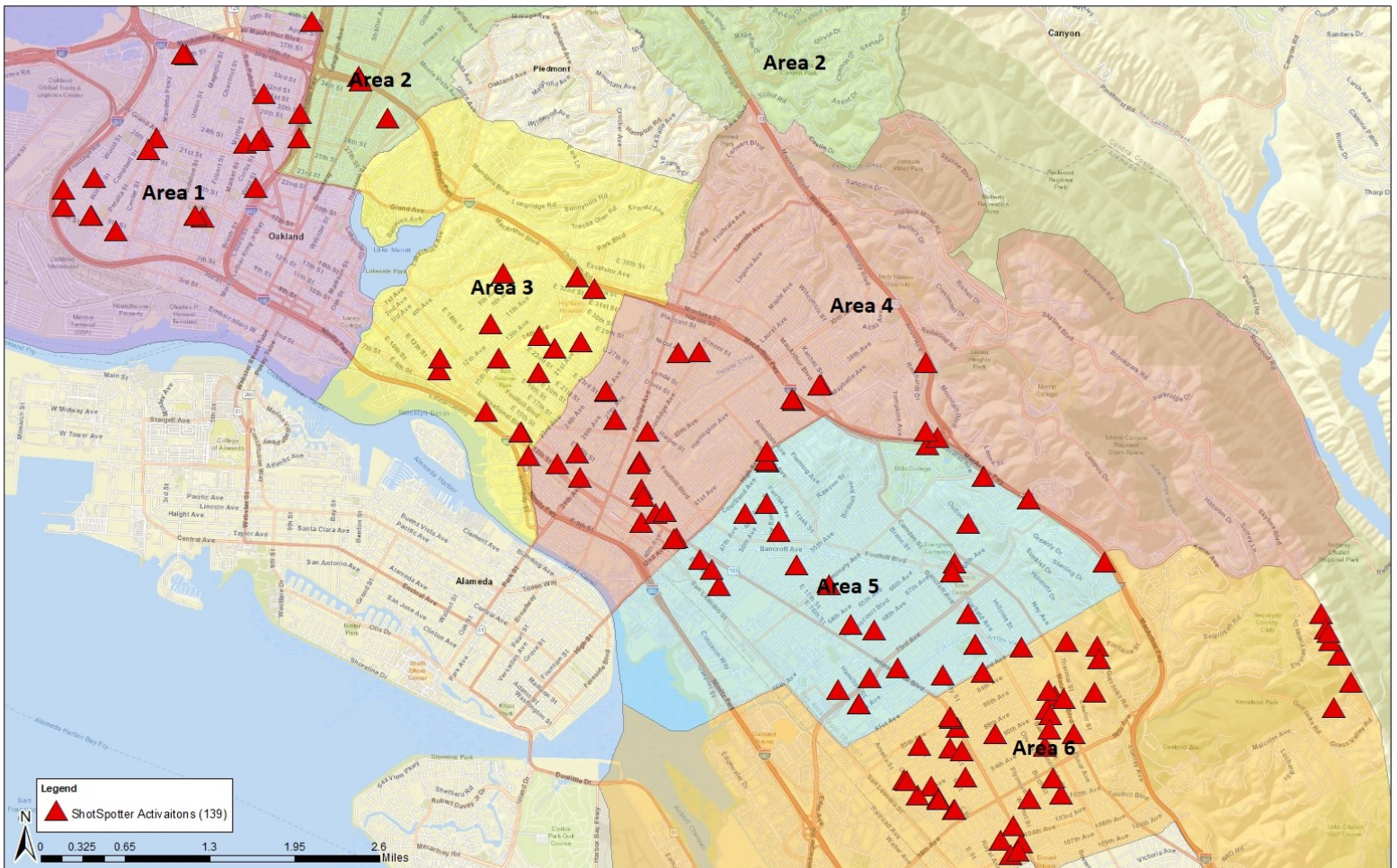
All data sourced via ShotSpotter Insight.

Produced by the Oakland Police Dept. Crime Analysis Unit.

October 3, 2022

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

Introduction

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

On May 12, 2022, the Court issued an Order placing the City into a one-year sustainability period. The Court noted, "The Negotiated Settlement Agreement (NSA) the parties executed on January 22, 2003, contemplated that federal court oversight would terminate after the defendants achieved substantial compliance with all of the provisions of the NSA and maintained that compliance for a year. No one expected that it would take more than nineteen years to reach substantial compliance. The good news is that the defendants have achieved substantial compliance, and that the path here has led to tangible improvements in policing in Oakland and to the promise that a culture that understands and supports constitutional policing is taking root."

The Court also noted, "If OPD does not fully comply with the NSA and remain in full compliance during the sustainability period, the Court's oversight will continue."

As per the Order, during the sustainability period, we report to the Court on a quarterly basis; we conduct quarterly site visits; and we have appended to the Monitoring Team a member of OPD's Office of Internal Accountability (OIA), who serves as the Department's NSA sustainability liaison.

As with our site visits before the sustainability period, our site visits include both compliance assessments and technical assistance. During our first sustainability site visit, which we held remotely, in August, we met with Department and City officials; observed the Department's Risk Management Meeting; discussed the status of several Departmental policies; and shared our observations of misconduct investigations and use of force reports. We also inquired with the Department to ensure that it is taking steps toward sustained compliance in every area of reform outlined in the NSA, particularly as it relates to the 11 Tasks listed in the May 12, 2022 Order: Tasks 2; 5; 20; 24; 25; 26; 30; 31; 34; 41; and 45. Our assessments of these Tasks follow.

Attachment 6

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Task Assessments

Task 2: Timeliness Standards and Compliance with IAD Investigations

Requirements:

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

1. *On or before December 1, 2003, OPD shall develop policies regarding timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.*

2. *Compliance with these timeliness standards shall be regularly monitored by IAD command and the Department's command staff. If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.*

(Negotiated Settlement Agreement III. B.)

Relevant Policy:

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

Commentary:

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

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

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

For this reporting period, the Department remains in compliance with Task 2. Of the 26 applicable Class I cases we reviewed for this assessment, 25, or 96%, were in compliance with established timelines. During our last review of Task 2, we also found 96% of Class I cases in compliance with established timelines. Of the 103 applicable Class II cases we reviewed for this assessment, 101, or 98%, were in compliance with established timelines. During our last review of Task 2, we found 96% of Class II cases in compliance with established timelines.

Per DGO M-03, "In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding." We reviewed all 17 cases including a total of 36 sustained findings that were approved in April, May, and June 2022; seven cases involved multiple sustained findings. All (100%) of these cases were in compliance with established discipline timelines.

OPD is in compliance with Task 2.1.

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

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

Task 2 compliance status	In compliance

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Task 5: Complaint Procedures for IAD

Requirements:

1. *On or before December 1, 2003, OPD shall develop a policy so that, OPD personnel who become aware that a citizen wishes to file a complaint shall bring such citizen immediately, or as soon as circumstances permit, to a supervisor or IAD or summon a supervisor to the scene. If there is a delay of greater than three (3) hours, the reason for such delay shall be documented by the person receiving the complaint. In the event that such a complainant refuses to travel to a supervisor or to wait for one, the member/employee involved shall make all reasonable attempts to obtain identification, including address and phone number, as well as a description of the allegedly wrongful conduct and offending personnel, from the complainant and any witnesses. This information, as well as a description of the complaint, shall immediately, or as soon as circumstances permit, be documented on a Complaint Form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander, and shall be treated as a complaint. The supervisor or appropriate Area Commander notified of the complaint shall ensure the Communications Division is notified and forward any pertinent documents to the IAD.*

2. *An on-duty supervisor shall respond to take a complaint received from a jail inmate taken into custody by OPD, who wishes to make a complaint of Class I misconduct contemporaneous with the arrest. The supervisor shall ensure the Communications Division is notified and forward any pertinent documents to the IAD. All other misconduct complaints by a jail inmate shall be handled in the same manner as other civilian complaints.*

3. *In each complaint investigation, OPD shall consider all relevant evidence, including circumstantial, direct and physical evidence, and make credibility determinations, if feasible. OPD shall make efforts to resolve, by reference to physical evidence, and/or use of follow-up interviews and other objective indicators, inconsistent statements among witnesses.*

4. *OPD shall develop provisions for the permanent retention of all notes, generated and/or received by OPD personnel in the case file.*

5. *OPD shall resolve each allegation in a complaint investigation using the "preponderance of the evidence" standard. Each allegation shall be resolved by making one of the following dispositions: Unfounded, Sustained, Exonerated, Not Sustained, or Administrative Closure. The Department shall use the following criteria for determining the appropriate disposition:*

    a. *Unfounded: The investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. This finding shall also apply when individuals named in the complaint were not involved in the alleged act.*

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

c.   *Exonerated: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accord with law and with all Oakland Police Department rules, regulations, or policies.*

d.   *Not Sustained: The investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.*

e.   *Administrative Closure: The investigation indicates a service complaint, not involving an MOR violation, was resolved without conducting an internal investigation; OR*

f.   *To conclude an internal investigation when it has been determined that the investigation cannot proceed to a normal investigative conclusion due to circumstances to include but not limited to the following:*

    1)   *Complainant wishes to withdraw the complaint and the IAD Commander has determined there is no further reason to continue the investigation and to ensure Departmental policy and procedure has been followed;*

    2)   *Complaint lacks specificity and complainant refuses or is unable to provide further clarification necessary to investigate the complaint;*

    3)   *Subject not employed by OPD at the time of the incident; or*

    4)   *If the subject is no longer employed by OPD, the IAD Commander shall determine whether an internal investigation shall be conducted.*

    5)   *Complainant fails to articulate an act or failure to act, that, if true, would be an MOR violation; or*

    6)   *Complaints limited to California Vehicle Code citations and resulting tows, where there is no allegation of misconduct, shall be referred to the appropriate competent authorities (i.e., Traffic Court and Tow Hearing Officer).*

g.   *Administrative Closures shall be approved by the IAD Commander and entered in the IAD Complaint Database.*

6.   *The disposition category of "Filed" is hereby redefined and shall be included under Administrative Dispositions as follows:*

a.   *An investigation that cannot be presently completed. A filed investigation is not a final disposition, but an indication that a case is pending further developments that will allow completion of the investigation.*

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

 (Negotiated Settlement Agreement III. E.)

Relevant Policy:

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

Commentary:

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

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

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

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

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

OPD remains in compliance with Tasks 5.6 and 5.12.

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

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

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

In all of the cases we reviewed, we believe that OPD gathered all relevant evidence available. As we have often found, in many of the cases video and/or audio recordings proved to be a significant factor in allowing OPD to reach an appropriate conclusion. In one case, further described below, we believe that OPD did not fully considered all of the relevant evidence which surfaced during the investigation.

Investigators conducted follow-up interviews to seek clarification or resolve inconsistencies in one of the 12 cases we reviewed. In this case, two witness employees were each interviewed twice. With the exception of the case described below, we do not believe follow-up interviews were warranted in the other cases we reviewed.

OPD made credibility assessments for all involved parties in six of the 12 cases. In two cases, the complainants were deemed "not credible." In one case, the complainant's statements were inconsistent with available body-worn camera (BWC) footage; and in the other case, the complainant's statements were refuted by recorded calls of the incident in question. In one case, a civilian employee, the subject of the investigation, was deemed not credible, and a truthfulness allegation was sustained as a result of the investigation. We agreed with all of the credibility assessments we reviewed.

Six cases were approved for summary finding; and per policy, investigators are not required to assess the credibility of the involved officers and civilian employees in these instances.

In ten of the 12 cases we reviewed, OPD resolved inconsistent statements. In six of these cases, BWC recordings were available and assisted in the determination. In two other cases, recorded phone calls were available for review. Two cases resulted in at least one finding of not sustained. Not sustained is an acceptable finding; and by definition, it implies that inconsistencies were not resolved despite investigative efforts.

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

Task 5.18 requires that OPD resolve each allegation in a complaint investigation using the preponderance of the evidence standard. **Task 5.19** requires that each allegation of a complaint is identified and resolved with one of the following dispositions: unfounded; sustained; exonerated; not sustained; or administrative closure. Our sample of 12 cases contained 44 allegations that received dispositions as follows: 11 exonerated; 21 unfounded; two not sustained; four sustained; and six administratively closed.[1]

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[1] In one case, the Report of Internal Investigation (ROI) listed five unfounded findings, but the approved Complaint Investigation Report (CIR) listed six unfounded findings. We deferred to the ROI, and we urge IAD to be mindful of, and reconcile, such differences.

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We did not disagree with the findings in any of the cases we reviewed. However, we believe that in one case, OPD failed to address additional allegations that came to light during the investigation. In this case, it was alleged that a Police Evidence Technician (PET) slept on duty, failed to respond to calls in a timely manner, and falsified overtime records, among other allegations. The investigation of this employee's activities was thorough, and she was ultimately terminated as a result of three sustained allegations, including a lack of truthfulness in her statement to IAD investigators. We did not disagree with the findings as they pertained to this employee. However, numerous employees were interviewed in this case; and during these interviews, additional allegations regarding other employees were raised, including other PETs sleeping on duty, and supervisors failing to address numerous performance deficiencies after these issues were brought to their attention. Additionally, the reporting structure associated with the PETs appears to foster a systemic lack of accountability which the Department should address. The Member/Employee Accountability section of the Report of Investigation (ROI) correctly identified these inherent issues, but it stopped short of mentioning the numerous employees and supervisors who were aware of potential misconduct and did not address it.

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

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

In May, two disciplinary matters were referred to an outside firm for further investigation. While these investigations are not yet complete, information that has been developed to date regarding the Department's internal investigation and discipline process is deeply troubling. Accordingly, the status of Task 5 is moved from in compliance to deferred compliance.

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Task 5 compliance status	Deferred

Task 20: Span of Control

Requirements:

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

1.   *Under normal conditions, OPD shall assign one primary sergeant to each Area Command Field Team, and, in general, (with certain exceptions) that supervisor's span of control shall not exceed eight (8) members.*

2.   *During day-to-day operations, in the absence of the primary supervisor (e.g., due to sickness, vacation, compensatory time off, schools, and other leaves), the appropriate Area Commander shall determine, based on Department policy and operational needs, whether or not to backfill for the absence of the sergeant on leave.*

3.   *If a special operation, (e.g., Beat Feet, Special Traffic Offenders Program (STOP), etc.) requires more than eight (8) members, the appropriate Area Commander shall determine the reasonable span of control for the supervisor.*

4.   *If long-term backfill requires the loan or transfer of a supervisor from another unit, the Chief of Police and/or the Deputy Chief of Police shall make that decision.*

(Negotiated Settlement Agreement IV. C.)

Relevant Policy:

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

Commentary:

To assess these requirements for this report, we reviewed spreadsheets prepared by the Department for January, February, and March 2022 that, by date, note which type of sergeant supervised each applicable squad – a primary sergeant, relief sergeant, acting sergeant, other sergeant (one working overtime), or none. (The Department refers to unsupervised squads as "open.") We calculated per squad the compliance percentages for this subtask during this time

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period. Each of the 50 applicable squads were in compliance – that is, all applicable squads during this time period were supervised by either a primary, relief, or other/overtime sergeant for at least 85% of their working shifts. We also found that none of the applicable squads exceeded the required 1:8 supervisor to officer ratio at least 90% of their working shifts.

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

Task 20 compliance status	In compliance

Overview of Our Assessments of Tasks 24 and 25

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

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

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

To assess compliance, we reviewed 37 UOF reports that occurred between March 1-May 31, 2022. We reviewed all Level 3 UOF reports (11) and a sample of Level 4 UOF reports (26). In accordance with the Order issued May 12, 2022 establishing the sustainability period, we reviewed these UOF reports with a member of OPD's Office of Internal Accountability (OIA) serving as the Department's NSA sustainability liaison. We did not review the field reporting of any Level 1 or Level 2 use of force for this report.

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This report covers Level 3 and 4 UOF reports completed by OPD between March 1-May 31, 2022. All 37 of the cases we reviewed for this time period occurred after the publication of Special Order 9196, which clarified the use of force policy; and after Special Order 9202, issued on February 27, 2020, which temporarily modified the requirements for reporting Type 32 uses of force.

In the 37 Level 3 and 4 uses of force we reviewed, 60 officers used force on 41 different persons. In some cases, multiple officers used force on a single person; and in others, force was used on multiple persons, either by a single officer or by multiple officers. The total breakdown for the force used on the 41 persons is as follows: African Americans, 63%; Latinos, 24%; whites, 5%; and Asians or other, 7%. The percentage of force incidents involving African Americans decreased by 14%; force incidents involving Latinos increased 8%, force incidents involving whites increased 1%; and force incidents involving Asians or persons categorized as "other" increased 3%, from our last review, documented in our last monthly status report.

Of the 37 UOF reports we reviewed for the three-month period between March 1-May 31, 2022, in six (16%), we noted concerns with body-worn camera (BWC) activations, late activations, or failure to have the 30-second buffer activated. In all six of these, supervisors properly identified and addressed the concerns. We also continued to note some instances of officers failing to identify themselves as police officers; using unprofessional language or profanity; or continuing to use "training and experience" to justify their actions, without further specific information. OPD supervisors continue to identify and address most of these instances.

We reviewed 11 Level 3 uses of force for this report, an increase from only three in our last report. Ten of the 11 involved the deployment of a Taser, and one involved a type 16 takedown. In six of the 10 Taser deployments, the Taser deployment was the only use of force. In the four others, one or more Level 4 uses of force was used in addition to the Taser deployment. Ten of the 11 Level 3 use of force reports were not completed within the required timeframe; all had approved extensions. We identified concerns with three Level 3 uses of force, which we discuss in detail in Task 25.

In our review of UOF reports for March through May 2022, while we continued to see some concerns with the proper activation of BWCs and other actions, officers are appropriately using and reporting use of force, and supervisors are generally identifying and addressing any concerns that exist.

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Task 24: Use of Force Reporting Policy

Requirements:

The policy shall require that:

1. *Members/employees notify their supervisor as soon as practicable following any investigated use of force or allegation of excessive use of force.*

2. *In every investigated use of force incident, every member/employee using force, and every member/employee on the scene of the incident at the time the force was used, shall report all uses of force on the appropriate form, unless otherwise directed by the investigating supervisor.*

3. *OPD personnel document, on the appropriate form, any use of force and/or the drawing and intentional pointing of a firearm at another person.*

4. *A supervisor respond to the scene upon notification of an investigated use of force or an allegation of excessive use of force, unless community unrest or other conditions makes this impracticable.*

5. *OPD notify:*

    a. *The Alameda County District Attorney's Office immediately or as soon as circumstances permit, following a use of lethal force resulting in death or injury likely to result in death.*

    b. *The City Attorney's Office as soon as circumstances permit following the use of lethal force resulting in death or serious injury. At the discretion of the City Attorney's Office, a Deputy City Attorney shall respond to the scene. The Deputy City Attorney shall serve only in an advisory capacity and shall communicate only with the incident commander or his/her designee.*

    c. *Departmental investigators regarding officer-involved shootings, in accordance with the provisions of Section V, paragraph H, of this Agreement.*

6. *OPD enter data regarding use of force into OPD's Personnel Assessment System (PAS).*

(Negotiated Settlement Agreement V. A.)

Relevant Policy:

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

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Commentary:

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

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

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

In the 37 Level 3 and 4 UOF incidents we reviewed, officers used force on 41 different persons. In nine of the reports, Level 4, Type 22, pointing a weapon, was the only force used. In one other, Type 22 was used in addition to another use of force. We determined that officers' pointing of their firearms was appropriate in all instances we assessed. We did identify one instance where, although an officer reported a Level 3 Taser deployment, he did not initially report additional uses of Level 4 force, including Type 22. His supervisor identified and appropriately addressed this omission.

Task 24.4 requires that a supervisor respond to the scene upon notification of a Level 1, 2, or 3 use of force or an allegation of excessive use of force, unless community unrest or other conditions makes such a response impracticable. In all 11 Level 3 uses of force we reviewed for this subtask, supervisors responded to the scene as required. Though not required, in all but two of the 26 Level 4 UOF incidents we reviewed, a supervisor was either on scene at the time of the use of force or responded to the scene upon being notified of the use of force.

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

Task 24.6 requires that OPD enter all use of force data into Performance Reporting Information Metrics Environment (PRIME), which is now called Vision. In all 37 of the Level 3 and 4 UOF cases we reviewed, the data was entered as required.

Task 24 compliance status	In compliance

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Task 25: Use of Force Investigations and Report Responsibility

Requirements:

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

1. *OPD shall develop and implement a policy for conducting and documenting use of force investigations that include, at a minimum:*

   a. *Documentation of the incident in either an Offense or Supplemental Report from the member(s)/employee(s) using force; and/or, when necessary, a statement taken from the member(s)/employee(s) using force;*

   b. *Separating and separately interviewing all officers who were at the scene at the time of the incident;*

   c. *A Supplemental Report from other members/employees on the scene or a statement taken, if deemed necessary by the investigating supervisor;*

   d. *Identification and interviews of non-Departmental witnesses;*

   e. *Consideration of discrepancies in information obtained from members, employees and witnesses, and statements in the reports filed;*

   f. *Whether arrest reports or use of force reports contain "boilerplate" or "pat language" (e.g., "fighting stance", "minimal force necessary to control the situation");*

   g. *Documentation of physical evidence and/or photographs and a summary and analysis of all relevant evidence gathered during the investigation; and*

   h. *Consideration of training/tactical issues involving the availability and practicality of other force options.*

   i. *Supervisor's justification as to why any element of the policy was not documented; and*

2. *All supervisors shall be trained in conducting use of force investigations and such training shall be part of a supervisory training course.*

3. *Use of force investigations shall include a recommendation whether the use of force was objectively reasonable and within Department policy and training. The recommendation shall be based on the totality of the circumstances and shall consider, but is not limited to, the following factors:*

   a. *Whether the force used was pursuant to a legitimate law-enforcement objective;*

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> b. *Whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the members/employees were attempting to achieve;*
>
> c. *Whether the member/employee used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts;*
>
> d. *Whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped;*

> 4. *Use of force reports shall be reviewed by the appropriate chain-of-review as defined by policy.*

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

> *Reviewers for Level 1-3 use of force investigations shall:*
>
> a. *Make a recommendation as to whether the use of force was in or out of policy,*
>
> b. *Order additional investigation and investigative resources when necessary, and*
>
> c. *Comment on any training issue(s) when appropriate.*

> 5. *Any recommendation that the use of force did not comply with Department policy shall result in the incident being referred to the Internal Affairs Division to conduct additional investigation/analysis, if necessary.*
>
> 6. *Members/employees involved in a use of force incident resulting in serious injury or death and/or an officer-involved shooting, shall be separated from each other as soon as practicable at the incident scene, and kept apart until they have completed their reports and been interviewed.*

(Negotiated Settlement Agreement V. B.)

Relevant Policy:

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

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Commentary:

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

Task 25.1 requires that supervisors complete a use of force report and that certain criteria are met in the report. Subtask 25.1.f. addresses the use of "boilerplate" or "pat" language in reports. While we continue to find some instances where officers justify their use of force, "based on my training and experience," without any further information or explanation as to what training and experience they were referring to. In most cases, officers are documenting specific information and details justifying their use of force.

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

In our prior reports, we identified concerns with the preparation and review of UOF reports by supervisors. The use of force and the processes in which force is documented and reviewed have been at the core of the Court's oversight. The Department has provided numerous directives on this topic. In general, we now find that supervisors are identifying deficiencies in officer reporting and identifying and addressing MOR violations. We also find that reviewers of the supervisors' reports are identifying and addressing concerns when appropriate.

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

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

In our last monthly report, we identified one instance – a Level 3 Taser deployment on a subject fleeing from OPD officers – where we believe the force used may not have been appropriate. After we brought this to OPD's attention, the Department initiated an internal affairs investigation. This investigation remains in progress.

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For this report, there were five Level 3 Taser deployments that resulted from subjects fleeing from officers. In three of the five, we identified concerns with the appropriateness of the use of force. We provided our feedback to OPD during our August 2022 site visit and requested that OPD again review these uses of force. As a direct result of our findings, OPD determined that further investigation was necessary in two of the three cases; and further, OPD referred these to IAD. In the third case, OPD provided a lengthy and detailed response to our concerns, including screenshots that depicted what was occurring at the time the officer deployed his Taser. After further review of the incident, and with the additional details and information provided by OPD, we believe this use of force was in compliance with OPD policies. Since our site visit in August, OPD has also developed a training PowerPoint presentation to address Taser deployments, particularly deployments at fleeing subjects.

We note OPD's current attention to these UOF issues, but believe that had there been more detailed reports and thorough reviews by supervisors, there would have been no need for the Monitoring Team to come upon these deficiencies. The Department is in the NSA sustainability period and should be identifying and addressing concerns without the need for us to bring them forward.

Task 25.4 requires that use of force reports be reviewed by the appropriate chain of command and appropriate recommendations are made. In all of the cases we reviewed, the reports were reviewed as required. As noted in Task 25.3, we identified concerns with three Level 3 Taser deployments that we reviewed for this report. While the supervisor who investigates the UOF has the responsibility to identify any concerns with the appropriateness of the force, the reviewing chain of command must also ensure that the supervisor conducts a thorough investigation and arrives at the appropriate conclusion. Here again, we believe that more thorough reviews could have identified and addressed concerns prior to them being identified by our Team.

Task 25.5 requires that any determination that a use of force did not comply with Department policy result in the incident being referred to IAD to conduct additional investigation/analysis, if necessary. As noted above, we identified three Level 3 UOF reports where we believed additional investigation was appropriate to determine if these uses of force were appropriate. OPD referred two of these incidents to IAD once we brought them to the Department's attention. We will review the IAD reports once completed, prior to determining our finding on these two uses of force. The Department has assured us that these investigations will be completed prior to the October Case Management Conference. In the third instance, OPD has now provided sufficient clarification and information for us to agree that this UOF was in compliance with OPD policy.

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

Attachment 6

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This is our first assessment of UOF for the sustainability period. OPD has continued to meet the overall requirements of this Task, with the exception of our noted concerns regarding the justification for the two Level 3 uses of force. We will review the internal investigations upon their completion prior to making a final determination on the appropriateness of these uses of force. However, as noted above, more thorough reporting and reviews could have addressed any concerns with these uses of force prior to our review.

Task 25 compliance status	In compliance

Task 26: Force Review Board (FRB)

Requirements:

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

1.   *Set out procedures, membership and a timetable for FRB review of use of force investigations involving Level 2 incidents, as defined in Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE;*

2.   *Require the FRB to review all use of force investigations;*

3.   *Require the FRB to make a recommendation as to whether the use of force was in policy or out of policy;*

4.   *Require the FRB to forward sustained policy violations to the Discipline Officer.*

5.   *Require the FRB not to review any use of force allegation until the internal investigations has been completed;*

6.   *Authorize the FRB to recommend to the Chief of Police additional use of force training or changes in policies or tactics, or additional standards, investigatory policies, or training for use of force investigations;*

7.   *Require the FRB to conduct an annual review of use of force cases examined, so as to identify any patterns of use of force practices that may have policy or training implications, and thereafter, issue a report to the Chief of Police;*

8.   *Require that the FRB membership include, at a minimum, one member from the Training Division, one member from the Field Training Officer program, and either the Bureau of Field Operations Deputy Chief or his/her designee;*

9.   *Minimally, that one member of the FRB shall be replaced at least annually.*

(Negotiated Settlement Agreement V. C.)

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Relevant Policy:

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

Commentary:

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

For this report, we reviewed nine FRB reports that were completed and approved by the Chief of Police or his designee between February 1-July 1, 2022. In general, we found the reports to be well-written and accurate accounts of the proceedings they documented. At least one member of the Monitoring Team observed all of these FRBs remotely via an online meeting platform. The reports collectively documented the assessment of 40 uses of force associated with nine separate incidents. Three of the uses of force involved the deployment of an electronic control weapon (ECW), two of which were ruled out of compliance. Another involved the deployment of a specialty impact munition (SIM), a Drag Stabilized Flexible Baton Round (Beanbag).

All but two of the uses of force (the ECW deployments mentioned above) were found to be in compliance. In all but one of the cases, the Chief concurred with the Boards' findings without any modifications. In the remaining case, he agreed with the Board, but also concurred with additional findings identified by IAD and outlined in an addendum to the report. We did not disagree with any of the findings in the FRB reports we reviewed.

In addition to reviewing the completed FRB reports, we observed all four of the FRBs convened by OPD since we last reported on this Task. These Boards met on March 15, April 15, and May 3, and 10, 2022, respectively. We observed them all remotely via an online meeting platform. We provide immediate feedback for Board members at the conclusion of each FRB we observe.

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

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

Collectively, the FRBs found all the uses of force they reviewed to be in compliance. We did not disagree with any of the Boards' findings. In one case, which examined the deployment of a Drag Stabilized Flexible Baton Round (Beanbag), we advised the Board that the supervisor who authorized the deployment could also have been credited with a use of force, which would have been in compliance. In another case, a supervisor who authorized a Taser deployment was credited with the use of force, which was also ruled in compliance. We noted the inconsistency between these two cases. In another case, which included a companion IAD investigation, the Board directed that IAD conduct an interview with the subject on whom the force was used, since IAD inexplicably missed this step. In the final case, the Board reviewed 18 uses of force involving multiple officers. They methodically discussed each one and reached the appropriate conclusions.

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

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

The last accounting of deliverables provided to us, which lists follow-up items from FRBs convened prior to May 11, 2022, identified 12 open items from four separate FRBs. Seven pertained to individual training; two pertained to Department-wide training, and three pertained to quarterly training. OPD has successfully addressed the backlog of deliverables identified in some of our earlier reports. Our four most recent reviews did not reveal any significant accumulation of unresolved commitments.

Task 26 compliance status	In compliance

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Task 30: Executive Force Review Board (EFRB)

Requirements:

1. *An EFRB shall be convened to review the factual circumstances surrounding any Level 1 force, in-custody death, or vehicle pursuit-related death incidents. A firearm discharge at an animal shall be reviewed by the EFRB only at the direction of the Chief of Police.*

2. *The Board shall have access to recordings and/or transcripts of interviews of all personnel on the scene, including witnesses, and shall be empowered to call any OPD personnel to provide testimony at the hearing.*

3. *OPD shall continue the policies and practices for the conduct of EFRB, in accordance with the provisions of DGO K-4.1, FORCE REVIEW BOARDS.*

(Negotiated Settlement Agreement V. G.)

Relevant Policy:

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

Commentary:

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

Since we last reported on this Task, OPD convened two EFRBs: one to review a Taser deployment resulting in a loss of consciousness; and one to review a pursuit which ended in a fatality. The EFRB reviewing the Taser deployment ruled the force out of compliance, as did IAD. Additionally, the Board recommended sustained findings for two lieutenants for a Manual of Rules (MOR) violation of Command Officers Authority and Responsibility. The Board overruled IAD, which recommended such a finding for only one lieutenant. The EFRB reviewing the pursuit found it to be in compliance. As required, both Boards were chaired by a Deputy Chief. We did not disagree with the EFRBs' findings.

We reviewed one EFRB Report during the reporting period: the one associated with the pursuit review described above. We found the report to be well-written and an accurate accounting of the EFRB we observed.

OPD remains in compliance with this Task.

Task 30 compliance status	In compliance

Attachment 6

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Task 31: Officer-Involved Shooting Investigations Review Protocol

Requirements:

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

(Negotiated Settlement Agreement V. H.)

Relevant Policy:

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

Commentary:

Task 31 requires certain notifications and responses in the event of an officer-involved shooting. During this reporting period (March 18-September 12, 2022), on May 25, 2022, an off-duty officer was involved in an officer-involved shooting. Additionally, on June 26, 2022, the Internal Affairs Division had a Level 1 incident callout related to a fatal accident following an unauthorized pursuit. OPD confirmed that the protocols required by this Task were followed in these instances.

OPD remains in compliance with this Task.

Task 31 compliance status	In compliance

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

Requirements:

Task 34:

1.   *OPD shall require members to complete a basic report on every vehicle stop, field investigation and every detention. This report shall include, at a minimum:*

   a.   *Time, date and location;*

   b.   *Identification of the initiating member or employee commencing after the first year of data collection;*

   c.   *Reason for stop;*

   d.   *Apparent race or ethnicity, and gender of individual(s) stopped;*

   e.   *Outcome of stop (arrest, no arrest);*

   f.   *Whether a search was conducted, and outcome of search;*

   g.   *Offense categories (felony, misdemeanor or infraction).*

2.   *This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.*

3.   *The development of this policy shall not pre-empt any other pending or future policies and or policy development, including but not limited to "Promoting Cooperative Strategies to Prevent Racial Profiling."*

   (Negotiated Settlement Agreement VI. B.)

Task 41:

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

The policy shall include the following elements:

1.   *The Chief of Police shall designate a PAS Administration Unit. The PAS Administration Unit shall be responsible for administering the PAS policy and, no less frequently than quarterly, shall notify, in writing, the appropriate Deputy Chief/Director and the responsible commander/manager of an identified member/employee who meets the PAS criteria. PAS is to be electronically maintained by the City Information Technology Department.*

2.   *The Department shall retain all PAS data for at least five (5) years.*

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3.   *The Monitor, Inspector General and Compliance Coordinator shall have full access to PAS to the extent necessary for the performance of their duties under this Agreement and consistent with Section XIII, paragraph K, and Section XIV of this Agreement.*

4.   *PAS, the PAS data, and reports are confidential and not public information.*

5.   *On a quarterly basis, commanders/managers shall review and analyze all relevant PAS information concerning personnel under their command, to detect any pattern or series of incidents which may indicate that a member/employee, supervisor, or group of members/employees under his/her supervision may be engaging in at-risk behavior. The policy shall define specific criteria for determining when a member/employee or group of members/employees may be engaging in at-risk behavior.*

6.   *Notwithstanding any other provisions of the PAS policy to be developed, the Department shall develop policy defining peer group comparison and methodology in consultation with Plaintiffs' Counsel and the IMT. The policy shall include, at a minimum, a requirement that any member/employee who is identified using a peer group comparison methodology for complaints received during a 30-month period, or any member who is identified using a peer group comparison methodology for Penal Code §§69, 148 and 243(b)(c) arrests within a 30-month period, shall be identified as a subject for PAS intervention review. For the purposes of these two criteria, a single incident shall be counted as "one" even if there are multiple complaints arising from the incident or combined with an arrest for Penal Code §§69, 148 or 243(b)(c).*

7.   *When review and analysis of the PAS threshold report data indicate that a member/employee may be engaging in at-risk behavior, the member/employee's immediate supervisor shall conduct a more intensive review of the member/employee's performance and personnel history and prepare a PAS Activity Review and Report. Members/employees recommended for intervention shall be required to attend a documented, non-disciplinary PAS intervention meeting with their designated commander/manager and supervisor. The purpose of this meeting shall be to review the member/employee's performance and discuss the issues and recommended intervention strategies. The member/employee shall be dismissed from the meeting, and the designated commander/manager and the member/employee's immediate supervisor shall remain and discuss the situation and the member/employee's response. The primary responsibility for any intervention strategies shall be placed upon the supervisor. Intervention strategies may include additional training, reassignment, additional supervision, coaching or personal counseling. The performance of members/ employees subject to PAS review shall be monitored by their designated commander/manager for the specified period of time following the initial meeting, unless released early or extended (as outlined in Section VII, paragraph B (8)).*

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

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

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

9. *On a quarterly basis, Division/appropriate Area Commanders and managers shall review and analyze relevant data in PAS about subordinate commanders and/or managers and supervisors regarding their ability to adhere to policy and address at-risk behavior. All Division/appropriate Area Commanders and managers shall conduct quarterly meetings with their supervisory staff for the purpose of assessing and sharing information about the state of the unit and identifying potential or actual performance problems within the unit. These meetings shall be scheduled to follow-up on supervisors' assessments of their subordinates' for PAS intervention. These meetings shall consider all relevant PAS data, potential patterns of at-risk behavior, and recommended intervention strategies since the last meeting. Also considered shall be patterns involving use of force, sick leave, line-of-duty injuries, narcotics-related possessory offenses, and vehicle collisions that are out of the norm among either personnel in the unit or among the unit's subunits. Division/appropriate Area Commanders and managers shall ensure that minutes of the meetings are taken and retained for a period of five (5) years. Commanders/managers shall take appropriate action on*

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identified patterns of at-risk behavior and/or misconduct.

10. *Division/appropriate Area Commanders and managers shall meet at least annually with his/her Deputy Chief/Director and the IAD Commander to discuss the state of their commands and any exceptional performance, potential or actual performance problems or other potential patterns of at-risk behavior within the unit. Division/appropriate Area Commanders and managers shall be responsible for developing and documenting plans to ensure the managerial and supervisory accountability of their units, and for addressing any real or potential problems that may be apparent.*

11. *PAS information shall be taken into account for a commendation or award recommendation; promotion, transfer, and special assignment, and in connection with annual performance appraisals. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*

12. *Intervention strategies implemented as a result of a PAS Activity Review and Report shall be documented in a timely manner.*

13. *Relevant and appropriate PAS information shall be taken into account in connection with determinations of appropriate discipline for sustained misconduct allegations. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*

14. *The member/employee's designated commander/manager shall schedule a PAS Activity Review meeting to be held no later than 20 days following notification to the Deputy Chief/Director that the member/employee has met a PAS threshold and when intervention is recommended.*

15. *The PAS policy to be developed shall include a provision that a member/employee making unsatisfactory progress during PAS intervention may be transferred and/or loaned to another supervisor, another assignment or another Division, at the discretion of the Bureau Chief/Director if the transfer is within his/her Bureau. Inter-Bureau transfers shall be approved by the Chief of Police. If a member/employee is transferred because of unsatisfactory progress, that transfer shall be to a position with little or no public contact when there is a nexus between the at-risk behavior and the "no public contact" restriction. Sustained complaints from incidents subsequent to a member/employee's referral to PAS shall continue to result in corrective measures; however, such corrective measures shall not necessarily result in a member/employee's exclusion from, or continued inclusion in, PAS. The member/employee's exclusion or continued inclusion in PAS shall be at the discretion of the Chief of Police or his/her designee and shall be documented.*

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16. *In parallel with the PAS program described above, the Department may wish to continue the Early Intervention Review Panel.*

17. *On a semi-annual basis, beginning within 90 days from the effective date of this Agreement, the Chief of Police, the PAS Activity Review Panel, PAS Oversight Committee, and the IAD Commander shall meet with the Monitor to review the operation and progress of the PAS. At these meetings, OPD administrators shall summarize, for the Monitor, the number of members/employees who have been identified for review, pursuant to the PAS policy, and the number of members/employees who have been identified for PAS intervention. The Department administrators shall also provide data summarizing the various intervention strategies that have been utilized as a result of all PAS Activity Review and Reports. The major objectives of each of these semi-annual meetings shall be consideration of whether the PAS policy is adequate with regard to detecting patterns of misconduct or poor performance issues as expeditiously as possible and if PAS reviews are achieving their goals.*

18. *Nothing in this Agreement, and more specifically, no provision of PAS, shall be construed as waiving, abrogating or in any way modifying the Department's rights with regard to discipline of its members/employees. The Department may choose, at its discretion, to initiate the administrative discipline process, to initiate PAS review or to use both processes concurrently or consecutively.*

(Negotiated Settlement Agreement VII. B.)

Relevant Policy:

- **Task 34:** OPD published General Order M-19, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing* on November 4, 2004)*; Special Order 9042, *New Procedures Regarding Stop Data Collection* on June 11, 2010; Special Order 9101, *Revised Stop Data Collection Procedures* on February 27, 2013; and Report Writing Manual (RWM) Inserts R-2 (January 15, 2010), N-1 (April 15, 2007), and N-2 (April 15, 2007).

- **Task 41:** OPD revised and issued Departmental General Order D-17, *Personnel Assessment Program,* on November 20, 2013; and issued Department General Order R-01, *Risk Management*, on April 15, 2022.

Commentary:

Task 34, which addresses the collection of stop data, is linked to Task 41 through the analysis of stop data, and through review of that data in the Risk Management Meeting process, and also in meeting State requirements for filing stop data under the California's Racial and Identity Profiling Act of 2015 (RIPA). OPD has published its own stop data summary reports since 2014 and adopted the standardized RIPA requirements in 2019. The RIPA requirements, however, do not facilitate comparison across agencies; therefore, for the purpose of risk management, the

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Department's data analysis focuses on comparison across officers and units, and on patterns of stop data over time. That analysis is integrated into the Department's risk management process including its Risk Management Meetings. Patterns of stops and their justification are reviewed, as is the distribution of stops by the race of those stopped. Risk Management Meetings also review decisions made in the context of stops including examining patterns of searches, seizures of contraband, and arrests. The analysis of risk in the context of that activity, however, has been limited. Assessing the risk associated with the quality and outcome of stops would require reviewing data across steps in case processing.

As described in the NSA, the assessment, management, and mitigation of risk are critically important processes for the Department. They address the requirements of Task 41 and also reflect the requirements regarding data about officer behavior, as noted in Task 40. With that, the risk management process in the Department also brings together other significant issues in the NSA including uses of force, stop data, pursuits and collisions, and reporting requirements for these and other concerns.

Contemporaneous with the revision of data collection processes and completion of the Vision database, the Department has continued to refine its structure and processes for identifying and managing risk. Within the last few years, that has included the creation of the Bureau of Risk Management (BRM) under the direction of a Deputy Chief. The Bureau includes the Office of Internal Accountability (OIA), the Internal Affairs Division (IAD), the Training Division, Research and Planning, the Personnel Assessment System (PAS) Administration Unit, and units managing data supporting Risk Management Meetings. Another accomplishment was the issuance of policy R-01, *Risk Management,* on April 15. 2022.

The Risk Management Meeting process now follows the plan described in the new policy. That calls for meetings occurring at the six Areas, and for specialized programs including CeaseFire and the Violent Crime Operations Center (VCOC), at the Bureau level, and ultimately at the Citywide level. Those meetings are held monthly and include participation from supervisors and executive team members up through the Chief, as well as representatives from the City including the City Administrator.

The sequence of meetings has demonstrated significant value. In most cases, first-level meetings have provided the highest levels of detail on officers and events and thus have been useful for identifying risk-related behavior. Those discussions frequently lay the groundwork for referrals to the PAS Unit for reviews and/or recommendations for remedial strategies. The Bureau and City-level meetings have been characterized by similar "drilling down" to the officer level and also occasionally, "drilling up" to identify policy or practices that may affect risk-related behavior. Management referrals from the risk review process are not unusual. That fact seems to support the view that risk management discussions are generally not being interpreted as leaning towards punitive.

As we have noted in previous reports, analysis for risk management should not be limited to examining data from the Vision database. The effect of doing that can be to artificially limit ideas of risk to the routinely collected data even though the concept of risk itself focuses attention on the unusual. It should be appreciated that significant internal problems and disruptive events occurring even while OPD has been under the NSA, were not discovered through the risk management process or, in many cases, were not addressed through that process.

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There is, however, likely to be value in supplementing the production and review of risk-related statistical data with analysis of atypical significant events and problems that may not be well defined by existing data summaries. Although this does occur informally at times, it is not now a common part of Risk Management Meetings.

The essential elements of the OPD risk management process currently include: 1) the use of data to identify potential risk; 2) examination of identified potential risks; 3) development of strategies to manage and reduce potential risk; and 4) assessment of the impact and effectiveness of those strategies. The inclusion of the Data Manager in the Department has standardized the presentation of basic risk management data.

Quantitative risk data are made available regularly for the individual areas and for specialized units and also at the Bureau and Citywide level. Area meetings vary in their format and in their level of detail. Greater coordination across areas is likely to be useful. Deputy Chiefs do attend some of those meetings and their presence typically assures high quality discussion and decision making. A positive development has been an increased prevalence of management referrals for monitoring and intervention even when risk management statistical thresholds have not been exceeded.

The Citywide meetings, often led by the Assistant Chief, provide an independent view of the issues raised in the earlier meetings. The discussion is generally detailed and well-focused on risk, and tends to have a useful mentorship character about it. It is largely focused on the details associated with identified risks and on developing or confirming plans for addressing those risks. That discussion applies to results from the area meetings and from the review of officers through the PAS process, although discussion of the PAS process is generally not extensive.

Attention to the effectiveness of risk reduction strategies is limited and generally focused on individuals. Discussion of the risk management process has emphasized both "drilling down" to review individual officers and "drilling up" to review policy and common practices. When discussed, analysis of outcomes uses data in limited ways and tends to involve subjective impressions of how individual officers are doing. "Drilling up" receives little attention. A systematic examination of the impact of the risk management process, such as an evaluation of the behavior of previously identified "high" and "low" flyers has not occurred.

As with any organizational process, risk management at OPD has certain vulnerabilities that have the potential for limiting or reducing its effectiveness, or for eliminating it all together. It is important to recognize potential vulnerabilities and to mitigate their possible impact. The details of the new risk management policy provide one barrier to some vulnerabilities. Still, the level of commitment by the Department to its process for managing risk is significant and, as such, represents one source of vulnerability. The number and diversity of Risk Management Meetings and the personnel resources involved are substantial. A commitment by the Department and the City, including commitments moving forward as personnel change, will be critical to maintaining the effectiveness of the risk management system. Likewise, a similar commitment will be necessary from command staff at all levels. That commitment will need to be reflected in promotion processes.

In light of the fact that risk management is dependent on the availability of high-quality data, data issues reflect a significant vulnerability. This problem was illustrated by early versions of the risk management database which suffered technical problems which rendered them unreliable. Associated with this vulnerability are potential problems with training. Sustaining risk management will require extensive training at all levels of the Department. Recruit officers should have some knowledge of risk management so they can make decisions with appropriate expectations in mind. Academy training and in-service training will be important. Training for supervisors and command staff will be critical.

There are also other vulnerabilities associated with the use of data. Repetition and redundancy in data compilations and presentations could prove to be a limitation. As the Department continues to gain expertise there is likely to be demand for more complete and extensive analyses. Even current reviews of outcomes of stop data support the view that expectations will extend beyond Vision and include analysis of outcomes based on other sources of data. This suggests that failure of imagination could become a significant source of vulnerability. To be sustained, risk management will need to serve the interests of the City and the Department but also the interests of officers and other staff as they grow in technical knowledge and in their career expectations.

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

Task 45: Consistency of Discipline Policy

Requirements:

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

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

(Negotiated Settlement Agreement X. B.)

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Relevant Policy:

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

Commentary:

Task 45, which addresses consistency of discipline, is the lone Task that was not in full compliance with the requirements of the NSA at the start of the sustainability period. Our last monthly status report noted the deficiencies of the Department's April 2022 analysis of discipline-related data.

A 2020 review of data by an external consultant had found significant racial disparities in sustained complaints of misconduct between Black officers and officers of other races. In 2021, the Department reached the conclusions that the initial report by outside consultants was flawed and its conclusions unwarranted. OPD moved forward with a new, albeit somewhat more limited, internal study of disciplinary outcomes. OPD's own report concluded that there was no evidence of bias in disciplinary outcomes.

That conclusion, however, did not reflect the full analysis. An appendix of the report showed that disciplinary decisions in Division Level Investigations (DLIs) did, in fact, show differences by race. However, as we noted in our last monthly report, "that finding was buried deeply in a report appendix until we raised that in a discussion with Department officials."

Since that time, the Department has continued to address the issue of disparity in discipline, to include administering a survey of employees regarding their perspectives on potential bias. These efforts demonstrate the extensive work required for data analysis to inform decision-making on this topic.

During our recent virtual site visit, we raised concerns that OPD's DLI analysis had been relegated to its report appendix – despite the statistically significant finding of bias in the outcomes of sustained DLI cases. That analysis did not – and based on the research design, *could* not – address if there were differences by race in whether formal accusations of violations were made in the first place. That would seem to be the appropriate starting point for this analysis. The finding that there is no evidence of bias in the decisions to sustain or not sustain allegations does not address whether bias may exist in the process of alleging the MOR violations in the first place. Because the initial decision as to who is or is not charged with an MOR violation determines whether or not an investigation will be undertaken, it is necessary to assess potential bias at each step of the investigative process and not simply in any final decision to sustain allegations.

OPD has made a significant commitment to data-driven decision-making. That commitment includes internal personnel; external consultation; expanded systems for data collection and analysis; and extensive personnel resources for the collection, review, and use of data. The level

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of commitment to data analysis is best illustrated in the risk management process, where risk management data are used from the Area level through Citywide level meetings. In fact, the risk management process and the implementation of many of the requirements of the NSA have been enhanced by the Department's commitment to the analysis of data.

There is, however, a significant difference between the analysis of risk management data and the research on potential bias in the disciplinary process. The risk analysis compiles and summarizes data, largely from the Vision database. The examination of potential disparity in the disciplinary process involves far different analyses. These inevitably involve formulating and testing hypotheses and drawing conclusions from statistical analyses.

The Department presented its most recent analysis of discipline data at a meeting on September 8, 2022. The conversation, viewed as preliminary, did not include a written report provided at the time of the meeting or, more appropriately, in advance. Absent a written draft of the report, and particularly without one made available in advance of the presentation, attendees at the meeting, particularly those who had not worked on the report or seen a version of the presentation, could not provide an informed review of the data or analysis. During the meeting, the Plaintiffs' attorneys and a Monitoring Team representative voiced their concerns about this limitation. The data tables and analyses should have been provided at a reasonable time in advance to allow a comprehensive review.

On September 21, 2022, without first issuing a draft to the Plaintiffs' attorneys and Monitoring Team, the Department issued a 107-page report, "Oakland Police Department Office of Internal Accountability Discipline Equity and Internal Procedural Justice Report: Collected Documents Reflecting the Department's Examination of Data and Information to Improve Equity in the Internal investigation and Discipline Process, Academy and Field Training Programs, and Officer Diversity." The report includes some new data analyses, but also serves as a collection of documents – including an Information Bulletin that lists "Implemented Equity Interventions" by OPD's Race and Equity Team.

The report includes analyses of Department data, but also uses small sample comparisons that do not have statistical value. For example, the report discusses the Department's review of a small sample of cases involving 10 Black officers and 10 white officers. In this review, 10 persons (either sergeants or lieutenants) each reviewed two cases: one involving a Black officer, and one involving a white officer. These reviews were not blind – that is, the reviewers knew or could have known the officers involved in the cases. All reviewers concluded that the decisions in the cases were fair and unbiased, although the small sample of cases and the fact that the reviewers each examined only two cases mean that the analysis is of little use.

The report recognizes the potential for bias. For example, Black officers were more likely than their white counterparts to be sustained for discovered violations – that is, violations added by investigators during their investigations. Also, the report noted that Black officers were more likely to receive suspensions and less likely to receive counseling than their white counterparts. Despite these findings, the report offers little explanation of the racial disparities that are found.

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The report also discusses the results of the survey of employees that the Department recently completed. The survey itself is lengthy and wide-ranging, but it is limited to a large number of uncorrelated survey questions. Overall, survey respondents felt that they were treated fairly by supervisors; yet only about 20% of respondents felt the disciplinary process was generally fair. Future versions should provide a greater depth in analysis and in interpretation of results.

There are, undoubtedly, a variety of pathways toward ensuring the quality and value of analysis, and those are likely to share common elements. Among them would be high degrees of care in developing written research design plans in advance of data collection; reliance on expertise in the field of policing; and advisement by a number of trained researchers to provide assistance in research design, analysis, and reporting results. OPD's analysis of disparity in discipline suggests that additional attention should be paid to research and analysis in the Department. In particular, it seems that greater attention to the design of research plans and the review of results would be valuable. Even where resources may not support a fully staffed research office, there can be value in developing a protocol for determining the design of research; the data and analyses to be included; and how conclusions are reached, reviewed, and reported upon. Such a protocol would apply to research conducted in the Department as well as research conducted by outside contractors.

Although we recognize that a great deal of work by the Department has gone into the review of disparity in discipline, we also recognize the limitations of that analysis. To some extent, those limitations may be rooted in the nature of the research topic itself. The value of this research lies not just in the statistics themselves, but also in the shared level of confidence in the analysis of this data, including the survey data. An important question to ask is whether analysis done within the Department can achieve such a level of confidence on this topic. The iterations of this analysis over the past several years raise doubts.

In one view, the history of the NSA has been marked by an increasing commitment to systemic analysis. That has become a great strength for the Department and a model for police departments across the country. However, the compounding problems illustrated with the disparity analyses also suggest vulnerability and can open the Department to criticism. Meeting recognized standards for analysis, providing written plans for the research, and offering critical assessments of draft results can help correct current deficiencies but answering some questions may be best done from outside the Department.

Compliance with the requirements of Task 45 depends heavily on the analysis of the disciplinary process and its outcomes. Those analyses are clearly intended to assess the degree of fairness in the process and, if necessary based on the data, to drive corrective action. Those expectations differ greatly from the process of using data in the existing risk management process.

Prior to the Department's release of its September 21, 2022 report, the current compliance status for this Task should be recognized as a critique of the existing analyses. Following critical reviews, the Department has now extended its analysis across DLIs to compare the extent of DLIs and the types of allegations across officer demographics. It also initiated a review of a limited number of cases to supplement the statistical analyses, and it has surveyed employees on their perceptions of the disciplinary process. But small samples have severe limitations, as do internal surveys on challenging topics. Few topics may be as sensitive as questions of bias. While the September 21, 2022 report was broad in its scope, compliance determinations must be

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made on the elimination of the core issue – bias – and not the quality of reports that memorialize past patterns and future steps the Department should consider taking. The Department's current relationship with Stanford University researchers is unclear and needs to better defined. That said, the issue in its entirety may very well be best examined by independent researchers – or at a minimum, the City could establish an independent research advisory group – to strengthen confidence in and outside the Department in the integrity of this research.

Task 45 compliance status	In partial compliance

Conclusion

This is our first report of the NSA sustainability period. The efforts of the Monitoring Team have been appended by a representative of the Department's Office of Internal Accountability. We are pleased with his contributions, and the methodologies and skillsets essential for monitoring will be broadened to include other members of the OIA staff. The quality of our first quarterly site visit meeting was good, and we thank the Department for its efforts to work with the Monitoring Team to share important information that is essential for this process.

In our Task 25 discussion, we raised concerns with the appropriateness of the use of force in some Taser deployments that resulted from subjects fleeing from officers. In two cases, after our August site visit discussions with the Department, OPD determined that further investigation was necessary, and IAD cases are now in progress. The Department must do a better job in its initial review of these incidents as it was the Monitoring Team, and not the line-level supervisors, that found the troublesome cases. At this stage, the Department should be identifying and addressing concerns without the need for our Team to bring them forward.

The matter of Task 5 and the quality and integrity of Internal Affairs Division investigations needs to be more closely scrutinized internally and will be a focus of the Monitoring Team. While much effort seems to have been directed to Task 45, remedies to mitigate the underlying problems that are impacting officers of the Department must be a priority.

Robert S. Warshaw

Chief (Ret.) Robert S. Warshaw
Monitor

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6

7 DELPHINE ALLEN, et al.,   Case No. 00-cv-04599-WHO

8   Plaintiffs,

9   v.   **ORDER PLACING CITY OF OAKLAND INTO SUSTAINABILITY PERIOD**

10 CITY OF OAKLAND, et al.,

11   Defendants.

12   The Negotiated Settlement Agreement (NSA) the parties executed on January 22, 2003,

13 contemplated that federal court oversight would terminate after the defendants achieved

14 substantial compliance with all of the provisions of the NSA and maintained that compliance for a

15 year. No one expected that it would take more than nineteen years to reach substantial

16 compliance.

17   The good news is that the defendants have achieved substantial compliance, and that the

18 path here has led to tangible improvements in policing in Oakland and to the promise that a culture

19 that understands and supports constitutional policing is taking root. This would not have occurred

20 without: the leadership of Chief Armstrong and his leadership team, and their willingness to be

21 accountable and take responsibility; the commitment of the mayor and City officials; the expertise

22 of Dr. Jennifer Eberhart and experts from Stanford University; and the determined, wise and

23 dedicated work of the Independent Monitoring Team. And it will not be sustained without: the

24 commitment of the officers of the Oakland Police Department to the goals, principles and methods

25 of constitutional policing; the continued leadership of City officials and command staff at OPD;

26 and, the constructive oversight by the Oakland Police Commission and its Office of Inspector

27 General (OIG), in whom the citizens of Oakland have invested their confidence.

28   But before federal court oversight is over, the defendants must show that they are

United States District Court
Northern District of California

complying with all provisions of the NSA for a year. The procedures outlined below will be in

force for the next year.

It is HEREBY ORDERED that:

1.   The City shall enter the one year-sustainability period as of June 1, 2022.

2.   The sustainability period will involve the monitoring of the last remaining and most

critical Negotiated Settlement Agreement Tasks: 2, 5, 20, 24, 25, 26, 30, 31, 34, 41, and 45.

3.   During this one-year period, the assessment of the Department's compliance with

the relevant Tasks shall be the principal responsibility of the Monitor/Compliance Director and

two members of the Monitoring Team. The remainder of the Monitoring Team will have

intermittent roles as circumstances warrant. These activities shall include, but not be limited to,

observing Force Review Boards and Executive Force Review Boards, reviewing certain reports,

and participating in site visits.

4.   To help OPD build capacity and support sustaining NSA compliance, the

Monitor/Compliance Director will, after consulting with the Chief of Police, designate an

individual to be assigned to OPD's Office of Internal Accountability (formerly the Office of

Inspector General) to serve as the Department's NSA sustainability liaison. This person will be

appended to the Monitoring Team to help the Monitor/Compliance Director prepare reports

relevant to those NSA Tasks that are to be monitored during the sustainability period.

5.   The Monitoring Team will undertake its monitoring duties on a reduced schedule.

Currently, the Monitoring Team conducts site visits and issues status reports on a monthly basis.

During the sustainability period, and to support the Department's self-governance, the Monitoring

Team will conduct site visits and issue our reports on a quarterly basis.

6.   At the beginning of the sustainability period, the Monitoring Team will meet with

OIA staff to explain the methodology the Monitoring Team will be using during the sustainability

period and the role the Monitoring Team expects OIA to play.

7.   The one-year sustainability period will include three site visits and four reports.

The site visits will occur in August 2022; November 2022; and February 2023. The sustainability

reports will be issued in September 2022, covering May/June/July; in December 2022, covering

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1   August/September/October; in March 2023, covering November/December/January; and a final

2   report in May 2023, covering February/March/April.

3   8.   In addition to the Task assessments, the Monitoring Team will continue the

4   following activities:

5   • Maintain regular contact with the Chief and other Department officials to discuss

6   Department updates, personnel issues, high-profile cases, critical incidents, and other

7   matters.

8   • Review and comment upon NSA-related Department policies.

9   • Review OIA's audit reports and provide feedback.

10   • Observe FRBs and EFRBs.

11   • Observe and provide technical assistance on Risk Management Meetings.

12   • Engage in other activities, as the Monitor/Compliance Director deems necessary.

13   9.   At the start of the sustainability period, there may be some outstanding projects for

14   the Department to complete – including, for example, its follow-up work on the disparity in

15   discipline study. In addition, the Department currently has some crucial pending policies –

16   including, but not limited to those recommended by the Court-appointed independent investigator

17   of the "Instagram case." The Monitoring Team will oversee their completion.

18   10.   Absent extraordinary circumstances, the Monitor/Compliance Director need not

19   assess compliance with Tasks other than those listed above.

20   11.   The Police Commission, which has authority over the Oakland Police Department,

21   may choose to establish its own assessment protocols for these Tasks during the sustainability

22   year. To the extent it would be helpful, the Monitor/Compliance Director is authorized to share

23   with the Commission's Inspector General any methodologies or tools that have been used during

24   the sustainability period.

25   12.   During the sustainability period, Plaintiffs' attorneys will continue their

26   participation in this process.

27   13.   If OPD does not fully comply with the NSA and remain in full compliance during

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1   the sustainability period, the Court's oversight will continue.

2   **IT IS SO ORDERED.**

3   Dated: <u>May 12, 2022</u>

William H. Orrick
United States District Judge

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United States District Court
Northern District of California

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From: Jesse Hsieh, Chair of the Militarized Equipment Ad Hoc
To: Oakland Police Commission
Date: 10/11/22
Re: DGO I-27 – Long-Range Acoustic Devices

Recommendation

The militarized equipment ad hoc recommends the Oakland Police Commission vote to recommend to the City Council that it approve the Oakland Police Department's (Department) DGO I-27: Long-Range Acoustic Devices (LRAD).

Summary of impact of recommendation, if adopted

If the Commission recommends approval, the policy and accompanying impact report will be forwarded to the Council with the recommendation. Recommending approval may signal to the City Council that the policy can be approved without significant modification or controversy.

Approval by the City Council means that the Department will be permitted to continue using Long-Range Acoustic Devices (LRAD)

Committee's reasoning in support of its recommendation

Per AB 481 and Government Code 7070 et seq, a "governing body" shall only approve a military equipment use policy if it determines all of the following:

1) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
2) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties;
3) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety;
4) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

The Department's stated intent in using Long-Range Acoustic Devices (LRADs) are to establish communication with people in certain specified situations. Long-Range Acoustic Devices (LRADs) are a type of acoustic hailing device that provide communication and warning functions using directed acoustic energy. There are two functions: a "voice" or communication function, where the LRAD acts an amplified megaphone or loudspeaker, and an "alert" or warning tone function, which emits a high decibel, narrow frequency, focused set of sound waves.

The Department is in possession of two LRAD devices: the LRAD 100x and the LRAD 450x. The LRAD 100x can reach a sound pressure level of 137 dBA and the LRAD 450x can reach a sound pressure level of 146 dBA. These numbers are generally equivalent to a jet engine at 100 feet or a gun blast. These sound pressure levels can be maintained as long as LRAD device remains active. Short term exposure at these levels can cause permanent hearing damage. Long term exposure at a lower level can also cause hearing

damage, so workplaces that expose employees to such long-term exposure must offer protections to employees.[1]

There are two primary concerns with the use of the LRAD device by a civilian police force: 1) its use as an "area denial device" and 2) the tremendous volume that it can deliver in a small direction that has the potential to harm the people that come within its cone of sound. Both concerns are highlighted when the "alert" or warning tone function is used.

The Department has addressed the first concern by explicitly writing into DGO I-27 that the LRAD device shall not be used as an area of denial device. That means that the Department shall not use the LRAD device in any mode to disperse people, move people, or to prevent them from entering an area due to its directional sound capabilities. An example of such a use was demonstrated at a protest outside the G20 summit in Pittsburgh, PA in 2009: https://www.youtube.com/watch?v=QSMyY3_dmrM (warning: LOUD).

The Department has addressed the second concern in a few different ways, generally coalescing around mitigating the potential for high sound pressure level exposure over a prolonged period. Thus, the Department has agreed to minimum distances that the LRAD can be used, which will significantly reduce the sound pressure level experienced by the public. The Department has also agreed to limit the number of times the "alert" or warning tone function can be used in a single minute and to limit the length of the "alert" or warning tone function to no more than five seconds at a time. Finally, they have agreed that any recorded communication or warning tone shall be followed by an equivalent period of silence.

Very few other police departments, if any, place such limitations on LRAD use.

The relevant context for the recommendation

Members of the ad hoc were able to see, examine, and experience the LRAD 100x on September 30, 2022 at the Oakland Coliseum parking lot.

Members of the ad hoc also considered the following:

- An August 10, 2020 study of the Long Range Acoustic Devices and Public Safety, found here: https://www.acentech.com/resources/long-range-acoustic-devices-lrad-and-public-safety/.
- A November 2011 Review of Police Use of Long-Range Acoustic Devices conducted by the Ontario (Canada) Ministry of Community Safety and Correctional Services, found here: https://2sbljd3ar07z11zv4f1iuzx5-wpengine.netdna-ssl.com/wp-content/uploads/2019/11/LRAD-Report.pdf
- Verbal reports and information from LRAD representatives
- A presentation by LRAD to the Austin Police Department and Austin Police Commission: https://austintx.new.swagit.com/videos/184364 (Discussion starts at 13' 40")
- Manufacturer information about the LRAD, found here:
    - Manufacturer brochure: https://apac.genasys.com/wp-content/uploads/LRAD-Product-Guide-Final-PRINT.pdf

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[1] For example, California requires an employer to implement a continuing, effective hearing conservation program whenever employee noise exposures equal or exceed an 8-hour time-weighted average sound level (TWA) of 85 decibels. CCR Title 8, section 5097.

- o Manufacturer LRAD 100x user manual: https://portal.genasys.com/wp-content/uploads/2020/11/LRAD-100X_106457-01-R.E-Artwork-product-manual.pdf
- o Manufacturer LRAD 450xl fact sheet: https://genasys.com/wp-content/uploads/LRAD-450XL_D00101-Rev.-B_3-4.pdf

DEPARTMENTAL GENERAL ORDER

I-27: LONG-RANGE ACOUSTICAL DEVICE (LRAD)

Effective Date:

 Coordinator: Hostage Negotiating Team, Special Operations Division

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I.   VALUE STATEMENT

It shall be the policy by the Oakland Police Department to deploy the LRAD to maximize the safety of all individuals involved in an incident. LRAD is not utilized as an "area of denial" device, but rather as a tool to assist in communication from safe distances, which ultimately provides more time for interaction and de-escalation. Regardless of deployment, the LRAD will be utilized in accordance with OPD Core Values and our Mission.

II.   DESCRIPTION OF THE TECHNOLOGY

A.   LRAD Components

A Long-Range Acoustical Device (LRAD) is an acoustic hailing device used for emitting amplified public announcements or establishing communication.

Generally, an LRAD consists of:

- An LRAD speaker with warning tone capability and volume control;
- Wireless transmitter and receiver;
- Operator-utilized wireless headset or microphone MP3 player to transmit live or recorded voice announcements;
- Weather resistant microphone to transmit live messages; and
- Magnetic roof mount

B.   Purpose

An LRAD is an acoustic hailing device used for emitting amplified public announcements and establishing communication during search warrant services, barricaded suspect incidents, and other tactical operations.

An LRAD shall not be used as an "area of denial" device[1]. It should only be

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[1] A device designed to prevent a person or group of people from occupying or traversing an area of land, sea, or air.

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used as an effective broadcasting system for instructions, messaging, and warning tones. The speaker effectively broadcasts messages through inclement weather and other external noise and can be clearly heard indoors. The loud audible technology ensures broadcasted announcements are loud and clear while offering advantages over less amplified patrol car public address (PA) systems.

An LRAD is beneficial for broadcasting public announcements or safety advisements during natural disasters and evacuations, and to establish communication with subjects. The speaker can be utilized to convey water locations, bathrooms, or best evacuation routes during First Amendment demonstrations and other events.

An LRAD is portable and can be used during events involving criminal unrest and rioting, and illegal sideshow activities, to provide clear dispersal orders for unlawful assemblies.

An LRAD may not always be ideal for deployment and alternatives should always be considered prior to deployment.

III.   **GENERAL GUIDELINES**

A.   **Authorized Use**

1.   Any use of an LRAD shall be in strict accordance with constitutional law and department policy.

2.   Only authorized operators who have completed the required training shall be permitted to operate an LRAD.

3.   Operators should be aware of and shall adhere to LRAD operational guidelines and identified "zones," or danger zones, for each LRAD. Proper measures should be taken to ensure officer and public safety, to include the usage of hearing protection for operators in required areas.

4.   LRAD may only be used to establish communications for the following specified situations:

a.   Disaster or city-wide emergency management;

b.   Rescue operations to include missing or lost persons;

c.   Sideshow events where many vehicles and reckless driving is present;

d.   Crowd management operations (see TB III-G Crowd Control);

e.   Search warrants;

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     f.   Barricaded[2] suspects;

     g.   Yard searches of suspected armed subjects;

     h.   Training; and

     i.   Exigent circumstances[3].

5. **Deployment Authorization**

     a.   Deployment of an LRAD shall require the authorization of the incident commander, who shall be of the rank of Lieutenant of Police or above.

     b.   Pre-planned operations, and or events, should include the prior approval of an LRAD and its permitted usage in accordance with this policy.

     c.   Incident commanders of a lower rank may authorize the use of an LRAD during exigent circumstances, as defined in this policy. In these cases, authorization from a command-level officer shall be sought as soon as is reasonably practical.

     d.   If deployment will consist of attaching an LRAD to a vehicle, operators should take the necessary safety precautions to ensure the LRAD is safely secured. Furthermore, operators should be cognizant of safe operating speeds. Operators should also consider securing the LRAD in their vehicle if traveling at high speeds, such as on an interstate highway (freeway).

6. **Warning Tone**

     a.   When deployed properly, an LRAD warning tone is a tool for gaining an individual's attention to voice messages.

     b.   The warning tone shall only be used when authorized by an Incident Commander at the rank of Lieutenant or above.

     c.   When authorized for use in the field, the warning tone shall only be used for the following situations:

          i.   To alert a person or group of an impending message;

          ii.   To gain the immediate attention of persons, whether they are in public or the occupants of a vehicle, vessel, or building;

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[2] A barricaded subject incident is an incident in which a person armed with a weapon, explosive, or other dangerous device seizes control of a location and refuses to surrender to police custody.

[3] DGO K-03 defines "exigent circumstances" as "those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, or the escape of a suspect."

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> iii. For other reasons consistent with Section III.A.4.
> above and as determined by the incident commander.
> d. The use of warnings tone should be minimized.
> e. Warning tones shall only be used in short durations and shall not exceed more than five (5) seconds per use.
> f. The warning tone shall not be used more than three times in a row without an accompanying message or communication.
> g. The warning tone shall not be used more than three times per minute.
> h. When utilizing the warning tone, operators of the LRAD shall ensure that no person in front of the LRAD is within the minimum distance noted below in Tables A and B.

TABLE A – LRAD 100x details and minimum distances required			
	Green zone	Yellow zone	Red zone
Decibel ranges (dB)	0-105	105-131	131-137
Minimum distance required	50 feet	100 feet	200 feet

TABLE B – LRAD 450x details and minimum distances required			
	Green zone	Yellow zone	Red zone
Decibel ranges	0-114	114-140	140-146
Minimum distance required	100 feet	350 feet	650 feet

7. **Deployment Considerations**
   a. Advance notification should be provided to perimeter officers prior to activating the LRAD device.
   b. LRAD operators should wear hearing protection during equipment operation.
   c. LRAD shall not be used or deployed when any person not wearing hearing protection is within fifty (50) feet of the area in front of the device.
   d. Announcements and warning tones shall be made from the lowest volume setting necessary to complete the authorized use.
   e. Any recorded communication or warning tone shall be followed by an equivalent period of silence to allow for effective communications while reducing bystander exposure.
   f. When deploying the LRAD, operators must ensure that use of the LRAD would avoid affecting unintentional or uninvolved bystanders.

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g. When considering whether to use the LRAD, operators should consider avoiding or restricting use if any of the following factors are present:

    i. The suspected presence of captive or trapped recipients who may be affected by the LRAD;

    ii. The suspected presence of any person who may have physical or psychological vulnerabilities to the LRAD, including, but not limited to:

        1. People with hearing sensitivities;

        2. Young children;

        3. Elderly persons;

        4. Persons experiencing a mental health crisis;

        5. Persons with post-traumatic stress disorder.

8. **Volume Level**

    a. Green volume zone: lowest volume setting for use in making general notifications and may be adjusted from this level as appropriate by the trained LRAD operator.

    b. Yellow volume zone: intermediate volume setting that may be used for all purposes by the trained LRAD operator.

    c. Red volume zone: upper setting for volume that may only be used by the LRAD operator with the prior approval of the trained on-scene LRAD supervisor.

9. **Deployment Logs**

    a. A commander authorizing deployment of an LRAD shall send notification of the deployment via the military equipment deployment notification process.

    b. Deployment logs will provide all mission deployment details for each deployment.

B.   **Prohibited Use**

1. An LRAD shall not be used except as provided in Section III.A. above.

2. An LRAD shall not be used as a weapon or as an "area of denial" device.

3. The warning tone shall not be used as a weapon, as an "area of denial" device, or to disperse a group of people.

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4. An LRAD shall not be used when any person, without hearing protection, is within or may enter distances less than fifty (50) feet of the area immediately in front of the device.

5. The warning tone shall not be used for more than five (5) seconds at a time.

C. Communications

Notifications will be made to the Communications Section for notifying patrol personnel when an LRAD is authorized by a Commander.

V. LRAD ADMINISTRATION

A. System Coordinator / Administrator

1. The System Coordinator / Administrator will be the Special Operations Section Commander, and a member(s) from Hostage Negotiating Team and will act as LRAD Administrators and will be responsible for the management of an LRAD. The LRAD Administrators will ensure that policies and procedures conform to current laws, regulations, and best practices.

2. LRAD Administrators shall provide the Chief of Police and City Council with an annual report that covers all use of the LRAD technology during the previous year.

B. Maintenance and Storage

LRAD Administrators shall develop LRAD inspection, maintenance, and record-keeping protocol to ensure LRAD equipment is functioning appropriately. Maintenance and record-keeping should also include expenditures such as purchase of new equipment and mechanical repairs. All LRAD equipment shall be stored within an OPD secured facility/vehicle with limited access.

C. Training

LRAD Administrators shall ensure that all authorized operators have completed all required department-approved training in the operation, applicable laws, policies, and procedures regarding use of an LRAD.

D. Auditing and Oversight

LRAD Administrators shall document all LRAD uses in accordance with this policy. SOS has developed an electronic record of time, location,

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equipment, purpose of deployment, in regard to LRAD deployment. Whenever a deployment occurs, the authorizing commander, or operator, will send an electronic notification/submission to the SOS Commander to include the topics listed above. This protocol will allow the SOS Commander to have a running log of all deployments and assist in the annual report.

E. **Reporting**

The LRAD Administrator shall monitor the adherence of personnel to the established procedures and shall provide annual reports on the deployments to the Chief of Police.

The LRAD Administrator shall provide the Chief of Police, Privacy Advisory Commission, and City Council with an annual report that contains a summary of authorized access and use.

F. Inquiry and Complaint Process

(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of member employee misconduct.[1] Refer to DGO K-7 for additional information.

By Order of

LeRonne L. Armstrong

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[1] DGO M-3 states, "IAD investigations shall be completed, reviewed, and approved within 180 days unless approved by the IAD commander."

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Effective Date _____

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Chief of Police   Date Signed:

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Oakland Police Department
Controlled Equipment Impact Report

Item(s): LRAD
Applicable Use Policy: DGO I-27 Long-Range Acoustical Device (LRAD)

Description and Purpose

LRAD 100X Speaker	
Description	A Long-Range Acoustical Device (LRAD) is an acoustic hailing device used for emitting amplified public announcements or establishing communication
Manufacturer's Product Description	The LRAD-100X is a self-contained, lightweight, and compact battery-powered hailer that communicates with great intelligibility up to 600 meters. Unlike handheld bullhorn devices, the LRAD-100X emits acoustic sound pressure levels up to 140 dB that result in clear, intelligible communications and unmistakable, stunning alert tones. In addition to broadcasting alert tones, the LRAD-100X is also capable of playing prerecorded messages and audio files stored in its MP3 player, and broadcasting live speech through its handheld microphone.
How the item works	An LRAD is a loudspeaker-like device that emits a focused beam of sound. What makes these systems unique is that rather than transmitting sound like a loudspeaker in many directions (similar to the way a lightbulb emits light), LRAD systems transmit sound in a narrow beam (much like a flashlight)
Expected lifespan	Not listed with Manufacturer or website; with care speaker can last several years though
Quantity	One (1) owned
Purpose and intended uses and/or effects	LRAD is not designed to be utilized as an "area of denial" device, but rather as an effective broadcasting system for messaging and offers advantages over less amplified PA systems. Broadcasted messages are clear through inclement weather and other external noises and can be clearly heard indoors. The system is beneficial in establishing communication during search warrants, barricaded suspects and during civil unrest.

LRAD 450X- Speaker	
Description	A Long-Range Acoustical Device (LRAD) is an acoustic hailing device used for emitting amplified public announcements or establishing communication

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Controlled Equipment Impact Report
Item(s): LRAD

Manufacturer's Product Description	LRAD systems deliver live or recorded voice messages with exceptional clarity for any operational scenario. Optimized to the primary range of hearing, LRAD's Advanced Driver and Waveguide Technology ensure every broadcast is clearly heard and understood, even above crowd, engine, and background noise. LRAD systems are in service in more than 100 countries and 500 U.S. cities in diverse applications.
How the item works	An LRAD is a loudspeaker-like device that emits a focused beam of sound. What makes these systems unique is that rather than transmitting sound like a loudspeaker in many directions (similar to the way a lightbulb emits light), LRAD systems transmit sound in a narrow beam (much like a flashlight)
Expected lifespan	Not listed with Manufacturer or website; with care speaker can last several years though
Quantity	One (1) owned
Purpose and intended uses and/or effects	LRAD is not designed to be utilized as an "area of denial" device, but rather as an effective broadcasting system for messaging and offers advantages over less amplified PA systems. Broadcasted messages are clear through inclement weather and other external noises and can be clearly heard indoors. The system is beneficial in establishing communication during search warrants, barricaded suspects and during civil unrest.

Fiscal Costs

Initial Costs

☑ The Oakland Police Department (OPD) currently owns/possesses/uses the equipment. Initial costs (if known) to obtain the equipment were:

Equipment	Per-unit cost	Total cost
LRAD 100X	~$14,200	~$14,200
LRAD 450X	~$41,360	~$41,360

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

Estimated or anticipated costs for each proposed use

The LRADs are stored in locked and secured facility or vehicle at the Oakland Police Department. The Hostage Negotiating Team (HNT) members have access to an LRAD and will respond to an incident with the device when requested by an Incident Commander. HNT members may be on duty during incidents requiring an LRAD. If they are, they may deploy as patrol officers, or as their regular duty assignment, and utilize an LRAD. For a tactical team call-out, other HNT members will respond even if they are off-duty, resulting in overtime expenditures. The amount of the expenditure is based on the time the incident takes to resolve. Over time deployments can be tracked utilizing an i-code through fiscal.

Estimated or anticipated costs of potential adverse impacts

Potential adverse effects are myriad, and there is no way of anticipating every possible adverse impact. Additionally, even some known possible adverse effects may be so remote that they were not assessed for the purposes of this report. Finally, costs of even likely adverse effects may vary wildly based on other circumstances which are difficult to predict and can vary from incident to incident. Keeping this in mind, some potential adverse effects and their possible costs are:

Deliberate misuse might cause the Department to be exposed to liability, which could include monetary judgments against the City.

Unintentional misuse might cause the Department to be exposed to liability, which could include monetary judgments against the City.

Failures of the equipment might cause the Department to have to purchase additional items, at a cost per item as indicated.

Estimated or anticipated ongoing costs

Costs for operation include training, personnel, maintenance and upgrade costs.

Training and personnel costs – Currently, HNT has mandatory training once a month. This training consists of a 10-hour day and typically occurs at the OPD or any other nearby facility or location. There has not been any rental fees or associated costs to locations of training currently. Some training may either require the HNT member attending to be on overtime, or for overtime to backfill that respective HNT members position while they are at training. If an HNT member elects to attend a POST certified training or outside training course there could be associated costs. Unknown yearly costs.

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

Storage costs – LRADs are housed at secured OPD facilities and vehicles and there are no associated costs.

Maintenance and upgrade costs – Currently, there is no known life span for an LRAD. With proper care the life expectancy will be longer. However, normal wear and tear can take place and will require replacement of parts. Depending on the part, the cost per item can range from fractions of a dollar to several hundred dollars.

Impacts

Reasonably anticipated impacts

Deliberate misuse.

Though unlikely, it is possible that LRAD may be deliberately misused by employees. Some of the ways that the Department attempts to prevent deliberate misuse is through background checks of prospective employees, supervision and training, strict policy guidelines, robust reporting and accountability practices, and discipline for deliberate misconduct up to and including termination. Suspected criminal misuse of equipment may also be forwarded to the District Attorney's office or other appropriate prosecuting agency for charging consideration.

Unintentional misuse.

Unintentional misuse of LRAD may come in many forms, from unfamiliarity or lack of training to the encountering of a scenario that was not anticipated in training or policy. The Department attempts to prevent unintentional misuse through thorough training, clear policy prescriptions, and robust review processes such as force reports, force review boards, and pursuit review boards.

Perception of militarization or exacerbation of a police/community divide.

While it is not the intent of the Department that this occur, the Department does recognize the possibility that its use of LRAD may lead to a perception of militarization of the Department, or an exacerbation of any existing divides between the Department and the community it serves and is a part of. The Department attempts to overcome challenges such as this by taking full advantage of community forums required by policy and law (see for instance the mandated community engagement meeting in DGO K-07 and CA Government Code § 7072(b)), by completing full and robust reports such as this one, and by collaborating

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

with the Police Commission in the creation of use policies and procedural safeguards surrounding this equipment.

<u>Hearing Impairment</u>

Short-term exposure to loud noise like the LRAD's deterrent tone may cause a sensation of stuffed or ringing ears, known as tinnitus, which can cease minutes after the exposure or last for days. Other sound injury symptoms include headaches, nausea, sweating, vertigo, and loss of balance. Understanding this is crucial and adhering to policy prohibited usages is also detrimental to avoid injuries.

The Model 100X is a small portable device, about the size of a backpack and is capable of emitting 137 decibels at 765 yards. LRAD 100X is 20 – 30 decibels louder than typical bullhorns and vehicle-based P.A. systems. Live or recorded broadcasts from the portable LRAD 100X are heard above crowd and background noise to ensure every message is clearly delivered.

Model 450X utilizes technology developed and patented* by Genasys Inc. to provide the audio output of larger acoustic hailers almost twice its size and weight, while delivering the same outstanding vocal clarity inherent in all LRAD systems. The LRAD 450X is capable of emitting 146 decibels at 1700 meters (~1,859 yards).

Proper measures for officer safety should be outlined to ensure officers do not cause hearing damage or other injury to themselves when using LRAD systems.

Mitigations

Complaint receipt and investigation procedures – [DGO M-03](#)

The use of controlled equipment, as with any use of the police powers, is subject to the rules and laws that govern the Department and its employees. Complaints and allegations that the Department or its employees have violated these rules or laws are treated with the utmost seriousness, including proper intake at the Internal Affairs Division and investigation by the appropriate investigative individual. Where allegations are found to be substantiated, the Department uses a progressive discipline structure to serve both deterrent and rehabilitative functions. Finally, deliberate misconduct or actions contrary to the Department's values are not tolerated and can lead to termination of employment.

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

OPD's complaint receipt and investigation procedures serve as important procedural mitigations to the possible adverse impacts of the use of this equipment.

Community outreach and specific inquiry pathways – DGO K-07

Use of controlled equipment, especially equipment that may have analogues used by militaries or quasi-military federal law enforcement, can drive perceptions of a militarized police force that is pre-disposed to the use of force as opposed to thoughtful, deliberate resolutions to incidents using de-escalation and minimizing the use of force. An important procedural mitigation to this type of perception is regularly communicating with the community served, as a way for information to be shared in both directions. This serves to dispel common misconceptions as well as provide valuable perspective for the Department and its employees. OPD uses community outreach, such as social media, community events, and a specific, annual community forum as required by DGO K-07. Additionally, OPD's overarching controlled equipment policy sets forth processes for inquiries about the equipment.

Equipment-specific use policy and Police Commission oversight – OMC 9.65

While most every law enforcement agency is bound by state law (Government Code § 7070 et. seq.), the very nature of police oversight in Oakland provides one of the most powerful procedural mitigations of potentially adverse impacts. For instance, state law requires that most agencies have their controlled equipment use policies approved by their governing body (e.g., City Council, or Board of Supervisors). In the case of OPD, however, there is an additional layer of oversight in the Police Commission, which must review any controlled equipment use policy prior to it being approved by the City Council. This requirement, set forth in Oakland's municipal code section 9.65, is a procedural mitigation to the possible adverse impacts of the use of this equipment.

Technical safeguards

LRAD's have volume controls to ensure safety and have maximum decibel ranges. Unlike bullhorns, vehicle P.A. systems and conventional loudspeakers that disperse sound in all directions, LRAD's proprietary audio technology focuses sound in a 15° – 30° beam in front of its Long-Range Acoustic Devices, while significantly reducing audio levels behind the devices and in surrounding areas.

LRAD broadcasts are safely optimized to the primary human hearing range of 1 – 5 kHz to generate voice messages that are clearly heard and understood from close range to over 5,500 meters.

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

Volume Controls:

Each LRAD model's maximum sound pressure level (SPL) is specified. Every LRAD features a prominent volume control dial surrounded by a graphic representing Green, Yellow and Red zones corresponding to approximate SPLs. Working backwards from maximum volume (Red zone), the boundary between Red and Yellow reduces the maximum SPL by approximately 6 dB (half the audio output); the boundary between Yellow and Green is approximately 32 dB down from maximum.

Procedural safeguards

OPD only allows HNT members, who have attended HNT training, to utilize an LRAD. Officers must submit a letter of intent and go through a selection process prior to being selected to join the OPD HNT. Once selected, Officers must attend monthly training and attend one of the following courses prior to utilizing an LRAD during live events:

1) 40-hour Hostage Negotiation School hosted by the Federal Bureau of Investigations, or;
2) 40-hour Basic Crisis Negotiations hosted by D-Prep (Training and Consulting Services for Disaster Preparation and Critical Incident Response)

Specific policy language should outline the range of distance where it is unsafe to employ high-decibel LRAD sound when people are present.

Alternatives

De-escalation and alternative strategies

OPD officers are mandated to use de-escalation strategies and tactics when safe and feasible. These strategies and tactics, which are predicated on de-escalation best practices around communication, containment, positioning, and time/distance/cover, reflect the Department's commitment to de-escalation over the reliance on force to compel compliance.

However, even during de-escalation strategies and actions, controlled equipment may be used or ready to further a safe outcome to the event for the engaged person, the community, and the officers. Generally, a built-in alternative to the actual use of controlled equipment is its use as a tool to provide safety, information, or containment to an incident so that officers

Oakland Police Department
Controlled Equipment Impact Report
Item(s): LRAD

can bring the situation under control and hopefully encourage a peaceful outcome. This, in conjunction with other de-escalation or alternative strategies, provides a baseline for OPD officers in the conduct of their duties when using or contemplating the use of this controlled equipment.

There are other manufacturers of acoustic hailing devices, but majority of agencies utilize an

LRAD. Most other speakers will have the same or similar capabilities.

Location

LRAD will typically be used within the areas that OPD has jurisdiction or in areas of the State of California where OPD is specifically conducting operations or investigations. This includes the entirety of the City of Oakland and may include neighboring jurisdictions or other areas within the State.

Third Party Dependence

☑ This item does not require third-party actors for operation.

☐ This item does require third-part actors for operation:

Track Record

Many other agencies have Long-Range Acoustical Devices (LRAD) for various reasons. As noted in DGO I-27, An LRAD is an acoustic hailing device used for emitting amplified public announcements and establishing communication during search warrant services, barricaded suspect incidents, and other tactical operations.

The LRAD is the most common device utilized within law enforcement agencies within CA and throughout the nation. Several agencies nearby, such as Alameda County Sheriff's Office, Santa Rosa and San Francisco Police Department have their respective policies.

The Alameda County Sheriff's Office (ACSO) has similar authorized usages.

Santa Rosa Police Department has disabled their warning tone after a public safety subcommittee recommendation.

In November 2012, the City of Pittsburgh agreed to a payout settlement in two cases stemming from the actions of the City during the September 2009 G-20 Summit, including a payout to a bystander who suffered permanent hearing loss after Pittsburgh police deployed an LRAD on a neighborhood street. The police in this case used the LRAD in an apparent

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attempt to disperse protestors. After the settlement, the city agreed to develop a policy governing LRAD deployments to ensure its careful and controlled use.

The San Francisco Police Department (SFPD) LRAD has been taken out of service.

Although SFPD has taken their LRAD out of service and SRPD has removed their warning tone, the LRAD provides advantages over PA systems and is beneficial in broadcasting public or safety announcements and can assist in establishing communication with subjects suffering from mental health crises. The Usage of the warning tone is instrumental as noted in policy and can assist immensely in the success of broadcasting public or safety announcements. However, there must be specific guidelines in regards to distance and number of occurrences when using the warning tones.

From: Jesse Hsieh, Chair of the Militarized Equipment Ad Hoc
To: Oakland Police Commission
Date: 10/11/22
Re: DGO I-28 – Mobile Command Centers

Recommendation

The militarized equipment ad hoc recommends the Oakland Police Commission vote to recommend to the City Council that it approve the Oakland Police Department's (Department) DGO I-28: Mobile Command Centers.

Summary of impact of recommendation, if adopted

If the Commission recommends approval, the policy and accompanying impact report will be forwarded to the Council with the recommendation. Recommending approval may signal to the City Council that the policy can be approved without significant modification or controversy.

Approval by the City Council means that the Department will be permitted to continue using Mobile Command Centers.

Committee's reasoning in support of its recommendation

Per AB 481 and Government Code 7070 et seq, a "governing body" shall only approve a military equipment use policy if it determines all of the following:

1) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
2) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties;
3) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety;
4) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

The Department owns 1 Mobile Command Vehicle and 3 Community Resource Vehicles (CRV), all purchased prior to January 2022. All of these can serve as mobile offices that can be used as a mobile command and communication center by the Department.

The vehicles are used as backup communications centers. They are also used to establish a presence at large-scale events, including protests, critical incidents, community events, and major sporting events.

The Community Resource Vehicles are additionally used to distribute sanitation supplies, engage with the public, and disseminated emergency health supplies in a disaster. They are also deployed to areas in the community to provide high visibility violence deterrence after significant violent activity.

The Department has found that community members often walk up to the CRVs and engage with the officers who are in the CRVs, allowing for positive engagement between OPD and the public.

The Department further intends to deploy CRVs to homicide crime scenes to permit a chaplain and Department of Violence Prevention staff to meet with affected family members and provide victim services.

The Department does not intend to use these vehicles for enforcement or surreptitious surveillance.

The relevant context for the recommendation

Members of the ad hoc were able to see and examine the Community Resource Vehicle on September 30, 2022 at the Oakland Coliseum parking lot. Pictures are attached.

DEPARTMENTAL GENERAL ORDER

I-28: MOBILE COMMAND CENTERS

Effective Date: DD MMM YY
Coordinator: Special Operations Division

The Oakland Police Department maintains Mobile Command Centers[1] (MCC) for command, control, and communications at the scene of critical incidents, natural disasters, community events, and search operations. They are centrally located to make them available to respond to any crisis in the City of Oakland in a short period. The vehicles may be equipped with mobile radios on multiple bands, CAD (Computer aided Dispatch), Field Based Reporting (FBR), Monitors, White Boards, High intensity lighting, and a mast-mounted camera. They also have a conference area where briefings may be held. The MCC is a resource for any mission deemed necessary by the Chief of Police, or designee.

A. PURPOSE AND TRAINING

A - 1. Purpose

Mobile command centers (MCCs) are designed to allow for centralization of information or command at critical incidents, natural disasters, community events, community relations, and search operations.

A - 2. Training

Operators for MCCs with gross vehicle weight rating (GVWR) of over 26,000 lbs. shall complete the DMV driving test, DMV written test for Class B, air brakes possess a current medical clearance. Operators shall complete 40 hours of behind the wheel training, with a person who possesses a commercial class B license.

Operators for MCCs with GVWR under 26,000 lbs. shall possess a Class C driver's license.

B. AUTHORIZED AND PROHIBITED USES

B - 1. Authorized Uses

MCCs may be used for any event or detail where either:

1. The MCC will assist with centralization of information or command at a given event;

2. The presence of the MCC will further the Department's crime strategy. Examples include, but are not limited to;

    a. Public events above a certain attendance threshold;

    b. In a particular neighborhood where a violent crime has recently occurred or may occur to assure community members of police attention and presence;

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[1] Also referred to as Mobile Command Vehicles (MCV).

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DEPARTMENTAL GENERAL ORDER   I-28   Effective Date
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3. For natural disasters or citywide emergencies and major crimes.

4. For community events, handing out supplies and food during an epidemic, provide privacy if crimes are reported to officers while in the field.

Any MCC uses shall be authorized by a commander at the rank of Lieutenant or above, or by a member acting in that rank.

Whenever the MCC is sent on assignment, the Commanding Officer of the Traffic Operations Section shall be notified as soon as practical. Commanders authorizing the deployment of the MCC shall complete a Military Equipment notification tracking form and submit it to the Military Equipment Coordinator.

B - 2. Prohibited Uses

MCCs shall not be used for routine patrol (e.g., responding to calls for service, making routine traffic stops), and shall not be used for vehicle pursuits.

MCC vehicles shall not be used for surreptitious surveillance.

Members shall not duplicate the keys of MCCs without permission nor keep personal sets of keys to the vehicle.

C. DEPLOYMENT PROCEDURES

C - 1. Storage Locations

Designated members of the Oakland Police Department shall pick up the vehicle at the designated housing location.

Members using MCCs shall return the MCC to the designated storage location after use. Storage locations include the Eastmont Substation, City Corp Yard, and Oakland Airport Hangar.

C - 2. Vehicle Checkout

Before leaving for an assignment, the assigned crew must:

1. Check out keys from the Electronic Key Distribution and Tracking System. The Electronic Key Distribution boxes are mounted on the walls of both the PAB Transportation office and the Eastmont Substation Key Room;

2. Plan the route to the assignment, taking into consideration the dimensions and overhead clearance of the vehicle. The driver should always attempt to use established truck routes because these roads are designed to accommodate large vehicles; and

3. Check the fuel, engine oil, tire pressure, and the overall vehicle condition.

C - 3. Driving MCCs

All members driving MCCs must drive cautiously and avoid railroad overpasses, parkways, parking decks, and non-commercial routes, and must

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DEPARTMENTAL GENERAL ORDER   I-28   Effective Date
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use special care when operating the MCC in rain, snow, or icy conditions. All members operating the MCV shall be in possession of a Class B Commercial License with an Air Brake endorsement and current medical clearance. A medical clearance is valid for up to two years, at which time it must be renewed by a medical doctor. Members shall adhere to DGO F-07 – Drivers' License and DGO J-04.1 Emergency Driving Procedures.

C - 4. MCC Set Up and on-scene Procedures

At the scene, the MCC crew must:

1. Position the vehicle at a safe distance from an incident to provide maximum safety for person to enter and exit the vehicle. Depending on the type of incident and the terrain, this distance can extend to several thousand feet.

2. Ensure that the vehicle is positioned on a level concrete or paved surface for proper deployment of the leveling system (MCV).

3. Stabilize the vehicle by using the leveling system and/or wheel chocks (MCV).

4. Set up a safety zone around the vehicle using traffic cones and lighting.

5. Ensure that at least one member remains with the vehicle at all times.

6. Ensure that only those persons approved by the Incident Commander are allowed to enter the MCC at the scene of a critical incident or natural disaster.

7. During daylight hours, the CRV, when deployed for High Visibility Crime Deterrence in the community shall have an "Open Door Policy," one door should be open for providing public the ability to make contact with officers, to ask questions, make reports, and request resource guides.

When the vehicle is no longer needed, the using Division/Section will ensure the vehicle is delivered to the housing station by trained Police personnel.

C - 5. Damage to MCC

Damage to the Mobile Command Vehicle will be handled in compliance with Department Policy DGO N-05 *Lost, Stolen, or Damaged City Property*, and J-02 *Traffic Collision Scene Management, Investigation, and Reporting*, a crime report or other applicable documentation. Repairs of such damage must be coordinated through the Traffic Operations Section/Corp Yard.

C - 6. Maintenance and Inspection

The Traffic Operations Section Commander will be responsible for routine maintenance, supplies and vehicle inspections of all the Mobile Command Vehicles.

D. Inquiry and Complaint Process

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DEPARTMENTAL GENERAL ORDER   I-28   Effective Date
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(Government Code 7070 d (7)) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

The Oakland Police Department DGO M-3: **Complaints Against Departmental Personnel or Procedures** will inform all employees and the public of procedures for accepting, processing, and investigating complaints concerning allegations of member employee misconduct.[2]

By order of

LeRonne L. Armstrong
Chief of Police   Date Signed: _____

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[2] Refer to DGO K-7 for additional information.

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Impact Report
Mobile Command Center

(1) Description:

A. Background

The Oakland Police Department owns 1 Mobile Command Vehicles (MCV), purchased in 2009. Our MCV was built in conjunction with the Oakland Fire and Oakland Police Department as unified command vehicle but can also alternate between fire specific and police specific missions. The vehicle was custom built by Lynch Diversified Vehicles (Freightliner MT-55, 30,000-lb GVWR) with rear air ride suspension and air brake. Our MCV was converted into a MCC by adding desktop workstations, police radios and emergency lighting. The MCV is 30" long. The MCV has been used in conjunction with the Oakland Fire Department during past Oakland Raider Football Games, Golden State Warrior Basketball Games, Oakland A's Baseball Games, GSW Parades, most notably. The MCV was also deployed during the aftermath of the Ghost Ship (2016) Fire to support Fire and Police operations.

The Oakland Police Department owns 3 Community Resource Vehicle (CRV) purchased in 2021, was purchased to be used in the community to prevent the spread of, prepare for, and respond to the COVID-19 pandemic. The vehicle will also serve as a community resource center during critical incidents, distribute sanitation supplies, public engagement, and dissemination of emergency health supplies in a disaster. The vehicle was custom built by Lynch Diversified Vehicles (LDV Model #30MCC-34769-20), 2022 Freightliner MT-55 forward control chassis. 26,000-lb. GVWR with air ride rear suspension and hydraulic brakes.

B. Quantity:
The Oakland Police Department owns 1 MCV and 3 CRV.

C. Capability:
The MCV and CRV can serve as mobile offices that supply shelter and may be used as a mobile command and communication center.

D. Lifespan:
The MCV MT-55 is 13yrs old and is at the tail end of its serviceable lifespan. All emergency vehicles need to be completely dependable, and vehicles of this age start to lose dependability as old parts start to fail without warning. The communications equipment has a service life cycle of only 7-10 years. This is because technology evolves very rapidly. The modern versions of this type of vehicle are typically converted motorhomes.

The CRV is a brand-new vehicle, recently added to the fleet, and many years of service ahead.

E. Use:
Vehicles can serve as mobile command posts for small to large scaled events.

F. How it works:
This vehicle runs and drives like other vehicles.

(2) Purpose:
The larger MCV vehicle was purchased jointly for use by the Oakland Police Department and Oakland Fire Department, to be used as a mobile command post for any large scaled events, where the Oakland Fire Department, City Leaders can work from one central location. The MCV can act as as a communications center in the event the communications center in the Emergency Operations Center (EOC) Building is inoperable, or there is a loss of power at the Communications Center (COMM) or power is loss in the City during a natural disaster such as an earthquake or large fire. Some other examples of large-scale events include protests, critical incidents, community events, and major sporting events to include parades.

Both the MCV and CRV can offer Victim Assistance at the scenes of Violent Crimes, Missing Persons, School Shootings and Homicide Scenes. Generally, both the MCV and CRV can offer a place for privacy for grieving families, where a Chaplain is present to comfort families. Victim Assistance Specialist could assist families with services needed for relocation, funeral and burial costs , and provide much needed information due to the loss of a loved one.

The CRV was purchased to be used in the community to prevent the spread of, prepare for, and respond to the COVID-19 pandemic. The vehicle will also serve as a community resource center during critical incidents, distribute sanitation supplies, public engagement, and dissemination of emergency health supplies in a disaster. The CRV will be deployed to areas in the community to provide high visibility violence deterrence after significant violent activity, missing persons investigations, and homicide scenes where a chaplain has been called out, and Department of Violence Prevention staff are present to comfort families affected by the violence and to provide needed resource information.

(3) Fiscal Cost:
A. Initial Cost:
The initial cost of the MCV (2009 Freightliner MT55) was $599,563.15. The initial cost of the CRV (LDV Model #30MCC-34769-20) was $302,088.41. The initial cost of the CRV (LDV Model #MCC-34923-20)(2) was $305,164.81.
B. Cost of Use:
The cost of use is the cost of fuel from the City Corporation Yard.
C. Cost of Potential Adverse Effects:

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Adverse effects of improper use of either the MCV or CRV are not calculable but is the same as improper use of any vehicles. The improper use could result in civil liabilities.

D. Annual and Ongoing Costs:

The estimated annual cost for maintenance is $3,122 for Labor conducted by the City of Oakland Corporation Yard. The estimated annual cost of Parts is $3,074. The estimated annual cost for commercial charges for any work completed at a vendor or off site repair is $974.00. The primary maintenance of the vehicle is conducted by the City of Oakland Corporation Yard.

E. Overtime Costs: Deployments of either MCC shall be tracked by I-Codes and reported on the "Military Equipment" notification tracking form.

F. Training Costs:

Training is conducted in-house by Oakland Police personnel who are trained in the operation of the vehicle. The training cost is staff time, generally the training is conducted during normal work hours, any overtime costs will be tracked through Fiscal Services using tracking codes. The estimated costs of training for the MCV is staff time regular hours, approximately 40 hours of driver training. The Class B license must be renewed every two years, with a current updated medical clearance. No additional training is required for driving the CRV, only a Class C drivers license.

G. Maintenance and Storage Costs:

The estimated annual cost for maintenance is $3,122 for conducted by the City of Oakland Corporation Yard. There are no storage costs.

H. Upgrade Cost:

The MCV is 13 years old, and upgrades would involve replacing various parts of the vehicle. This work would be conducted by the City of Oakland's Corporation Yard. The cost would be staff time plus the cost of any necessary parts. In 2020, OPD did review upgrading the AV Systems in the MCV, to include flat panel displays, exterior cameras, HD Tuners, HD Satellite tuner, video switching and control system. At the time the estimated cost of upgrading the AV Systems were $97,566.

(4) Impact:

The MCV and CRV can be used as a command post for any small to large, scaled events. Both vehicles can work as a mobile central location where resources can stage and be deployed from. It provides the police department with on-site command, supplying a control and communications hub that is needed for large community events, or critical incidents such as natural disasters to support public safety.

The MCV has been used numerous times at many different events, from experience, the MCV has always been well received by community members at the sporting events, parades, and the MCV has proved useful to other law enforcement agencies including the Oakland Fire Department. Citizens have generally walked up the MCV, knocked on the door and requested medical assistance, asked questions, report crimes while the MCV was in service at numerous events. The RV design and appearance, which is common in the public, allows citizens to more freely approach the vehicle.

Lastly, the MCV and CRV, while being utilized in the community to act as deterrent with police presence, adapt an open door policy where citizens can make contact with uniformed police officers, to ask questions concerning how to stay safe, make crime reports, and provide resource information to citizens who normally would not have access to transportation, internet or phone capabilities.

The deployment or appearance of certain vehicles may escalate tension, provoke fear, prevent clear communication, or increase distrust.

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(5) Mitigation:
The MCV and CRV shall only be used by trained personnel that have demonstrated ability in the operations of this vehicle per Oakland Police Department Policy.

(6) Alternatives:
There are limited alternatives or asset available to accomplish the same goal as the MCV and CRV. The Oakland Police Department considered other vehicles, based on costs, size of vehicle, manueverability, accessibility to a wider group of operators, and mobility options. Based on the size and complexity of a Mobile Command Center, the annual life-cycle cost is typically 10%-20% of the capital investment. Costs of new Mobile Command Centers similar to the MCV MT-55 have risen.

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(7) Third Party Dependence:
Primary maintenance is completed through the City of Oakland Corporation Yard so there is no dependence on a third party.

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