



**City of Oakland**

Community  
Police  
Review  
Agency

Commissioner Training

# Introduction: Interim Executive Director Aaron B. Zisser

U.S. DOJ Civil Rights Division

San Jose Independent Police Auditor

San Francisco DA's Office, Independent Investigations Bureau

Other independent oversight work

Started as CPRA Interim ED April 11, 2022

# Overview

Mission

Structure

Complaint

Intake and Investigation

Discipline

Transparency

Independence

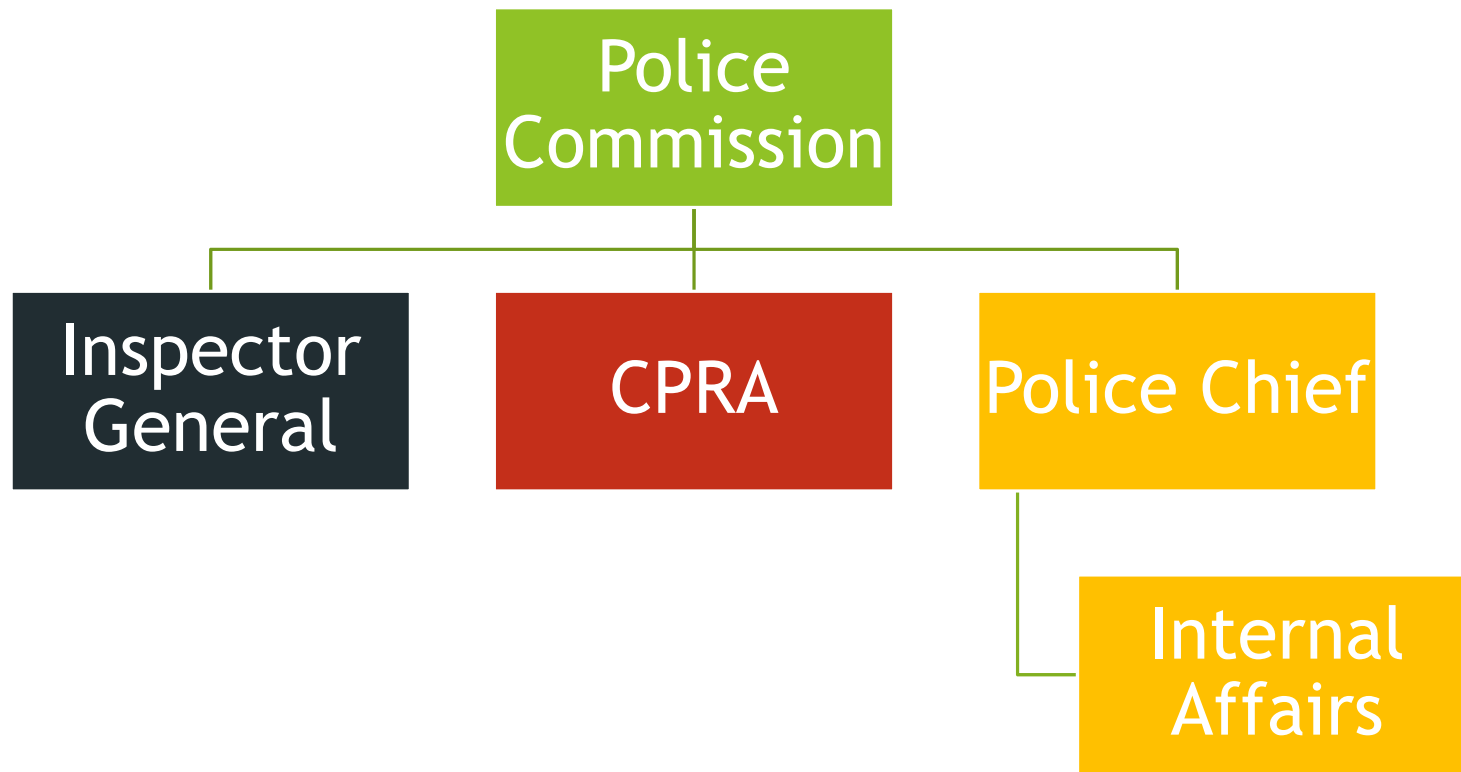
## CPRA Mission

Civilian investigative arm of the Oakland Police Commission

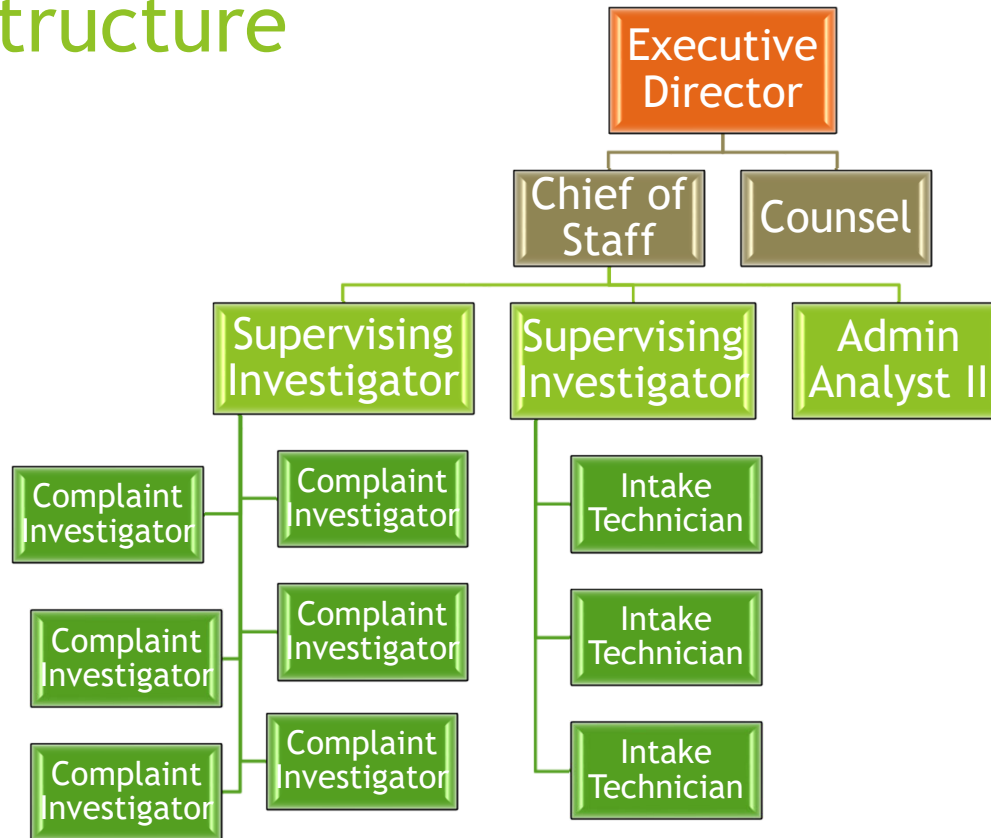
Primary role is to investigate complaints of misconduct arising out of community interactions with OPD officers

Created by Measure LL in 2016, now encoded as Section 604 of the Oakland City Charter

# Structure of oversight in Oakland



# CPRA structure



# CPRA Investigation Process

1. Complaint in the field, to Internal Affairs, or to CPRA
2. Determine mandated or non-mandated
3. Intake: Determine whether to assign to investigator
4. CPRA investigates (parallel to Internal Affairs)
5. Findings and discipline recommendation
6. Chief of Police
7. Police Commission discipline committee (if CPRA and Chief disagree)
8. Skelly, arbitration, etc.

# Complaint

Can be anonymous  
and third party

Need not use  
specific policy  
language

Can include  
multiple  
allegations and/or  
multiple officers

No wrong door

Most complaints  
made in the field

Policy violation  
for failing to take  
complaint

IAD forwards to  
CPRA within one  
day



# How to file a complaint



510 238 3159  
TTY: 510 238 2007  
(CAN BE ANONYMOUS)



CPRA@OAKLANDCA.GOV



[WWW.OAKLANDCA.GOV](http://WWW.OAKLANDCA.GOV/CPRA)  
[/CPRA](http://WWW.OAKLANDCA.GOV/CPRA)  
(CAN FILE ANONYMOUSLY)

## Mandated vs. non-mandated cases

### Mandated

- Excessive force
- In-custody deaths
- Profiling / discrimination (race, disability, other protected classes)
- Untruthfulness
- First Amendment assemblies

### Non-mandated

- Search
- Property seizure
- Arrest / detention
- Rudeness / demeanor

## Commission may direct investigation

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

- Charter

# Intake

1

**Review complaint:**  
Identify allegations  
and applicable  
MOR provisions

2

**Follow up with complainant:**  
Preliminary interview  
or follow-up. If non-  
mandated, close; if  
mandated, →

3

**Gather / review records:** E.g. police reports; dispatch logs; footage from body worn cameras, etc.

4

**Assign case to an investigator for further investigation.**

# Allegations

- **Allegations:** Each action the complainant complains about. A separate allegation is created for each officer who participated in each potential violation.
- **MOR:** CPRA identifies applicable OPD Manual of Rules (MOR) provisions.
- **Self-discovered allegations:** CPRA may identify additional allegations not included in the complaint.

## Initial assessment

**No Jurisdiction:** No CPRA jurisdiction, e.g., not about OPD officer

**No Officer:** Unable to identify the subject officer

**No MOR Violation:** The alleged conduct does not violate any department rule or policy

**Service Complaint:** The allegation pertains to the level of service provided by OPD, not to the misconduct of a single officer.

Non-mandated

## Investigation process

Investigator receives / reviews file assembled by Intake

Investigation plan

Review of documentation and footage

Self-discovered allegations, e.g., report writing, BWC activation

Interviews of subject officers and witnesses

Analysis of applicable laws and policy

Report of investigation with findings

## Exceptions to investigation requirement

If OPD completes its investigation first, CPRA may close or not conduct its own

In cases of “Level 1 uses of force, sexual misconduct or untruthfulness, the Commission must approve the Agency’s decision [to close its case]. . . .”



# Officer interviews

Key component in many investigations

Factual details of the incident as the officer understood them at the time

Officer's understanding of OPD policy and training

Memorialize circumstances which aggravate or mitigate any discipline, e.g. taking responsibility

Special protections under the California Public Safety Officers Procedural Bill of Rights Act (POBAR) include strict legal frameworks for officer interviews.

# Report of Investigation (ROI)



**Findings** as to each allegation that was investigated



**Evidence and analysis** the investigator relied on



**ROI is included in the official record** of the disciplinary process. Must be able to withstand the appeals process.



**Preponderance of the evidence** standard of proof: “slight tipping of the scales of justice” or “more than 50 percent” or “more likely than not”

## Transmitting findings

Within 30 days of completion of the investigation

To the Chair of the Commission and the Chief of Police

## Findings

**Sustained:** The act(s) alleged by the complainant occurred and constituted misconduct (i.e., out of compliance with OPD policy)

**Exonerated:** The act(s) alleged occurred. However, the act(s) were justified, lawful, or proper (i.e., followed OPD policy)

**Unfounded:** The act(s) alleged did not occur (e.g., no detention occurred)

**Not Sustained:** The available evidence can neither prove nor disprove the act(s) alleged by the complainant

## Policy and training recommendations

**Not violate existing policy:** But where CPRA believes that a policy should exist or existing policy needs to change

**Broader impact:** Have the power to effect systemic change in OPD.

**The Inspector General's Office** will allow for greater follow-up to ensure implementation of policy recommendations.

**The Police Commission** is tasked with revising OPD policies.

# Officer-specific training recommendations

Often attached to a negative Supervisory Note to File (SNF) instead of formal discipline.

For Class 2 violations, SNF in lieu of a sustained finding.

SNF only for first time an officer violates a given rule and remains in an officer's personnel record for 5 years.

Do not constitute formal discipline, so do not trigger an officer's appeal rights.

SNF can be made at any time, potentially shortening the time between the incident and corrective action.

# Discipline



Informal counseling



Counseling and training



Written reprimand (can impede promotions / assignments)



Demotion: Especially violations related to supervisory or command duties.



Suspension (1-30 days)



Termination

# Discipline Matrix - Training Bulletin V-T



Lists the RANGE of discipline which may be imposed for each MOR violation.



Progressively higher ranges of discipline for the first, second, and third violations of a given rule.



# Discipline Matrix

MOR / Class	Type of Misconduct	Offense 1 LL-MP-UL	Offense 2 LL-MP-UL	Offense 3 LL-MP-UL
234.00-1	COMMANDING OFFICERS - AUTHORITY AND RESPONSIBILITIES (Gross dereliction of duty) <i>Includes all of the 234.00 subsections</i>	S5-T	S30-T	T
234.00-2	COMMANDING OFFICERS - AUTHORITY AND RESPONSIBILITIES <i>Includes all of the 234.00 subsections</i>	C-S5	S2-D	S2-T
285.00-1	SUPERVISORS - AUTHORITY AND RESPONSIBILITIES (Gross dereliction of duty) <i>Includes all of the 285.00 subsections except 285.90</i>	S5-T	S30-T	T
285.00-2	SUPERVISORS - AUTHORITY AND RESPONSIBILITIES <i>Includes all of the 285.00 subsections except 285.90</i>	C-S5	S2-D	S2-T
314.03-2	GENERAL CONDUCT	C-S3	WR-S5	S5-S30
314.04-1	CONDUCT TOWARD OTHERS - HARASSMENT AND DISCRIMINATION	S30-T	T	
314.04-2	CONDUCT TOWARD OTHERS – UNPROFESSIONAL CONDUCT IN VIOLATION OF AI 71	C-S30	WR-S30	S30-T
314.05-1	CONDUCT TOWARD OTHERS - WORKPLACE VIOLENCE	S5-T	T	
314.07-2	CONDUCT TOWARD OTHERS – DEMEANOR	C-S3	WR-S5	S5-S30
314.08-2	CONDUCT TOWARD OTHERS-RELATIONSHIPS	S2-S5	S3-S10	S10-S30

# Discipline

**The default** discipline is at the mid-point of the range in the matrix

**Aggravating or mitigating** factors are considered. E.g., severity of the offense, officer intent, remorse/responsibility, length of service, additional sustained findings

# OPD-CPRA disagreement on findings or discipline



Commission's Discipline Committee makes the final decision.



The Committee can also order further investigation by CPRA.

Gov. Code 3304: No discipline beyond one year after discovery of allegation

Tolling: Criminal case, multiple officers, new evidence


“[E]very reasonable effort to complete” investigations within 180 days

“[S]hall complete its investigations within [250] days . . . unless the Agency Director . . . makes a written finding that exceptional circumstances exist in a particular case that are beyond the Agency’s control.”



Deadlines


“[T]he Commission may convene a Discipline Committee for cases involving . . . Level 1 use of force, sexual misconduct and untruthfulness when . . . the Agency or the Department have not completed an investigation within [250] days . . . . The Discipline Committee may require the Agency to further investigate the complaint . . . .”




**Deadlines: 250  
days**

# Appeals

**Notice:** Officer is sent a notice of sustained finding and any proposed discipline. The City produces a “Skelly Packet” of all documentation that informed the disciplinary decision.



**Skelly Process:** An officer may appeal the findings and proposed discipline to a neutral third party. The “Skelly Officer” may be a manager from another Department or an outside expert.



**Arbitration:** For suspensions, demotions, and termination, may appeal to an arbitration judge determined jointly by City and OPOA.

# Transparency



**Monthly statistical reports to Commission:** Outcomes of closed investigations, pending investigations



**CPRA director participation in Commission sessions:** Updates on organizational structure, budget, other topics



**Annual reports:** Aggregate data re complainants and outcomes of investigations



**Other reporting:** E.g., to OIG, City Auditor



**Database and reporting enhancements**



**Narrative summaries (in development)**

# Independence

Director is hired  
by and reports  
to the Police  
Commission

Civilian  
investigators

Director controls  
organization and  
structure of the  
Agency

CPRA conducts  
its own  
investigations





Questions?

