



OAKLAND POLICE COMMISSION

REGULAR MEETING AGENDA

July 27, 2023

5:30 PM (Open Session: 7:30 PM)

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

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



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PUBLIC PARTICIPATION

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

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link <https://us02web.zoom.us/j/89868170213> 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: 898 6817 0213

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

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

PROVIDE PUBLIC COMMENT IN PERSON:

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

E-COMMENT:

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



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

Chair Tyfahra Milele

Roll Call: Vice Chair Jordan; Commissioner Rudolph Howell; Commissioner Jesse Hsieh; Commissioner Marsha Peterson; Alternate Commissioner Karely Ordaz

Excused: Commissioner Regina Jackson; Alternate Commissioner Angela Jackson-Castain

II. Consider and Request Approval for Investigation Files and Records, Including Complaints for IAD Case #23-0477 Pursuant to Charter Section 604(f)(2)

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

III. Closed Session (approximately 5:30-7:30 p.m.)

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

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

CONFERENCE WITH LEGAL COUNSEL

EXISTING LITIGATION (Government Code Section 54956.9(d)(1))

Delphine Allen et al., v. City of Oakland, et al.

N.D.Cal No, 00-cv-4599-WHO

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(Government Code Section 54957(b))

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

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

V. Update from Oakland Police Department (OPD)

Representatives of the Oakland Police Department will provide an update. Topics discussed in the update may include crime statistics; risk analysis; a preview of topics which may be placed on a future agenda; responses to community member questions; and specific topics requested by the Commission.

This is a recurring item. (Attachment 5)

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



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VI. Ceasefire Presentation

OPD Captain Jones will present on Ceasefire. ([Attachment 6](#))

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

VII. Community Police Review Agency (CPRA) Update

Executive Director Mac Muir will provide updates on the CPRA, to the extent permitted by state and local law. Topics discussed in the update may include the Agency's pending cases, completed investigations, staffing, and recent activities. *This is a recurring item.* ([Attachment 7 - Supplemental](#))

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

VIII. New and Revised Policies to Address Deficiencies in and Strengthen Internal Affairs Investigations

Following up on our May 25, June 22, and July 13 Commission meetings, Captain Elzey, Sergeant Urquiza, and Officer Cervantes will lead a second review of policies in "Group 2" of the new and revised policies to address deficiencies in and strengthen Internal Affairs investigations process ([Attachment 8](#))

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

IX. Negotiated Settlement Agreement (NSA) Update

The Court has extended NSA court oversight beyond June 30, 2023. NSA Ad Hoc Committee (Commissioner Hsieh and Chair Milele) will provide a report on the NSA and invite public discussion on the top NSA priorities with respect to the Commission. ([Attachment 9](#))

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

X. Preliminary Discussion on Possibility of Hybrid Commission Meetings and Request for Rules Ad Hoc Committee to Provide Recommendation ([Attachment 10](#))

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



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XI. Committee Reports

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

This is a recurring item. (Attachment 11)

- **Staff Searches: Chief of Staff and Police Chief (Commissioners Milele, Jordan, Howell)**
The Staff Searches Ad Hoc Committee is responsible for the recruitment and hiring of staff vacancies, including the Commission Chief of Staff and OPD Police Chief.
- **Rules of Procedure Ad Hoc Committee (Commissioners Hsieh, Howell, Jackson-Castain)**
This Ad Hoc Committee oversees the Commission's Rules of Procedure for review and updates.
- **CPRA Policies (Commissioners Ordaz, Jackson-Castain, Peterson)**
This ad hoc committee is tasked with reviewing and establishing standard operating procedures and policies for the Community Police Review Agency (CPRA). The CPRA is an independent civilian oversight agency with jurisdiction to investigate public complaints against sworn employees of the Oakland Police Department, make findings about those complaints, and recommend discipline when required.
 - a. Discussion
 - b. Public Comment
 - c. Action, if any

XII. Approval of Meeting Minutes

The Commission will review and possibly amend or approve meeting minutes for July 13, 2023.

This is a recurring item. (Attachment 12 - Supplemental)

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

XIII. Upcoming/Future Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. ***This is a recurring item. (Attachment 13)***

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

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

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



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XV. Adjournment

NOTICE: In compliance with the Americans with Disabilities Act and Equal Access Ordinance, 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 72 hours before the meeting will help enable reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids, or services.



Weekly Crime Report — Citywide

10 Jul. – 16 Jul., 2023

Part 1 Crimes <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	103	3,683	3,399	3,905	15%	3,662	7%
Homicide – 187(a)PC	-	66	60	53	-12%	60	-11%
Homicide – All Other *	-	7	2	-	-100%	3	-100%
Subtotal - 187(a)PC + all other	-	73	62	53	-15%	63	-15%
Aggravated Assault	35	2,015	1,702	1,863	9%	1,860	0%
Assault with a firearm – 245(a)(2)PC	12	346	267	276	3%	296	-7%
Subtotal - Homicides + Firearm Assault	12	419	329	329	0%	359	-8%
Shooting occupied home or vehicle – 246PC	1	326	200	181	-10%	236	-23%
Shooting unoccupied home or vehicle – 247(b)PC	2	150	95	75	-21%	107	-30%
Non-firearm aggravated assaults	20	1,193	1,140	1,331	17%	1,221	9%
Rape	2	77	95	109	15%	94	16%
Robbery	66	1,525	1,542	1,880	22%	1,649	14%
Firearm	27	610	666	804	21%	693	16%
Knife	2	69	50	77	54%	65	18%
Strong-arm	15	464	419	554	32%	479	16%
Other dangerous weapon	2	42	46	47	2%	45	4%
Residential robbery – 212.5(a)PC	2	48	32	41	28%	40	2%
Carjacking – 215(a) PC	18	292	329	357	9%	326	10%
Burglary	151	4,727	6,939	9,615	39%	7,094	36%
Auto	107	3,699	5,496	7,728	41%	5,641	37%
Residential	8	572	615	698	13%	628	11%
Commercial	16	316	697	663	-5%	559	19%
Other (Includes boats, aircraft, and so on)	2	99	84	61	-27%	81	-25%
Unknown	18	41	47	465	889%	184	152%
Motor Vehicle Theft	162	4,984	5,227	7,775	49%	5,995	30%
Larceny	70	3,131	4,622	3,916	-15%	3,890	1%
Arson	-	109	104	60	-42%	91	-34%
Total	486	16,641	20,293	25,271	25%	20,735	22%

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

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

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



2023 Year-to-Date Recovered Guns

Recoveries through 16 Jul., 2023

Grand Total	621
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Crime Recoveries	
Felony	342
Felony - Violent	99
Homicide	28
Infraction	0
Misdemeanor	15
Total	484

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun	2		1			3
Other	8					8
Pistol	250	80	21		14	365
Revolver	21	3				24
Rifle	47	8	4		1	60
Sawed Off	1	3				4
Shotgun	5	5	2			12
Sub-Machinegun						0
Unknown/Unstated	8					8
Total	342	99	28	0	15	484

Non-Criminal Recoveries	
Death Investigation	14
Found Property	102
SafeKeeping	21
Total	137

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun				0
Other				0
Pistol	9	29	11	49
Revolver		19	2	21
Rifle	2	32	6	40
Sawed Off				0
Shotgun	1	20	1	22
Sub-Machinegun				0
Unknown/Unstated	2	2	1	5
Total	14	102	21	137



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

Recoveries through 16 Jul.

Gun Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Grand Total	912	621	-291	-32%

Crime Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Felony	451	342	-109	-24%
Felony - Violent	138	99	-39	-28%
Homicide	21	28	7	33%
Infraction	0	0	0	PNC
Misdemeanor	20	15	-5	-25%
Total	630	484	-146	-23%

Non-Criminal Recoveries	2022	2023	Difference	YTD % Change 2022 vs. 2023
Death Investigation	8	14	6	75%
Found Property	211	102	-109	-52%
SafeKeeping	63	21	-42	-67%
Total	282	137	-145	-51%

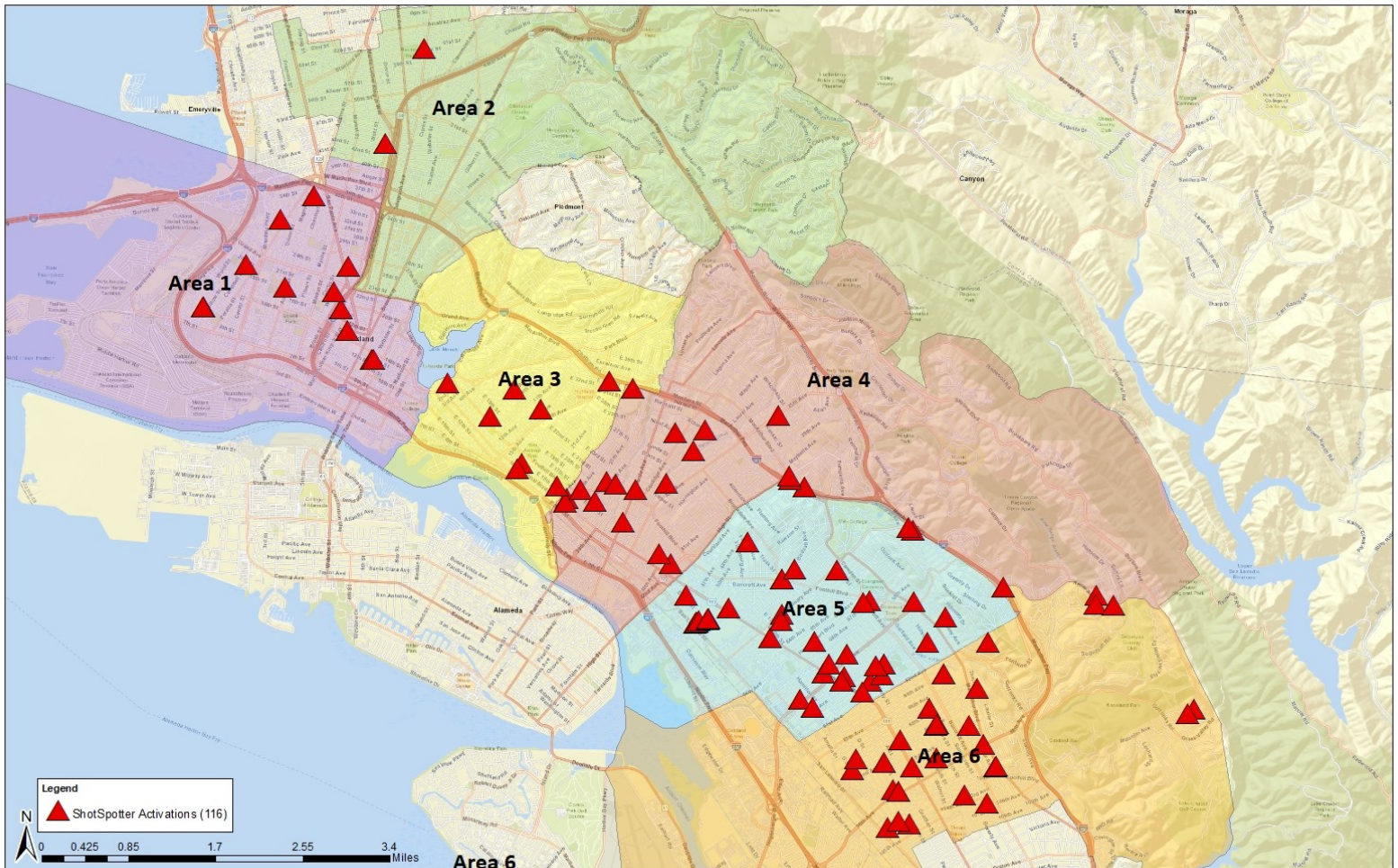
PNC = Percentage not calculated
[*Percentage cannot be calculated.*](#)



Weekly ShotSpotter Activations Report — Citywide

10 Jul. – 16 Jul., 2023

ShotSpotter Activations	Weekly Total	YTD 2021	YTD 2022	YTD 2023	YTD % Change 2022 vs. 2023	3-Year YTD Average	YTD 2023 vs. 3-Year YTD Average
Citywide	116	4,933	4,363	4,248	-3%	4,515	-6%
Area 1	12	509	449	411	-8%	456	-10%
Area 2	2	146	137	138	1%	140	-2%
Area 3	8	551	439	428	-3%	473	-9%
Area 4	23	751	821	719	-12%	764	-6%
Area 5	41	1,580	1,260	1,205	-4%	1,348	-11%
Area 6	30	1,396	1,257	1,347	7%	1,333	1%



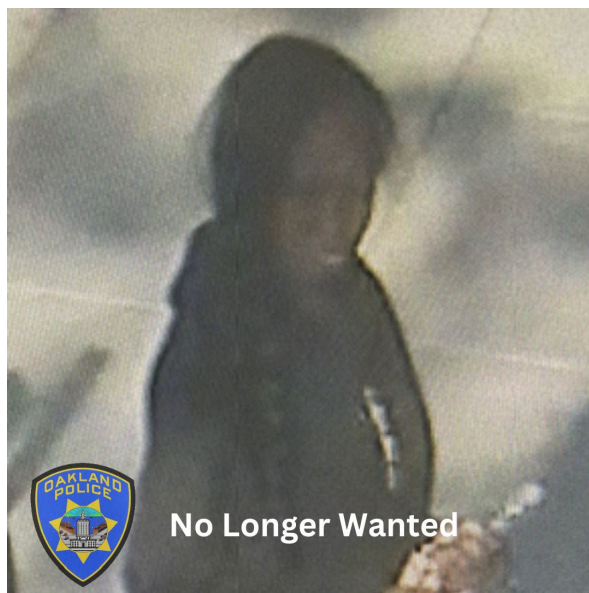
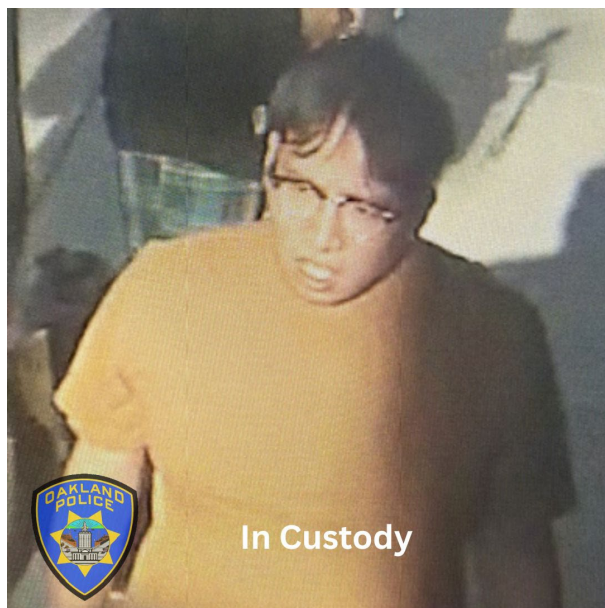
All data sourced via ShotSpotter Insight.



For Immediate Release July 6, 2023

OPD News:

Arrest Made in Homicide Case



The Oakland Police Department (OPD) arrested Eric Locelvira for the homicide of Matheus Gaidos, which occurred on June 21, 2023, in the 400 block of 26th Street.

Due to the tireless and collaborative efforts of OPD Homicide Investigators and the US Marshals, Locelvira was safely taken into custody in Chicago.

The Alameda County District Attorney's Office charged Locelvira with the crime. The female has been identified and is no longer wanted.

Background:

The Oakland Police Department (OPD) is releasing these pictures in hopes the community can help locate Eric Locelvira and identify the female, both of whom were walking in the area prior to the homicide of Matheus Gaidos.

The fatal shooting occurred on June 21, 2023, in the 400 block of 26th Street. OPD and CrimeStoppers of Oakland are offering a reward of up to \$10,000 for information leading to an arrest in this case.

If you know these individuals or have information about this case, contact the Oakland Police Department Homicide Unit at (510) 238-3821 or the TIP LINE at (510) 238-7950.

Multiple Arrests and Firearm Recoveries During OPD's 4th of July Holiday Period

Chambers, Paul <PChambers@oaklandca.gov>

Wed 7/5/2023 4:27 PM

📎 4 attachments (681 KB)

Multiple Arrests and Firearm Recoveries During OPD's 4th of July Holiday Period.pdf; Firearm 7-4-23 (2).jpg; Firearm 7-4-23 (1).jpeg.jpg; Firearm 7-4-23.jpg;



For Immediate Release July 5, 2023

OPD News:

Multiple Arrests and Firearm Recoveries During OPD's 4th of July Holiday Period



Traditionally, the Fourth of July is a challenging holiday for first responders nationwide as agencies deal with large crowds as well as legal and illegal fireworks displays. Here in the Bay Area, we have the added risk of potential wildfires.

The Oakland Police Department (OPD) continues its commitment to our community, and last night was an example of the exemplary work the women and men of the department are doing to ensure the safety of the residents, visitors, and businesses of Oakland.

On Tuesday, Officers assigned to the Violent Crime Operations Center (VCOC) arrested a person in connection with a homicide in 2022. Officers assigned to the Ceasefire Division recovered three firearms, two of which were assault rifles. OPD towed four vehicles and wrote 18 vehicle citations.

Also, with help from community members, Patrol Officers were able to proactively prevent large gatherings where fireworks traditionally occur.

On Sunday, officers made four arrests for crimes including armed carjacking, a stolen vehicle, and drug sales. Officers assigned to Traffic Operations wrote 52 citations, and four vehicles were towed.

OPD and Oakland Fire Department (OFD) continue to work collaboratively to limit the impact of illegal fireworks in our city every year.

Paul Chambers

Strategic Communications Manager
Oakland Police Department
Email: pchambers@oaklandca.gov

#OPDCARES initiative is about working together as a community to help stop the tragic loss of life and reduce the level of violence in our city. Collectively, we want to ensure Oaklanders and our visitors are safe in our community.

Follow OPD on [Twitter](#), [Facebook](#), [Instagram](#), and [YouTube](#)



FOR IMMEDIATE RELEASE

July 12, 2023

OPD CommUNITY Tour



This afternoon, join the Oakland Police Department (OPD) from 3:00 PM to 6:00 PM at DeFremery Park, located at 1651 Adeline Street.

The CommUNITY Tours will consist of a series of block parties at different locations within the city of Oakland.

OPD will provide free food and plenty of activities for families, including jumpers, face painting, pony rides, and a lot more.

This series of events is an awesome opportunity for community members and OPD to continue building trusting relationships, making the city of Oakland safer together.

Upcoming CommUNITY Tour locations and dates will be provided on our social media platforms.

Click the link for more:

<https://youtu.be/EJORIeYfSss>

En español:

<https://youtu.be/wstgQzNShdE>



For Immediate Release July 14, 2023
OPD News

OPD Seizes Multiple Firearms and Illegal Fireworks at A Smoke Shop



The Oakland Police Department **Alcohol Beverage and Tobacco (ABAT) Unit** conducted a special investigation at an unlicensed tobacco shop on July 13, 2023, in the 5000 block of Bancroft Avenue.

During the preliminary investigation, OPD officers assigned to the ABAT Unit found and seized four firearms, two of which were assault weapons, and numerous extended magazines. Officers also recovered illegal fireworks, multiple types of narcotics, including marijuana, and flavored tobacco vapor products.

No arrests were made; however, the case is being referred to the Alameda County District Attorney's Office for charging and the Oakland City Attorney's Office for additional actions.


Working with the community, OPD continues to educate store owners regarding the serious consequences they face for selling unlawful flavored tobacco products to those who are under the legal age of 21. The special enforcement provides an opportunity to keep the youth in our communities safe while holding smoke shops and business owners accountable for harmful and illegal activity.

In 2020, the Oakland City Council banned flavored tobacco products under Emergency Ordinance 13591. On November 8, 2022, California voters affirmed Senate Bill 793, which prohibited tobacco retailers from selling most flavored tobacco products, including vapes and e-cigarettes.

To report prohibited sales of tobacco products and sales to minors in Oakland, please call the **ABAT Complaint Hotline at (510) 777-8677**.



Presentation for the Police Commission

A woman in the foreground is holding a large white sign with the text "THONK FOR OAKLAND CEASEFIRE" written in colorful, hand-drawn letters. She is wearing a dark blue long-sleeved shirt and a bright orange vest. In the background, several other people are visible, some wearing white jackets, standing near a black metal fence. A blue house is visible behind the fence, and a palm tree is on the left side of the frame.

Implementation of the Oakland Ceasefire strategy was specifically *demanded* by community members to address gun violence. In direct response, the City of Oakland and its partners began implementation of the strategy in 2012 after years of community pressure.

What is Ceasefire Oakland?

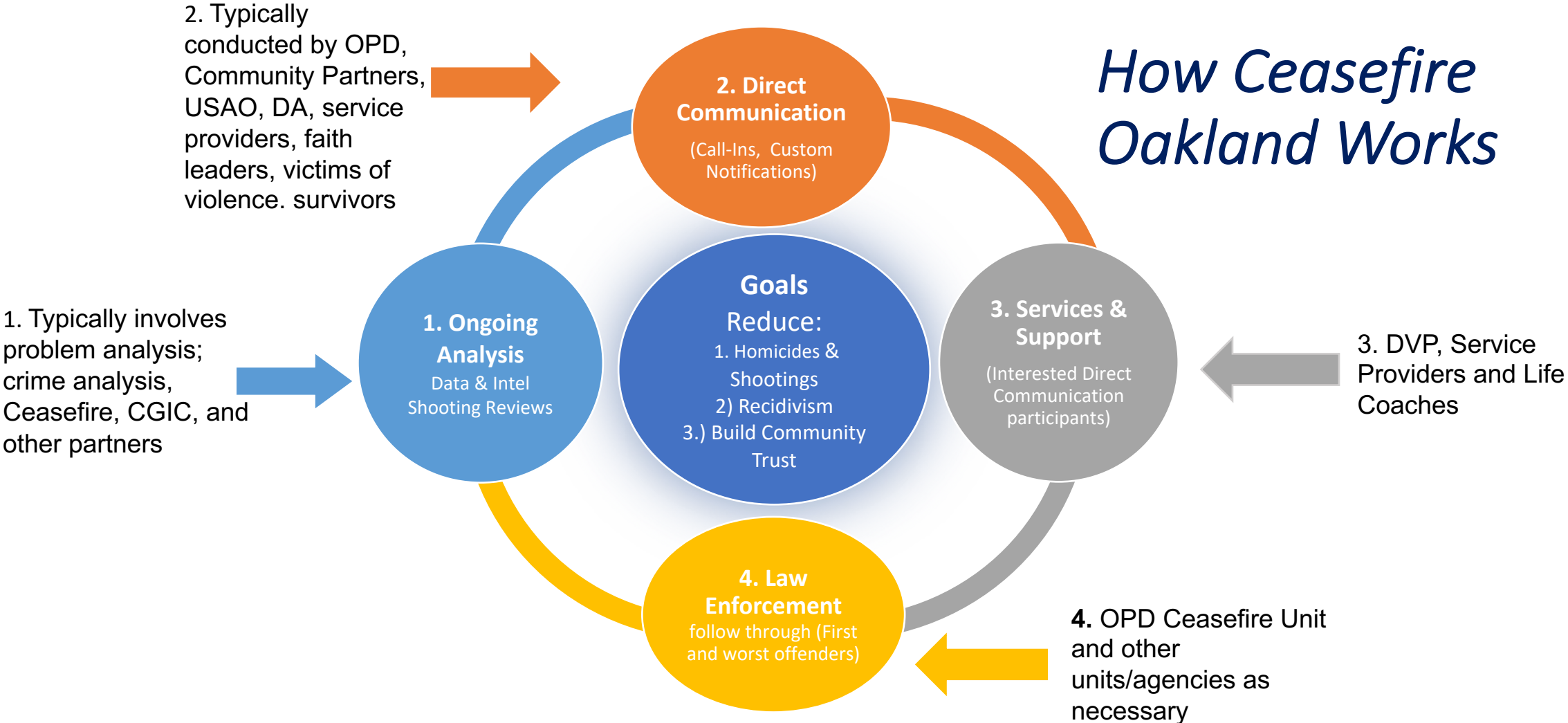


Ceasefire Oakland is a partnership-based, intelligence led, and data-driven strategy designed to:

- Reduce Gang/Group related shootings and homicides
- Reduce the recidivism rate amongst participants
- Improve community police relationships

CEASEFIRE MISSION

How Ceasefire Oakland Works



When we talk about Ceasefire

We are really talking about these activities:

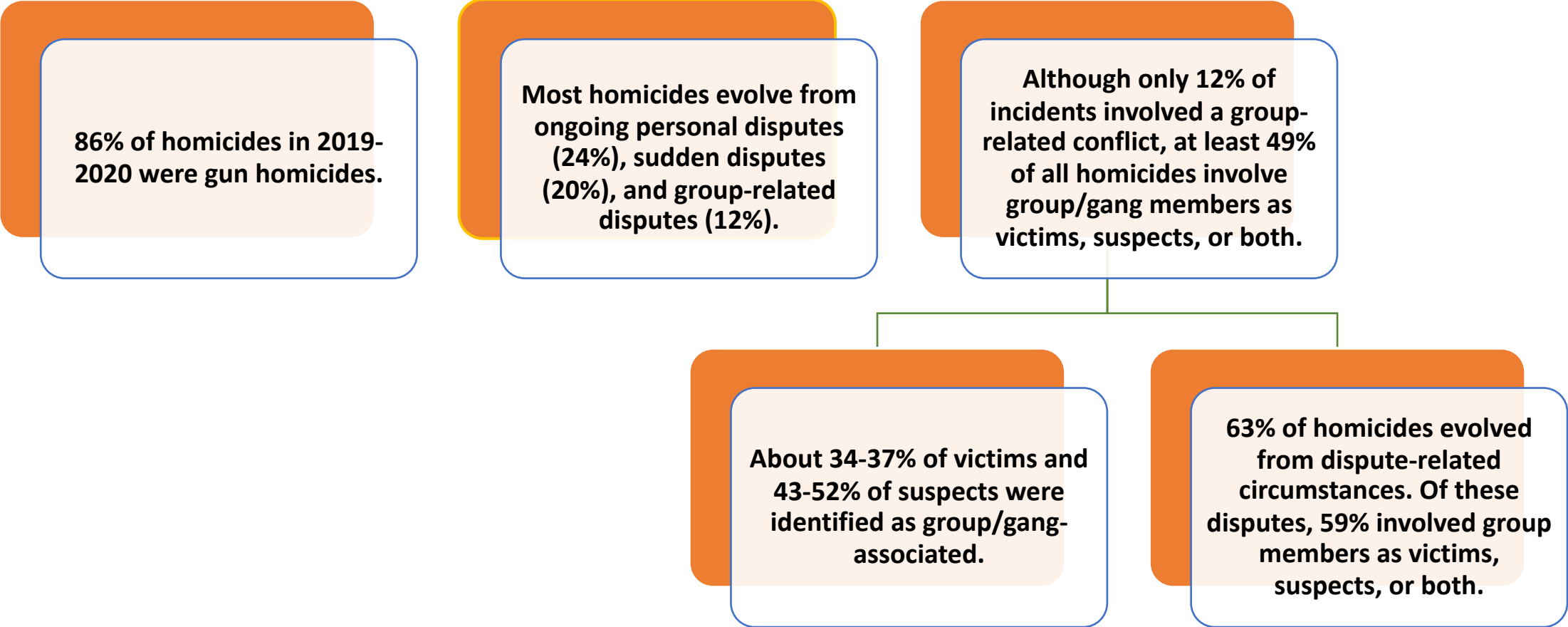
1. In-depth analysis of risk
2. Direct, respectful communication
3. Intensive, relationship-based life coaching and other services needed
4. Intelligence-based enforcement, informed by the principles of procedural justice

These activities are implemented continuously as a closely coordinated, joint strategy to reduce shootings citywide.

Data Driven

1. Identify groups & individuals at very highest risk of violence through ongoing, intensive, and systematic data collection and analysis with a particular focus on social networks.
2. The primary tools that we use to gather data are comprehensive problem analyses, and weekly shooting reviews
3. Achieving community-wide reductions in violence required a shift from assessing categorical risk factors/assessing “overall” risk to identifying and engaging groups and individuals at imminent risk of involvement in gun violence.
4. Oakland’s violence prevention efforts have associated a person’s probability of involvement in violence with individual, situational, or community risk factors, but most people in high-risk populations never get involved in gun violence.
5. That is, even within a generally high-risk population, risk of gun violence is super concentrated among a small number of people and more closely related to the characteristics of individuals’ social networks than to categorical risk factors – this is Andrew Papachristos’ “handshake away” formula.

The Problem Analysis - *Data Driven*



Shooting Review

The purpose of Shooting Review is to provide and share real-time information on the most active groups and individuals in order to prevent retaliation. While solving crime may occur at Shooting Review, this is not the primary focus. The focus is preventing retaliation. Retaliation is a common and unique element of gang/group-related shootings and homicides.

Shooting Review focusses on the details of shootings and homicides that occurred during the week including strategies for deterrence (e.g. service provider outreach, Custom Notification) or resolution of cases, etc.

Shooting Review provides a designated time and place for discussion as well as collaboration and information-sharing among OPD departments and other law enforcement agencies.

The **GOAL**: Prevent Retaliation

Communication is The Key

We know that a relatively small number of highly active groups, representing less than one half of one percent of a city’s population, will routinely be connected with up to three-quarters of all homicides in Oakland. Within that small population of groups, an even smaller number of highly active “impact players” drives the violence.

Impact players typically represent only 10 to 20 percent of group members, yet they are responsible for a majority of group violence, whether by instigating conflict or committing violent offenses themselves.

Both in theory and in practice, it follows that changing the behavior of these groups and impact players will have a powerful impact on violence.



Communication

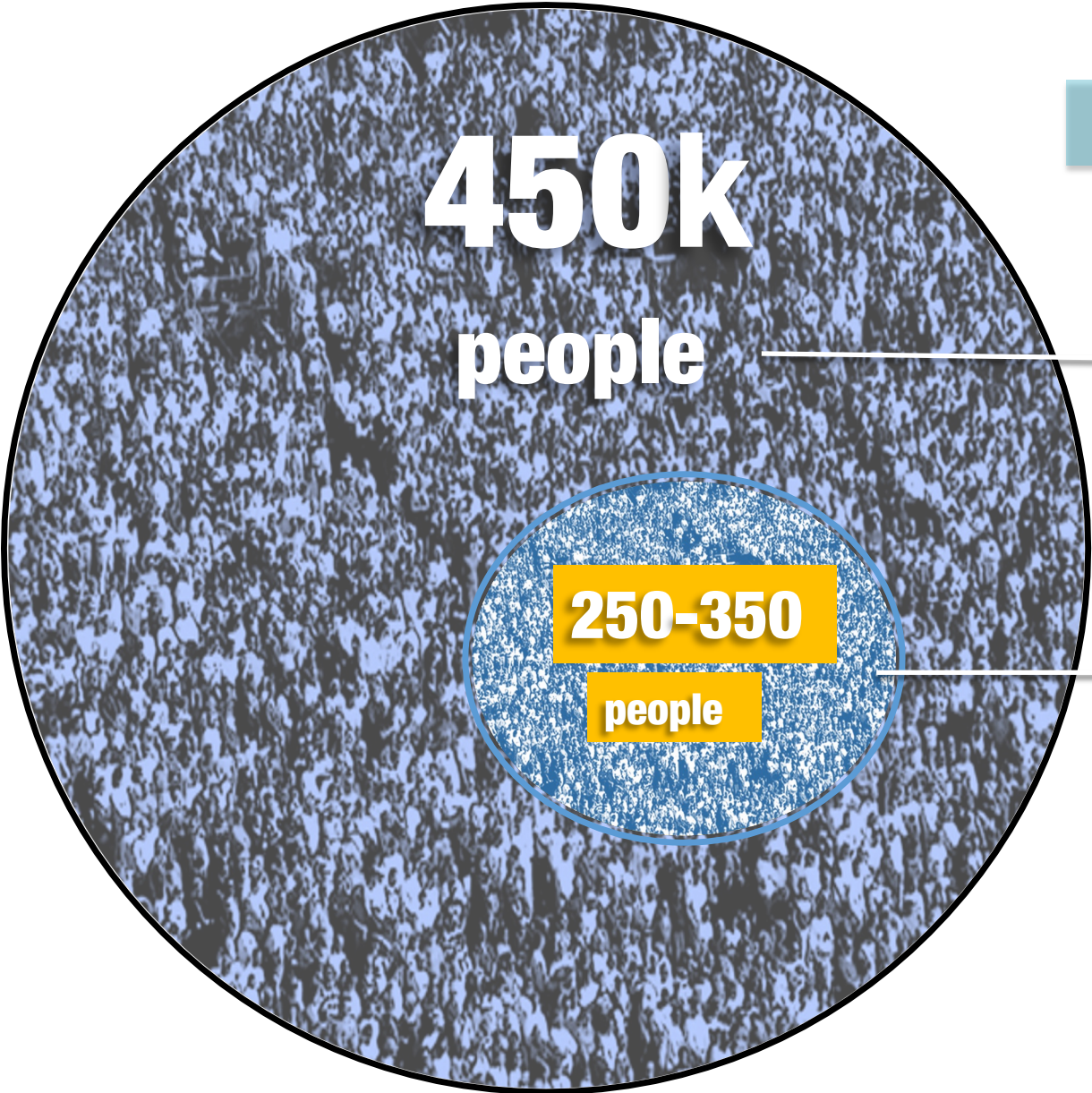
We want to reach those groups and individuals at very highest risk of violence with the direct and respectful communication of an evidence-based “risk and opportunity” message. Custom notifications and call-ins are a means of communicating with impact players to warn them of violent activity, to give them information about their risks and to offer them opportunities for help – services through Oakland’s Department of Violence Prevention and its network.

This is done by an alliance of concerned community leaders, victims, clergy, service providers and criminal justice agency representatives – OPD & Alameda County Probation, through call-ins and custom notifications.

Per the problem analysis our focus is on approximately 250 - 300 individuals per year.



Police Commission Regular Meeting 7.27.23
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Focus on the
very high risk
individuals

OAKLAND'S POPULATION

**VERY HIGH RISK
POPULATION**

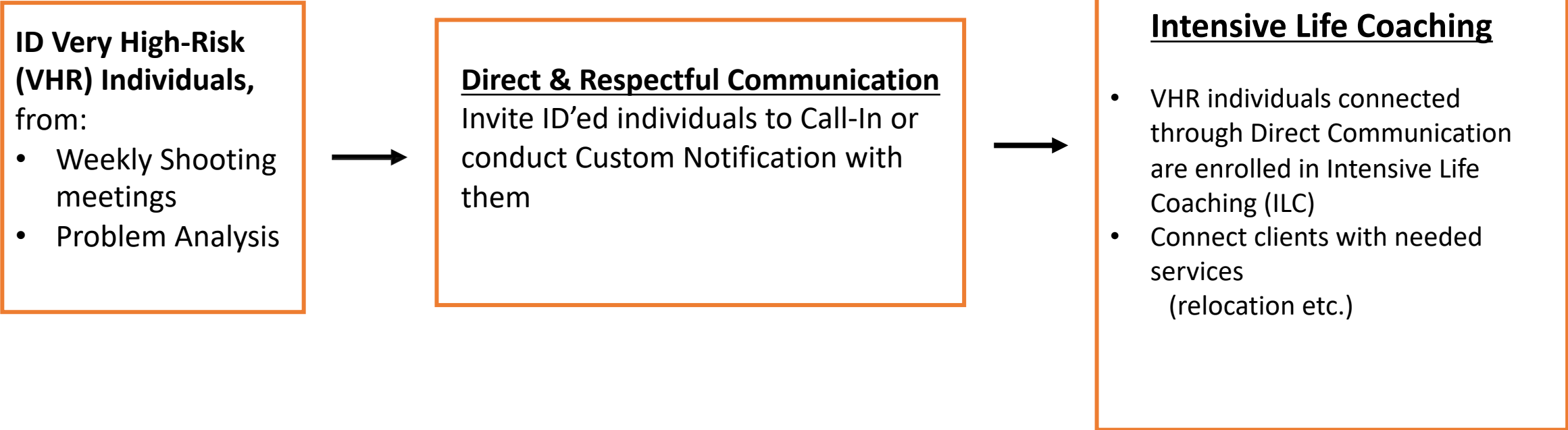
Direct Communications

- **Research is clear – A Group Violence Reduction Strategy (CEASEFIRE) that follows the cycle is the most effective strategy to reduce community levels of violence.**
- Core driver of Ceasefire is direct communication with those at highest risk. (VHR)
- Procedural justice/legitimacy, community values and deterrence are at work in that communication
- **Overall Design Principles:** Communicate with **(a)** the right people, **(b)** in the right way **(d)** do what you say.

Services

- 1. Employ a relationship-focused life coaching effort with as many of this pool of very highest risk individuals as is possible.**
- 2. The initial focus is on reducing the immediate risk of violence & incarceration.**
- 3. This also includes laying the groundwork for a long-term supportive relationship that enables DVP staff to:**
 - ✓ Monitor individuals' continuing risk of violence & incarceration**
 - ✓ Support personal change & improved educational & employment outcomes**

Effective Gun Violence Intervention Services



Law Enforcement's Role

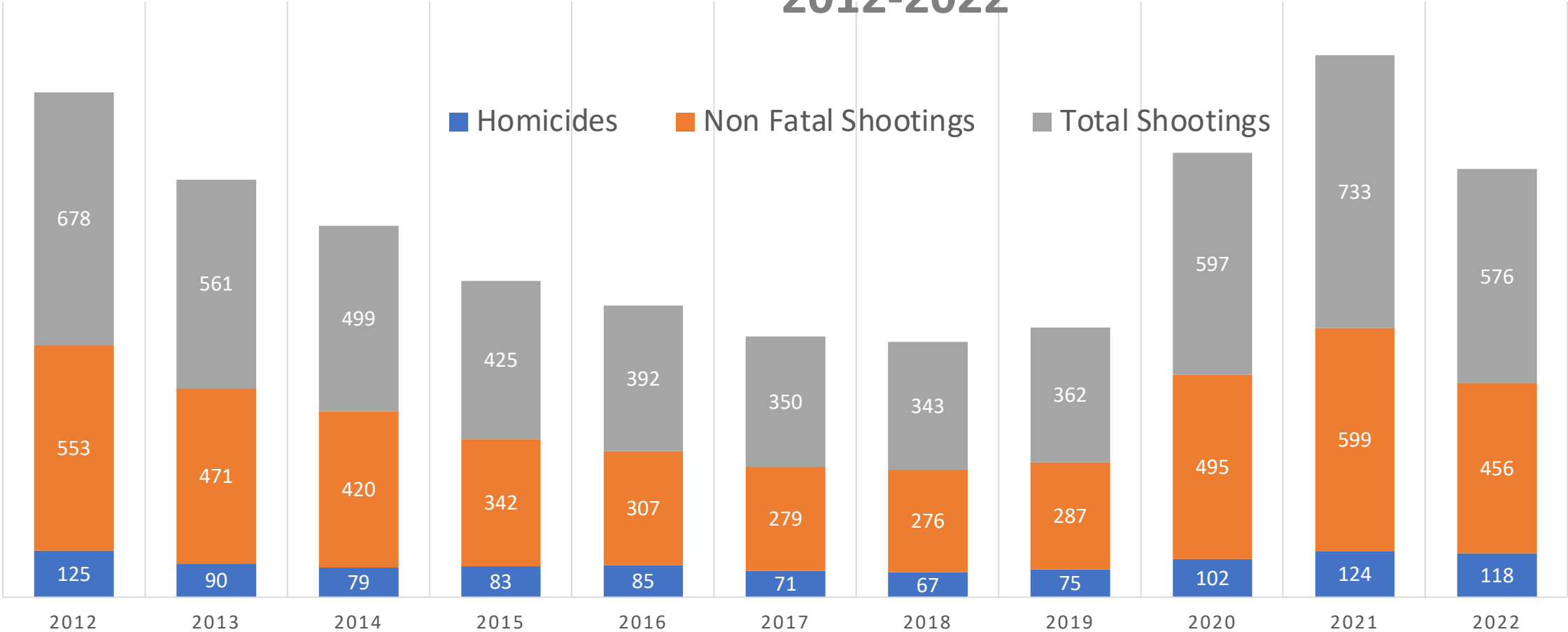
The Role of OPD's Ceasefire Unit

➤ Strategic & Laser Focused

Coordinated law enforcement action against members of a violent groups, performed by the law enforcement operational team of the Ceasefire partnership. The Ceasefire unit coordinates with other agencies to conduct its enforcement. Performed upon a jurisdiction's most violent individuals, it demonstrates to other groups that the partnership is serious about ending violence.

Oakland Shootings

2012-2022





CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
June 2023 Completed Investigations

Page 1 of 3
 (Total Completed = 8)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
AL	22-0212	3/2/2022	5/30/2023	6/5/2023	Subject 1	Performance of Duty - General	Sustained
					Subject 2	Supervisors - Authority and Responsibilities	Unfounded
					Subject 3	Supervisors - Authority and Responsibilities	Unfounded
					Subject 4	Performance of Duty - General	Unfounded
					Subject 5	Performance of Duty - General	Unfounded
					Subject 6	Performance of Duty - General	Unfounded
					Subject 7	Performance of Duty - General	Unfounded
					Subject 8	Performance of Duty - General	Unfounded
					Subject 9	Performance of Duty - General	Unfounded
					Subject 10	Performance of Duty - General	Unfounded
					Subject 11	Performance of Duty - General	Unfounded
CJ	22-0661	6/01/2022		5/31/2023	Subject 1	Use of Physical Force - Level 4	3304 Violation
					Subject 2	Use of Physical Force - Level 4	3304 Violation
					Subject 3	Use of Physical Force - Level 4	3304 Violation
					Subject 4	Use of Physical Force - Level 4	3304 Violation
					Subject 5	Use of Physical Force - Level 4	3304 Violation
JS	22-0728	6/11/2022	6/9/2023	6/12/2023	Subject 1	Use of Physical Force - Level 4	Unfounded
					Subject 2	Use of Physical Force - Level 4	Unfounded



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
June 2023 Completed Investigations

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 (Total Completed = 8)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
JS	22-0740	6/15/2022	6/13/2023	6/14/2023	Subject 1	Use of Physical Force - Level 4	Unfounded
CJ	22-0744	6/14/2022	6/13/2023	6/13/2023	Subject 1	Use of Physical Force	Unfounded
					Subject 2	Use of Physical Force	Unfounded
					Subject 3	Use of Physical Force	Unfounded
					Subject 4	Use of Physical Force	Unfounded
JS	22-0783	6/22/2022	6/20/2023	6/21/2023	Subject 1	Use of Physical Force - Level 4	Exonerated
					Subject 2	Use of Physical Force - Level 4	Unfounded
	22-0779	6/22/2022		6/21/2023	Subject 1	Use of Physical Force - Level 2	3304 Violation
					Subject 2	Use of Physical Force - Level 4	3304 Violation
CJ	22-0800	6/25/2022	6/24/2023	6/25/2023	Subject 1	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded
JS	22-0810	6/27/2022	6/23/2023	6/26/2023	Subject 1	Use of Physical Force - Level 4	Unfounded
					Subject 2	Use of Physical Force - Level 4	Unfounded
					Subject 3	Use of Physical Force - Level 4	Unfounded
					Subject 4	Use of Physical Force - Level 4	Exonerated
					Subject 5	Use of Physical Force - Level 4	Unfounded
					Subject 6	Use of Physical Force - Level 4	Unfounded
AL	22-0835	7/01/2022	6/29/2023	7/01/2023	Subject 1	Use of Physical Force - Level 4	Unfounded



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
June 2023 Completed Investigations

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 (Total Completed = 8)

Assigned Inv.	Case #	Incident Date	Completion Date	1-Year Goal	Officer	Allegation	Finding
					Subject 2	Conduct Toward Others - Harassment and Discrimination / Race	Unfounded

CPRA Made the following Training Recommendations with Respect to Investigations in this Report

CPRA made training recommendations regarding an officer disrespectfully referring to a member of the public and for an officer failing to articulate the facts and circumstances for probable cause to conduct a search.

Definitions:

Sustained: The act(s) alleged by the complainant occurred and constituted misconduct.

Exonerated: The act(s) alleged by the complainant occurred. However, the act(s) were justified, lawful, or proper.

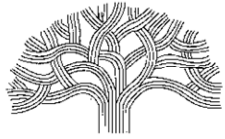
Unfounded: The act(s) alleged by the complainant did not occur.

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

No Jurisdiction: The Subject Officer of the allegation is not a sworn member of the OPD.

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

3304 Violation: Cases not completed before the statutory deadline under California law.

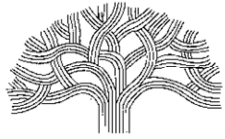


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of June 2023
(Sorted by One-Year Goal)

Attachment 7
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 (Total Pending = 211)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
21-1114	09/22/2021	09/22/2021	09/22/2021	Investigator	JS	03/22/2022	Tolled	Use of Force	1	3	3	Use of Force
21-1410	11/20/2021	11/20/2021	11/20/2021	Investigator	Unassigned (AL)	05/19/2022	Tolled	Use of Force	1	14	17	Use of Force
21-1558	12/24/2021	12/28/2021	12/24/2021	Investigator	Unassigned (ED)	06/22/2022	Tolled	Use of Force	1	1	4	Use of Force, Miranda, Performance of Duty
22-0040	01/15/2022	01/18/2021	01/15/2022	Investigator	Unassigned (AL)	07/14/2022	Tolled	Use of Force	1	1	1	Use of Force
22-0622	05/25/2022	05/25/2022	05/25/2022	Investigator	CJ	11/21/2022	Tolled	Use of Force	1	1	1	Use of Force
22-0796	06/26/2022	06/26/2022	06/26/2022	Investigator	Unassigned (ED)	12/23/2022	Tolled	In-Custody Death; Truthfulness	1	2	23	Unauthorized pursuit; Truthfulness; Obedience to Laws; Reports and Bookings; Compromising Criminal Cases; Interfering with Investigations; Reporting Violations; General Conduct; Performance of Duty; BWC
22-1379	10/17/2022	10/17/2022	10/17/2022	Investigator	JS	04/15/2023	Tolled	Pursuit	1	1	1	Use of Force
22-0839	07/05/2022	07/06/2022	07/05/2022	Investigator	ED	01/01/2023	07/04/2023	Use of Force	1	1	5	Use of Force, Service, Demeanor
22-0850	07/05/2022	07/07/2022	07/06/2022	Investigator	AL	01/02/2023	07/05/2023	Use of Force	1	1	1	Use of Force
22-0877	07/08/2022	07/12/2022	07/08/2022	Intake	KC/CES	01/04/2023	07/08/2023	Discrimination	1	1	2	Discrimination
22-0872	05/31/2022	07/18/2022	07/09/2022	Investigator	JS	01/05/2023	07/09/2023	Discrimination	1	1	2	Discrimination, Unlawful detention
22-0884	07/11/2022	07/13/2022	07/12/2022	Investigator	CES	01/08/2023	07/11/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-0893	07/14/2022	07/19/2022	07/14/2022	Investigator	CJ	01/10/2023	07/14/2023	Discrimination	1	1	2	Discrimination
22-0904	07/15/2022	07/19/2022	07/15/2022	Investigator	CJ	01/11/2023	07/15/2023	Harassment (Gender)	1	1	5	Harassment, Performance of duty, Demeanor, service complaint
22-0912	07/18/2022	07/20/2022	07/18/2022	Investigator	KT	01/14/2023	07/17/2023	Use of Force, Racial Discrimination, Truthfulness	1	1	5	Use of Force, Racial Discrimination, Truthfulness, Unlawful Detention
22-0977	07/07/2021	07/26/2022	07/26/2022	Investigator	CES	01/22/2023	07/25/2023	Use of Force	1	1	5	Use of Force, Performance of Duty
22-0945	06/10/2022	07/27/2022	07/26/2022	Investigator	CES	01/22/2023	07/25/2023	Discrimination	1	2	2	Discrimination/ Performance of Duty
22-0984	04/14/2022	07/28/2022	07/28/2022	Investigator	CJ	01/24/2023	07/27/2023	Harassment, Truthfulness	1	2	5	Retaliation, Harassment, Reports, Service, Truthfulness
22-1025	07/21/2022	08/10/2022	07/29/2022	Investigator	WA	01/25/2023	07/28/2023	Use of Force	1	1	2	Use of Force, Performance of Duty

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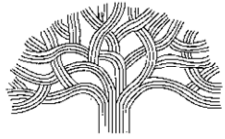


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of June 2023
(Sorted by One-Year Goal)

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 (Total Pending = 211)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-0974	07/30/2022	08/01/2022	07/30/2022	Investigator	CES	01/26/2023	07/29/2023	Use of Force	1	2	8	Use of Force, Performance of Duty, Demeanor
22-0997	07/13/2022	08/03/2022	08/03/2022	Investigator	WA	01/30/2023	08/02/2023	Truthfulness	1	1	3	Truthfulness, Demeanor
22-0998	08/05/2022	08/04/2022	08/05/2022	Investigator	CES	01/31/2023	08/03/2023	Use of Force	1	1	4	Use of Force
22-1009	08/05/2022	08/09/2022	08/05/2022	Investigator	Unassigned (MM)	02/01/2023	08/04/2023	Sexual Harassment	1	2	3	Conduct, Performance of Duty
22-1081	08/07/2022	08/09/2022	08/07/2022	Investigator	JS	02/03/2023	08/06/2023	Discrimination	1	1	2	Discrimination, Demeanor
22-1026	08/08/2022	08/10/2022	08/08/2022	Investigator	KT	02/04/2023	08/07/2023	Use of Force	1	1	1	Use of Force
22-1047	08/13/2022	08/16/2022	08/13/2022	Investigator	Unassigned (MM)	02/09/2023	08/12/2023	Racial Discrimination	1	2	2	Racial Discrimination
22-1048	08/13/2022	08/16/2022	08/13/2022	Investigator	JS	02/09/2023	08/12/2023	Racial Discrimination; Use of Force	1	2	4	Racial Discrimination; Use of Force
22-1075	08/18/2022	08/23/2022	08/18/2022	Investigator	WA	02/14/2023	08/17/2023	Racial Discrimination; Use of Force	1	2	6	Racial Discrimination; Use of Force
22-1081	08/20/2022	08/23/2022	08/20/2022	Investigator	Unassigned (MM)	02/16/2023	08/19/2023	Use of Force	1	1	1	Use of Force
22-1084	08/20/2022	08/23/2022	08/20/2022	Investigator	JS/CES	02/16/2023	08/19/2023	Use of Force	1	1	2	Use of Force/Performance of duty
22-1090	08/22/2022	08/23/2022	08/22/2022	Investigator	JS	02/18/2023	08/21/2023	Use of Force	1	1	1	Use of Force
22-1105	08/23/2022	08/25/2022	08/23/2022	Investigator	Unassigned (ED)	02/19/2023	08/22/2023	Racial Discrimination	1	2	4	Racial Discrimination/False arrest
22-1106	08/23/2022	08/25/2022	08/23/2022	Investigator	Unassigned (ED)	02/19/2023	08/22/2023	Use of Force	1	1	1	Use of Force
22-1110	08/24/2022	08/26/2022	08/24/2022	Investigator	Unassigned (AL)	02/20/2023	08/23/2023	Harassment	1	1	1	Harassment/Discrimination
22-1109	07/12/2022	08/26/2022	08/25/2022	Investigator	Unassigned (AL)	02/21/2023	08/24/2023	Discrimination	1	1	4	Discrimination
22-1138	08/30/2022	08/31/2022	08/30/2022	Investigator	JS	02/26/2023	08/29/2023	Use of Force	1	2	4	Use of Force, Demeanor
22-1145	08/31/2022	09/02/2022	08/31/2022	Investigator	Unassigned (AL)	02/27/2023	08/30/2023	Harassment	1	2	4	Racial Harassment, Demeanor
22-1159	09/02/2022	09/12/2022	09/02/2022	Investigator	JS	03/01/2023	09/01/2023	Use of Force	1	1	1	Use of Force
22-1212	09/02/2022	09/16/2022	09/02/2022	Investigator	WA	03/01/2023	09/01/2023	Use of Force	1	4	5	Use of Force, Performance of Duty, Refusal to Provide Name or Serial Number
22-1160	09/03/2022	09/12/2022	09/03/2022	Investigator	Unassigned (ED)	03/02/2023	09/02/2023	Use of Force	1	2	3	Use of Force/False arrest
22-1169	09/03/2022	09/12/2022	09/03/2022	Intake	KC	03/02/2023	09/02/2023	Discrimination	1	5	4	Discrimination, Performance of Duty, Demeanor
22-1171	09/05/2022	09/12/2022	09/05/2022	Investigator	Unassigned (MM)	03/04/2023	09/04/2023	Use of Force	1	3	6	Performance of Duty, Use of Force

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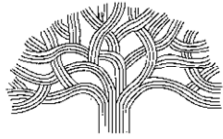


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of June 2023
(Sorted by One-Year Goal)

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 (Total Pending = 211)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1190	09/09/2022	09/16/2022	09/09/2022	Investigator	Unassigned (AL)	03/08/2023	09/08/2023	Use of Force	1	2	3	Use of Force
22-1194	09/10/2022	09/10/2022	09/16/2022	Investigator	Unassigned (AL)	03/09/2023	09/09/2023	Use of Force	1	1	2	Use of Force, Demeanor
22-1193	09/11/2022	09/16/2022	09/11/2022	Investigator	Unassigned (MM)	03/10/2023	09/11/2023	Discrimination	1	1	2	Discrimination, Performance of Duty
22-1210	11/09/2018	09/14/2022	09/14/2022	Investigator	Unassigned (ED)	03/13/2023	09/13/2023	Use of Force	1	1	1	Discrimination
22-1213	09/14/2022	09/16/2022	09/15/2022	Investigator	Unassigned (ED)	03/14/2023	09/14/2023	Harassment	1	1	1	Harassment
22-1217	09/16/2022	09/16/2022	09/16/2022	Investigator	Unassigned (AL)	03/15/2023	09/15/2023	Harassment	1	1	2	Harassment, Performance of Duty
22-1083	09/17/2022	09/20/2022	09/17/2022	Investigator	Unassigned (MM)	03/16/2023	09/16/2023	Racial Profiling	1	1	1	Racial profiling
22-1241	09/21/2022	09/22/2022	09/21/2022	Investigator	JS	03/20/2023	09/20/2023	Harassment	1	1	1	Harassment
22-1257	09/23/2022	09/28/2022	09/23/2022	Investigator	Unassigned (ED)	03/22/2023	09/22/2023	Use of Force, Racial Harassment	1	2	3	Use of Force, Racial Harassment
22-1258	09/25/2022	09/28/2022	09/25/2022	Investigator	Unassigned (AL)	03/24/2023	09/24/2023	Discrimination	1	3	3	Discrimination
22-1301	10/02/2022	10/05/2022	10/02/2022	Investigator	JS	03/31/2023	10/01/2023	Use of Force	1	1	1	Use of Force
22-1327	10/03/2022	10/06/2022	10/04/2022	Investigator	Unassigned (AL)	04/02/2023	10/03/2023	Use of Force	1	1	4	use of Force/Performance of duty
22-1345	10/08/2022	10/12/2022	10/08/2022	Investigator	Unassigned (MM)	04/06/2023	10/07/2023	Use of Force, Racial Harassment	1	1	2	Use of Force, Racial Harassment
22-1357	10/11/2022	10/14/2022	10/14/2022	Investigator	Unassigned (ED)	04/09/2023	10/10/2023	Harassment	1	1	1	Harassment
22-1617	10/11/2022	12/07/2022	10/11/2022	Intake	Unassigned (FC)	04/09/2023	10/10/2023	Use of Force	1	1	3	Use of Force, Demeanor, No MOR Violation
22-1364	10/11/2022	04/17/2023	10/11/2022	Intake	WA	04/09/2023	10/10/2023	Sexual misconduct	1	1	1	Sexual misconduct
22-1380	10/13/2022	10/19/2022	10/13/2022	Investigator	JS	04/11/2023	10/12/2023	Use of Force	1	2	1	False Arrest, Use of Force
22-1375	06/27/2022	10/19/2022	10/14/2022	Intake	KC	04/12/2023	10/13/2023	Truthfulness	1	1	2	Truthfulness/Performance of duty
22-1372	09/05/2022	10/19/2022	10/14/2022	Investigator	CJ	04/12/2023	10/13/2023	Truthfulness	1	1	1	Truthfulness
22-1387	10/17/2022	10/19/2022	10/17/2022	Investigator	Unassigned (ED)	04/15/2023	10/16/2023	Use of Force, Discrimination	1	3	3	Use of force, Discrimination
22-1402	10/21/2022	10/26/2022	10/21/2022	Investigator	Unassigned (AL)	04/19/2023	10/20/2023	Discrimination	1	1	4	Discrimination, Performance of Duty
22-1465	10/27/2022	11/08/2022	10/27/2022	Investigator	Unassigned (AL)	04/25/2023	10/26/2023	Discrimination	1	2	6	Discrimination, Performance of Duty, Demeanor

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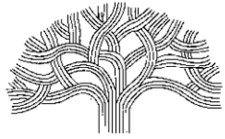


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
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 (Total Pending = 211)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1436	10/29/2022	11/02/2022	10/29/2022	Investigator	JS	04/27/2023	10/28/2023	Use of Force	1	1	4	Use of Force, Performance of duty
22-1442	10/31/2022	11/02/2022	10/31/2022	Investigator	JS	04/29/2023	10/30/2023	Gender Harassment	1	2	6	Gender Harassment
22-1482	11/08/2022	11/09/2022	11/08/2022	Intake	Unassigned (FC)	05/07/2023	11/07/2023	Use of Force	1	1	1	Use of Force
22-1493	11/09/2022	11/16/2022	11/09/2022	Investigator	Unassigned (ED)	05/08/2023	11/08/2023	Racial Harassment	1	2	2	Racial Harassment
22-1500	11/11/2022	11/16/2022	11/11/2022	Investigator	JS	05/10/2023	11/10/2023	Use of Force	1	2	2	Use of Force
22-1518	11/14/2022	11/17/2022	11/15/2022	Investigator	WA	05/14/2023	11/15/2023	Use of Force	1	1	1	Use of Force
22-1533	11/17/2022	11/22/2022	11/17/2022	Intake	Unassigned (FC)	05/16/2023	11/16/2023	Racial/Gender Discrimination	1	2	4	False Arrest, Racial/Gender Discrimination
22-1537	11/18/2022	11/22/2022	11/18/2022	Investigator	Unassigned (AL)	05/17/2023	11/17/2023	Use of Force	1	1	2	Use of Force, Performance of Duty
22-1546	11/18/2022	11/22/2022	11/19/2022	Investigator	Unassigned (ED)	05/18/2023	11/18/2023	Use of Force	1	2	6	Use of Force, False Arrest, Demeanor
22-1542	11/18/2022	11/22/2022	11/18/2022	Intake	KC	05/17/2023	11/18/2023	Truthfulness	1	1	4	Truthfulness, False Arrest, Performance of duty, Service complaint
22-1550	11/19/2022	11/22/2022	11/19/2022	Intake	Unassigned (FC)	05/18/2023	11/18/2023	Racial Harassment	1	1	1	Racial Harassment
22-1539	11/20/2022	11/22/2022	11/20/2022	Investigator	CES	05/19/2023	11/19/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1547	11/20/2022	11/22/2022	11/20/2022	Intake	KC	05/19/2023	11/19/2023	Use of Force	1	1	3	Use of Force, False Arrest, Demeanor
22-1558	11/06/2022	11/23/2022	11/22/2022	Intake	KC	05/21/2023	11/21/2023	Use of Force	1	1	4	Use of Force, Performance of Duty, Demeanor
22-1560	11/22/2022	11/30/2022	11/24/2022	Investigator	WA	05/23/2023	11/23/2023	Use of Force	1	1	3	False Arrest, Care of Property, Use of Force
22-1562	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Use of Force	1	1	2	Use of Force, Performance of duty
22-1565	11/25/2022	11/30/2022	11/25/2022	Intake	KC	05/24/2023	11/24/2023	Racial Discrimination	1	1	2	Racial Discrimination, Performance of Duty
22-1578	11/29/2022	11/30/2022	11/29/2022	Intake	KC	05/28/2023	11/28/2023	Use of Force	1	4	8	Use of Force, Performance of Duty
22-1592	11/30/2022	12/02/2022	11/30/2022	Investigator	Unassigned (AL)	05/29/2023	11/29/2023	Use of Force	1	1	1	Use of Force
22-1607	12/03/2022	12/07/2022	12/03/2022	Intake	Unassigned (FC)	06/01/2023	12/02/2023	Use of Force, Age Discrimination	1	1	2	Age Discrimination, Use of Force
22-1605	12/03/2022	12/07/2022	12/03/2022	Intake	KC	06/01/2023	12/02/2023	Use of Force	1	1	1	Use of Force
22-1601	06/01/2022	12/07/2022	12/04/2022	Intake	KC	06/02/2023	12/03/2023	Use of Force	1	1	1	Use of Force

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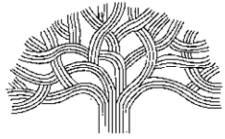


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of June 2023
(Sorted by One-Year Goal)

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 (Total Pending = 211)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
22-1604	12/03/2022	12/07/2022	12/04/2022	Intake	Unassigned (FC)	06/02/2023	12/03/2023	Use of Force	1	1	2	Performance of Duty, Use of Force
22-1613	12/05/2022	12/07/2022	12/05/2022	Intake	KC	06/03/2023	12/04/2023	Use of Force	1	1	1	Use of Force
22-1615	03/26/2022	12/07/2022	12/06/2022	Intake	Unassigned (FC)	06/04/2023	12/05/2023	Use of Force	1	1	1	Use of Force
22-1660	12/13/2022	12/16/2022	12/13/2022	Investigator	JS	06/11/2023	12/12/2023	Use of Force	1	1	2	Use of Force
22-1657	12/13/2022	12/16/2022	12/15/2022	Investigator	Unassigned (ED)	06/12/2023	12/13/2023	Use of Force	1	2	4	Use of Force, Performance of Duty
22-1656	12/14/2022	12/16/2022	12/15/2022	Intake	SH	06/12/2023	12/13/2023	Use of Force	1	1	3	Use of Force, Sexual Assault, Performance of Duty
22-1664	12/15/2022	12/21/2022	12/15/2022	Intake	KC	06/13/2023	12/14/2023	Use of Force	1	1	1	Use of Force
22-1684	12/19/2022	12/21/2022	12/19/2022	Investigator	CES	06/17/2023	12/18/2023	Racial Discrimination	1	1	1	Racial Discrimination
22-1710	03/11/2022	12/23/2022	12/23/2022	Investigator	Unassigned (AL)	06/20/2023	12/22/2023	Reports and Bookings	1	4	15	Reports and Bookings
22-1701	12/25/2022	12/28/2022	12/24/2022	Intake	KC	06/22/2023	12/23/2023	Use of Force	1	1	2	Use of Force, False Arrest, Demeanor
22-1731	12/29/2022	12/29/2022	01/03/2023	Investigator	CES	06/02/2023	12/28/2023	Use of Force	1	1	2	Performance of Duty, Use of Force
22-1730	12/30/2022	01/05/2023	01/03/2023	Intake	SH	06/28/2023	12/29/2023	Use of Force	1	1	2	Use of Force. Performance of Duty
23-0023	01/02/2023	01/02/2023	01/02/2023	Intake	SH	07/01/2023	01/01/2024	Use of Force, Racial Discrimination	1	1	4	Use of Force, Racial Discrimination
23-0014	12/18/1998	01/03/2023	01/03/2023	Intake	Unassigned (FC)	07/02/2023	01/04/2024	Sex Discrimination	1	2	2	Discrimination, Performance of Duty
23-0029	01/05/2023	01/10/2023	01/05/2023	Intake	DC	07/04/2023	01/04/2024	Use of Force	1	1	2	Use of Force, Demeanor
23-0028	01/06/2023	01/10/2023	01/06/2023	Intake	Unassigned (FC)	07/05/2023	01/05/2024	Use of Force	1	1	2	Use of Force, Performance of Duty
23-0161	01/07/2023	01/31/2023	01/07/2023	Intake	DC	07/06/2023	01/06/2024	Discrimination	1	2	4	Discrimination, False Arrest
23-0058	01/11/2023	01/13/2023	01/11/2023	Intake	Unassigned (FC)	07/10/2023	01/10/2024	Discrimination	1	1	1	Discrimination
23-0055	01/12/2023	01/12/2023	01/11/2023	Intake	SH	07/10/2023	01/10/2024	Use of Force	1	4	4	Use of Force
23-0089	01/14/2023	01/18/2023	01/14/2023	Intake	KC	07/13/2023	01/13/2024	Racial Discrimination	1	2	4	Racial discrimination, Performance of Duty
23-0084	01/15/2023	01/18/2023	01/15/2023	Intake	Unassigned (FC)	07/14/2023	01/14/2024	Use of Force	1	1	1	Use of Force
23-0091	01/08/2023	01/18/2023	01/17/2023	Intake	DC	07/16/2023	01/16/2024	Truthfulness	1	3	3	Truthfulness
22-1684	01/18/2023	01/18/2023	01/20/2023	Intake	KC	07/17/2023	01/17/2024	Discrimination	1	3	9	Discrimination, Performance of Duty
23-0105	01/18/2023	01/20/2023	01/18/2023	Intake	KC	07/17/2023	01/17/2024	Racial Discrimination	1	3	9	Racial discrimination, Performance of Duty

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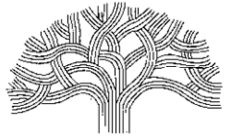


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
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(Sorted by One-Year Goal)

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Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
23-0118	01/20/2023	01/25/2023	01/20/2023	Intake	Unassigned (FC)	07/29/2023	01/19/2024	Discrimination	1	1	1	Discrimination
23-0119	01/21/2023	01/21/2023	01/21/2023	Intake	SH	07/20/2023	01/21/2024	Racial Harassment	1	1	1	Racial Harassment, false arrest
23-0120	01/22/2023	01/22/2023	01/21/2023	Intake	DC	07/21/2023	01/21/2024	Use of Force	1	2	2	Use of Force
23-0182	01/23/2023	01/25/2023	01/23/2023	Intake	SH	07/22/2023	01/22/2024	Use of Force	1	1	1	Use of Force
23-0147	07/22/2022	01/27/2023	01/25/2023	Intake	DC	07/24/2023	01/24/2024	Use of Force	1	1	3	Use of Force
23-0134	01/24/2023	01/26/2023	01/25/2023	Intake	KC	07/24/2023	01/24/2024	Discrimination, Use of Force	1	1	1	Discrimination, Use of Force
23-0164	02/01/2021	01/31/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/26/2024	Discrimination	1	1	6	Discrimination, Performance of Duty
23-0173	10/11/2022	01/27/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/26/2024	Use of force	1	1	4	Use of force, Performance of Duty, Demeanor
23-0176	01/27/2023	01/31/2023	01/28/2023	Intake	SH	07/27/2023	01/27/2024	Discrimination	1	1	1	Discrimination
23-0174	04/20/2022	01/27/2023	01/27/2023	Intake	Unassigned (FC)	07/26/2023	01/28/2024	Use of Force	1	1	5	Performance of Duty, Use of Force,
23-0177	01/29/2023	01/29/2023	01/31/2023	Intake	KC	07/28/2023	01/28/2024	Use of Force	1	1	1	Use of Force
23-0194	11/30/2022	02/01/2023	01/31/2023	Intake	SH	07/20/2023	01/30/2024	Truthfulness	1	1	3	Truthfulness, false arrest
23-0548	02/06/2023	05/09/2023	04/18/2023	Intake	DC	08/05/2023	02/05/2024	Discrimination	1	1	1	Discrimination
23-0922	06/03/2023	07/14/2023	06/03/2023	Intake	SH	11/30/2023	02/08/2024	Use of Force	1	2	1	Use of Force
23-0250	02/12/2023	04/26/2023	02/12/2023	Intake	DC	08/11/2023	02/11/2024	Use of Force	1	2	2	Use of force
23-0266	02/15/2023	04/27/2023	02/16/2023	Intake	KC	08/15/2023	02/15/2024	Racial Profiling	1	2	4	Racial Profiling, Performance of Duty
23-0300	01/25/2023	04/26/2023	02/17/2023	Intake	Unassigned (FC)	08/16/2023	02/16/2024	Use of Force	1	1	1	Use of Force
23-0558	02/17/2023	02/17/2023	02/17/2023	Investigator	Unassigned (AL)	08/16/2023	02/16/2024	Use of Force	1	2	2	Use of Force
23-0315	02/19/2023	04/26/2023	02/19/2023	Intake	Unassigned (FC)	08/18/2023	02/18/2024	Racial Profiling	1	2	4	False Arrest, Racial Profiling
23-0325	02/20/2023	04/26/2023	02/21/2023	Intake	DC	08/19/2023	02/19/2024	Use of force	1	2	3	Use of force
23-0329	02/21/2023	04/26/2023	02/21/2023	Intake	DC	08/20/2023	02/20/2024	Use of force	1	1	1	Use of force, False arrest
23-0257	02/22/2023	04/26/2023	02/22/2023	Intake	DC	08/21/2023	02/21/2024	Use of force	1	2	4	Use of force
23-0358	02/22/2023	04/26/2023	02/22/2023	Intake	SH	08/21/2023	02/21/2024	Use of Force	1	1	1	Use of Force
23-0376	02/24/2023	04/26/2023	02/24/2023	Intake	SH	08/23/2023	02/23/2024	Use of Force	1	2	1	Use of Force
23-0320	02/25/2023	04/26/2023	02/25/2023	Intake	Unassigned (FC)	08/24/2023	02/24/2024	Racial Profiling	1	2	4	False Arrest, Racial Profiling
23-0258	02/26/2023	04/27/2023	02/27/2023	Intake	KC	08/26/2023	02/26/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0454	02/28/2023	05/01/2023	02/28/2023	Intake	DC	08/27/2023	02/27/2024	Use of Force	1	1	3	Use of force
23-0382	Unknown	05/02/2023	03/02/2023	Intake	KC	08/29/2023	02/29/2024	Racial Discrimination	1	1	4	Racial Discrimination, Performance of Duty
23-0275	03/03/2023	04/26/2023	03/03/2023	Intake	Unassigned (FC)	08/30/2023	03/01/2024	Use of Force	1	2	2	Use of Force

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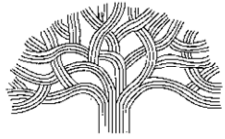


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23-0314	03/10/2023	04/26/2023	03/10/2023	Intake	Unassigned (FC)	09/06/2023	03/08/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0265	03/11/2023	04/26/2023	03/11/2023	Intake	Unassigned (FC)	09/07/2023	03/09/2024	Harassment	1	1	3	Harassment, Demeanor, Performance of Duty
23-0319	03/11/2023	04/26/2023	03/11/2023	Intake	Unassigned (FC)	09/07/2023	03/09/2024	Use of Force	1	2	2	Use of Force
23-0352	03/11/2023	05/02/2023	03/12/2023	Intake	KC	09/08/2023	03/10/2024	Use of Force	1	2	2	Use of Force
23-0656	03/11/2023	03/14/2023	03/11/2023	Intake	SH	09/10/2023	03/12/2024	Truthfulness	1	2	2	Truthfulness
23-0269	03/14/2023	04/26/2023	03/14/2023	Intake	Unassigned (FC)	09/10/2023	03/12/2024	Racial Profiling	1	3	3	Racial Profiling
23-0406	03/14/2023	05/01/2023	03/14/2023	Intake	SH	09/10/2023	03/12/2024	Other	1	1	1	Consumption of Intoxicants
23-0430	03/14/2023	05/01/2023	03/12/2023	Intake	DC	09/10/2023	03/12/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0357	03/14/2023	05/02/2023	03/15/2023	Intake	KC	09/11/2023	03/13/2024	Use of Force	1	2	6	Use of Force, Performance of Duty
23-0324	03/15/2023	04/26/2023	03/15/2023	Intake	Unassigned (FC)	09/11/2023	03/13/2024	Racial Discrimination	1	2	4	False Arrest, Racial Profiling
23-0334	03/20/2023	04/26/2023	03/21/2023	Intake	SH	09/17/2023	03/19/2024	Sexual Misconduct	1	6	2	Sexual Misconduct
23-0372	03/23/2023	05/02/2023	03/23/2023	Intake	KC	09/19/2023	03/21/2024	Racial Discrimination	1	2	8	Racial discrimination, Performance of Duty
23-0414	03/24/2023	05/01/2023	03/24/2023	Intake	SH	09/20/2023	03/22/2024	Use of Force	1	1	1	Use of Force
23-0374	03/24/2023	05/02/2023	03/25/2023	Intake	KC	09/21/2023	03/23/2024	Discrimination	1	2	4	Discrimination, Demeanor
23-0437	03/26/2023	05/01/2023	03/26/2023	Intake	DC	09/22/2023	03/24/2024	Use of force	1	2	1	Use of force
23-0417	03/26/2023	05/01/2023	03/26/2023	Intake	SH	09/22/2023	03/24/2024	Use of force	1	2	1	Use of force
23-0272	10/01/1974	03/28/2023	04/27/2023	Intake	Unassigned (FC)	09/24/2023	03/26/2024	Sexual Misconduct	1	1	1	Sexual Misconduct
23-0381	03/27/2023	05/02/2023	03/28/2023	Intake	KC	09/24/2023	03/26/2024	Discrimination	1	1	1	Discrimination
23-0442	03/31/2023	05/01/2023	03/31/2023	Intake	DC	09/27/2023	03/29/2024	Use of force	1	1	1	Use of force
23-0469	04/05/2023	05/09/2023	04/06/2023	Intake	KC	10/03/2023	04/04/2024	Racial Discrimination	1	2	6	Racial discrimination, Performance of Duty
23-0484	04/07/2023	05/09/2023	04/06/2023	Intake	KC	10/06/2023	04/06/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0486	04/09/2023	05/09/2023	04/07/2023	Intake	KC	10/06/2023	04/07/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0522	04/13/2023	05/09/2023	04/13/2023	Intake	SH	10/10/2023	04/11/2024	Use of Force	1	2	2	Excessive force
23-0519	04/14/2023	05/09/2023	04/14/2023	Intake	SH	10/11/2023	04/11/2024	Use of Force	1	2	2	Excessive force
23-0534	04/17/2023	05/09/2023	04/17/2023	Intake	SH	10/14/2023	04/15/2024	Use of Force	1	2	1	Excessive force
23-0536	04/18/2023	05/09/2023	04/18/2023	Intake	DC	10/15/2023	04/16/2024	Use of Force	1	2	1	Excessive force
23-0569	04/21/2023	05/09/2023	04/22/2023	Intake	DC	10/18/2023	04/19/2024	Use of Force	1	2	2	Use of force
23-0585	04/21/2023	05/09/2023	04/21/2023	Intake	Unassigned (FC)	10/18/2023	04/19/2024	Use of Force	1	1	1	Use of Force
23-0586	Unknown	05/09/2023	04/21/2023	Intake	Unassigned (FC)	10/18/2023	04/19/2024	Sexual Misconduct	1	1	3	Sexual Misconduct, Custody of Prisoners, Service Complaint

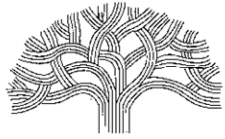
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23-0582	04/22/2023	05/09/2023	04/23/2023	Intake	DC	10/19/2023	04/20/2024	Use of force	1	1	1	Use of force
23-0589	04/25/2023	05/09/2023	04/25/2023	Intake	Unassigned (FC)	10/22/2023	04/23/2024	Use of Force	1	1	2	Use of Force, Conduct
23-0614	04/26/2023	04/27/2023	04/27/2023	Intake	SH	10/23/2023	04/24/2024	Racial Harassment	1	2	2	Racial Harassment, false arrest
23-0627	04/27/2023	05/02/2023	04/28/2023	Intake	SH	10/25/2023	04/26/2024	Use of Force	1	2	2	Use of force, false arrest
23-0638	04/28/2023	05/02/2023	04/28/2023	Intake	DC	10/25/2023	04/26/2024	Use of Force	1	2	1	Use of force
23-0637	04/29/2023	05/02/2023	04/29/2023	Intake	SH	10/26/2023	04/27/2024	Use of Force	1	2	2	Use of force, false arrest
23-0683	05/06/2023	05/05/2023	05/03/2023	Intake	DC	11/02/2023	05/04/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0716	05/09/2023	05/11/2023	07/07/2023	Intake	DC	11/05/2023	05/07/2024	Use of Force	1	2	1	Use of Force
23-0826	05/22/2023	07/07/2023	05/23/2023	Intake	KC	11/11/2023	05/13/2024	Use of force	1	2	8	Use of Force, Performance of duty, Demeanor
23-0718	05/09/2023	07/07/2023	05/11/2023	Intake	DC	11/12/2023	05/14/2024	Use of Force	1	1	2	Use of Force
23-0802	05/18/2023	07/07/2023	05/19/2023	Intake	DC	11/16/2023	05/18/2024	Use of Force	1	2	2	Use of Force
23-0814	05/20/2023	07/07/2023	05/23/2023	Intake	DC	11/16/2023	05/18/2024	Use of Force	1	1	3	Use of Force, Demeanor, False arrest
23-0822	05/22/2023	07/07/2023	05/23/2023	Intake	DC	11/18/2023	05/20/2024	Use of Force	1	2	2	Use of Force, Demeanor
23-0772	05/15/2023	07/07/2023	05/15/2023	Intake	KC	11/19/2023	05/21/2024	Use of force, Discrimination	1	3	5	Use of force, Discrimination, False arrest
23-0827	05/22/2023	07/07/2023	05/23/2023	Intake	KC	11/19/2023	05/21/2024	Use of force, Discrimination	1	3	5	Use of Force, Discrimination, Performance of duty,
23-0857	05/02/2023	07/14/2023	05/24/2023	Intake	SH	11/20/2023	05/22/2024	Use of Force	2	2	2	Use of force
23-0884	05/27/2023	07/14/2023	05/27/2023	Intake	KC	11/23/2023	05/25/2024	Discrimination	1	1	3	Discrimination, Sexual assault, No MOR
23-0871	05/28/2023	07/14/2023	05/28/2023	Intake	SH	11/24/2023	05/26/2024	Use of Force	1	2	2	Use of force, Performance of duty
23-0891	05/28/2023	07/14/2023	05/28/2023	Intake	KC	11/24/2023	05/26/2024	Use of force	1	1	1	Use of force
23-0892	05/28/2023	07/14/2023	05/28/2023	Intake	KC	11/24/2023	05/26/2024	Use of force	1	2	6	Use of force, False arrest, Demeanor
23-0882	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Use of force	1	2	2	Use of force, Performance of Duty
23-0878	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Discrimination	1	1	1	Discrimination, service complaint
23-0898	05/29/2023	07/14/2023	05/29/2023	Intake	SH	11/25/2023	05/27/2024	Use of Force	1	2	1	Use of force, Performance of Duty
23-0916	06/02/2023	07/14/2023	06/03/2023	Intake	KC	11/30/2023	06/01/2024	Use of force	1	2	8	Use of Force, Performance of duty
23-0920	06/04/2023	07/14/2023	06/04/2023	Intake	SH	12/01/2023	06/02/2024	Use of Force	1	2	1	Use of force
23-0877	06/04/2023	07/14/2023	06/04/2023	Intake	SH	12/01/2023	06/02/2024	Use of Force	1	2	1	Use of force
23-0954	06/07/2023	07/14/2023	06/07/2023	Intake	SH	12/04/2023	06/05/2024	Use of Force	1	2	2	Use of force, Performance of Duty

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(Sorted by One-Year Goal)

Case #	Incident Date	Date Received CPRA	Date Received IAD	Intake or Investigator	Assigned Staff	180-Day Goal	1-Year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
23-0965	06/09/2023	07/14/2023	06/07/2023	Intake	SH	12/06/2023	06/07/2024	Use of Force	1	2	2	Use of force, Performance of Duty
23-0971	06/09/2023	07/14/2023	06/10/2023	Intake	KC	12/07/2023	06/08/2024	Discrimination	1	2	4	Discrimination, Performance of duty
23-0968	06/11/2023	07/14/2023	06/12/2023	Intake	KC	12/09/2023	06/10/2024	Use of force	1	1	1	Use of force
23-0995	06/14/2023	07/14/2023	06/14/2023	Intake	KC	12/11/2023	06/12/2024	Use of force, Discrimination	1	2	8	Use of Force, Discrimination, Performance of duty, Demeanor
23-0991	10/07/2015	07/14/2023	06/15/2023	Intake	KC	12/12/2023	06/13/2024	Use of force	1	2	4	Use of Force, Performance of duty
23-0996	Unknown	07/14/2023	06/15/2023	Intake	KC	12/12/2023	06/13/2024	Use of force	1	1	1	Use of force
23-1015	06/18/2023	07/14/2023	06/19/2023	Intake	KC	12/16/2023	06/17/2024	Use of force, Discrimination	1	2	4	Use of Force, Discrimination
23-1043	06/23/2023	07/14/2023	06/22/2023	Intake	DC	12/20/2023	06/21/2024	Use of force	1	1	1	Use of Force
23-1075	06/27/2023	07/14/2023	06/27/2023	Intake	DC	12/24/2023	06/25/2024	Use of Force, Racial Discrimination	1	2	1	Use of force, Racial Discrimination
23-1069	06/27/2023	07/14/2023	06/22/2023	Intake	DC	12/24/2023	06/25/2024	Use of force	1	2	1	Use of Force, False arrest, Delay of service
23-1068	06/28/2023	07/14/2023	06/27/2023	Intake	DC	12/25/2023	06/26/2024	Use of force	1	2	1	Use of Force
23-1089	06/30/2023	07/14/2023	06/29/2023	Intake	DC	12/27/2023	06/28/2024	Racial Discrimination	1	2	1	Racial Discrimination
23-1114	07/01/2023	07/14/2023	06/29/2023	Intake	DC	12/28/2023	06/29/2024	Racial Discrimination	1	1	1	Racial Discrimination
23-0724	05/10/2023	07/07/2023	05/12/2023	Intake	DC	01/08/2024	07/10/2024	Use of Force	1	1	2	Use of Force
23-1159	07/13/2023	07/21/2023	07/13/2023	Intake	SH	01/09/2024	07/11/2024	Use of Force	1	1	1	Use of Force; Performance of Duty
23-1160	07/13/2023	07/21/2023	07/13/2023	Intake	DC	01/09/2024	07/11/2024	Harrassment	1	1	1	Harrassment; Performance of Duty

*Type (604(f) or Other) column indicates the allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). "Other" indicates the case does not include any such allegations.

**Oakland Police Department
Criminal Investigation Division (CID)
Policy and Procedures Manual
Policy 23-01**

**Effective Date:
22 May 2023**

Index as: Investigative Training Program for Criminal Investigators

The purpose of this directive is to set forth policy and procedures for the CID Investigative Training Program.

Members assigned to the CID will be required to attend a series of mandated training courses within a specified timeline.

Members assigned to the Force Investigation Team (FIT) will be required to attend a series of mandated training courses within a specified timeline.

The following training courses are designed to provide members with the fundamental skills needed to conduct thorough and complete criminal investigations applicable to their specialized assignment(s). These training courses represent the minimum number of courses required of all members assigned to the CID and to specialized assignments.

If the courses listed above are not completed within the required timelines, the CID Commander shall write a memorandum to the Deputy Chief of Investigations explaining the circumstances surrounding non-compliance. The Deputy Chief of the Bureau of Investigation will ensure the training is completed and the investigator shall be reassigned to a non-investigative role until the training is completed.

A. Investigators shall attend the following investigative courses within twelve (12) months of their transfer to the CID:

1. Basic Criminal Investigation Course
2. Interview and Interrogation Course
3. Basic Search Warrant Course
4. Cognitive Bias Training Course

B. Investigators shall attend the following additional investigative courses within twenty-four (24) months of assignment to the CID:

1. Advanced Criminal Investigation Course
2. Electronic Surveillance Course
3. Crime Scene Investigation Course

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Policy 13-05
Index as: Investigative Training Program
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Advanced Criminal Investigation Course²

BOI Policy 23-01
Investigative Training Program – Criminal Investigator

Effective Date:
22 Feb 2023

C. Investigators tasked with conducting homicide investigations shall attend the following investigative courses within twelve (12) months of assignment to the Homicide Section:

1. Homicide Investigation Course
2. Cognitive Interviewing Course

D. Investigators tasked with conducting Level 1 Use of Force Investigations shall complete the following courses within twelve (12) months and no more than eighteen (18) months of being assigned to the team.

1. Force Science Course (40 Hours)
2. Officer Involved Shooting Course (40 Hours)
3. Internal Affairs Investigations Course (24 Hours)
4. Use of Force Certification (40 Hours)
5. Certified Use of Force (AB 392) Training (4 Hours)
6. California DOJ SB 1506 – Investigation Procedural Guidelines:

<https://oag.ca.gov/system/files/media/AB%201506%20Investigation%20Procedural%20Guidelines.pdf>

E. It is recommended that investigators continue to develop as investigators and take courses that will benefit them in becoming subject matter experts in their relevant areas. Investigators shall attend at least eight (8) hours of continual development training courses every eighteen (18) months. Below are a few recommended courses for consideration.

- POST Homicide Investigation Course (80 Hours).
- POST Internal Affairs Investigations Course (24 Hours).
- Human Performance Training Institute - Force Dynamics Course (24 Hours).
- Crime Scene Investigation Course (24 Hours).
- POST Cognitive Interviewing Course (24 Hours).
- POST Officer Involved Shooting Course (40 Hours).

It is also recommended that investigators become members of different associations. Below are some suggested links, courses, and associations that CID investigators should consider for membership opportunities relevant to criminal investigator training.

- California Homicide Investigators Association: <https://www.chia187.com/>
- California District Attorneys Association: <https://www.cdaa.org/>
- Outside Agency Training Requirements for Officer Involved Shooting (OIS) incidents

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¶ The above listed training courses represent the minimum number of courses required of all members assigned to the CID. Investigators are encouraged to continually seek out additional training courses to further enhance their investigative skill set.¶

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¹ The Basic Criminal Investigation Course should be assignment specific.¶

² The Advanced Criminal

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DEPARTMENTAL GENERAL ORDER

M-04.1: Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel

Effective Date: XX May 23
Coordinator: Criminal Investigation Division

The purpose of this policy is to mandate and set guidelines and requirements for reporting criminal misconduct involving Department members and outside sworn law enforcement personnel as well as conducting and coordinating criminal investigations involving members of the Oakland Police Department.

COMMAND INTENT

It is the policy of the Oakland Police Department to investigate allegations of criminal activity involving members of the Department and sworn law enforcement personnel employed by outside agencies. For criminal misconduct that occurred in the City of Oakland, the Oakland Police Department shall investigate and prepare criminal cases for appropriate clearance or submission to a prosecutor. Additionally, the Department shall ensure that personnel are held accountable through an investigative process that is fair, timely, and thorough.

A. DEFINITIONS

A - 1. Member

As provided in Policy 103, a member is any person employed or appointed by the Oakland Police Department, including full-time officers, reserve officers, professional staff, and volunteers.

A - 2. Reasonable Suspicion

From the totality of the circumstances, there is a specific, articulable, and objective basis for suspecting criminal activity. There must be specific facts beyond the mere allegation of criminal misconduct.

B. NOTIFICATION REQUIREMENTS

B - 1. Notification Requirements of All Members

Notifications shall be made whether on-duty or off-duty. When any member other than the Chief of Police has reasonable suspicion that any member of the Department is involved in a felony or misdemeanor, they shall, as soon as practical, and in all cases within 24 hours, make the following notifications via phone or email as specified in the following sections.

1 The Chief of Police may become aware of criminal misconduct committed by a member of the Oakland Police Department executive team (which includes the BOI Deputy Chief and IAD Commander), CID Commander, or other Department member that may require alternate avenues of reporting and/or investigation (e.g., directly to the District Attorney) to ensure the integrity of the investigation. The timeline requirement, however, still applies.

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DEPARTMENTAL GENERAL ORDER M-04.1
OAKLAND POLICE DEPARTMENT

Effective Date
19 May 23

B.2. Members Assigned to the Internal Affairs Division

Members assigned to the Internal Affairs Division (IAD) shall contact the IAD Commander. If the IAD Commander cannot be reached, the member shall contact an IAD Lieutenant.

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B.3. Members Assigned to the Criminal Investigations Division

Members assigned to Criminal Investigations Division (CID) shall contact the CID Commander. If the CID Commander cannot be reached, the member shall contact the Bureau of Investigations (BOI) Deputy Chief.

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B.4. All Other Members

All other members shall contact an on-duty Watch Commander. If an on-duty Watch Commander cannot be reached by phone, the Communications Division Supervisor shall be called at 510-777-8801 to request a return call from an on-duty Watch Commander.

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B.5. Misconduct Allegations Not Rising to the Level of Criminal Misconduct

Allegations not rising to the level of reasonable suspicion of criminal misconduct shall be reported to IAD and administratively investigated in accordance with Departmental General Order (DGO) M-03.

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C. INITIAL RESPONSIBILITIES OF NOTIFIED PERSONNEL

C - 1. Watch Commander Responsibilities

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the Watch Commander shall attempt to determine the identity of the member and the jurisdiction of the alleged criminal misconduct. The Watch Commander shall provide such information to the CID Commander and shall maintain strict confidentiality at all times.

- 1. Determine the identity of the member:

- 2. Obtain details of the alleged criminal misconduct;
 - Do not interview the subject or witness members.
 - Avoid engaging in conversations with subject members that could pose potential violations of their protected rights.
 - Do not take overt action that could interfere with, or undermine the integrity of, the investigation.
- 3. Determine jurisdiction of the alleged criminal misconduct;
- 4. Contact Communications Division to make confidential and non-specific entry onto the IAD Daily Incident Log which includes obtaining an IAD Computer Aided Dispatch (CAD) incident number;
- 5. Provide all obtained information via phone and email to the CID and IAD Commander;
- 6. Maintain a strict confidentiality at all times.²

C - 2. IAD Commander and Lieutenant Responsibilities

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the IAD Commander or IAD Lieutenant shall attempt to determine the identity of the member and the jurisdiction of the alleged criminal misconduct. The IAD Commander or IAD Lieutenant shall ensure the information is shared with the CID Commander and shall maintain strict confidentiality at all times.

- 1. Ensure a preliminary inquiry is initiated regardless of whether the criminal conduct occurred within Oakland;
- 2. Determine the necessity for an investigative callout;
- 3. Confer with the Bureau of Risk Management (BRM) Deputy Chief; and
- 4. Confer with CID Commander for all criminal matters both within the City of Oakland and outside jurisdictions.

C - 3. CID Commander Responsibilities³

Upon awareness that any member of the Department is allegedly involved in criminal misconduct, the CID Commander shall immediately:

- 1. Determine if the alleged criminal misconduct occurred within the City of Oakland;

² The Watch Commander may become aware of criminal misconduct committed by a member of the Oakland Police Department executive team, CID Commander, or other Department member that may require alternate avenues of reporting and/or investigation to ensure the integrity of the investigation. The Watch Commander should remain conscientious about not notifying a known involved member in the alleged criminal misconduct.

³ Additional detailed requirements for CID Commander responsibilities are codified in CID P&P 19-01.

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Effective Date
19 May 23

2. Assign an investigator and direct a preliminary investigation if the alleged criminal misconduct occurred within the City of Oakland;
3. Determine the necessity for an investigative callout;
4. Confer with the Bureau of Investigations (BOI) Deputy Chief;
5. Contact the appropriate jurisdiction if the alleged criminal misconduct occurred outside the City of Oakland; and
6. Contact the Internal Affairs Division (IAD) Commander.

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D. RESPONSIBILITIES OF THE BOI DEPUTY CHIEF

D - 1. Initial Responsibilities

Within 24 hours of being briefed on the alleged criminal misconduct by a member, the BOI Deputy Chief or designee shall prepare and forward a summary of the allegation(s) via email⁴ to the Chief of Police, Assistant Chief of Police, Chief of Inspectors of the Alameda County District Attorney's Office, Office of the City Attorney, Chair of the Police Commission, Police Commission Inspector General, Executive Director of the Community Police Review Agency (CPRA), BRM Deputy Chief and IAD Commander. If the alleged criminal misconduct occurred in another jurisdiction, the BOI Deputy Chief or designee shall additionally contact the appropriate law enforcement agency and/or district attorney's office that has jurisdiction for that agency.

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Notifications from the BOI Deputy Chief should include the following information, when known:

1. The date(s) of the alleged criminal activity;
2. The date of arrest, if any;
3. Whether the alleged criminal activity occurred in Oakland or in another jurisdiction;
4. The criminal investigating or reporting agency, if other than OPD;
5. A brief description of the criminal activity and/or statute(s) allegedly violated (e.g., DUI, VC 23152); and
6. The rank of the member (e.g., "officer" or "lieutenant").

Such notifications shall be made whether or not the alleged misconduct occurred during the course and scope of employment. E.g., On March 1st, 2023, OPD was notified that an OPD Lieutenant was arrested on February 28th, 2023, by ACSO for auto burglary, 459 PC in Hayward that allegedly occurred on February 25, 2023.

D - 2. Post Preliminary Investigation Responsibilities

Deleted: Notifications shall be made for officer-involved shootings and in-custody deaths, but not in cases including other allegations of officer use of force or misconduct (e.g., the alleged planting of evidence) while on duty unless there is reasonable suspicion that such acts were committed and constitute a felony or misdemeanor.¶

⁴ The email notification shall be documented in the Investigation Action Report (IAR) and Tracking Sheet. A copy of the email shall be uploaded and kept on the CID confidential server.

The BOI Deputy Chief shall review and evaluate the preliminary investigation, and if there is reasonable suspicion of criminal misconduct involving a felony or misdemeanor, take the additional following actions:

- 1. Ensure the incident is logged in the [tracking sheet](#);
- 2. Confer with the Chief of Police;
- 3. Identify the best course of action, including whether another agency is to conduct the investigation; and
- 4. [Evaluate each circumstance as a case-by-case basis to decide whether additional notifications are required. The initial notification may be sufficient.](#)

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D - 3. Criminal Investigation Responsibilities

If the Department is going to conduct the criminal investigation, the BOI Deputy Chief shall confer with the CID Commander to discuss the proposed [investigative plan](#) which may include, but is not limited to, the following determinations:

- 1. If there is probable cause for an arrest;
- 2. Whether to assign Department investigators to conduct a criminal investigation; and
- 3. The need for a joint criminal investigation with an outside agency.

4. [Ensure the recusal process is followed per Bureau of Investigation Policy and Procedures 23-02.](#)

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² The email notification shall be documented in the Investigation Action Report (IAR) and the 611 Tracking Sheet (TF-3519). A copy of the email shall be uploaded and kept with the Tracking Sheet. ³ TF-3519¶
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If the Department is **not** going to conduct the criminal investigation, the BOI Deputy Chief shall direct the CID Commander to:

- 1. Make [a notification](#) to the appropriate law enforcement agency and/or district attorney’s office that has jurisdiction for that agency of the circumstances surrounding the criminal activity [unless the initial notification comes from another law enforcement agency with jurisdiction over the alleged criminal activity. Document this notification in the Tracking Sheet](#);
- 2. Forward supporting documentation and document this forwarding in the Tracking Sheet; and
- 3. Act as the liaison with the outside agencies.

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D - 4. High Profile Case Updates

[Any criminal investigation into a Department member is considered a high-profile case and updates shall be provided to the Assistant Chief and Chief of Police at least once a month, at a routinely scheduled meeting.](#)

[Updates shall be made for officer-involved shootings and in-custody deaths. In cases including other allegations of on duty officer use of force or misconduct, a briefing is not required unless there is reasonable suspicion that such acts were committed and constitute a felony or misdemeanor. The Chief of Police can request regular high-profile updates on any case.](#)

The meetings shall consist of a presentation of criminal investigation updates by the BOI Deputy Chief. If, as anticipated, the BRM Deputy Chief will be presenting updates for IAD high profile cases at the same routinely scheduled monthly meeting, the BOI Deputy Chief and any other CID personnel will leave the meeting prior to the BRM Deputy Chief presenting updates for IAD high profile cases.

The BOI Deputy Chief or designee is responsible for providing verbal updates relevant to the progress of the criminal process to the Assistant Chief and Chief of Police. The BOI Deputy Chief will ensure that high profile case updates are updated on the tracking sheet. The CID Commander and Deputy Chief shall ensure that any substantive directives are documented on the Investigative Action Report (IAR).

E. CID INTERNAL INVESTIGATIVE PROCEDURES

E - 1. CID Investigation Command

The CID Commander shall direct the criminal investigation.

E - 2. Fairness and Confidentiality of Investigations

Departmental investigators shall conduct the criminal investigation in a manner consistent with Department policy and procedures and ensure the confidentiality of all investigations.

E - 3. Separation of CID / IAD Investigations

The criminal investigation and administrative investigation are separate investigations. All evidence and products from the criminal investigations are available for use in the administrative IAD investigation. However, to protect members' rights, the criminal investigator shall not obtain or use information obtained by IAD.

E - 4. Updates on Investigation Progress

The investigator shall update the CID Commander on a bi-weekly basis with the progress of the investigation.

E - 5. Timeline for Investigations

Criminal investigations shall be completed within 90 days unless otherwise extended up to 30 days in writing by the BOI Deputy Chief. If an extension is approved, it shall be documented in the IAR and Tracking Sheet. There is no limit on the number of extensions.

E - 6. Closure of Investigations

The Chief of Police shall approve any CID investigation of member criminal misconduct prior to presentation to the District Attorney's Office. The CID Commander shall ensure such approval is documented in the IAR and the tracking Sheet.

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OAKLAND POLICE DEPARTMENT

Effective Date
18 Sep 18

E - 7. Notifications of Investigation Closures

The CID Commander shall provide email notification of the closure of the CID investigation to the Assistant Chief of Police, Chief of Police, BOI Deputy Chief, BRM Deputy Chief, Chief of Inspectors of the Alameda County District Attorney's Office, Office of the City Attorney, Chair of the Police Commission, Police Commission Inspector General, Executive Director of the Community Police Review Agency (CPRA), and IAD Commander. This email notification shall be documented in the IAR and the tracking sheet.

Deleted: Chief of Inspectors of the Alameda County District Attorney's Office, Office of the City Attorney, Chair of the Police Commission, Executive Director of the Community Police Review Agency (CPRA), and IAD. This email notification shall be documented in the IAR and Tracking Sheet and a copy of the email shall be kept with the Tracking Sheet⁸....

F. ADDITIONAL OVERSIGHT AND REPORTING FOR CID INVESTIGATION

F - 1. CID Commander Oversight Responsibilities

The CID Commander shall ensure the investigation is proceeding in accordance with Departmental policy and provide oversight, guidance, and resources necessary for the timely completion of the investigation.

F - 2. Briefing of the BOI Deputy Chief

The CID Commander shall brief the BOI Deputy Chief regarding the status and progress of all investigations on a bi-weekly basis.

F - 3. Review of Investigations

The CID Commander and BOI Deputy Chief shall review the investigation before submission to the District Attorney's Office for charging consideration.

F - 4. Briefing of the Assistant Chief and Chief of Police

The BOI Deputy Chief shall notify the Assistant Chief of Police and the Chief of Police on the status and resolution of all investigations every 30 days.

F - 5. Maintenance of Secure Investigation Files

The Records Division Manager shall maintain secure files of completed investigations involving members of the Department. These files are stored in a secured location and are only accessible by the Records Division Manager.

G. CRIMINAL MISCONDUCT BY OUTSIDE SWORN LAW ENFORCEMENT PERSONNEL

G - 1. Notification Requirements of Members

When any member has reasonable suspicion that a sworn law enforcement officer employed by another agency is involved in a felony or misdemeanor, the member shall immediately notify an on-duty Watch Commander via phone and email unless the member possesses information that reasonably suggests that the law enforcement officer's agency is already aware of the criminal activity. If an on-duty Watch Commander cannot be reached by phone, the Communications Division Supervisor shall be called at 510-777-8801 to request a return call from an on-duty Watch Commander.

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G - 2. Watch Commander Responsibilities

If the alleged criminal misconduct occurred within the City of Oakland, the Watch Commander shall:

- 1. Attempt to determine the identity of the outside sworn law enforcement officer, the details of the alleged criminal misconduct, and contact information for the reporting entity.
- 2. Ensure steps are taken by on-duty personnel to identify a crime scene and assess the immediate necessity to preserve it and related evidence.
- 3. Notify the CID Commander.

If the criminal misconduct occurred in another jurisdiction, the Watch Commander shall:

- 1. Attempt to determine the identity of the outside sworn law enforcement officer, the details of the alleged criminal misconduct, and contact information for the reporting entity.
- 2. Notify the law enforcement agency where the conduct occurred and the employing agency of the outside sworn law enforcement officer.
- 3. Notify the Oakland Police Department Chief of Police through the chain of command.

G - 3. CID Commander Responsibilities

If the criminal misconduct occurred within the City of Oakland, the CID Commander shall:

- 1. Direct, or designate a CID Section Commander (Lieutenant), to oversee a preliminary criminal investigation;
- 2. Determine the necessity for an investigative callout;
- 3. Confer with the Bureau of Investigations (BOI) Deputy Chief;
- 4. Notify the officer's employer of any ongoing investigation or arrest;
- 5. Within 24 hours, provide email notification of the CID investigation to the Assistant Chief of Police, Chief of Police, BOI Deputy Chief, Chief of Inspectors of the Alameda County District Attorney's Office, and Office of the City Attorney. This email notification shall be documented in the IAR and Tracking Sheet, and a copy of the email shall be kept on the CID confidential server.

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DEPARTMENTAL GENERAL ORDER M-04.1
OAKLAND POLICE DEPARTMENT

Effective Date
18 Sep 18

By order of,

Darren Allison
Interim Chief of Police

Date Signed: _____

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June 30, 2023

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

Introduction

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

On May 12, 2022, the Court issued an Order placing the City into a one-year sustainability period. The Court noted, “The Negotiated Settlement Agreement (NSA) the parties executed on January 22, 2003, contemplated that federal court oversight would terminate after the defendants achieved substantial compliance with all of the provisions of the NSA and maintained that compliance for a year.” As per the May 12, 2022 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. We meet with Department and City officials to receive updates on OPD’s compliance with the NSA Tasks; observe the Department’s Risk Management Meeting; discuss the status of several Departmental policies; and share our observations of misconduct investigations and use of force reports.

The Court extended the sustainability period in an Order on April 18, 2023, citing “the City’s inability to achieve full compliance.” The Order set out some new provisions for the sustainability period and reduced the number of active Tasks from 11 to five. The Court noted, “The Court is wrestling with the utility of its role in helping the City achieve constitutional policing after 20 years of monitoring compliance with the NSA. As discussed at the last Case Management Conference, much good work has been accomplished. Fundamental questions regarding the Oakland Police Department’s ability to police itself remain.”

Per the April 18, 2023 Court Order, this report covers our assessments of NSA Tasks 2; 5; 24; 25; and 45.

Fourth NSA Sustainability Period Report of the Independent Monitor for the Oakland Police Department
June 30, 2023
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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 requested a list of all internal investigations resulting in formal findings (unfounded, sustained, exonerated, or not sustained) that were approved in January, February, and March 2023. Due to the ongoing effects of the ransomware attack on the City's systems in February, the Department is currently unable to produce the report, or list, from Vision that it has provided to us in the past. Accordingly, the list that we received was generated manually by IAD and Office of Internal Accountability (OIA) personnel, and it did not include all of the information that we normally receive for this purpose. Using the list, we segregated the 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.”

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

June 30, 2023

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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.

Of the 32 applicable Class I cases we reviewed for this assessment, 27, or 87%, were in compliance with established timelines. During our last review of Task 2, we found 88% of Class I cases in compliance with established timelines. Of the 107 applicable Class II cases we reviewed for this assessment, 102, or 95%, were in compliance with established timelines. During our last review of Task 2, we found 99% 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.” The Department was unable to provide information about the cases in our dataset that included sustained findings to us to conduct this assessment. As a result, for this reporting period, we were unable to determine the Department’s compliance with established discipline timelines. By our next report, if we are unable to determine discipline timeliness, it may affect the Department’s compliance status with this Task.

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:*

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

(Negotiated Settlement Agreement III. E.)

Relevant Policy:

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

Commentary:

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

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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 January 1-March 31, 2023.

Our sample of cases consisted of investigations completed by investigators assigned to 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.)

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.

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

Investigators conducted follow-up interviews in two of the cases we reviewed. In one case, a complainant was interviewed three times. In another case, the subject officer was interviewed twice. In the remaining cases, we concur that follow-up interviews were not warranted.

OPD made credibility assessments for all involved parties in eight of the 12 cases. Five 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 three cases, including one summary finding case, the complainants were deemed not credible. In two cases, the complainant's statements were inconsistent with available body-worn camera (BWC) footage; and in the other case, the complainant's statements were inconsistent with a recorded call to OPD Dispatch. In two cases, subject officers were deemed not credible.

We disagreed with the credibility assessments in one case. Two complainants were both deemed credible. Based on the evidence in the case, and also the narrative of the credibility assessments, they should have been deemed not credible. The investigator wrote that the complainants' statements were "not accurate" and that both complainants "seemed to exaggerate and often time purposely mispresent facts."

In 10 of the 12 cases we reviewed, OPD resolved inconsistent statements. In five of these cases, BWC recordings were available and assisted in the determination. In two other cases, recorded calls to OPD Dispatch proved instrumental in reaching a definitive finding. 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.

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 39 allegations that received dispositions as follows: 11 exonerated; 16 unfounded; four not sustained; seven sustained; and one administratively closed.

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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, an allegation of truthfulness should have been added and sustained for the subject officer. In this case, the officer was sustained for engaging in an inappropriate relationship with a crime victim. The officer was appropriately deemed not credible based on his interviews. In the investigator's analysis of the relationship allegation, he cited and appropriately applied the preponderance of evidence standard in reaching the sustained finding. However, in his explanation for not pursuing a truthfulness allegation, the investigator appeared to apply a different, higher standard of proof. While he justified the not credible determination, and characterized certain elements of the officer's statements as "highly questionable," he indicated that the "investigation would not ever be able to *prove* Officer [] was in fact untruthful." (Italics added.) The burden of proof for a truthfulness allegation is no different than for any other allegation: preponderance of the evidence. This is often described as more likely than not, or 51%, or a slight tipping of the scales. It does not require definitive proof. The investigation, which was very thorough, contained enough documentation to meet the preponderance of the evidence standard with respect to truthfulness.

In another case we reviewed, a Division Level Investigation (DLI), the initial investigator reached one set of findings, including sustained findings for one of five involved officers for failure to accept or refer a complaint and for demeanor. The investigator's captain disagreed with some of the findings and authored an addendum to the investigation. He concurred with these sustained findings, but he disagreed with other findings reached by the investigator. He recommended that another officer be sustained for failure to accept or refer a complaint, and also recommended that several exonerated findings be changed to not sustained. It appears from the documentation we received that the Chief concurred with the captain's recommendations; yet we only received discipline documentation for the first officer referenced. After repeated requests for commensurate documentation pertaining to the second sustained officer, OPD discovered that, due to an apparent clerical error, the second officer was never notified of the sustained finding or any proposed discipline. The 3304 date has since passed, causing the Department to miss the opportunity to impose discipline if warranted based on the officer's history. OPD attributed this issue to human error, exacerbated by the continuing effects of the Citywide ransomware attack in February and its ongoing impact on Vision. While we realize that OPD relies heavily on Vision for many of its reporting processes, until that system is fully restored, it is incumbent on the Department to institute alternative measures to prevent occurrences such as this.

Additionally, at least half of the cases in our sample were missing interview and/or BWC recordings. Despite numerous attempts to obtain this documentation over more than a two-week period, most of the missing material was not provided as of this writing. While we are comfortable with our assessment of the cases based on the material at hand, in many instances, we did not have the ability to compare written summaries to actual audio or video documentation had we felt the need to do so.

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.

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Traditionally, as part of our review of this Task, we also reviewed cases that are tolling. OPD defines a tolled case as an administrative investigation that has been held in abeyance in accordance with one of the provisions of Government Code Section 3304. While we are no longer actively assessing this subtask, we note that filed and tolling cases are reviewed with the Chief or his designee during the weekly IAD meetings and are listed by case number on the printed meeting agendas. We receive and review these agendas regularly, and a Monitoring Team member regularly attends these meetings. Additionally, we regularly receive a weekly report listing all tolled cases and all cases approaching their 3304 dates. When we have questions regarding any of the cases in the report, the IAD Commander answers them promptly.

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

As we noted in our last report, there have been several investigations conducted by outside investigators retained by the City. Some of these matters are still pending; and there remain issues in the Internal Affairs Division, as well as systemic and other deficiencies, that need to be addressed. We look forward to assessing the Department's progress under the new leadership in Internal Affairs. The Department remains not in compliance with Task 5.

Task 5 compliance status	Not in compliance
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Overview of Our Assessments of Tasks 24 and 25

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

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

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have also tracked OPD's efforts to correct identified deficiencies, which have included: the issuance of email directives from executive staff, training bulletins, and newsletters; audits; line-up training; and revisions to UOF-related policies.

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

To assess compliance for this report, we reviewed 31 UOF reports that occurred between December 1, 2022-February 28, 2023. We reviewed all Level 3 UOF reports (two) and a sample of Level 4 UOF reports (29). In accordance with the Order issued May 12, 2022, establishing the sustainability period, we reviewed these UOF reports with a member of OPD's Office of Internal Accountability (OIA) serving as the Department's NSA sustainability liaison. Between March 1-April 11, 2023, we reviewed three Level 2 UOF reports for which Force Review Boards (FRBs) were held. Where concerns with field reporting existed, the concerns were appropriately addressed by the Boards. We discuss only Level 3 and 4 uses of force in this assessment.

This report covers Level 3 and 4 UOF reports completed by OPD between December 1, 2022-February 28, 2023. All 31 of the cases we reviewed for this time period occurred after the publication of Special Order 9196, which clarified the use of force policy; after Special Order 9202, issued on February 27, 2020, which temporarily modified the requirements for reporting Type 32 uses of force; and after Special Order 9208, issued on April 27, 2022, which defined the finalized reporting requirements for Level 4, type 32 uses of force.

In the 31 Level 3 and 4 uses of force we reviewed, 78 officers used force on 36 different persons. There were numerous cases where multiple officers used force on a single person, and five instances where force was used on multiple persons at the same incident. We noted that there were 136 uses of force on the 36 persons. Level 4, Type 32 uses of force accounted for 60 of the total uses of force; and in 10 of the 31 cases we reviewed, only Type 32 use of force were used. As we have noted in our last two sustainability reports, an increase in the total number of uses of force is not unexpected, given the new reporting requirements for Type 32 UOF that were implemented in 2022.

During the second sustainability period, we noted some inconsistencies in the reporting of the Type 32 use of force by officers and supervisors. During our November 2022 site visit meeting, we discussed these inconsistencies with OPD and agreed on an interpretation of reporting for this type of force. After our discussion, OPD ensured that supervisors were made aware of the reporting requirements; and we have seen improved consistency in those reports we have reviewed since that time. As we requested, OPD supervisors now include on the Vision report whether any BWC was reviewed in a Type 32 use of force only incident. Area Captains continue to audit a sample of Type 32 UOF each month. In the Area Captains' reviews for incidents, they have identified and appropriately addressed concerns with use of force reporting and documentation.

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The total breakdown for the force used on the 36 persons is as follows: African Americans, 42%, a decrease from 48% in our last status report; Latinos, 42%, an increase from 28% in our last status report; whites, 13%, an increase from 8% in our last status report; and Asians or other, 17%, an increase from 16% in our last status report.

Of the 31 UOF reports we reviewed for the three-month period between December 1, 2022-February 28, 2023, we identified only one late BWC activation that had not been identified and addressed by OPD supervisors. While we have continued to observe during our reviews some instances of BWCs becoming dislodged during use of force events, limiting the availability of footage to review, those numbers have declined since OPD began issuing the new “clips” to more securely attach BWCs to both exterior vest carriers and uniforms. In February, only one incident where a BWC became dislodged was noted. During our May 2023 site visit, OPD told us that its new BWC policy is nearing completion.

We noted a few instances in our reviews where officers failed to identify themselves as police officers or used unprofessional language or profanity while dealing with members of the public. We noted one incident where we believe there may have been an unreported use of force, and one where we had concerns about the appropriateness of lowering the level of force from a Level 3 to a Level 4. Of the concerns and comments we brought forward during our May 2023 site visit, the UOF Command review group had already identified and addressed all but one. The group had also identified and addressed some additional concerns with the uses of force it reviewed.

The Deputy Chief who is responsible for the UOF Command review group also presented during our May 2023 site visit on the results of the group’s reviews, which also covered UOF reports not reviewed by our Team. The Deputy Chief noted that their reviews continued to identify some concerns with tactical issues, proper categorization of UOFs, and de-escalation techniques. The Deputy Chief also noted that they continued to identify ongoing positive trends – including improved planning and communications, more detailed UOF reports, more positive communications with the public, and sergeants and the chain of command identifying and addressing deficiencies that were found. Based on our reviews, we agree with the assessment provided. The Deputy Chief advised that he is rotating different Command officers onto the review group and finding that this is serving as good training for the command personnel who review uses of force.

In our review of UOF reports for December 1, 2022-February 28, 2023, we identified few areas of concern. In general, officers continue to appropriately use and report use of force, and supervisors and command personnel are identifying and properly addressing any concerns that are identified.

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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 31 Level 3 and 4 use of force (UOF) reports that were completed by OPD from December 1, 2022-February 28, 2023.

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 31 Level 3 and 4 UOF incidents we reviewed; officers used force on 36 different persons. In four of the reports, Level 4, Type 22, pointing a weapon, was the only force used. In six others, Type 22 was used in addition to another use of force. We determined that officers' pointing of their firearms was appropriate in all instances we assessed. We identified one instance where it appears a use of force was improperly reported. The UOF Command review group had already referred this case to IAD. We also identified one instance where we had concerns about a Category 3 use of force being lowered to a Category 4 use of force. Again, the Command review group had already identified this concern and forwarded the report to IAD for investigation.

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 the two Level 3 uses of force we reviewed for this subtask; a supervisor did respond to the scene as required. Though not required, supervisors also responded to 24 of the 29 Level 4 uses of force or were on scene at the time of the use of force.

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

Task 24.6 requires that OPD enter all use of force data into Performance Reporting Information Metrics Environment (PRIME), which is now known as Vision. In most cases, use of force data was properly entered into Vision. However, OPD experienced technical difficulties with entering some of the use of force data; and the Department continues to work on resolving this issue.

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

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

Requirements:

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

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

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

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

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

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

(Negotiated Settlement Agreement V. B.)

Relevant Policy:

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

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Commentary:

As noted above in Task 24, we reviewed 31 Level 3 and 4 use of force (UOF) reports that were completed between December 1, 2022-February 28, 2023.

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

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

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. During this and our last three sustainability reports, we have found that in general, supervisors are identifying deficiencies in officer reporting and identifying and addressing MOR violations. We also find that reviewers of the supervisors’ reports are generally identifying and addressing concerns when appropriate. OPD has also assigned a team of command officers to review some use of force reports as an ongoing quality control mechanism. We have found that this additional oversight and review has continued to identify and properly address concerns prior to our Team identifying them.

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

In our assessment of Level 3 and 4 UOF reports for this report, we did not identify any instances where the use of force was not deescalated or stopped reasonably when resistance decreased, or any instances where we believe officers could have made additional efforts to explain to subjects being detained why the detention was occurring prior to using force. Notably, we observed several instances during this reporting period where officers used commendable patience and empathy when dealing with members of the public who were being detained.

In our review of UOF reports from the first sustainability period, we identified three Level 3-Taser deployments where we identified concerns with the use of force. As a result of our concerns, OPD initiated internal affairs investigations of two of these. In the third, OPD provided us additional detailed information on the use of force; and after further review, we concurred with their findings of in compliance. OPD conducted additional training for officers and supervisors on the use of Tasers, specifically the use of Tasers on subjects who were fleeing on foot from officers. The Department also determined that OPD would no longer allow Taser

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deployments where the subject was not struck with the probe to be lowered to a Level 4 use of force. This ensures that they receive the same level of scrutiny as those where the probe does strike the subject. Since that time, we have not identified any further concerns with the use of Tasers on fleeing subjects.

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. The Command review group also reviews a select number of uses of force for follow-up review. The combination of supervisor and command review has continued to appropriately identify and address concerns with UOF reporting. OPD continues to make strides in ensuring that the chain of command is actively involved in the review of use of force and is addressing areas of concern without the need for us to bring the concerns to their attention.

Task 25.5 requires that any determination that a use of force did not comply with Department policy result in the incident being referred to IAD to conduct additional investigation/analysis, if necessary. We identified two uses of force where we believed additional investigation was appropriate to determine if the use of force was appropriate or properly reported. OPD had already identified these concern and referred the cases to IAD.

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 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. 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.

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

Task 25 compliance status	In compliance
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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.)

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:

Since the writing of our last report, a key member of the Department's staff who was a major contributor to data-gathering and analysis left the services of the City. We look forward to the Department filling this important position.

More importantly, in our last report, we expressed our dismay that the Department had not directly responded to issues of disparities – and in fact, certain investigative outcomes illuminated the Department's failures in this regard. The Department needs to specifically address disparities in discipline and investigative outcomes.

Task 45 compliance status	No compliance finding
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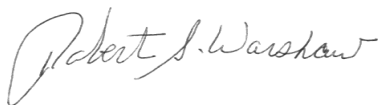
Conclusion

The Court Order of April 18, 2023 extended the NSA sustainability period and limited the active Tasks to 2, 5, 24, 25, and 45. Prior to the April 18, 2023 Order, and since our last report, we observed two Force Review Boards (FRBs) convened by OPD. One FRB assessed the appropriateness of a canine bite on a subject wanted for a felony arrest warrant who was observed in possession of a handgun. The Board found the use of force in compliance; and the members engaged in in-depth discussions regarding the length of the bite; and whether de-escalation occurred at the earliest opportunity. The second FRB assessed the use of both a Taser and a Specialty Impact Munition (a Drag Stabilized Flexible Baton, or “bean bag”). The subject refused to leave his aunt’s residence, and was armed with a metal cane which he repeatedly waved in a threatening manner. The force was used when he attempted to break the containment of the officers and re-enter his aunt’s house. We did not disagree with either Board’s conclusions.

Additionally, for this report, we reviewed one FRB report that was completed and approved by the Chief of Police since our last report. The FRB report documented an FRB that convened on January 20, 2023, which was observed remotely by a member of the Monitoring Team. The Board assessed 12 uses force, including a canine bite. The subject receiving the bite fled from a stolen vehicle that was used in an armed robbery. We found the report to be well-written and an accurate account of the proceeding we observed. The Chief concurred with the Board’s findings without any modifications. We did not disagree with any of the findings in the reports we reviewed.

We also reviewed one completed Executive Force Review Board (EFRB) report before the entry of the April 18, 2023 Order and since we last reported on Task 30. The report documented the EFRB’s evaluation of a Taser deployment on a fleeing suspect wanted from an earlier domestic violence incident. Members of the Monitoring Team observed the Board when it convened on March 7-8, 2022. We found that the report accurately documented the proceedings. The Board found the Taser deployment out of compliance, and we did not disagree. The Chief concurred with the Board’s findings without any modifications.

Interim Chief Allison has done a commendable job in the daily operations and administration of the Department. The Department, with the support of the City structure, must continue to address and resolve issues that are still of concern.



Chief (Ret.) Robert S. Warshaw
Monitor

CITY OF OAKLAND



Oakland Police Commission

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TO: NSA Parties**FROM:** Oakland Police Commission (OPC)
Dr. Tyfahra Milele, Chair**SUBJECT:** Discussion Outline of
Reform Plan to Bring the City
of Oakland Into Sustained
NSA Compliance**DATE:** March 30, 2023**Introduction**

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

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

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

To formulate a final plan to address the issues outlined below, the Commission will identify information gaps the City and OPD can address, grapple in its public meetings with important policy questions, survey its relevant Charter and Municipal Code

authorities, and compile a final incident response plan for review by the NSA Parties and the Court.

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

OUTLINE OF ISSUES AND REFORM PLAN

A. SYSTEMIC AND STRUCTURAL ISSUES

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

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

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

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

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

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

Dozens of high profile IAD investigations have been handled by outside firms, yet there is no comprehensive policy that formally standardizes these referrals, governs the details of required notice to the other Charter entities in Oakland, or details the process and timeline for the City to implement discipline based on them, particularly discipline of the Police Chief or other non-union police officers. The City has been applying individual provisions of M-03, the OPD General Order for processing and investigating allegations of Department employee misconduct, which on its face does not contemplate dozens of outside referrals.

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

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

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

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

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

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

Proposed Solution: The internal affairs investigation policy, including any policies as part of the M-03 series and those related to referrals to outside investigations, must be reformed. In addition, a broader multi-pronged approach is needed to address the issue. The Chair of the NSA Ad Hoc Committee also serves as Chair of the CPRA Policies Ad

Hoc Committee, and is hereby proposing to fold several conceptual ideas proposed by the CPRA Director into this set of proposed solutions, as follows:

- The Commission should review the referral process for the CPRA to take up non-civilian complaints, as well as the CPRA's policies and approach for taking on complaints that are traditionally handled internally by the Department.
- The City should enter into an MOU to require it to notify the Commission Chair and CPRA in writing whenever an internal complaint is referred to an outside agency for investigation. Such notification shall include sufficient information for the Commission and CPRA to understand all allegations that need to be investigated. The City shall also provide the Commission Chair and the CPRA a copy of any contract entered into with the outside agency.
- The Commission should direct OPD to report to the Commission on a monthly basis the number of public and internal IAD complaints, to track against the CPRA's monthly reported number.
- The Commission should direct OPD to submit all internal Complaint Investigation Reports (CIRs) to the CPRA via email, within 24 hours of initiation, with detailed allegations including brief narratives sufficient for the CPRA to clearly understand the allegations and the applicable policies and provisions of OPD's Manual of Rules.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of determination, of any criminal allegations or implications that arise during the course of an administrative investigation.
- The Commission should direct OPD to notify the CPRA via email, within 24 hours of any decision being made, to have an outside entity investigate issues or allegations of police misconduct.
- The Commission should direct CPRA to document the numbers, types, and brief narratives of the internal complaints received from IAD.
- The Commission should direct CPRA to investigate mandated allegations for the internal complaints in the same manner as is done with mandated allegations for public complaints.
- The Commission should direct CPRA to investigate any mandated and non-mandated allegations against executive level supervisors ranked Captain or higher.
- The Commission should direct CPRA to determine if there is an administrative investigation that should be conducted in relation to any criminal investigation and to document the rationale for the decision.
- The Commission should direct CPRA to reopen a case and conduct an investigation if the Commission decides, based on a brief narrative of the closed internal cases, that reopening is merited.

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

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

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

4. Issue: Lack of City, Monitor, and IMT Coordination with OPC and CPRA

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

Proposed Solution: In the short term, the City and OPD (and for the period of time when the Monitor is standing in the shoes of OPD) must immediately be required to provide

regular closed session briefings to the Police Commission and its direct reports on the status of compliance issues that pose a risk to the City's resolution of the NSA.

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

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

B. CULTURAL ISSUES:

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

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

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

2. Issue: Lack of Distributed Leadership and Accountability at OPD

Distributed leadership is a leadership model favoring the shared responsibility and accountability of multiple individuals within a workplace. Under a distributed leadership model, the CDC Report's findings about the Police Chief would have extended to the

entire leadership team, including those who had knowledge of the pertinent events. There should have been documented standards setting the expectation of accountability for every individual in the decision-making chain, as well as witnesses to the decisions, that led to the Department failures culminating in the December 23, 2021 meeting.

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

3. Issue: Availability of Mental Health Services and Support for Sworn Officers

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

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

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

4. Issue: OPD Officer Perception of Alleged Favoritism in Discipline

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

Proposed Solution: OPD needs far more granular information about the widely expressed perception of unfair discipline, including information about what OPD

employees perceive as “cliques.” The Commission currently has an Ad Hoc Committee that is tasked with investigating allegations made by the members of the Oakland Black Officers Association (OBOA) that they are subject to more severe discipline than other officers, and will continue to work with an outside investigating firm to review these claims.

Conclusion

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

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

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

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

Oakland Police Commission Statement

The Oakland Police Commission is pleased to respond to the Court's invitation to share our perspective on the value of a Sustainability Process and the best plan and prospects for a successful exit from the NSA.

The Police Commission was created through a 2016 ballot measure that amended our City Charter and vested in us broad authority to oversee the Oakland Police Department "to ensure that its policies, practices, and customs conform to national standards of constitutional policing."

The 2016 ballot measure, along with a subsequent ballot measure in 2020, enshrines civilian oversight to supervise the Police Department, the Office of the Inspector General (OIG), which has authority to assess the Department's performance and adherence to constitutional policing practices and audit its policies and procedures, and the Community Police Review Agency (CPRA), which has authority to investigate public complaints of misconduct against police officers and internal complaints if directed by the Commission. This model was part of City leadership's long term plan for the City of Oakland to earn resolution of the Negotiated Settlement Agreement (NSA). The Commission's bold exercise of its oversight authority, as informed by audit work of the OIG and investigatory work of the CPRA, should eventually replace the proactive compliance mandate currently imposed by the Monitor and the Independent Monitoring Team.

To earn NSA resolution, we appreciate that this Court and the Compliance Monitor/Director both expect the City of Oakland to demonstrate that it will routinely address major compliance incidents. The City can do so, first, by identifying deeper structural and cultural issues those incidents reveal and, second, by then implementing comprehensive response plans to keep its reform progress on track. The Monitor's Status Reports have routinely emphasized the proper scope of a more comprehensive response plan as integrating "broader issues of personnel, discipline, risk management, supervision, and leadership into a comprehensive management plan." The Oakland Police Commission's Charter authority positions it to support the City in developing this more comprehensive approach.

That's because the Police Commission plays a broad oversight role, both in leading the civilian oversight policymaking structure in Oakland and in supervising a civilian-led investigation agency that prioritizes the integrity of investigations into allegations against sworn officers. The Commission reforms Department policies related to all NSA tasks. We set direction for the Police Chief, the Inspector General, and the Executive Director of the CPRA. We can request reports about important police reform issues from the Chief and the City Administrator. We set the evaluation criteria for the Chief, the Inspector General, and the Executive Director of the CPRA. We hold an annual hearing on the Police Department's budget before the City Council approves it. We serve as a public forum for a highly informed community of Oakland residents and stakeholders, many of whom are organized and deeply engaged to help us set the reform agenda at our twice-monthly public meetings. Advocates for stringent police reform measures also serve as featured community participants of the Commission's policy committees, which we establish to revise the Department's

policies, procedures, and general orders. In the past year alone, the Commission has taken up close to 20 detailed policies, standard operating procedures, and general orders, ranging from the limited authorization to use military equipment to approving all of the changes the Monitor has required the City to implement, each time incorporating community involvement and perspectives without missing any deadlines imposed by state law or this Court. Far more policies and procedures and general orders are in the process of being created and revised, and we anticipate continuing to successfully take on the policymaking work required to reform OPD.

Based on our mandate from the voters of Oakland, and recent invitations of this Honorable Court, we understand that the Commission has a responsibility to fully exercise all of its Charter powers to continuously set the policing agenda and transform the Department from within, so that the constitutional policing measures mandated by the NSA will take root beyond the Sustainability Period.

In the short term, the Department has taken up the recommendations issued by the law firm of Clarence, Dyer, Cohen, LLP and started a detailed process of implementing those recommendations via new and updated policies and training materials. In addition, the Department has gone beyond those recommendations and is examining other policy and procedure changes to enhance communication between the Department and the CPRA and the Commission.

To set direction about ongoing reform efforts over the medium and long term, the Commission has established a new subcommittee of Commissioners currently led by Retired Judge Brenda-Harbin Forte as its Chair, other distinguished Commissioners of Oakland, and featured community participants of the public to lead the Commission in rendering its own determinations about what deeper structural and cultural issues were evidenced by the events described in the CDC Reports, in order to develop an appropriately comprehensive incident response reform plan for the Commission and the City to implement over the coming months. That plan is attached.

From this latest sprint of reform work, one point of perspective the Commission will share with the Court is to reemphasize the value of a near-term transition of oversight to the Commission and the civilian departments it oversees. With due respect to Clarence Dyer Cohen, LLP, recommended reforms to the Police Department and the City require an in-depth understanding of the City's Charter structure and the model of oversight it envisions, and key policymaking reform work would have been well underway by now had the Commission been read into the matter at an earlier juncture. Rather than coordinating the outside investigation with an Oakland-overseen investigation led by the CPRA, civilian oversight was siloed out of the process that resulted in the Reports of Investigation and Recommendations that Clarence Dyer Cohen LLP issued. The Commission is left to develop and implement big picture reforms on a short timeline, almost as an afterthought. We continue to recognize the work of the Independent Monitoring Team in helping the City of Oakland reform itself, and we are encouraged by the opportunity to build on the Monitor's herculean track record the Court itself emphasized. We would be remiss, though, if we did not respectfully share our perspective that the Commission

has been empowered by the voters because of widespread community sentiment that Oakland residents can set the direction of the reform work required to ensure Constitutional policing.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

5	DELPHINE ALLEN, et al.,)	
)	
6	Plaintiffs,)	
)	
7	VS.)	NO. C 00-04599 WHO
)	
8	CITY OF OAKLAND, et al.,)	
)	
9	Defendants.)	
)	

San Francisco, California
Tuesday, April 11, 2023

TRANSCRIPT OF HYBRID PROCEEDINGS

APPEARANCES:

For the Plaintiffs:

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(APPEARANCES CONTINUED ON FOLLOWING PAGE)

REPORTED BY: Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG
CSR No. 7445, Official U.S. Reporter

1 **APPEARANCES:** (CONTINUED)

2 For the Defendants:

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6 **BY: BRIGID S. MARTIN, DEPUTY CITY ATTORNEY**

7 For the Intervenor Oakland Police Officers Association:

8 RAINS LUCIA STERN
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10 2300 Contra Costa Boulevard, Suite 500
11 Pleasant Hill, California 94523

12 **BY: ROCKNE A. LUCIA, JR., ATTORNEY AT LAW**

13 Also Present:

14 **Mayor Sheng Thao**

15 **Interim City Administrator Steven Falk**

16 **Interim Police Chief Darren Allison**

17 **Dr. Tyfahra Milele (Via Zoom)**
18 **Oakland Police Commission Chair**

19 **Retired Superior Court Judge Brenda**
20 **Harbin-Forte**
21 **Oakland Police Commission Ad Hoc Head**

22 **Michelle Phillips, Inspector General**

23 **Charlotte Jones**
24 **Interim Executive Director**
25 **Community Police Review Agency**

Deputy Chief James Beere

Deputy Chief Drennon Lindsey

Deputy Director Kiona Suttle

Captain Kevin Kaney, Internal Affairs

1 Tuesday - April 11, 2023

3:32 p.m.

2 P R O C E E D I N G S

3 ---o0o---

4 **THE CLERK:** And we are here in Case Number 00-4599,
5 Allen, et al. vs. City of Oakland, et al.

6 Counsel, if you would please come forward and state your
7 appearance for the record.

8 **MR. BURRIS:** John Burris for the plaintiff. Good
9 afternoon, Your Honor.

10 **THE COURT:** Good afternoon.

11 **MR. BURRIS:** Jim?

12 **MR. CHANIN:** James Chanin for plaintiffs, Your Honor.

13 **MS. MARTIN:** Good afternoon, Your Honor. Brigid
14 Martin for the City of Oakland. And I have many esteemed city
15 members here with me.

16 I have Mayor Sheng Thao.

17 Interim City Administrator Steven Falk.

18 Interim Police Chief Darren Allison.

19 I also have, virtually, the Oakland Police Commission
20 chair, Dr. Tyfahra Milele.

21 Head of the Oakland Police Commission Ad Hoc, Retired
22 Superior Court Judge Brenda Harbin-Forte.

23 From the Office of the Inspector General, the Inspector
24 General, Michelle Phillips.

25 The Interim Director of the Community Police Review

1 Agency, Charlotte Jones.

2 And subject matter experts from the Department, including
3 Deputy Chief James Beere; Deputy Chief Drennon Lindsey;
4 Deputy Director Kiona Suttle; and Internal Affairs Division
5 Captain Kevin Kaney, who is also acting right now for
6 Deputy Chief Clifford Wong of the Bureau of Risk Management.

7 **THE COURT:** Great. Well, thank you all for being
8 here.

9 And do I have to -- hello, Mr. Lucia.

10 **MR. LUCIA:** Just for the record, Your Honor, Rocky
11 Lucia for intervenor Oakland POA. Good to see you again.

12 **THE COURT:** It's good to see you.

13 I got a tip from a judge who I admire, a former judge who
14 I admire that I hadn't let you introduce yourself. So,
15 thank you.

16 And, Mayor Thao, I'm pleased that you're here.

17 Let me welcome everybody. And you can sit down.

18 **MS. MARTIN:** Thank you, Your Honor.

19 **THE COURT:** So my focus today, as it has been since I
20 succeeded Judge Henderson on this matter, is how the Court can
21 ensure that the City of Oakland achieves full compliance with
22 the NSA, the Settlement Agreement which was negotiated 20 years
23 ago with the plaintiffs and establishes constitutional policing
24 in all aspects of its work.

25 So I'm going to start this afternoon with a few questions

1 for Chief Allison. Then I'm going to lay out my thinking based
2 on the joint CMC statement and the Independent Monitor's
3 report.

4 After that, I'm going to ask for comments from the
5 plaintiffs, from OPOA, from the Police Commission, and then the
6 City and the Mayor.

7 So, Chief Allison, I'm going to put you on the hot seat,
8 as you have been a fair amount since I succeeded to
9 Judge Henderson.

10 **CHIEF ALLISON:** Yes, Your Honor.

11 **THE COURT:** And so you've been on the force for the
12 entire time, I think, of the Court's monitoring of OPD.

13 Since I've been the judge, I've seen impressive
14 accomplishments, like the dramatic reduction shown by the stop
15 data, both in terms of numbers and now even some impact on
16 racial disparity.

17 I've seen the risk management meetings become an effective
18 way to support constitutional policing.

19 I've seen the implementation of technology through vision
20 and through the body-worn cameras.

21 To the same end, I've seen a lot of policies implemented
22 to shore up the gaps in a myriad of tasks.

23 But here's the "but." I've also seen what seems to be a
24 cultural inability of OPD to police itself, to hold itself and
25 its officers accountable without fear or favor. And this seems

1 particularly true in cases involving OPD command staff. And
2 it's this lack of integrity, this culture that plays favorites
3 and protects wrongdoers that undercuts the foundations of
4 constitutional policing. And 20 years of court supervision
5 hasn't solved that problem, which was a major concern with
6 the Riders more than 20 years ago.

7 So that's my preface to two questions that I have for you.
8 The first one is: How are you and OPD addressing this cultural
9 problem? And then the second part of that is: What can
10 the Court do to support you in those efforts?

11 **CHIEF ALLISON:** Thank you, Your Honor.

12 As you know, as you've laid out, I've been here for a very
13 long time. I started with the City in 1994. So I've seen the
14 police department before the NSA, and certainly, particularly
15 through my command experience, I've seen almost everything
16 through the NSA, going back to even 2005. I was in the
17 Inspector General's Office as a sergeant, later a young
18 lieutenant. So I've certainly seen everything that you've seen
19 and everything that you've laid out, Your Honor.

20 You know, I think when you look at organizational culture
21 and how do you change it, you know, I think it always begins
22 with hiring folks that are aligned with the value of the
23 organization and values with the community. And for a long
24 time, we didn't have a community oversight body that existed,
25 up until just several years ago.

1 I think the first step in culture change is really trying
2 to bring in people that you know have those institutional
3 values, and then train those individuals through the academy,
4 through field training to make sure that's inculcated through
5 the organization. And that extends all the way to who you
6 promote, putting the right people in the right places that are
7 making the right decisions.

8 I have seen us progress over the years when it comes to
9 the culture of the organization. I've seen great innovations,
10 great transparency, great accountability, great community
11 relationships and collaboration.

12 But I've also seen bad decisions, wrong decisions,
13 missteps, and certainly have experienced several setbacks,
14 times where we're standing in front of Judge Henderson talking
15 about them and now yourself, Your Honor.

16 And so I always struggle with how do we hold that line.
17 And I think from the leadership having that heart, looking at
18 one's own heart and examining themselves and seeing that
19 reflected in others, I think, is important.

20 So that goes back to putting the right people in the right
21 seats to replicate that, and holding account.

22 I also think that as a business where the biggest asset
23 are people, we know that there's going to be failures; we know
24 that there's going to go wrong decisions; is working very
25 closely with an independent body that can see them -- or see us

1 independently.

2 And I know over the last couple of years in particular, we
3 have strengthened our collaboration and our work with our
4 current oversight bodies, with the Police Commission, with the
5 CPRA, with the IG's Office, and especially with the ability to
6 audit us through the IG's Office ramping up over the recent
7 months and year; that for those decisions that are wrong or
8 made in error, that there will be that net that catches those
9 things that get misstepped.

10 We're obviously -- all the setbacks, I feel them. It
11 frustrates me. I would love to see us just move forward, just
12 in best practices as an organization. And I know that we
13 consistently raise the bar high.

14 So I think from my perspective, just really
15 institutionalizing that culture; again, reinforcing not only
16 the training -- and I know we've presented on Project Reset,
17 which is a different training than we've ever done before. It
18 talks about organizational culture. It analyzes our own
19 culture and then highlights being change agents of that
20 culture.

21 And so getting folks to think that way and understand the
22 importance of it and then replicate it and get that courageous
23 followership to be able to bring that forward is going to be a
24 beginning of it; the policies that reinforce it; and then,
25 obviously, putting the right leaders in the right place to hold

1 account and see it for themselves and be supportive, from the
2 other leadership, to say, "It's okay to make decisions. It's
3 okay to hold accountability. And it's also okay to make
4 mistakes if they are done for the right reasons."

5 **THE COURT:** So, and you're always going to make
6 mistakes. You have and the police department has the toughest
7 job I can imagine doing. People are always going to mess up.

8 Not being honest about the problems that occur; trying to
9 cover up things because it's a little easier, it seems like
10 it's going to be an easier way of sort of alighting the
11 problem; playing favorites with people who either have
12 political sway or they're people that you just kind of like,
13 that's, I think, central to what's going on. And just being
14 able to hold people to account, it's a critical thing. And I
15 hope and I expect that you're doing that.

16 **CHIEF ALLISON:** Sure.

17 **THE COURT:** And so that's one issue.

18 How about the second part of my question? What is it that
19 the Court can do, that it hasn't been doing, or whether it can
20 do anything to deal with the cultural problem that has existed
21 from the Riders day and maybe for a lot longer than that?

22 **CHIEF ALLISON:** Well, Your Honor, I think that there's
23 been a lot -- I mean, certainly, any tone that hasn't been set
24 within the organization, I've always respected the Court has
25 set the tone for those areas that we need to pay great focus

1 to.

2 And I think that maybe helping us as we get to the
3 sustainability period. And I know we are several months into
4 it, and we've had some advantages and some successes, and we've
5 had certainly some setbacks.

6 Helping us focus in on the things that are remaining, the
7 tasks that really are remaining. I know that, not to get too
8 nuanced, but certainly the IA process, the discipline process,
9 trying to really put all of our energy into that to set the
10 foundation of the cultural expectations, because I do believe
11 that the policies and the training really are going to amplify
12 it.

13 So I think from the Court's assistance is basically
14 putting all the inertia into those last remaining vestiges of
15 compliance that we really need to get into to have long-lasting
16 compliance.

17 And I think, also, I would love to see that transition
18 over to community oversight, because I think we are at that
19 point to where that can -- and I'm not going to speak for
20 the Court. That's not what I'm trying to do. But since you
21 asked about how the Court could help --

22 **THE COURT:** That's what I'm looking for.

23 **CHIEF ALLISON:** -- is that transition into that
24 community oversight, because I think that the infrastructure is
25 there, and just what does that now look forward to, moving

1 forward into the future beyond the NSA.

2 **THE COURT:** Okay. So are you satisfied -- I'm going
3 to move on to a couple of other questions.

4 Are you satisfied that the policies that were recommended
5 by the Clarence Dyer report and the systemic report, as
6 modified by the City in the case management statement, as well
7 as those that are going through the approval process, are going
8 to ensure accountability and integrity in addressing officer
9 and, especially, supervisor and leadership misconduct?

10 **CHIEF ALLISON:** Yes, Your Honor.

11 And one thing I want to emphasize is, you know, there were
12 issues that were raised out of that report, and it ended up
13 touching 15 policies or forms.

14 And so we went back and we dove in deep right away. We
15 didn't wait to get it started or wait for direction. We ended
16 up diving into those policies, and figured out one thing that
17 stood out, not only in the public report but in recent
18 monitoring team reports, was taking seriously those serious
19 cases.

20 Obviously, with an organization that receives numerous
21 complaints -- I think we closed about 1100 complaints last
22 year -- that you can't scrutinize every single one of them.
23 It's just humanly impossible with just the capacity.

24 But looking at the ones that are serious and holding them
25 to a serious level is important. That's the ones -- those are

1 the ones that really impact public trust.

2 And I think the policies put in place a mechanism that
3 balances the workflow capacity with bubbling up to the top
4 those issues that are the highest importance that need the
5 highest scrutiny, bringing in the higher levels of review so
6 it's not left to just one person making all the decisions at a
7 lower level; that it touches the executive team at a higher
8 level where, if there are missteps at that level, then we can
9 start the accounting process at a higher level.

10 Certainly, with the transparency piece, the better
11 presentations at meetings and documentation of those meetings
12 when key decisions, important decisions of discipline are made
13 is certainly going to reinforce that piece of it.

14 And really, just, again, creating a greater sense of, if
15 there's disagreements, it can't be hidden in the shadows
16 anymore. It's going to be out there, whether it's going to be
17 highlighted in an executive summary or shown in meeting notes
18 or track changes.

19 So one thing that, to get rid of organizational cultural
20 issues or threats to organizational cultures, you have to start
21 shining light on shadows. You can't let things hide in the
22 shadows. And I think these policies shine lights on areas and
23 issues that are the right areas and issues to minimize and
24 prevent those issues from hiding again.

25 And then, certainly, the collaboration -- which I know

1 wasn't necessarily one of the recommendations -- but the
2 collaboration and the notification to our oversight bodies --
3 CPRA and the Commission -- will also give what I mentioned
4 earlier, that redundancy and that safety net for those issues
5 that might slip through the cracks or may be the product of a
6 wrong decision, an improper decision or a bad decision.

7 **THE COURT:** So as best you can tell, these policies,
8 if they're in force, should solve the problem?

9 **CHIEF ALLISON:** I think it will shore up the process.
10 I don't think a policy in and of itself solves a culture
11 problem.

12 **THE COURT:** I couldn't agree more. That is up to the
13 individuals who are responsible for the policy; right?

14 **CHIEF ALLISON:** That's correct. And that's where --

15 **THE COURT:** So --

16 **CHIEF ALLISON:** I'm sorry to cut you off.

17 **THE COURT:** Yeah. No, no. Go ahead.

18 **CHIEF ALLISON:** I was saying, that's where it comes to
19 putting the right people in the right chairs to make those
20 decisions.

21 **THE COURT:** And on that point, I think particularly in
22 the last several years, OPD has done a good job of recruiting a
23 more diverse force. The people that I met a few years ago when
24 I went to the seminar over in Berkeley, the officers who were
25 there, just very impressive people. And it's not -- I'm much

1 less concerned at this stage about the force in general than I
2 am about the leadership making everything else work for the
3 Department. And that's really -- that's what's got to happen.

4 Let me switch gears for a second.

5 I'm most heartened by the review and use of the stop data
6 and the way that risk management meetings are working. I think
7 they're at the core of whatever success OPD has had in
8 implementing the NSA.

9 And so can you assure me that these are central to OPD's
10 work today and on a going-forward basis?

11 **CHIEF ALLISON:** Absolutely, Your Honor.

12 The work and the outcomes of those risk management
13 meetings, I think, does show us in a highlighted, shining star
14 in the profession. I have a lot of counterparts -- chiefs,
15 assistant chiefs, executives -- in other organizations that
16 they don't do this. In fact, I asked one executive of a major
17 police department what they do with their risk management data,
18 and it wasn't anything; it wasn't anything stellar whatsoever.

19 And when I think back on our risk management policy and
20 what it's -- our meetings and what it's produced, either in the
21 forms of policy -- parole, probation, handcuffing policies --
22 or in the form of practices and training -- recognizing
23 supervisor promotion deficiencies in the sense of not giving
24 them field experience, so it birthed the field training program
25 for our sergeants -- the analysis into outliers or increase in

1 disparity. We had the report that we produced on Hispanic
2 disparity stops. And just the intentionality and focus of
3 issues and concerns that have driven down risk. And I can talk
4 about ECW or Taser use that has dropped, disparities, pursuits.

5 And so I think that has to be a core staple of not only
6 our organization, but any organization, because when you pay
7 attention to something, it absolutely modifies or changes what
8 you pay attention to. And so it has to be a core function, and
9 I will commit to ensuring that that stays as part of our
10 Department.

11 **THE COURT:** Okay. So just to let you know, I'm
12 thinking of no longer requiring the Monitor to attend the risk
13 management meetings. I will require that OPD provide slides
14 and the stop data to the Monitor. And you may, of course,
15 request the Monitor's presence or the Monitor may, at his
16 discretion, choose to attend.

17 **CHIEF ALLISON:** Yes, Your Honor.

18 **THE COURT:** So here's my final question. The City has
19 suggested that I narrow the scope of the Independent Monitor's
20 work to Task 2, 5, and 45. I'm inclined to add Tasks 24 and 25
21 to that list, simply because, at a high level, the failure of
22 IAD and the command staff, as documented by Clarence Dyer, was
23 about addressing officer misconduct, as is the analysis of uses
24 of force.

25 What's your perspective on the City's suggestion and on

1 Task 24 and 25?

2 **CHIEF ALLISON:** Thank you, Your Honor.

3 I think one of the things that has been done well with
4 Task 24 and 25, and use of force in particular, is creating
5 capacity internal within the organization. So I've had that
6 task for many years, as you well know, and reported out on it.
7 And we, through intentionality, have focused on areas of
8 concern.

9 Taking that and then replicating our own kind of internal
10 standing on it has proven to be highly effective. It doesn't
11 always change the potential missteps, whether it's a body-worn
12 camera issue or maybe it's a use of force that wasn't reported
13 properly. But the point that we're seeing is we're catching it
14 now, and we're catching it through our own command reviews.

15 We're also catching it -- because of the speed at which
16 we're catching it and communicating down, whether it's down
17 through an accountability measure, NIA, or communicated down
18 "Well, maybe it's not a misconduct issue but maybe is a
19 training point issue," it's causing it to course-correct pretty
20 rapidly.

21 So I think from a capacity standpoint, my intention is to
22 keep those command reviews going; that I don't see a reason to
23 stop them, even -- whether those tasks are monitored or not,
24 I think we need to keep that going because it's been proven
25 effective in not only catching the issues, but catching it

1 ourselves and training the new supervisors to catch it
2 themselves.

3 And so from my perspective, having that capacity and,
4 certainly, working closer with our community oversight bodies,
5 that we can maintain those tasks.

6 **THE COURT:** Okay. All right. Thank you. You can sit
7 down.

8 **CHIEF ALLISON:** Thank you, Your Honor.

9 **THE COURT:** All right. So let me tell you what I'm
10 thinking, and this is what I want your input on.

11 Obviously, the City's not in full compliance with the NSA.
12 The sustainability period is going to be extended.

13 I'm going to hold another in-person case management
14 conference on September 26th at 3:30 to assess where we are at
15 that time.

16 What I'm thinking of is, as of June 1st, I would reduce
17 the scope of the Monitorship to Tasks 2, 5, 24, 25, and 45.
18 But I also want to support the City in any reasonable way to
19 attain compliance.

20 And so I'd like to hear from, first, the plaintiffs and
21 then OPOA and then the Police Commission and then the City --
22 and I shouldn't separate the Police Commission from the City --
23 but Ms. Martin, and then the Mayor on what you think about
24 that, as well as any other things you want to tell me.

25 So, Mr. Chanin.

1 **MR. CHANIN:** Thank you, Your Honor.

2 When I spoke to the Court on April 27th, 2022, nearly one
3 year ago, OPD was on the verge of entering the sustainability
4 period. I congratulated the Department.

5 But after saying no one is perfect, just like you did --
6 and we are not looking for perfection in the sustainability
7 period, just like you said -- I also stated what we are looking
8 for is a department that can and will identify problems and
9 major scandals when they occur and will not leave that job to
10 someone else.

11 All the major scandals in the past have been discovered by
12 someone else, either a reporter, a monitor, a member of
13 the City Council, or the plaintiffs' attorneys, or a
14 combination thereof. Never has it been the Oakland Police
15 Department.

16 I further stated I am not confident that if a scandal
17 occurs in the future, that it will be brought forward by the
18 OPD.

19 Today should be a happy day. We should all be agreeing
20 that the OPD has ended the NSA and that federal oversight has
21 ended. However, I cannot agree to this proposition. We have
22 lost another chief who, like Sean Whent, brought us to the very
23 brink of compliance before disaster struck, in his case in the
24 form of the sex scandal.

25 We also have no resolution to the overuse of findings of

1 unfounded, which appear to be used to avoid the allegation
2 being discussed at risk management meetings and other areas
3 where an officer's conduct is evaluated.

4 To end this problem, I propose that the Monitor, the OPD
5 command staff, and the Police Commission, if they so choose,
6 take a sample of the so-called unfounded cases and report if
7 any of these unfounded findings should instead be sustained or
8 not sustained and, thus, go into the risk management process.

9 I don't agree with the defendants that the Court should
10 remove the affirmative assessment of the tasks they mentioned.

11 And I note Your Honor has left out Task 31,
12 officer-involved shootings, and Task 34, racial profiling.
13 They should, instead of being eliminated, remain an active task
14 pursuant to the rules of the Negotiated Settlement Agreement.

15 I don't want to be here if, for example, there is a
16 blatant violation of Task 34 or a questionable officer-involved
17 shooting takes place, and then I have to get into the
18 argument -- an argument with the City as to whether I can even
19 talk about this in court or the Monitor can assess this.

20 I also disagree with the defendants that racial disparity
21 in discipline of black and white officers for unintentionally
22 failing to accept or refer complaints is acceptable somehow
23 because the same disparity occurred previously. That's not all
24 they said, but it is what they said.

25 I am pleased to see that the Department intends to drill

1 down on this problem. However, I still feel that looking at
2 the disciplined officers' video would also be helpful. I want
3 to be convinced that this discipline, which by its very nature
4 involves substantial command staff discretion, is not a product
5 of some sort of bias on the part of the supervisor meting out
6 the discipline.

7 Furthermore, I want to disassociate myself from those who
8 have said, without any evidence but unknown sources, that
9 the Mayor was pressured by the Monitor to terminate the chief.
10 There is no proof whatsoever that this happened. Whatever we
11 may think of the Clarence Dyer & Cohen's personnel decisions,
12 there is no excuse for Chief Armstrong's public comments that
13 the Monitor, an officer of this Court, is disingenuous and only
14 motivated by perpetuating the NSA.

15 Chief Armstrong's additional claim that the Mayor was
16 forced by the Monitor to terminate him is, as yet, unsupported
17 by a single named witness and, thus, reeks of sexism.

18 **THE COURT:** So, Mr. Chanin, I don't want to talk about
19 Chief Armstrong.

20 **MR. CHANIN:** Okay.

21 **THE COURT:** I appreciate your support of the Monitor,
22 and he has my full support.

23 I want to talk about what we're doing here, what OPD --
24 how OPD is going to attain compliance with the NSA and
25 constitutional policing. So let's go to that.

1 **MR. CHANIN:** Okay, Your Honor. What you can do is
2 what you have been doing. I, of all people, know how long a
3 process this has been: 23 years, as of December 7th, since we
4 filed this lawsuit. But I do not think that it was not
5 worthwhile. I think it's hard that it takes so long. No one
6 is more frustrated than John and me. We cannot believe we're
7 still here. Every time I hear the case called "00," et cetera,
8 I cringe, and I don't -- I don't like it.

9 But I also think that your presence here, like
10 Judge Henderson before you, is extremely important. You help
11 them toe the line. You really do. And the fact that it's
12 taken a long time is really hard to digest. It's hard for John
13 and me to digest. It must be hard for you to digest. You have
14 other things to do. I respect that.

15 But the fact is, there are people alive today, there are
16 African Americans who have not been stopped by OPD because of
17 the united efforts of plaintiffs' attorneys, the Defense in
18 some cases, and especially the Court. You're the reason -- a
19 big reason why the number of African Americans stopped has
20 declined so great.

21 **THE COURT:** So, and I am in complete agreement that
22 that has been a huge benefit, and I think the Court supervision
23 has been a huge benefit. So I don't disagree with those
24 things.

25 I'm trying to figure out, and what I'm most interested in,

1 the one issue that we haven't made a ton of progress in is the
2 cultural rot that existed at the time that you brought this
3 suit 23 years ago and that comes up again and again. And so I
4 want to know what it is that you think is the best way of
5 addressing this.

6 **MR. CHANIN:** Well --

7 **THE COURT:** And maybe you've just answered it. Maybe
8 it's --

9 **MR. CHANIN:** Well, I think I did.

10 **THE COURT:** -- just we keep doing what we're doing.

11 **MR. CHANIN:** I think I did.

12 But I want to say that I don't agree that this department
13 is filled with bad people. I recently went on a ride-along in
14 East Oakland; and in one night, the officer dealt with fire on
15 580, two criminals who drove up and down the street, shooting
16 at each other, an event which ended in one of the cars crashing
17 into a neighbor's fence and destroying most of it; two women
18 who were so disoriented that the officer spent nearly an hour
19 trying to calm them down. And that was just part of how the
20 evening was spent. He got rid of me at 10 o'clock because he
21 had so much paperwork to do.

22 This officer did an outstanding job. And I was informed
23 that this night was more typical than not. And all the
24 officers I met that night were courteous and trying to do their
25 best.

1 We often discuss only the bad things. That's what lawyers
2 do sometimes. But this officer was more typical of the Oakland
3 police officers I've met over the years, rather than all the
4 admittedly bad stuff I've reported and litigated over the
5 years. So we can't lose sight of that, and I certainly don't.
6 That's why I go on these ride-alongs.

7 I want to say something briefly about women officers, if
8 that's okay.

9 **THE COURT:** Go ahead.

10 **MR. CHANIN:** Yeah. I think that the only thing harder
11 than being a police officer is being a woman police officer.
12 I've represented many women police officers, including Berkeley
13 and Oakland and San Francisco; and I know that being a woman is
14 a really, really hard job when you're a cop.

15 And I saw in the poll, however, that there's some good
16 signs that certainly weren't true in the '80s and '90s when I
17 was practicing law and represented women in federal court.

18 For example, 76 percent feel respected by their
19 supervisors. That's something that wouldn't have been true in
20 Alameda in the 1980s.

21 There's still bad news. Only 21 percent believe the
22 promotion process is fair. Only 46 percent believes the agency
23 takes claims of harassment seriously.

24 That's something you could do, frankly, is continue to
25 monitor this, the role of women at OPD; talk about getting

1 numbers up, because I think women have a really positive role
2 in a department. An all-male department is almost, by
3 definition -- I'm trying to think of a word other than --

4 **THE COURT:** You don't have to go there, Mr. Chanin. I
5 agree with whatever you were about to say.

6 **MR. CHANIN:** And I think, you know, calling for the
7 progress they're making on hiring women, calling on the
8 progress they're making in having women sergeants, lieutenants,
9 and captains, that would be helpful. So there are many helpful
10 things I think you can do, Your Honor.

11 But we do have to end sometime, and I agree with that. I
12 just don't agree it's right now. And I don't -- I don't think
13 that's the fault of the plaintiffs' attorneys. We were as
14 shattered by this almost as the cops were.

15 Thank you.

16 **THE COURT:** Thank you, Mr. Chanin.

17 Mr. Burriss, are you going to join in?

18 **MR. BURRIS:** Absolutely.

19 First off, I would like to thank the Court for cutting off
20 the conversation that Mr. Chanin was making about the chief.
21 That was a very -- that could have been a very dark spot to go
22 to. And I appreciate the Court letting all of us know that
23 that's not the subject of this particular hearing and so it was
24 important not to continue that line of discussion, and I
25 appreciate that.

1 Now, before this case started, Your Honor, 23 years ago --
2 actually, for me it started before then -- I had written a --
3 co-written a book at the time called *Blue vs. Black: Let's End*
4 *the Conflict Between Cops and Minorities*. And part of the
5 discussion that I had at the time was about the culture of
6 policing and, secondly, about can we trust the police to police
7 itself.

8 These were fundamental issues that sort of went to the
9 essence of why I was -- why I do the work. It was really
10 important because I understood that the policing component, if
11 not checked and called into question, would have a very adverse
12 impact on the African American communities and other
13 communities of color, which that ultimately was borne out.

14 So I will say that as a consequence of the work that's
15 taken place, the stop data and even Task 45, there's been some
16 really positive things that have taken place I'm really, really
17 pleased about.

18 And as the Court knows, I've raised these questions time
19 and time again. And I will only say as an aside, on a project
20 that I'm presently working on, I've had to really look at some
21 of the other departments around the country and where they have
22 been in terms of policing and the challenges they presented.

23 Particularly, like today we're hearing about Louisville
24 and the courageous acts of the officers; but I can tell you
25 that department is in bad, bad shape and African Americans in

1 that community are treated poorly. And I read the documents
2 pertaining to them, I thought harkened back to where we started
3 from. Now, I hope that it doesn't take Louisville 25 years to
4 get there, but it's a long haul.

5 And so a lot of good effort has been made here to that,
6 which we've acknowledged and I think the Court acknowledges and
7 I think everyone acknowledges and which, I've been very, very
8 pleased by some of the progress that has been made.

9 But I'm still troubled by the cultural issue.
10 Undercurrent of that is the policing oneself and the leadership
11 questions, because I don't think you can sustain yourself if
12 the leadership isn't there.

13 And because we've had constant turnover in the last --
14 since we've been involved here, I think that has contributed in
15 many ways to get a consistency approach to attacking the
16 cultural issues, because the culture is a function of the
17 pattern and practices that exist within a department and how --
18 what is carried on from one generation to the next and they
19 bring those set of values.

20 And I think that, given that the numbers that we have, in
21 many ways, if you just looked at the technical aspect of it,
22 it's been positive. We don't have the beatings that we used to
23 have; and certainly, we don't have -- the stop data stuff has
24 improved; and certainly, as you know, in terms of the culture,
25 the employment racial issues that I've raised previously around

1 officers themselves, that issue is better. It's not completely
2 done.

3 But the question, how do you get to the cultural question,
4 is one. And I know the Court has raised that question. It's
5 one that I've thought about for many, many years. I know that
6 if you don't control the cultural issues, I think, and changing
7 the culture, I don't think sustainability can last, it can be
8 sustained indefinitely, which is the hope, you know.

9 Rockne and I talk about our kids, just started out
10 together, and now there are grandkids and I got great-grands.

11 But the future was always about that aspect of it and what
12 does sustainability mean. And for me, it is not me, my
13 generation or the next generation or the generations after
14 that. And I don't know that we're going to get there without
15 resolving this question of cultural change, where it's deeply
16 embedded in the soul of the Department. And I don't have the
17 answer to that.

18 Now, I do know that probably if you have solid, consistent
19 leadership at the top with accountability, where people are
20 held to answer like -- held to answer, which then we have
21 issues that: Can that be true? Is that true? Can we count on
22 that? Given a couple of issues that have come up more
23 recently. Because those individuals at a time were in a
24 position to demonstrate to all of us that what we put in place
25 in fact sustained itself and does work. But it has not. It

1 has come up short. And so is that symbolic of what can happen,
2 or is that an aberration or not?

3 But it is concerning. It is just very concerning.
4 Because I think that at the end of the day, we've got to deal
5 with the cultural issues; and a lot of that comes, I suppose,
6 from the training, the hiring, who you hire, how you train
7 them, and how you hold people accountable when mistakes are
8 made, because mistakes, as the Court knows -- we all know;
9 we've been in this business a long time -- mistakes are going
10 to happen.

11 And it would have been a real test if when this particular
12 case arose, that the system that was in place handled it. And
13 the second case that has come up that we're talking about, did
14 the system handle it? And if so, that would have been an
15 indication of sustainability, at least at this stage.

16 So now we don't know, and I am troubled by that. And
17 hopeful. But we can't stop or decide not to go forward.

18 But we do have to recognize that the question of culture
19 is an ongoing process. It is not one day, two days, and you
20 stop. It is how do you handled the problems when they
21 developed and whether or not the culture is such that you hold
22 people accountable from beginning to end, regardless of their
23 station within the Department. And those are concerns that I
24 still have, you know, now.

25 And I think that, as I looked at the list that the Court

1 indicates that they want to have continue with monitoring,
2 certainly, they are all significant, honestly. We cannot turn
3 a blind eye to some of the areas that have taken place.

4 Consistency of discipline is very important because how
5 you treat your fellow officers is how you may treat the people
6 in the community, and that's very important. If you don't
7 treat the black officers, the women officers fair, how can we
8 expect the people in the community to be treated fairly? So
9 that's an important one, I think, that should be continued to
10 be monitored.

11 The others as well. I agree with Jim that 34 is something
12 that that's a perpetual issue that should be included because
13 that goes to the essence of what we're about here, and it's how
14 we treat people on the street and how people can feel safe that
15 they will not be necessarily stopped just because of the color
16 of their skin.

17 Now, made great progress, but we're not completely done
18 there. The numbers are still pretty high, you know. So, but
19 I think that progress is being made there. I just don't think
20 we ought to take our eye off the ball in that particular area,
21 45, 34, 2 and 5, of course, and whatever the Court thinks is
22 appropriate.

23 But I don't want to forget that we have to deal with the
24 question of how do we make consist efforts at effecting the
25 culture that exists here. And at the end of the day, can we

1 trust the police to police itself?

2 Now, we're going to have other outside entities to help
3 that down the way, but those are issues that I still have
4 concerns about, even despite the fact that we've done --
5 there's great work that's been done down through the years.

6 But that's my feeling about it now.

7 **THE COURT:** Well, so you told me -- the last time we
8 saw each other was at Judge Thompson's induction ceremony.

9 **MR. BURRIS:** Oh, that's right.

10 **THE COURT:** You told me to read *When the Riders Come*
11 *Out at Night*, which I did. I went out and I bought that. And
12 it includes a number of reports and statements that were made
13 by all sorts of people that are easy to document. I'm pretty
14 sure they were accurate.

15 **MR. BURRIS:** Mm-hmm.

16 **THE COURT:** The thing that is striking to me is that
17 the same kind of problem that existed in looking at what
18 the Riders had done internally --

19 **MR. BURRIS:** Yeah.

20 **THE COURT:** -- is echoed by what happened recently,
21 and we've been doing this for 20 years.

22 And so my real question is: What do you think the Court
23 can do to assist in this besides -- I agree with what
24 Mr. Chanin has said. I think a lot of progress has been made
25 on a lot of issues. But the thing that you just kept saying

1 over and over again, that's what -- that's the -- I'm looking
2 for the answer to that question. What do you think?

3 **MR. BURRIS:** Yeah. Well, obviously, the Court's
4 involvement is important.

5 I do think that constant reporting of things, although I
6 must admit, it may require someone more talented in another
7 discipline to really look at those issues. I mean, I do a lot
8 of reading around these police issues as well. I don't know
9 that they've been solved.

10 I've asked Mr. Bob Warshaw, who has been involved in a
11 number of these, has there been any one of his cases that he's
12 worked on where the culture has been fundamentally changed in a
13 different way? And he would say: No, there hasn't.

14 Sure, you can have technical violations -- technical task
15 compliance, which we have here. We have 55 tasks, and most of
16 those tasks -- one or two have not been -- have been in
17 compliance. But has that solved the question of compliance?
18 Has it solved the question of culture change? The answer to
19 that is no. It may have an impact on it, but it hasn't changed
20 it to the way that you feel comfortable.

21 So I don't know the answer to that, and I don't even know
22 if it's solvable, you get down to. I mean, I've done a lot of
23 reading. I've seen a lot of reports of different cities. And,
24 sure, DOJ has been involved in a lot of those and they've had a
25 lot of technical compliance, just like we have here.

1 But when the problem comes up, you still have the same
2 question of police policing itself, the effort of covering up
3 for one's friends. That still does happen. Or you try to --

4 One of the things we have here, we don't have the level of
5 beatings that we used to have on the streets. That's clear.
6 There's been real progress made from that. And I tell people
7 all the time, the kind of cases that Jim and I used to have
8 years ago, we don't have those cases anymore. And that's a
9 good thing. That means there's some people out there who are
10 not being beaten up, who should not have been beaten up.

11 But the answer to it is, I can't tell you that I have it
12 either. And I don't know what the Court can do other than what
13 the Court has been doing.

14 But all that really -- the question is: How do you
15 measure the cultural change? We can certainly measure
16 technical compliance. But how do we measure the cultural
17 change? And that is a question that we may not be able to
18 resolve right now, but I don't know that that means we have to
19 stay in the process here indefinitely till that does happen.

20 **THE COURT:** It is something I'm thinking about.

21 Thank you.

22 **MR. BURRIS:** Yeah. All right. Thank you, Your Honor.

23 **THE COURT:** I appreciate it.

24 Mr. Lucia?

25 **MR. LUCIA:** Your Honor, I'm going to try to keep my

1 remarks brief, but I feel compelled to play off of what
2 Mr. Burris just said.

3 You've always addressed us, and Judge Henderson addressed
4 us, about cultural change. I can give you my anecdotal
5 personal experiences with that, but I think what Mr. Burris
6 just said and we've heard repeatedly is that they're not
7 getting the cases they used to get.

8 And let's be specific. The cases were like the Riders
9 cases, and those were trickling in after they filed the
10 lawsuit. But we haven't seen those cases.

11 So at one level, when we start talking about cultural
12 change, we can't really get in the heads of every person in the
13 City of Oakland, law enforcement, non-law enforcement; but we
14 can look at objectively a few things. And I think that's super
15 important that the Court take into consideration that we don't
16 see the types of lawsuits that they used to file. I know for a
17 fact because our office was involved in those. We didn't
18 defend the City, but we represented the officers. We don't see
19 that. We hear about Louisville and places like that and
20 Memphis. We don't see that in Oakland.

21 Our firm is privileged to represent most of the police
22 officers in the San Francisco Bay Area. I represent the police
23 officers in Berkeley and San Francisco and many others. And we
24 don't see the types of cases that we see in other places,
25 especially outside the Bay Area. That's one.

1 Two, I will tell you, I don't know about anyplace outside
2 California. Our law firm represents cops all over the state.
3 I don't think there's a police department in the state of
4 California that has a structure in place to provide a formula
5 for success. When I say "structure," I mean the NSA-created
6 tasks. And I'm not going to get into whether you should keep
7 control of one, two, or more. But there are tasks in place
8 that have created and spawned a structure of accountability. I
9 mean, there is accountability at multiple levels in this police
10 department, far more than any other police department I have
11 ever been involved with. Ever.

12 And so with the structure -- you've asked what can
13 the Court do? What the Court has done here and what the
14 parties have done is they've created a structure for
15 accountability. And at some point, we've had -- we've come
16 close to becoming compliant and entering the sustain- -- and
17 then things happen.

18 Well, I think things happen because we're in the people
19 business. That's what we do. I'm a labor attorney. I deal
20 with people. You deal with people in this courtroom. And
21 I think we have to just accept the fact that people will make
22 mistakes. We are human beings.

23 But what I think you should expect, what I should expect
24 is -- police officers are held to the highest standards,
25 I think, in the country in terms of employees. This case is

1 evidence of that. There are cops in this country that are
2 going to prison for not doing their job right. They've
3 exceeded their authority. If a cop lies, they're fired.
4 Right? If a lawyer lies, well, maybe you'll hold me in
5 contempt and maybe I'll suffer consequences. But every cop,
6 especially in Oakland, if they come close to lying, they're
7 going to get fired. Every cop is held accountable for their
8 behavior.

9 What I'm going to conclude with is this: I think we
10 have -- I know we have a structure in place now that is far
11 superior to any other police department. And I know from my
12 perspective, being on the other side of all this, I think now
13 we have a structure in the City of Oakland that we didn't have
14 23 years ago. We've got Inspector Generals. We've got a
15 Police Commission. We've got a CPRA. We've got a whole body
16 of people that, as Chief Allison said, have to reflect the
17 needs and the desires and the expectations of the community.
18 We didn't have that before.

19 I'm used to working with civilian oversight bodies, and
20 there's a tension between those bodies and law enforcement.
21 But the reality is, they're here and we need to make it work.
22 And I think that the structure in place now will make that
23 happen.

24 No disrespect to the Court, but at some point this has to
25 end; and when it ends, then the Mayor, the City Council,

1 the City Administrator and, ultimately, the Chief of Police
2 have to be held accountable. By who? Not by a judge, but by
3 the community that they oversee. People in those communities
4 have to hold these people accountable.

5 I mean, my members, our members know, in a paramilitary
6 organization, if you don't respect chain of command and follow
7 the rules, there are consequences.

8 And I believe that this city is ready to take on the
9 responsibility of moving forward, because -- I hate to say
10 this, but in the next six to eight months, something could
11 happen; somebody at a certain level in command staff could
12 engage in some behavior.

13 And I'm going to conclude with this: Our office
14 represented one of the Riders. We were involved in both of
15 those criminal cases. I've had the pleasure and honor to
16 represent Oakland cops for 25, 26 years. This is not the same
17 police department. I'd love to know how many members have been
18 hired since the start of the NSA. By far and away, the
19 majority. This command staff, Chief Allison included, have
20 grown up as managers with expectations changing from
21 this Court, from the plaintiffs' lawyers, from the NSA. So
22 ultimately, I think there has been a cultural change.

23 And you're in a very untenable position, like I am.
24 You're a judge; I'm a lawyer. I've never walked in their
25 shoes. Jim Chanin talked about the ride-alongs. That's the

1 reality of an Oakland cop. It's a dangerous job. They're
2 understaffed, they've overwhelmed, and they're doing their
3 darnedest to protect the community. And they're not doing it
4 by circumventing people's rights. We don't have wild
5 allegations of unconstitutional policing.

6 So I've been -- I said this probably 18 years ago. I
7 haven't said it since. I'm going to say it now. At some point
8 the Court needs to let the Chief be the Chief and be held
9 accountable by those above him or her.

10 **THE COURT:** Thank you.

11 **MR. LUCIA:** You're welcome.

12 **THE COURT:** It's very rare when somebody tells a judge
13 that he's in an untenable situation.

14 **MR. LUCIA:** I know. I know. I'm in an untenable
15 position for even saying it. You're right.

16 **THE COURT:** I very much appreciate your very
17 well-stated comments, Mr. Lucia.

18 So let me go to the Police Commission. And I understand
19 that -- here we are. Please proceed.

20 **DR. MILELE:** Good afternoon, Your Honor.

21 **THE COURT:** Good afternoon. I hope you're feeling
22 better.

23 **DR. MILELE:** No.

24 I am Dr. Tyfahra Milele, Chair of the Oakland Police
25 Commission. Thank you for the invitation here directly from

1 the Commission.

2 Joining me and present with you is Retired Superior Court
3 Judge Brenda Harbin-Forte, Commissioner and Chair of our Ad Hoc
4 Committee for NSA Task 5 and 45. And Judge Harbin-Forte and I
5 are available to answer any questions you may have after my
6 remarks.

7 So briefly, I only have three points to make.

8 The first is that the citizens of Oakland have repeatedly
9 voted to have citizen oversight of the Oakland Police
10 Department centered in the Police Commission.

11 Second, at the January hearing before this Court,
12 the Mayor of Oakland committed to providing the resources
13 needed for effective civilian oversight; and the Police
14 Commission, with its policymaking authority, its community
15 police review agency, and its charter-mandated supervision of
16 the work of the Inspector General, stands ready to assume
17 the Monitor's role in ensuring the Oakland Police Department's
18 accountability to the public.

19 Lastly, the work of the Monitor has been monumental, and
20 the Commission has spent the majority of its time diligently
21 working on the policies he has identified. However, the
22 Commission is eager to use its valuable volunteer time focusing
23 on the issues the community cares about most; namely, disparate
24 enforcement of the law and racial profiling.

25 There's no question in my mind that the Commission,

1 reflecting a diversity and lived experience of the community,
2 can and will do a more thoughtful job working on these issues.

3 We believe the Court should now allow the people and their
4 Commission to take the lead.

5 So I'll pause there, and I or Commissioner Harbin-Forte
6 can answer any questions if you have any.

7 **THE COURT:** I actually don't have questions of you. I
8 appreciate your expression of readiness to take on these tasks.

9 I have, under the NSA and the agreements that brought the
10 case to the Court in the first place, the responsibility of
11 making sure that the NSA -- that the parties achieve full
12 compliance with all of the tasks. There are a couple that
13 still remain outstanding.

14 I appreciate that the Police Commission was not in
15 existence then, is in existence now, and I am encouraged by
16 that fact. And figuring out how to best ensure that that
17 oversight that you discussed and that I now have continues in a
18 way that is as effective as possible is what I'm thinking
19 about.

20 So I very much appreciate your comments. Thank you.

21 **DR. MILELE:** Thank you.

22 **THE COURT:** All right. Ms. Martin?

23 **MS. MARTIN:** Thank you, Your Honor.

24 I appreciate Your Honor's consideration to potentially
25 narrow the tasks that are affirmatively reviewed going forward.

1 I do think that in addition to 2, 5, and 45, if Your Honor
2 includes Tasks 24 and 25 that involve use of force and use of
3 force reporting, that does make the most sense. I do think
4 that's reasonable.

5 I do think that in the City's perspective, the more narrow
6 we can have that affirmative assessment focus be, the more
7 resources we'll be able to use to focus where there is greater
8 need.

9 That's not to say that we're not going to keep doing
10 everything that we are doing to remain in compliance with the
11 other tasks; but there is a non-negligible amount of time and
12 resources that go toward sending document requests and other
13 items on some of the others tasks that we could, frankly,
14 really use any time and resources that we can get to put toward
15 where we really need to use those resources.

16 So I appreciate that, Your Honor.

17 **THE COURT:** All right. You heard the plaintiffs
18 suggest that 34 should be added to that mix. What's your
19 perspective -- do you have an additional perspective besides
20 the one you just shared?

21 **MS. MARTIN:** I think that it makes more sense for 24
22 and 25 to be on the table rather than 34 because most of the
23 issues that will be reviewed in 24 and 25, plus 5, which are
24 essentially all investigations -- use of force investigations,
25 internal affairs investigations -- those form a lot of the

1 basis of the Task 34 risk management meetings.

2 And then our stop data reports are now, quarterly, made
3 public so all of that data and information is available.

4 And if we're still sharing slides from the risk management
5 meeting, I feel that that would give enough information to
6 the Monitor and to plaintiffs' counsel, assuming Jim Chanin
7 will also be getting those slides, to know that things are
8 still in the right place and that we're still maintaining
9 compliance.

10 Because one of the things that I want to be clear on, to a
11 point that Mr. Chanin made, is that none of these tasks are
12 going away if there's not affirmative assessment. We
13 understand that if something happens or someone notices an
14 irregularity or there is an issue that arises, that any of
15 these tasks could come back on the table for affirmative
16 assessment and we could find ourselves back here on another
17 task.

18 I am confident and optimistic, given the structures we
19 have in place, that that won't happen. But I understand that
20 these aren't going away. So I want to allay some concerns that
21 I've heard from plaintiffs' counsel.

22 **THE COURT:** And just to be clear about this, we're
23 going to be back together at the end of the September. Do you
24 think that you're -- would you prefer to come back without
25 having had the more direct oversight of the Monitor on Task 34

1 and just see how things have developed; or would it be helpful,
2 in order to ensure compliance, to have the Monitor looking at
3 34? Entirely up -- I mean, that's --

4 **MS. MARTIN:** You know, Your Honor, while we're here
5 and we still have the benefit of Court and Monitor oversight,
6 it makes the most sense to take some of the training wheels off
7 while we still have some of the training wheels on and see how
8 we do. I think the Department and the City are ready for that.

9 We still plan to present, in our filing, on Task 34. We
10 know that's an area Your Honor is interested in. So we will
11 continue to do that. But I think having as many training
12 wheels off to see how it goes actually makes the most sense for
13 the long run.

14 **THE COURT:** Okay.

15 **MS. MARTIN:** And I want to also just pick up on
16 something that Mr. Lucia said and focus a little bit here on
17 people because, really, at root, that is what we're talking
18 about when we talk about culture.

19 And the Department has a number of people. It's an
20 organization that necessarily is made up of a constantly
21 changing body of people. And those people -- the sworn
22 officers, the civilian Department members -- they share values
23 and attitudes that have been so critical and continue to be so
24 critical to this Department's undeniable progress.

25 And while we do have at times, inevitably, setbacks,

1 errors in judgment, and at those times -- which these times is
2 what I'm talking about -- introspection and change and critical
3 feedback are necessary.

4 And one of the ways the City has changed to address some
5 of those issues is to provide community oversight. We have the
6 Community Police Review Agency, the Police Commission, the
7 Inspector General. So it's not just trying to have a cultural
8 change from the inside, but we are trying to bring the City's
9 culture from the outside into the Department as guideposts.

10 And I think that that is working. We are seeing progress.

11 More often than not in this Department, the officers are
12 successful. And too often in life, we focus more on critical
13 feedback and we don't give positive reinforcement when there
14 are good outcomes. And the reality is that people need both.
15 And police officers and Department employees are people, and
16 they need positive reinforcement too.

17 And we've had a number of successes -- which, Your Honor,
18 thank you for appreciating that and pointing them out -- in the
19 risk management context and some of the implementations that
20 we've brought in through the risk management context, which
21 most notably show themselves in the reduction of racial
22 disparities, in non-dispatched stops, and in lower level uses
23 of force.

24 We've had success in holding officers accountable for
25 using appropriate force and reporting that force accurately,

1 and officers are using their de-escalation techniques on a
2 consistent basis and using force reasonably.

3 One of the reasons that it's important to talk about these
4 successes is because they show that the people in this
5 department are capable and willing to address any problem that
6 they encounter and that they are committed to fairly and
7 thoughtfully serving their community.

8 Another positive in limiting the tasks that are
9 affirmatively reviewed going forward is that provides positive
10 reinforcement to those officers for that good work that they
11 are doing and continuing to do and for those sworn officers and
12 civilian Department members who every day continually
13 successfully uphold not only the letter of the NSA, but the
14 spirit of the NSA as well.

15 Thank you, Your Honor.

16 **THE COURT:** All right. Thank you, Ms. Martin. I
17 appreciate your thoughts.

18 Mayor Thao.

19 **MAYOR THAO:** Good afternoon, Your Honor. So nice to
20 see you in person.

21 **THE COURT:** Very nice to see you. Thank you for being
22 here.

23 **MAYOR THAO:** Absolutely. Thank you for having me.

24 You know, the last time that I was here, the last time I
25 was able to address you, I did share my disappointment in the

1 findings that had recently taken place, and I made to you three
2 commitments.

3 First, I promised to make sure that officers who engage in
4 misconduct were held accountable.

5 Second, I said that the City would address systemic
6 failures by identifying root problems.

7 And third, I said we would continue to not only fix our
8 current system of police accountability and public safety, but
9 to truly reimagine it, to see how we can really move forward.

10 And today I am able to say that the City is delivering on
11 those commitments.

12 In terms of holding officers accountable, my
13 administration and I have made some extremely -- extremely,
14 extremely difficult decisions over the last few months as it
15 played out in the media, of course. And navigating that
16 process has been very difficult, but we were guided by our
17 City's long-term interests. I always say that I will always
18 choose Oakland first and Oakland's residents first.

19 At times we had to stare directly into the headwinds in
20 order to stay on course, and it definitely wasn't easy,
21 especially as a younger mayor coming into office right at the
22 very beginning and having to make these hard decisions.

23 So while I don't take any pleasure in having to hold City
24 employees accountable, I do take seriously the City's
25 responsibility of upholding transparency and excellence. And

1 this is why I'm in this position. This is why I fought to make
2 sure that I would be Oakland's next mayor. It's for that very
3 reason: transparency and excellence.

4 And I'm proud that our team, we met the challenge head-on
5 in regards to those difficult situations that we were put in.

6 I'm also proud to say that the Department and the City
7 have made significant progress toward fixing the problems
8 brought to light in the most recent investigations. And the
9 work has truly been collaborative. The Department, under
10 Chief Allison's stable leadership, played a central role, but
11 it was part of a much greater whole. My office has met weekly
12 with the police department commanders and legal advisors to
13 ensure we were moving forward thoughtfully.

14 Likewise, our esteemed Police Commission and our esteemed
15 Inspector General, who is here with us today, have worked
16 closely with the Department to also provide input and guidance,
17 as well as our valued partners with Mr. Burris and Mr. Chanin.

18 And that brings me to the third commitment we made, which
19 was to continue to reimagine police accountability and public
20 safety. The collaboration I've seen over the last few months,
21 including from all the civilian partners I just mentioned, has
22 further proved to me that Oakland is definitely on the right
23 track.

24 I've thought a lot recently about what it means to really
25 change organizational culture, the topic of today. And I had

1 to back up and really think about how we should really define
2 the organization we're talking about.

3 Historically, there's been this tendency to think of
4 police departments as their own organizations with their own
5 cultures. But in Oakland, we've zoomed out and decided that
6 policing must be part of a larger public safety, what I call,
7 community safety and violence prevention system, and that our
8 police officers have to be integrated into a much larger
9 structure. To me, this means that the best way to continue
10 changing the cultural at OPD is by continuing to weave the
11 Department into the fabric of Oakland and Oakland's culture.

12 The culture of Oakland is a culture of compassion, a
13 culture of service, and, of course, a culture of
14 accountability. Our City is known for having leaders, both in
15 government and in the community, who truly value the fairness
16 and equity values.

17 Having a police department that is overseen by the
18 community with policies that reflect community values, it is a
19 really great start with the ultimate goal, of course, to be
20 that it is ensuring that the Department is part of the
21 community and that it is truly sharing the community's values.

22 And so the question becomes: How do we keep moving in
23 that direction? In the near term, my administration is
24 proposing to add a dedicated staff in the City Administrator's
25 Office to be a point person in these efforts. This person will

1 provide the Chief of Police with a secondary civilian review on
2 any major cases that haven't been investigated by our Community
3 Police Review Agency. And they will work on helping the City
4 move as much as of the investigative work as possible to CPRA,
5 which has a commitment that came out of our Reimagining Public
6 Safety workshops in 2021.

7 Another initiative my administration fully backs is
8 the City's pledge to increase the percentage of female academy
9 recruits to 30 percent by the year 2030. I, as a woman myself,
10 understand that women lead a little bit differently.

11 Increasing gender diversity at OPD has been a focus of mine and
12 many other city leaders for years. It's been a focus of mine
13 prior to being a mayor, prior to being a council member,
14 you know, as a baby staffer and, prior to that, just as a
15 citizen and resident.

16 When Oaklanders chose their public servants at the ballot
17 box, we chose diversity. It benefits us in so many ways and
18 helps shape our identity. We can't fully erase divisions
19 between police services and other City services unless we erase
20 this glaring contrast in who does the work.

21 These are obviously just a few examples of the work
22 Oakland currently has ahead of ourselves. And with so many
23 capable people invested in improving public safety, like the
24 great people all here in this room, including yourself,
25 Your Honor, we'll never stop finding areas for improvement. We

1 know that.

2 And running the Oakland Police Department involves a level
3 of transparency, criticism, discourse, and collaboration that
4 seems to be somewhat unique in policing. Our City has come to
5 embrace it. It means that policing in Oakland will always be a
6 work in progress, and it means that we have the solidarity of
7 purpose to face new problems head-on because it's who we are
8 now.

9 This oversight, yes, it's lasted 20 years, going on 21 or
10 however many years; but it has changed the culture. It has
11 changed the culture of Oakland, of how citizenries can actually
12 hold the police department accountable, how the police
13 department holds itself accountable.

14 As we have heard, many, including Chief Allison, has grown
15 up in the Department under this oversight. So I believe, as I
16 always did, that we are in a space, a unique space where we are
17 creating a new culture for the OPD because we have people like
18 Chief Allison and others who have come up the ranks, many who
19 are in this room with us today who are now the trainers, who
20 are training the trainees under this very culture.

21 And so I thank you so much for your time and for having us
22 here, and I welcome any questions that you may have.

23 **THE COURT:** All right. Thank you, Mayor. I do not
24 have questions for you.

25 I want to tell you that I appreciate your focus on this

1 and your action to show what kind of accountability is demanded
2 of any civil servant.

3 **MAYOR THAO:** Yeah.

4 **THE COURT:** And particularly with the police
5 department, I said it to your predecessor, that this is -- at
6 the end of the day, you're the person who's on the top of the
7 pyramid.

8 **MAYOR THAO:** That's right.

9 **THE COURT:** And leadership in this issue of culture is
10 everything.

11 **MAYOR THAO:** Mm-hmm.

12 **THE COURT:** And it's not something that the Court --
13 the one thing I know is that court supervision can't do very
14 much about informing people that they need to own up to
15 mistakes that they make, be accountable and -- because
16 everybody makes them. But if you can't address them and then
17 move forward, if you try to sweep them under the rug, whether
18 the Court is supervising OPD or not won't make any difference.

19 And so it is really up to you, and the people who are in
20 the offices that they hold within the City, and the volunteers
21 who have formed -- who are sitting on the Commission, and the
22 Office of the Inspector General, all of you are key to making
23 this work far more than anything that is happening here on
24 Golden Gate Avenue.

25 **MAYOR THAO:** Absolutely.

1 **THE COURT:** So, thank you --

2 **MAYOR THAO:** Thank you so much.

3 **THE COURT:** -- for that.

4 And I thank you all for being here.

5 I will issue an order sometime relatively soon which lays
6 out what's going to happen over the next -- until we meet again
7 on September 26th.

8 I am hopeful that as problems arise -- and they will --
9 that they are dealt with transparently and with accountability.

10 And at the end of the September, I'm going to look and see
11 where we are.

12 We went into this sustainability period without actually
13 being fully compliant. We did it because everybody was so
14 anxious to transfer this case into the hands of the City. That
15 may have been -- we may have been -- well, it turns out we were
16 premature, whether that was a good idea or not.

17 The City has never actually reached full compliance on all
18 of the tasks, and I am hopeful, expectant that the City will be
19 in full compliance when all of these new policies that have
20 been recommended are implemented. And then we'll see where we
21 are in September and what kind of further modifications we can
22 make with respect to this.

23 So thank you all for being here, and see you in September.

24 **ALL:** Thank you, Your Honor.

25 (Proceedings adjourned at 4:49 p.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: Tuesday, May 2, 2023

Ana Dub

Ana Dub, RMR, RDR, CRR, CCRR, CRG, CCG
CSR No. 7445, Official United States Reporter

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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 DELPHINE ALLEN, et al.,

8 Plaintiffs,

9 v.

10 CITY OF OAKLAND, et al.,

11 Defendants.

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

**ORDER EXTENDING
SUSTAINABILITY PERIOD**

12
13 Pursuant to the Negotiated Settlement Agreement (NSA) dated January 22, 2003, I placed
14 the City of Oakland into a sustainability period on May 12, 2022, given its “substantial
15 compliance” with the tasks required by the NSA. Dkt. No. 1525. My Order required that the City
16 demonstrate that it could comply with all provisions of the NSA for one year starting on June 1,
17 2022. *Id.* The Order also narrowed the number of NSA tasks under active monitoring by the
18 Monitor/Compliance Director and his team (to Tasks 2, 5, 20, 24, 25, 26, 30, 31, 34, 41, and 45)
19 and reduced the Monitoring Team’s reporting schedule, while directing the Monitor/Compliance
20 Director to continue to provide support to the OPD’s Office of Internal Accountability (OIA) and
21 guidance to the Police Commission. *Id.*

22 The City did not achieve full compliance. As explained during the October 12, 2022,
23 January 24, 2023, and April 11, 2023, Case Management Conferences, the City was either in
24 “deferred compliance” or “not in compliance” with Task 5: significant concerns have arisen
25 regarding the continued inability of the OPD to police itself in a consistent, fair, and equitable
26 way. *See* Dkt. Nos. 1557, 1578 (Not in compliance); Dkt. No. 1557 (Not in compliance); Dkt. No.
27 1540 (Deferred). Task 45 was initially not in compliance, then in partial compliance, and finally
28 deferred with “no compliance finding.” Dkt, Nos. 1540, 1557, 1578. The City has remained in

1 compliance throughout the sustainability period, however, with Tasks 2, 20, 24, 25, 26, 30, 31, 34,
2 and 41.

3 In light of the City's inability to achieve full compliance, the sustainability period will be
4 extended. I will assess the City's compliance with the NSA at the next Case Management
5 Conference on September 26, 2023. By that time, the City should be well on its way to
6 implementing the recommendations of the Clarence Dyer Cohen report, as modified by the City's
7 best judgment. Until further notice:

8 1. The Monitor/Compliance Director and his team will continue to monitor Tasks 2,
9 5, 24, 25 and 45. While Tasks 24 and 25 have remained in compliance during the sustainability
10 period, they are included given the close nexus between the failures of the IAD and the Command
11 Staff as documented by the Clarence Dyer Cohen report and the use of force reporting and internal
12 reviews covered by Tasks 24 and 25. The Monitoring Team will not be required to observe the
13 Risk Management Meetings but may do so at its discretion. The slides prepared for those
14 meetings and the stop data shall continue to be shared with the Monitoring Team. The
15 Monitor/Compliance Director shall share with the Court and the Parties any concerns he might
16 note relevant to stop data.

17 2. In addition to the Task assessments, the Monitoring Team will continue the
18 following activities:

- 19 • Maintain regular contact with the Chief and other Department officials to discuss
20 Department updates, personnel issues, high-profile cases, critical incidents, and other
21 matters.
- 22 • Review and comment upon NSA-related Department policies.
- 23 • Review OIA's audit reports and provide feedback.
- 24 • Engage in other activities as the Monitor/Compliance Director deems necessary.

25 3. The Monitoring Team will conduct site visits and issue reports on a quarterly basis
26 as before. Absent extraordinary circumstances, the Monitor/Compliance Director need not assess
27 compliance with Tasks other than those listed above.

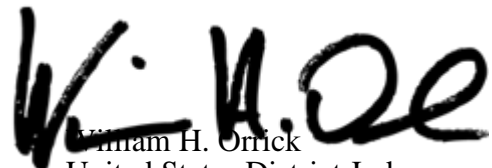
28 4. The term of the sustainability period will be assessed again at the next Case

1 Management Conference. The Monitoring Team’s next site visits will occur in May and August
2 2023. The sustainability reports will be issued in June and September 2023.

3 The Court is wrestling with the utility of its role in helping the City achieve constitutional
4 policing after 20 years of monitoring compliance with the NSA. As discussed at the last Case
5 Management Conference, much good work has been accomplished. Fundamental questions
6 regarding the Oakland Police Department’s ability to police itself remain. The Court appreciates
7 the perspectives expressed by the plaintiffs, OPOA, Police Commission, the City and the Mayor at
8 the last Case Management Conference and looks forward to the parties’ constructive analysis of
9 the remaining issues at the next Case Management Conference. As always, the Joint Case
10 Management Conference Statement is due one week before the hearing, which shall be in person.

11 **IT IS SO ORDERED.**

12 Dated: April 18, 2023

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14 William H. Orrick
15 United States District Judge
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United States District Court
Northern District of California

**OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND**

Frequently Asked Questions (FAQs)

Regarding the City Council's (and Other Local Legislative Bodies') Return to In-Person Meetings and Their Members' Participation by Teleconference under the Ralph M. Brown Act, California's Open Meeting Law

Issued: March 30, 2023

Revised:

Issued By: Barbara J. Parker, Oakland City Attorney



I. INTRODUCTION

On February 28, 2023, California Governor Gavin Newsom [issued a proclamation](#) terminating the statewide COVID-19 State of Emergency that had been in effect since March 4, 2020. The termination of the State of Emergency impacts the ability of members of the Oakland City Council and other local bodies covered by the California Ralph M. Brown Act, California Government Code section 54950 et seq. (hereinafter the "Brown Act") to attend meetings by teleconference.

Assembly Bill ("AB") 361, signed by the Governor on September 15, 2021, and the Governor's prior emergency orders, temporarily suspended the Brown Act's restrictions on participation in public meetings via teleconference. Prior to March 2020, members of local bodies could participate in public meetings via teleconference only if, among other things:

1. Notices and agendas were posted for each teleconference location from which members of the local body intended to participate;
2. Teleconference locations were accessible to the public, including persons with disabilities;
3. The public could participate in the meeting from each teleconference location; and
4. A quorum of the legislative body participated from within the boundaries of the jurisdiction.¹

AB 361 modified these requirements, providing that members of local bodies could participate in public meetings without complying with the public notice of and access to the teleconference location when, among other things, a state of emergency exists and the local body or the state recommends social distancing as a safety measure.² A state of emergency refers specifically to the authority of the Governor of California to invoke a state of emergency, and not to states of emergency declared by local bodies.³ As set forth above, the termination of the

¹ Cal. Gov't Code § 54953(b)(3).

² Cal. Gov't Code § 54953 (e)(1).

³ Cal. Gov't Code § 54953(j)(5).

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Ralph M. Brown Act, California’s Open Meeting Law
Issued: March 30, 2023

Governor’s State of Emergency means that, effective March 1, 2023, local bodies may no longer rely upon AB 361 to participate in meetings via teleconference.

The termination of the Governor’s State of Emergency leaves two options for teleconference participation by members of local legislative bodies:

1. the traditional teleconference rules; and
2. the limited exceptions provided by Assembly Bill (“AB”) 2449.

Effective January 1, 2023, AB 2449 preserves, under very limited circumstances, an option for members of bodies subject to the Brown Act to participate in meetings via teleconference without complying with the public notice and public access to a member’s remote teleconference location. The AB 2449 exceptions to the standard teleconference rules are very limited and, among other things, only apply to meetings that provide a teleconference option for public participation, and can be invoked only for a maximum of 20% of the regularly scheduled meetings per calendar year.⁴

To ensure that the public, City of Oakland (“City”) employees, and City officials have the same information, the City Attorney is issuing this FAQ to provide answers to common questions regarding AB 2449 and the ability of members of local bodies to participate in public meetings via teleconference going forward. For additional questions regarding the Brown Act see our recent FAQ [here](#).

This FAQ is a general guide and does not constitute legal advice as the specific facts and circumstances must be evaluated on a case-by-case basis.

II. FREQUENTLY ASKED QUESTIONS REGARDING TELECONFERENCE MEETINGS UNDER BROWN ACT

1. Why Are Members of Local Bodies Returning to In-Person Meetings?

Answer: Since March 4, 2020, California has been in a COVID-19 State of Emergency that Governor Newsom. AB 361 declared and prior emergency orders allowed members of local bodies to conduct and participate in public meetings without complying with the notice of and public access to the teleconference locations when, among other things, a proclaimed state of emergency existed.⁵ On February 28, 2023, California Governor Gavin Newsom [issued a proclamation](#) terminating the statewide COVID-19 State of Emergency. As a result, local bodies

⁴ Cal. Gov’t Code § 54953(f)(1); Cal. Gov’t Code § (f)(2)(A)(i) and (ii).

⁵ Cal. Gov’t Code § 54953 (e)(1). State of emergency refers specifically to the authority of the Governor of California to invoke a state of emergency, and not to states of emergency declared by local bodies. Cal. Gov’t Code § 54953(j)(5).

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Ralph M. Brown Act, California’s Open Meeting Law
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can no longer invoke AB 361 and are limited to the pre-pandemic traditional teleconference rules and the limited circumstances allowed by AB 2449. In other words, members of local bodies can participate in public meetings via teleconference after the termination of the COVID-19 State of Emergency but the circumstances are much more restricted.

2. Can Members of Local Bodies Still Participate in Meetings Via Teleconference under the Longstanding Teleconference Rules?

Answer: Yes. The Governor’s termination of the statewide COVID-19 State of Emergency does not impact the longstanding teleconference rules under California Government Code section 54953(b)(3), which provides in pertinent part:

If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.⁶

Members of local bodies intending to use the longstanding teleconference rules should coordinate with their staff liaison and/or the City Clerk to ensure: 1) Brown Act required noticing of the location of the teleconference meeting; 2) Brown Act required postings of the notice and agenda at the teleconference location; 3) coordination regarding any technical requirements for participating remotely; and 4) a quorum of the body will participate in the meeting within the boundaries of City of Oakland.

3. What is Assembly Bill (“AB”) 2449?

Answer: AB 2449, effective January 1, 2023 and codified in California Government Code § 54953, allows members of local bodies covered by the Brown Act to participate in meetings remotely via teleconference for “just cause” and “emergency circumstances” regardless of whether a state of emergency exists and without providing notice of or public access to the teleconference location.⁷

⁶ Cal. Gov’t Code § 54953(b)(3)

⁷ Cal. Gov’t Code § 54953(f)(2)(A)(i) and (ii) (Just Cause and Emergency Circumstances exception to 54953(b)(3) – the longstanding teleconferencing requirements)

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AB 2449 can be used only when members of the public also are allowed to participate remotely (i.e. to listen/observe and provide comment) via teleconference.⁸ AB 2449 does not apply and cannot be used for meetings that are only offered in-person or that are in-person with a teleconference option set to “observation only” such that the public cannot provide comment via teleconference.

4. Is the Public Always Allowed Notice of the Teleconference Location and Access to Participate in Meetings Via the Teleconference Location?

Answer: No. Only the longstanding teleconference rules require public notice of and access to the teleconference location. AB 2449 provides for exceptions to those requirements.

5. How Does AB 2449 Work?

Answer: The procedures vary depending on whether the member asserts “just cause” or “emergency circumstances” as the basis for the need to participate in the meeting remotely.

For Just Cause

- Timing of Notice: The member must notify the legislative body of their need to participate remotely at the earliest opportunity possible, up to the commencement of the meeting.⁹
- What to include in the Notice: The notice must provide a general description of the circumstances relating to their need to appear remotely at the given meeting.¹⁰
- “Just cause” means any of the following:
 - (A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
 - (B) A contagious illness that prevents a member from attending in person.
 - (C) A need related to a physical or mental disability not otherwise accommodated.
 - (D) Travel while on official business of the legislative body or another state or local agency.¹¹

⁸ Cal. Gov't Code § 54593(e)(2)(A)

⁹ Cal. Gov't Code § 54953(f)(2)(A)(i).

¹⁰ Cal. Gov't Code § 54953(f)(2)(A)(i).

¹¹ Cal. Gov't Code § 54953(j)(2).

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- Per meeting notice is not required: Unlike the emergency circumstances exception, it does not appear that separate notices are required for participating remotely under the just cause exception.¹² Thus, a member could provide notice of remote participation via teleconference for just cause for up to two meetings—the maximum number of times just cause can be used¹³—if the member is aware of the need in advance, such as for childcare or official travel.
- No action by legislative body required: Invoking the just cause exception is self-executing and no further action by the body is required.¹⁴
- No requirement to notice the member’s remote participation on the agenda.

For Emergency Circumstances

- Timing of Request: The member must request that the legislative body allow them to participate in the meeting remotely due to emergency circumstances as soon as possible, preferably with enough time to place the proposed action on the posted agenda for the meeting for which the request was made. However, if the timing of the request does not allow sufficient time to post the matter on the agenda, the legislative body may take action at the beginning of the meeting.¹⁵
- What to include in the Request: The member need not provide any additional information at the time of the Request to participate in the meeting remotely due to emergency circumstances. However, the legislative body must request a general description of the circumstances relating to the member’s need to appear remotely at the given meeting. The general description need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.¹⁶
- “Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.¹⁷
- Per meeting request is required: A member must make a separate request for each meeting in which they seek to participate remotely.¹⁸
- Action by legislative body is required:¹⁹ The legislative body may approve such a request by a majority vote of the legislative body.²⁰

¹² Compare Cal. Gov’t Code § 54953(f)(2)(A)(i) to Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I).

¹³ Cal. Gov’t Code § 54953(f)(2)(A)(i).

¹⁴ Compare Cal. Gov’t Code § 54953(f)(2)(A)(i) to Cal. Gov’t Code § 54953(f)(2)(A)(ii)(II).

¹⁵ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I)-(II).

¹⁶ Cal. Gov’t Code § 54953(f)(2)(A)(ii).

¹⁷ Cal. Gov’t Code § 54953(j)(1)

¹⁸ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(I)

¹⁹ Cal. Gov’t Code § 54953(f)(2)(A)(ii)(II).

²⁰ Cal. Gov’t Code § 54954.2(b)(4).

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6. Are There Any Specific Limitations on the Manner of Voting by Members During a Teleconferenced Meeting?

Answer: Yes. For any meeting in which the legislative body elects to use teleconferencing, whether via the longstanding teleconferencing rules or under AB 2449, all votes during the meeting must be by rollcall.²¹

7. Is There a Limit to the Number of Times a Member of a Local Body Can Participate via Teleconference?

Answer: It depends on which teleconference rules are invoked. No limit exists on the number of times a member of a local body can participate via teleconference using the longstanding teleconference rules. However, AB 2449 does impose strict limits on use of its provisions. AB 2449 has two categories of exceptions that allow use of participation by teleconference: just cause and emergency circumstances.²² Just cause can be used no more than twice in a calendar year.²³ And just cause and emergency circumstances, together, may not be used more than 20% of the regularly scheduled meetings for the calendar year or for more than 3 consecutive months.²⁴

8. Are There Any Other Limitations on the Use of AB 2449?

Answer: Yes.

- AB 2449 can be used only when members of the public are also allowed to participate remotely (i.e. to listen/observe and provide comment) via teleconference. AB 2449 does not apply and cannot be used for meetings that are only offered in-person or that are in-person with teleconference options set to “observation only” such that the public cannot provide comment via teleconference.²⁵
- AB 2449 can be used only if a quorum of members of the legislative body participate in person from the same location within the City, and location must be clearly identified on the agenda and open to the public.
- AB 2449 can be used only for a maximum of 20% of the regularly scheduled meetings for the calendar year or for more than 3 consecutive months.²⁶ “Just cause” cannot be used more than twice in a calendar year.²⁷ For boards or commissions that meet monthly, AB 2449 can only be used a total of two times,

²¹ Cal. Gov't Code § 54953(b)(2)(A).

²² Cal. Gov't Code § 54953(f)(2)(A)(i) and (ii) (Just Cause and Emergency Circumstances exception to 54953(b)(3) – Standard (traditional) teleconferencing requirements).

²³ Cal. Gov't Code § 54953(f)(2)(A)(i).

²⁴ Cal. Gov't Code § 54953(f)(3).

²⁵ Cal. Gov't Code § 54593(e)(2)(A).

²⁶ Cal. Gov't Code § 54953(f)(3).

²⁷ Cal. Gov't Code § 54953(f)(2)(A)(i).

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regardless of the exception (just cause or emergency circumstances) in the whole calendar year.

- Members participating remotely under AB 2449 must participate both on camera and via audio.²⁸
- Additionally, before any action is taken, the member must disclose if anyone 18 or older is in the room at the remote location with them, and the general nature of the relationship with the person or persons.²⁹
- Members of the public must be allowed to remotely hear and visually observe the meeting, and remotely address the legislative body via either 1) a two-way audiovisual platform (e.g. Zoom) or 2) a two-way telephonic service and a live webcasting of the meeting.³⁰
- The agenda must identify the call-in option, internet-based service option and the in-person location of the meeting.³¹

9. Does AB 2449 or the Brown Act Require City Staff or the City Attorney or City Attorney staff to Attend Meetings of Legislative Bodies In Person As Well?

Answer: No. AB 2449 amends the Brown Act to provide additional but limited circumstances under which members of local bodies can participate in public meetings via teleconference after the termination of the COVID-19 State of Emergency. However, neither AB 2449 nor the Brown Act require City staff, City Attorneys or members of the public to participate in public meetings in person.

10. Must the Meeting Stop If the Internet Service Broadcasting the Meeting Goes Down During the Meeting?

Answer: No. The meeting need not stop while such technical difficulties are resolved, however whether the legislative body can take further action on items appearing on the agenda depends on whether any member of the body is participating by teleconference via AB 2449.

The meeting may continue as normal if no member of the legislative body has invoked AB 2449 to participate via teleconference.

However, if a member has invoked AB 2449 and is participating via teleconference, in the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public, or in the event of disruption within the agency's control that prevents members of the public from offering public comment, the body

²⁸ Cal. Gov't Code § 54953(f)(2)(C).

²⁹ Cal. Gov't Code § 54953(f)(2)(B).

³⁰ Cal. Gov't Code § 54953(f)(1)(A)(i)-(ii).

³¹ Cal. Gov't Code § 54953(f)(1)(C).

FAQs Regarding Return to In-Person Meetings and Participation By Teleconference under the
Ralph M. Brown Act, California's Open Meeting Law
Issued: March 30, 2023

must not take further action on items appearing on the meeting agenda until public access to the meeting is restored.³² In-person public comment and discussion by the body may continue.³³ Of course, nothing in AB 2449 or the Brown Act prevents a legislative body from exercising its discretion to pause a meeting while technical difficulties are resolved, even though no law requires them to do so.

11. Do Standing Committees of Local Bodies Have to Meet in Person?

Answer: Yes. The teleconference meeting rules apply to all legislative bodies covered by the Brown Act. The Brown Act defines legislative body to include the governing body of the local agency, as well as any other “body of a local agency, whether permanent or temporary, decision-making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body.”³⁴

For the City, this includes the Oakland City Council, which is the governing body of the City, the City Council's standing committees, and all other bodies created by the City Charter or by Council action, such as the Public Ethics Commission, the Police Commission, the Housing, Residential Rent and Relocation Board, and the Civil Service Board. Any standing committees of those bodies also would be considered a legislative body covered by the Brown Act.

The Oakland-Alameda County Joint Powers Authority is a local, legislative body that is subject to the Brown Act³⁵.

By contrast, an advisory body composed of less than a quorum of the legislative body that is established for a specific, single purpose and that is temporary in nature is not subject to the Brown Act.³⁶ These temporary advisory bodies sometimes are referred to as ad hoc committees. Ad hoc committees are not considered a legislative body and thus are not subject to the Brown Act. Ad hoc committees are not impacted by the teleconference meeting rules and those committees may continue to meet as they did before the termination of the COVID-19 State of Emergency.

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³² Cal. Gov't Code § 54953(f)(1)(D).

³³ Cal. Gov't Code § 54952.6.

³⁴ Cal. Gov't Code § 54952.

³⁵ *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force*, 134 Cal. App. 4th 354, 362-363 (2005).

³⁶ Cal. Gov't Code § 54952(b).



CITY OF OAKLAND | POLICE COMMISSION
250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CA 94612

Current Committees

Ad Hoc Committee	Commissioners
Budget	Milele, Jordan, Jackson-Castain
Body Worn Camera Policy	Peterson and Hsieh
Community Outreach	Howell, Jordan, Ordaz
CPRA Policies	Ordaz, Jackson-Castain, Peterson
Community Policing DGO 15-01	Hsieh and Howell
Militarized Equipment Policy	Hsieh, Jackson-Castain, Jordan
Negotiated Settlement Agreement	Hsieh and Milele
Racial Profiling Policy	Committee of the Whole
Rules of Procedure	Hsieh, Howell, Jackson-Castain
Staff Searches (CPRA, CoS, Chief)	Milele, Jordan, Howell
Staff Evaluations (IG, CPRA)	Jordan and Howell
OBOA Allegations	Jackson and Ordaz

Recently Completed/Paused/Dormant

Ad Hoc Committee	Commissioners
Annual Report	Jackson and Peterson
Antidiscrimination Policy	<i>Harbin-Forte, Hsieh, Jackson</i>
Electronic Communication Devices	Howell, <i>Harbin-Forte</i> , Peterson
Police Chief Goals and Evaluation	Milele, Peterson, Jackson
Risk Management Policy	Peterson, <i>Harbin-Forte</i> , Howell
Social Media Policy	Milele, Hsieh, Jackson
White Supremacists and Other Extremist Groups	<i>Harbin-Forte, Jackson</i>
OIG Policies	Peterson, <i>Harbin-Forte</i> , Jackson
Contracts	Peterson, Howell, Ordaz

For a roster of current Commissioners and their emails, visit:

<https://www.oaklandca.gov/teams/police-commission>



OAKLAND POLICE COMMISSION

REGULAR MEETING MINUTES

July 13, 2023

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

Chair Milele called the meeting to order at 5:45pm and established quorum following roll call:

Present: Chair Milele; Vice Chair Jordan; Commissioner Howell; Commissioner Hsieh; Commissioner Jackson; Alternate Commissioner Jackson-Castain; Alternate Commissioner Ordaz

Excused: Commissioner Peterson

II. Consider and Request Approval for Investigation Files and Records, Including Complaints for IAD #22-0395 and #22-0464. Pursuant to Charter Section 604(f)(2) and Commission's Vote at June 22, 2023 Closed Session Commission Meeting.

Commission Counsel introduced the item as follow-up action from a vote in closed session on June 22, 2023. Vice Chair Jordan made a motion, seconded by Commissioner Hsieh, to approve the request for investigation files and record, including complaints, for IAD #22-0395 and #22-0464. The motion carried by the following vote:

Ayes: 5 - Jordan, Howell, Hsieh, Jackson, Milele

Nays: 0

Absent: 1 - Peterson

There were no public comments on this item.

III. Closed Session (approximately 5:30-6:30 p.m.)

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

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

CONFERENCE WITH LEGAL COUNSEL –

EXISTING LITIGATION (Government Code Section 54956.9(d)(1))

Delphine Allen et al., v. City of Oakland, et al.

N.D.Cal No, 00-cv-4599-WHO

There were no public comments on this item.

The Commission adjourned to closed session at 5:47pm and returned 6:53pm. Chair Milele reestablished quorum with roll call:

Present: Chair Milele; Vice Chair Jordan; Commissioner Howell; Commissioner Hsieh; Commissioner Jackson; Alternate Commissioner Jackson-Castain; Alternate Commissioner Ordaz

Excused: Commissioner Peterson

There were no reportable action from closed session.

Before moving on to the next item, Chair Milele announced a welcome to CPRA Executive Director Mac Muir and two CPRA Investigators, Charlotte Epps-Stowers and William Aquino.



OAKLAND POLICE COMMISSION

REGULAR MEETING MINUTES

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

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

Public comment was made by 2 persons (Bey; Olugbala)

V. **Thank You and Farewell to Commissioner Brenda Harbin-Forte for Service on the Oakland Police Commission from July 2020 – June 2023.**

The Commission paid tribute to the Honorable Brenda Harbin-Forte's service on the Oakland Police Commission from July 2020 – June 2023. Chair Milele delivered the following address:

We want to wish a very bittersweet thank you and farewell to Commissioner Brenda Harbin-Forte, who served on the Oakland Police Commission from July 2020 to June 2023.

Judge Brenda Harbin-Forte retired from the Alameda County Superior Court in 2019, after 27 years on the bench. Her judiciary leadership positions include serving on the California Judicial Council; serving as the first African American woman Dean of the B.E. Witkin Judicial College; serving as the first African American woman Presiding Judge of Alameda County's Juvenile Court; serving as the first African American woman President of the Alameda County Bar Association; President of Black Women Lawyers Association of Northern California; and Judicial Advisor to various presidents of Judicial Council of the California Association of Black Lawyers.

Her numerous honors include: Judicial Council of California's Distinguished Service Award; California Association of Black Lawyers' Hall of Fame Award; Charles Houston Bar Association's Special Lifetime Achievement Award; California Judges Association's Alba Witkin Humanitarian Award; and the American Bar Association's Spirit of Excellence Award, to name just a few.

The City of Oakland has been very fortunate to have someone of Judge Harbin-Forte's caliber and national reputation to volunteer her time and expertise on the Oakland Police Commission.

While serving on this Commission, Judge Harbin-Forte's contributions have been invaluable — from chairing numerous ad hoc committees and volunteering countless hours, to leading with the integrity and justice this Commission exemplifies. One example of her many contributions as a Commissioner is her service as Chair of the NSA Ad Hoc Committee, during a challenging time for the City. Under her leadership, the Commission, for the first time, submitted an Addendum and NSA Memorandum as part of the City's court filing.

Thank you, Commissioner Harbin-Forte, and we are so grateful for your continued participation on all the ad hoc committees as a dedicated member of our community. Personally, I couldn't have asked for a more dedicated and hardworking fellow commissioner. You have been a fierce ally and advocate in the face of great challenges and you have taught me to stand up for what's right and what's fair no matter



OAKLAND POLICE COMMISSION

REGULAR MEETING MINUTES

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how hard it gets because the best leaders lead by example. I thank you for the lessons, the encouragement, and for showing me what it means and what it looks like to truly empower the next generation. I can assure you that I will take every opportunity I can to do the same. Thank you, your Honor. My fellow commissioners, please join me in honoring the service of Judge Brenda Harbin-Forte.

There were no public comments on this item.

VI. **Negotiated Settlement Agreement (NSA) Update**

The Court has extended NSA court oversight beyond June 30, 2023. NSA Ad Hoc Committee (Committee Chair Harbin-Forte, Commissioner Hsieh, Chair Milele) will provide a report on the NSA and invite public discussion on the top NSA priorities with respect to the Commission. ([Attachment 6](#))

Judge Brenda Harbin-Forte provided an update on the NSA and led a productive conversation on culture change, the evolving role of federal monitorship, and next steps.

Public comment was made by 4 persons (Contreras; Bey; Olugbala; Janks)

Following additional discussion amongst Commissioners, another comment was made by Ms. Olugbala.

VII. **Update from the Office of the Inspector General**

Inspector General Michelle N. Phillips will provide an update on the OIG's work. Topics discussed in the update may include project priorities under the City Charter; staffing updates; community engagement and outreach. ([Attachment 7](#))

IG Phillips provided an update on project priorities, staffing updates, and community engagement, followed by questions and comments from Commissioners.

Public comment was made by 2 persons (Olugbala; Bey)

VIII. **Approval for the Office of the Inspector General to Conduct a Review of Integrity of Clarence Dyer Cohen Investigation and Report Findings regarding IAD Nos. 22-0858 and 21-0862.**

The Commission will consider approval to direct the OIG to conduct a review of IAD Nos. 22-0858 and 21-0862 and report to the Commission by August 2023 any policy recommendations for changes to procedures as they relate to NSA Task 5 and appropriateness of discipline.

Following discussion, Commissioner Hsieh made a motion, seconded by Vice Chair Jordan, to direct the Office of the Inspector General to conduct a review of the Clarence Dyer Cohen investigation and report findings regarding IAD Nos. 22-0858 and 21-0862 by January 2024. The motion carried by the following vote:

Ayes: 5 - Jordan, Howell, Hsieh, Jackson, Milele

Nays: 0

Absent: 1 - Peterson

Public comment was made by 3 persons (Contreras; Leonard; Bey)



OAKLAND POLICE COMMISSION

REGULAR MEETING MINUTES

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IX. **Follow-up on Past Commission Action: Bey Case – Noticing the Federal Monitor**

As a follow-up to items on the 3/14/19 and 4/11/19 agenda, the Commission will discuss, and may vote on, a letter that will be submitted to the Federal Monitor regarding the Bey Case. ([Attachment 9](#))

Chair Milele introduced this item with background on past Commission action. Mr. Saleem Bey provided the Commission with clarification during a productive discussion.

Vice Chair Jordan made a motion, seconded by Commissioner Jackson, to direct Commission Counsel to draft a letter to the Federal Monitor regarding the Commission's original communication in April 2019. This letter shall include a deadline to respond and, at minimum, a confirmation of receipt. The letter shall copy Judge Orrick and the Civil Rights Division of the Department of Justice. The motion carried by the following vote:

Ayes: 5 - Jordan, Howell, Hsieh, Jackson, Milele

Nays: 0

Absent: 1 - Peterson

Public comment was made by 1 person (Bey).

Before the next item, the Commission took a brief break for approximately ten minutes. Upon return, Chair Milele reestablished quorum with roll call:

Present: Chair Milele; Vice Chair Jordan; Commissioner Howell; Commissioner Hsieh; Commissioner Jackson; Alternate Commissioner Jackson-Castain; Alternate Commissioner Ordaz

Excused: Commissioner Peterson

X. **Community Outreach Committee Submits "Ad Hoc Rules Proposal" for Review by Rules Committee** ([Attachment 10](#))

Vice Chair Jordan introduced this item and reviewed the proposed ad hoc committee rules for review by the Rules Committee. The Commission held a productive discussion with several other suggestions.

Public comment was made by 1 person (Olugbala)

XI. **New and Revised Policies to Address Deficiencies in and Strengthen Internal Affairs Investigations**

Deputy Chief Wong, Captain Tedesco, and Lieutenant Calonge led a second review of policies in "Group 1" of the new and revised IAD policy packet.

Public comment was made by 2 persons (Olugbala; Bey)



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XII. Discussion on Whether to Consider Revising Department General Order 0-4 (Informants) and Any Other Policies Related to Recent Public Reports of Allegations of Improper Witness Payments, Pursuant to Commission’s Authority to Independently Review OPD Policies Under Charter Section 604(b)(6).

Charter 604(b)(6) authorizes the Commission to “[r]eview and comment on, at its discretion, any other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police. The Chief of Police shall provide a written response to the Commission upon the Commission's request. ([Attachment 12](#))

Commissioners engaged in discussion regarding the Informants Policy and the possibility of creating an ad hoc committee. Chief Allison answered questions and provided clarifications.

Public comment was made by 1 person (Bey)

XIII. Committee Reports

Representatives from Ad Hoc Committees will provide updates on their work.
This is a recurring item.

- **Staff Searches: CPRA Director, Chief of Staff, Police Chief (Commissioners Milele, Jordan, Howell)**
The Staff Searches Ad Hoc Committee is responsible for the recruitment and hiring of staff vacancies, including the CPRA Executive Director, Commission Chief of Staff, and OPD Police Chief.

Chair Milele provided an update on the Chief of Staff and Police Chief searches, including details on upcoming community forums and meetings with the search firm.

- **Community Outreach (Commissioners Howell, Jordan, Ordaz)**
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. This Ad Hoc will also oversee the community engagement and outreach of the CPRA, the IG’s office and to some extent the OPD. Additionally, this Ad Hoc will work to set the guidelines for how Commission Ad Hoc’s are formed and run.

Commissioner Howell shared an update on the June 5th Community Outreach meeting. The ad hoc discussed developing a survey to measure engagement impact and gather feedback on how the community would like us to engage with them, especially those whose voices are most marginalized. The committee shared upcoming events and opportunities to represent the Commission out in the community.

- **Community Policing DGO 15-01 (Commissioners Hsieh and Howell)**
This committee is dedicated to developing a new policy directing Oakland Police Department's role in Community Policing. This project began in earnest in July 2021 in partnership with community leaders, activists, police officers, and city staff. The ad hoc was reconstituted in May 2023 to review additional updates to the policy by OPD.

Commissioner Hsieh reported the ad hoc is moving along with proposed changes and working through edits diligently.



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Commissioner Jackson left the meeting at this time, and Alternate Commissioner Ordaz was elevated to a regular voting Commissioner.

Public comment was made by 1 person (Bey)

Commissioner Hsieh made a motion, seconded by Commissioner Howell, to extend the meeting ten minutes to 11:10pm. The motion carried by the following vote:

Ayes: 4 - Jordan, Howell, Hsieh, Milele

Nays: 1 - Ordaz

Absent: 2 - Peterson, Jackson

XIV. Approval of Meeting Minutes

The Commission will review and possibly amend or approve meeting minutes for May 25 and June 22.

Commissioner Hsieh made a motion, seconded by Vice Chair Jordan, to accept agenda item #14 and the materials in the supplemental attachment as part of the agenda. The motion carried by the following vote:

Ayes: 5 - Jordan, Howell, Hsieh, Milele, Ordaz

Nays: 0

Absent: 2 - Peterson, Jackson

Commissioner Hsieh made a motion, seconded by Vice Chair Jordan, to accept the meeting minutes with one correction. The motion carried by the following vote:

Ayes: 5 - Jordan, Howell, Hsieh, Milele, Ordaz

Nays: 0

Absent: 2 - Peterson, Jackson

There were no public comments on this item.

XV. 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.

Commissioner Ordaz requested a future discussion on hybrid meetings.

There were no public comments on this item.



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- XVI. Open Forum Part 2** (2 minutes per speaker, 15 minutes total)
Members of the public wishing to address the Commission on matters that were not on tonight's agenda but are related to the Commission's work should submit a speaker card prior to the start of this item. **Persons who spoke during Open Forum Part 1 will not be called upon to speak again without prior approval of the Commission's Chairperson. This is a recurring item.**

There were no public comments on this item.

XVII. Adjournment

Chair Milele adjourned the meeting at approximately 11:03pm.

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Annual evaluation of Chief of Police	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	Postponed	Annual	Ord. Section 2.45.070(G)
Annual evaluation of Inspector General	Conduct performance reviews of the Agency Directors and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	In Discussion	Annual	Ord. Section 2.45.070(G)
Hiring CPRA Director including public forum	Staff Searches Ad Hoc	Commission responsible for hiring of Agency Director	Completed June 2023	Incident-based	Charter - 604(e)(4)
Annual evaluation of CPRA Director	Conduct performance reviews of the Agency Director and the Chief	The Commission shall determine the performance criteria for periodically evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation.	July/August 2024	Annual	Ord. Section 2.45.070(G)
Annual report to the Mayor/City Council/the public	Complete Annual Report		Completed May 2023	Annual	
Hiring of Police Chief	Complete search for new Chief of Police and recommend candidates to Mayor	The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least three (3) candidates and transmit the names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission.	Nov 2023	Incident-based	Charter - 604(b)(10)
MEETINGS					
Public Hearing on OPD Policies	Commission may shall determine which Department policies are subject of the hearing		2023 Public Hearings on OPD Policy: Militarized Equipment (May) and NSA-related policies (Multiple)	Annual	Charter Section 604(b)(2)

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Two meetings per year outside City Hall - "Community Roundtables"	Agendized ten days in advance	Commission shall consider inviting to each roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and formerly incarcerated members of the community	Community forums on Police Chief search at Oakland Public Libraries	Annual	Charter § 604(d)(1) and Ord. § 2.45.090
BUDGET					
Public hearing on OPD Budget	Purpose of hearing is to "determine whether budgetary allocations for the Department are aligned with the Department's policies". Develop and Approve Recommendations to City Council re Mayor's Budget	May 2023 -- Tentative release date of Mayor's proposed budget is May 1st of each year.	May 2023 meeting - coupled with community roundtable and budget public hearing	Annual	Charter Section 604(b)(7)
Propose a Commission Budget, in general	Propose staff position submission to City Administrator necessary to permit the Commission and the CPRA to fulfill its functions and duties.	Update requested by Comm. Peterson (4.13.23)	Approved March 2023 - Revisit May 2023 after release of Mayor's budget	Annual	Ord. Section 2.45.180
Review and Comment on Proposed Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Jobrelated Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Included in Budget Memo	Annual	Charter § 604(d)(1) and Ord § 2.45.090

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Propose a Budget for Education and Training re: job-related stress, PTSD Signs and Symptoms, and Other Job-related Mental Health/Emotional Issues		Possibly include in general budget or OPD budget	Included in Budget Memo	Annual	Ord. § 2.45.070(C) & (D) (C) Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. (D) Prepare and deliver to the Mayor, the City Administrator and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection C., above.
Quarterly budget review and regular updates on the agenda		Requested by Comm. Jackson (12.8.23; 2.9.23; 2.23.23; 3.23.23)	In Progress	Continuous	
OTHER ITEMS: for CPRA					
Solicit/Consider Public Input re Quality of Interactions with CPRA and Commission			Public Forum for CPRA Director Searches	Continuous	Ord. § 2.45.070(Q)
Establish Rules/Procedures re Mediation/Resolution of Complaints of Misconduct		Requested update by Comm. Harbin-Forte (4.13.23)	In Progress with CPRA	Continuous	Ord. § 2.45.070(N)
RFP for IAD transition to CPRA		Requested by CPRA	In Progress with CPRA	Incident-Based	
Review the Agency's dismissal and/or administrative closure of all complaints of misconduct involving Class I offenses			Jan 2024 (6 months into CPRA Director's start)	Continuous	Ord. Section 2.45.070(M)
Provide policy guidelines to CPRA Director for determining case prioritization		Requested by Comm. Jackson (11.10.22; 4.13.23) re: Charlotte Jones' August 2022 email; Chair has asked Charlotte when she can report on it	In Progress with CPRA Policies Ad Hoc	Continuous	
Determine the number of existing CPRA staff who would work at a "street-level or ground-floor, visible office that is accessible by public transportation."			In Progress with CPRA	Incident-Based	Ord. Section 2.46.020

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
OTHER ITEMS: for OPD					
Notify Chief of required contents of Chief annual report	See enumerated list of topics		Completed	Annual	Ord. Section 2.45.070(F)
Review And Comment On Department's Practices/Policies Re: Reporting And Publishing Data On Its Activities				Continuous	Ord. § 2.45.070(P)
Revisit OPD's Grooming & Presentation policy		Requested by Comm. Gage (1.13.22)			
Report on intentions regarding Militarized Equipment			Militarized Equipment Annual Report and Public Forum completed in 2023		
Report on claims regarding bail and increase in crime		Requested by Comm. Hsieh & Harbin-Forte repsectively (4.14.22)			
Update on OPD's Parole & Probation policy plus impact.		Requested by Comm. Jackson (2.10.22; 1.12.23)			
Approve/Modify/Revoke OPD Use of "Military Equipment" via Annual Report Process			May 2023		Ord. Section 9.65.030
Report from Chief regarding OPD's homelessness policy		Requested by Comm. Harbin-Forte (2.10.22)			
OPD annual update on impact of the missing person's policy		Requested by Comm. Jackson (8.25.22)			
Receive reports from Department via City Administrator on issues identified by the Commission				Continuous / Incident-Based	Ord. Section 2.45.070(R)
Informational report of data from MACRO, OPD, and CARES	(1) how many intakes CARES has received from OPD and MACRO; (2) a report from MACRO on their OPD referrals and the outcomes of those referrals for tracking purposes; (3) and finally, from OPD to see; the numbers of arrests that are eligible for CARES, the dispatches to MACRO and the types of cases involved, and the juvenile cases that are appropriate for juvenile pre-filling diversion and the outcomes of those cases	Requested by Comm. Hsieh (2.23.23)	July 2023	Annual	
OPD presentation on police misconduct data and how OPD evaluates/addresses misconduct allegations		Requested by Jackson-Castain (3.23.23)	IAD Policy Presentations and Review Completed June-August 2023		
OTHER ITEMS: for OIG					
OIG Annual Report	Provide Commission OIG Annual Report			Annual	Ord. Section 2.45.120
Monitor/evaluate # of officers receiving training on profiling, implicit bias, de-escalation, and other key topics				Continuous	Ord. Section 2.45.120

Agenda Matter	Duties/Deliverables	Additional Information/Details	Timeline for 2022-23	Annual vs. Incident-Based vs. Continuous Functions	Measure LL ("Charter") and Enabling Ordinance ("Ord.") Sections
Develop and present a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn officers				Continuous	Ord. Section 2.45.120
Complete all audits/reviews requested by the Mayor, City Administrator, City Council				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: Recruiting and hiring sworn personnel				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: OPD Policies the Commission seeks to create or modify				Continuous	Ord. Section 2.45.120
Monitor/evaluate/make recommendations re: OPD's risk mgmt. practices				Continuous	Ord. Section 2.45.120
Advise OIG of priorities for the 52 NSA Tasks		Part of Post-NSA Standing Committee		Continuous	Ord. Section 2.45.120; Charter 604(f)(5)
OTHER ITEMS: for Commission					
Community Policing presentation/training		Requested by Comm. Hsieh/Commission Ad Hoc (5.26.22)	Postponed: Community Policing Policy in review		Ord. Section 2.45.070(O)
Maintain/update bylaws		Rules of Procedure Ad Hoc - in progress	In Progress with Rules Committee	Continuous	Ord. Section 2.45.040
Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of litigation			April 27, 2023 (next October 2023)	Continuous	Ord. Section 2.45.070(I)
Mayor's Youth Commission		Requested by Comm. Jackson (8.25.22)			
Bay Area Youth EMT		Requested by Comm Harbin-Forte (8.25.22)			
Presentation on new HR process		Requested by Comm. Jackson (11.10.22)			
Presentation on Ceasefire		Requested by Comm. Jackson (1.12.23)	Completed July 2023		
Half-day strategic planning session		Requested by Comm. Jackson-Castain (1.12.23)			
Discussion on content of future OPD reports		Requested by Comm. Jackson-Castain (1.26.23)		Continuous	
Audit compliance update		Requested by Comm. Jackson (2.9.23)			
Juvenile Miranda Policy and juvenile detention program update		Requested by Comm. Hsieh (2.9.23)			