



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

March 24, 2022

5:30 PM

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

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



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### PUBLIC PARTICIPATION

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

#### OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/83950888540> 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 +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592  
Webinar ID: 839 5088 8540

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

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

- Comment in advance. To send your comment directly to the Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to [radwan@oaklandca.gov](mailto:radwan@oaklandca.gov). Please note that e-Comment **submissions close at 4:30 pm**. All submitted public comment will be provided to the Commissioners prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled “Raise Hand In Webinar.”
- By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing STAR-NINE (“\*9”) to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting by Phone.”

If you have any questions about these protocols, please e-mail [radwan@oaklandca.gov](mailto:radwan@oaklandca.gov).



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

Chair Tyfahra Milele

*Roll Call: Chair Tyfahra Milele; Vice Chair Marsha Peterson; Commissioner Henry Gage, III; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Regina Jackson, Commissioner David Jordan; Alternate Commissioner Jesse Hsieh*

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

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

### III. Closed Session item

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

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

**Public Employee Discipline/Dismissal/Release  
(Government Code Section 54957(b))**

### IV. Call to Order and Re-Determination of Quorum

Chair Tyfahra Milele

*Roll Call: Chair Tyfahra Milele; Vice Chair Marsha Peterson; Commissioner Henry Gage, III; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Regina Jackson, Commissioner David Jordan; Alternate Commissioner Jesse Hsieh*

- V. **Open Forum Part 1** (2 minutes per speaker, 15 minutes total)  
After ascertaining how many members of the public wish to speak, Chair Tyfahra Milele will invite the public to speak on any items not on the agenda but may be of interest to the public, and that are within the subject matter jurisdiction of the Commission. Comments on specific agenda items will not be heard during Open Forum but must be reserved until the agenda item is called. The Chair has the right to reduce speaking time to 1 minute if the number of speakers would cause this Open Forum to extend beyond 15 minutes. Any speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2, at the end of the agenda.
- VI. **Review and Adopt Revision to Special Order 9208**  
The Commission will review and consider whether to modify and/or approve the Police Department's revised Special Order 9208 related to Use of Force Reporting. ***This is a recurring item.*** (Attachment 6).  
a. Discussion  
b. Public Comment  
c. Action, if any
- VII. **Consider Approval of Policy for Anti-Discrimination and Harassment (DGO D-20)**  
The Commission will review and consider whether to modify and/or approve the Police Department's Anti-Discrimination and Harassment policy. (DGO D-20). ***This is a new item.*** (Attachment 7).  
a. Discussion  
b. Public Comment  
c. Action, if any
- VIII. **Consider Approval of Social Media Policy (DGO D-18)**  
The Commission will review and consider whether to modify and/or approve the Police Department's revised Social Media policy (DGO D-18). ***This is a new item.*** (Attachment 8).  
a. Discussion  
b. Public Comment  
c. Action, if any
- IX. **Public Forum to Consider Draft Revised Risk Management Policy**  
The Risk Management Policy Ad Hoc Committee will present subject matter experts along with Department representatives to host a public forum about the Police Department's Draft Revised Risk Management Policy. As part of the forum, the Commission will consider next steps and possible modification and/or adoption of the draft revised policy. ***This is a new item.*** (Attachment 9).  
a. Discussion  
b. Public Comment  
c. Action, if any
- X. **Open Forum Part 2** (2 minutes per speaker)  
Chair Tyfahra Milele will invite public speakers to speak on items that were not on the agenda, and that are within the subject matter jurisdiction of the Commission, with priority given to speakers

who were unable to address the Commission during Open Forum at the beginning of the meeting. Speakers who made comments during Open Forum Part 1 will not be permitted to make comments during this Open Forum. Comments previously made during public comment on agenda items may not be repeated during this Open Forum. The Chair has the right to reduce speaking time to 1 minute for reasons the Chair will state on the record. ***This is a recurring item.***

## **XI. Adjournment**

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

# OAKLAND POLICE COMMISSION

## RESOLUTION NO. 22-06

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

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

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

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

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

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

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

**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19

symptoms stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

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

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

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

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

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

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

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

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

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

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

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

ON MARCH 24, 2022, AT A MEETING OF THE OAKLAND POLICE COMMISSION IN OAKLAND, CALIFORNIA

**PASSED BY THE FOLLOWING VOTE:**

AYES –

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
                  RANIA ADWAN  
                  Chief of Staff  
                  Oakland Police Commission  
                  City of Oakland, California





## *MEMORANDUM*

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**TO:** Tyfahra Milele  
Chair, Oakland Police Commission

**FROM:** LeRonne Armstrong  
Chief of Police

**SUBJECT:** Policy Update Submission – S.O. 9208

**DATE:** March 16, 2022

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### **PURPOSE**

This memorandum and attached Special Order (#9208) are a respectful submission for review and approval of this Special Order pursuant to Charter Section 604(b)(5). The attached Special Order modifies the reporting requirements for “Type 32” use of force – a new force type added in Special Order 9196 and previously approved by the Police Commission.

### **BACKGROUND**

In January of 2019, the Police Department and Commission worked together on SO 9196, a modification to the Department’s force reporting meant to ensure accurate, consistent reporting. One of the new force types, Type 32, presented challenges during implementation. The Department and Commission made temporary modifications (SO 9202), with the Commission requesting that the Department return with an update after further study.

The attached Special Order is the result of this study and technical assistance from the Monitoring Team. This Special Order modifies SO 9196 in that it limits the review of BWC video of Type 32 incidents in very limited circumstances where Type 32 force is the only force used and there are no injuries, complaints of pain, or allegations of misconduct. While the Department hopes that this balances the competing interests of accurate, in-depth force reporting against the desire to not over-burden field personnel with administrative duties, the results of this change in policy will only be able to be determined after implementation. SO 9202 will be rescinded if Special Order 9208 is approved by the Police Commission.

### **CONCLUSION AND RECOMMENDATION**

The Department concludes that implementation of Special Order 9208 in its current form is integral to compliance with the Negotiated Settlement Agreement and also recognizes the need for Commission and community input – the Department is looking forward to presenting and discussing the Special Order at the March 24 2022 Police Commission meeting.

Respectfully submitted,

LeRonne L. Armstrong  
Chief of Police  
Oakland Police Department

Attachment (2):  
**A – Special Order 9208**  
**B – Submission PowerPoint**

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER 9208

TO: All Sworn Personnel

SUBJECT: Documentation of the Use of Force<sup>1</sup>

EFFECTIVE DATE: XX XXX XX

TERMINATION: Upon revision of DGO K-04, *Reporting and Investigating the Use of Force*

**Scope and Purpose**

Special Order 9208 immediately changes and supersedes sections of DGO K-04, Reporting and Investigating the Use of Force, Special Order 9196, as well as replaces Special Order 9202. The changes explained herein are limited in scope, exclusively covering the expansion of reporting, documenting and reviewing Type 32 uses of force. SO 9208 furthers the Oakland Police Department's (the "Department") commitment to transparency and accountability.

**Type 32 Use of Force Explanation**

- ❖ **Level 4, Type 32** was added as a new force type on February 15<sup>th</sup>, 2020. Issues arose where officers were using "force" as defined in K-03 to overcome resistance, but this force was not adequately documented.

This force included such things as: lifting up and carrying people who had gone limp, holding people down on the ground, restraining people in restraint devices (such as the Hobble or WRAP), pulling people out of cars, pushing people into the back of police cars, removing people who were holding on to fixed objects, forcibly pulling people's hands behind their back when they were resisting, etc.

**To that end**, one additional category of force was added to the Level 4 reporting scheme as Type 32 as follows:

**Type 32: Any use of force, as defined in DGO K-03, used to**

- **Overcome resistance of a person during an arrest or a detention; or**
- **Defend oneself or another from combative action by another person.**

**And which is not categorized in reporting types 1-31.**

**Details of Changes to Use of Force Reporting: Level 4, Type 32**

The Department's policy and reporting procedure regarding Type 32 uses of force are defined below based on the following two scenarios:

1. Type 32 incidents where *no other force is used*; and
2. Type 32 incidents where *one or more additional force types are used* (Type 1-31).

<sup>1</sup> DGO K-03: II C Use of Force (p. 3): Any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.

**Type 32 - With No Other Force Used*****Definition:***

A Type 32 With No Other Force Used is any incident in which the **only** force type that is used by any officer is a Type 32, regardless of how many officers were involved in the Type 32.

An incident where one or more officers use a Type 32, but another officer *on the same incident* uses a different force type (Level 1-4, Type 1-31), would *not* qualify under this section.

***Notification:***

Consistent with other Level 4-only uses of force, involved members shall notify their supervisor of the use of force, but supervisors are not required to respond to the scene.

***VISION:***

Consistent with other Level 4 uses of force, Type 32 uses of force shall be entered into VISION by an involved member or a supervisor.

Review of the Type 32 in VISION is required by the next-level supervisor and commander; however, the following section of the use of force form in Vision is not required:

- Documents and Links –ancillary documents (i.e., CAD Purge, Daily Detail, etc.) and links to Body Worn Camera videos are NOT required to be uploaded to the VISION record.

***Crime/Supplemental/FI Reports:***

Consistent with other Level 4 uses of force, involved members shall complete their report by the end of their tour of duty, and supervisors shall review the report by the involved officer by the end of their next shift when the Use of Force report is due. Reports shall minimally include the original reason for police presence, the circumstances that resulted in the use of force, and a detailed description of the force used. Supervisor review of the reports of uninvolved officers is not required unless mandated by another policy (i.e. felony reports).

***Body Worn Camera Review:***

Body Worn Camera review of the incident by the supervisor shall be required when any of the following circumstances exist:

- When there is a misconduct complaint requiring a referral to IAD, regardless of the allegation.

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Special Order 9208

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- When a vehicle pursuit is associated with the incident.
- When the incident involves an arrest for 69, 148, or 243(b) PC.
- When the subject of the Type 32 has a complaint of pain<sup>2</sup> and/or a minor bodily injury<sup>3</sup> related to the use of force.

For Type 32 uses of force where the subject has a complaint of pain and/or minor bodily injury, involved officers shall notify their supervisor of the complaint of pain and/or minor bodily injury and document it in their report.

In the event of the above listed scenarios, Supervisors are required to review the relevant portions of Body Worn Camera video specifically related to the actual Type 32 Use of Force unless further review is otherwise required in accordance with Department policy. (e.g. DGO I-15.1; SO 9191 related to arrest for 69 PC, 148 PC, 243(b) PC)

Absent any of the above circumstances, Body Worn Camera review of the incident is at the supervisor's discretion and is not required.

### **Type 32 With One or More Additional Force Types Used (Level 1-4, Type 1-31)**

#### ***Notification:***

Involved members shall notify their supervisor of the use of force, and supervisor response to the scene will be based on policy directives pursuant to the highest level of force used.

#### ***VISION:***

All fields in VISION are required to be completed pursuant to current policy and based on the highest level of force used. Type 32 uses of force shall be listed in the Force Details section. Use of force investigations are required pursuant to current policy and based on the highest level of force used.

#### ***Crime/Supplemental/FI Reports:***

Involved members must complete their report consistent with current policy, and supervisors shall review those reports. Reports shall minimally include the original reason for police presence, the circumstances that resulted in the use of force, and a detailed description of the force used (including the Type 32).

#### ***Body Worn Camera Review:***

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<sup>2</sup> For the purposes of this policy, complaint of pain is defined as a report of pain that persists beyond the use of a physical control hold or other use of force, but where there is no visible injury corresponding to that pain.

<sup>3</sup> For the purposes of this policy, minor bodily injury is defined as corporal injury, illness, or an impairment of physical condition greater than transitory pain but less than great or serious bodily injury (e.g. bruises, cuts, and abrasions).

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For officers who *only* have a Type 32 Use of Force during an incident, Supervisors are required to review the relevant portions of Body Worn Camera video specifically related to the actual Type 32 Use of Force unless further review is otherwise required in accordance with Department policy (e.g., DGO I-15; SO 9191 related to arrest for 69 PC, 148 PC, 243(b) PC).

For officers who have a Type 32 Use of Force and another Use of Force (Types 1-31) in the same incident, supervisors are required to review Body Worn Camera video for all force types reported, including the Type 32, pursuant to current Department policy.

***Force Review Boards (FRB):***

Force Review Boards are required to make a compliance finding on Type 32 uses of force in conjunction with incidents that come before the FRB.

The above changes go into effect immediately and this Special Order will stay in effect until cancelled or until the revision of DGO K-04.

By order of

LeRonne L. Armstrong  
Chief of Police



## DEPARTMENTAL GENERAL ORDER

**D-20: EQUAL EMPLOYMENT OPPORTUNITY, ANTI-DISCRIMINATION, AND NON-HARRASSMENT POLICY**

Effective Date: DD MMM YY

Coordinator: Office of Chief of Police

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**COMMAND INTENT**

The purpose of this General Order is: (1) to outline the Oakland Police Department's Policy, standards, requirements, complaint procedures and disciplinary guidelines regarding inappropriate and/or unprofessional conduct that could potentially rise to the level of discrimination and/or harassment; and (2) to set out complaint and investigation procedures for all members and job applicants who believe they have been subjected to inappropriate workplace conduct based on their protected status. Violations of this policy is a violation of the [Manual of Rules](#), and anyone who violates this policy will be subject to appropriate discipline – reference [Training Bulletin V-T, Discipline Matrix](#).

**A. POLICY AND APPLICABILITY****A - 1. Unlawful Discrimination, Harassment, or Other Inappropriate Conduct Based on Protected Status**

The Oakland Police Department (Department) is committed to equal employment opportunity and to ensuring that all members have a work environment free of conduct that could be considered discriminatory or harassing. The Department strictly prohibits any form of unlawful employment discrimination, harassment, and/or other inappropriate conduct based on protected status. Protected statuses include: race, color, ancestry, national origin (including immigration status, cultural or linguistic characteristics), religion, creed (including religious dress and grooming practices), age (over 40), disability (including both mental and physical), sex (including pregnancy or medical conditions related to pregnancy, childbirth or breastfeeding), sexual orientation, gender identity, gender expression, medical condition (including cancer and genetic characteristics), genetic information (including family medical history), marital status, military and veteran status, and other characteristic protected by law. The Department will not tolerate any harassing or discriminatory conduct on these bases, nor retaliation for opposing illegal discrimination or harassment related to one of these categories.

Additionally, the Department will not tolerate any inappropriate conduct that affects tangible job benefits, that unreasonably interferes with any individual's work performance, or that creates an intimidating, hostile, or offensive working environment. The Department does not allow anyone, including any Chief, Command Officer, director, manager, supervisor, co-worker, vendor, elected official, or commissioner, to unlawfully harass or discriminate against Department members or applicants for employment. Harassment and discrimination are also prohibited against any person providing services to or working with the Department pursuant to a contract. The Department will

work with the City to take prompt and effective remedial action within its power upon discovery of such conduct.

**A - 2. Prohibition of Discrimination or Harassment Based on Membership or Association with a Protected Group**

The Department prohibits discrimination and/or harassment based on a perception that a person has any of the characteristics described in A-1, or that the person is associated with a person who has, or is perceived to have, any of the listed characteristics. Harassment and/or discrimination based on these characteristics (whether actual, perceived or by association) is prohibited.

**A - 3. Prohibition on Retaliation**

The Department prohibits retaliation against anyone who has expressed a concern about unlawful discrimination or harassment or who has filed a complaint or participated in an investigation of any such complaint. The Department takes all complaints seriously, and will not tolerate retaliatory conduct.

**B. POLICY APPLICABILITY**

**B - 1. Who the Policy Covers**

This Policy applies to all full-time Department members (both sworn and professional staff), part-time employees, temporary employees, and job applicants. The Policy also applies to any person providing services to or working with the Department pursuant to a contract. For the purpose of this Policy only, the term “members” also includes unpaid interns and volunteers including explorers and annuitants.

**B - 2. Where the Policy Applies**

This Policy applies to all Department and City locations, as well as to all employer-sponsored activities, such as training, social, or other events. This Policy also applies to non-City locations (including locations where no employer-sponsored activity is taking place) and off-duty conduct if a reasonable connection or impact to the workplace can be shown. For example, a Department member sending a racist email from home to another Department member violates this Policy. Such conduct does not fall outside of the Policy just because both members were not on-duty.

**B - 3. What the Policy Covers**

The Policy covers all terms and conditions of employment, including but not limited to: recruitment, hiring, promotion, termination, discipline, layoff, recall, transfer, leaves of absence, position / classification, training, compensation and benefits.

The Policy covers communications sent on personal devices. For example, a Department member sending harassing text messages to another Department

member violates the Policy even if the messages were sent and received on personal devices.

This Policy prohibits not only unlawful harassment, but also any conduct that is unprofessional, disrespectful or inappropriate based on a protected status or characteristic, whether or not it rises to the level of legally prohibited harassment and whether or not the conduct is directed to a person in a protected category. **For example**, making racist statements to a group of members who are not members of that race still violates the Policy. It is the Department's goal to prevent the occurrence of harassing activity and to stop harassing conduct when it occurs and before it becomes a violation of law. This Policy therefore prohibits activities based on protected status that are inappropriate whether or not they are sufficiently severe, persistent, or pervasive to constitute unlawful harassment.

Additionally, the Department wishes to note that inappropriate behavior is workplace harassment only when it is based on membership in a protected category (e.g., race, sex/gender, etc.). For example, even though members may be offended when a supervisor, commander, or manager yells at them, yelling itself is not workplace harassment unless the yelling can be linked to a protected status (e.g., yelling racist names, only yelling at women, etc.). While such behavior may not violate this Policy, as it is not based on a protected characteristic, it is the responsibility of all Department members to behave in a professional and respectful manner pursuant to the Department's Manual of Rules.

This Policy will be interpreted in a manner that is consistent with federal and state laws regarding harassment, such as Title VII of the Civil Rights Act of 1964, California's Fair Employment and Housing Act, and the Americans with Disabilities Act. A determination as to whether a violation of this Policy has occurred will be evaluated on a case by case basis with consideration for the context and circumstances of the alleged conduct.

## DEFINITIONS AND APPLICATIONS

### C. HARASSING CONDUCT

#### C - 1. Definition

Prohibited behavior may include, but is not limited to: verbal, visual, physical, or any other type of conduct that denigrates, demeans, or shows hostility or aversion towards a member because of their membership in a protected group. Prohibited behavior also includes conduct directed towards a protected class. For example, saying, "That's gay," is prohibited behavior under the Policy, even if the phrase is not directed to a member of a protected class.



**C - 2. Examples:**

**Physical conduct:** Unwanted touching, gesturing, leering, prolonged staring, assault, violence, impeding or blocking movement, or any physical interference with normal work or movement, as well as defacement of a person's property.

**Verbal conduct:** Epithets, slurs, derogatory or demeaning comments, even if not directed at a specific person or persons, innuendos, jokes or ridicule, hostile or more severe treatment based on a person's protected characteristic or status, threats of violence, or comments indicating stereotyping.

**Visual conduct:** Obscene, derogatory or demeaning posters, photos, text messages, cartoons, e-mail, screen savers, social media postings, or drawings.

**Audio Conduct:** Playing music with sexually degrading, racially or ethnically offensive or derogatory lyrics, for example, songs that include graphic references to certain parts of human anatomy or descriptions of various types of sexual conduct. Songs that involve hostile or abusive slang terms for members of certain genders, races or religions, including the "N-word" or "B-word."

Playing radio talk shows or other forms of media that have similar offensive or degrading content is also prohibited.

**Other conduct:** Hostility, harsh or less favorable treatment, bullying, withholding of assistance (e.g., cover on calls for service), or selection of assignments based on a person's protected status.

Making harassing telephone calls to a coworker, or sending harassing correspondence to any individual based on a person's protected status, by any means, including but not limited to: public or private mail, interoffice mail, facsimile, email, intranet or internet websites, social media, direct-messaging applications, or text messaging.

Posting, sharing, or uploading or downloading harassing, discriminatory, retaliatory, or other protected status-based content in any form, by any means, including but not limited to: public or private mail, interoffice mail, facsimile, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

**D. SEXUAL AND GENDER-BASED DISCRIMINATION OR HARASSMENT**

**D - 1. Definition and Examples**

The Department incorporates in this Policy the Equal Employment Opportunity Commission's definitions of "sexual harassment" as they have been interpreted and supplemented by federal and state case law:

**Prohibited Conduct:** Unwelcome sexual advances, or visual, verbal, physical or other conduct of a sexual or gender-based nature, or which creates an intimidating, hostile or offensive work environment, or which substantially interferes with any individual's work performance based on gender.

**Quid Pro Quo Harassment:** Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature that is made a term or condition of any individual's employment.

**Unlawful Sexual Favoritism:** A member in a work group who is not involved in a sexual relationship with a supervisor is denied employment opportunities by a supervisor who grants greater opportunities to a member who is involved in a sexual relationship with that supervisor.

**Examples:** Prohibited conduct based on sex or gender includes, but is not limited to:

1. Any display of sexually explicit pictures, greeting cards, articles, books, images, photos, art, cartoons, e-mails, text messages, calendars, screen savers, social media postings or other similar material;
2. Comments or displays of greeting cards, articles, books, images, photos, art, cartoons, emails, text messages, calendars, screen saver, social media postings or other similar material reflecting gender-based stereotypes;
3. Harsh or less favorable treatment based on gender;
4. Off-color language or jokes of a sexual nature. These jokes need not be directed to a member of a protected class. For example, making a sexually charged joke regarding women when no women are present is prohibited behavior pursuant to this Policy;
5. Sexual flirtation, touching or leering;
6. Sexually suggestive comments, propositions or advances;
7. Intrusive questions regarding another person's intimate relationships, dating, or sex life;
8. Slurs and other verbal, graphic or physical conduct relating to any individual's gender;
9. Sexually suggestive physical conduct such as pelvic thrusts, lip licking, kissing or sucking noises, groping one's own body, and other such gestures;

10. Making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, interoffice mail, facsimile, email, through social media websites, direct-messaging websites or applications or text messaging based on sex or gender;
11. Posting, sending, uploading or downloading harassing or discriminatory content based on sex or gender, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

## **E. RACE, NATIONAL ORIGIN, COLOR, AND ANCESTRY DISCRIMINATION OR HARASSMENT**

### **E - 1. Definition and Examples**

**Prohibited Conduct:** Harassment based on race, ethnicity, color, national origin, or ancestry includes, but is not limited to: threats, physical conduct, pranks, vandalism, jokes, slurs, ridicule, verbal, graphic, or written materials, or hostility or less favorable treatment directed at a member because of their actual or perceived race, color, ancestry or national origin.

**Examples:** Inappropriate conduct based on race, color, ethnicity, ancestry or national origin includes, but is not limited to:

1. Assault, impeding or blocking movement, or any physical interference with normal work or movement because of race, color, national origin, ancestry, or ethnicity;
2. Defacement of a person's property, derogatory or demeaning posters, cartoons, emails, text messages, screen savers, drawings or other similar materials depicting racial or ethnic stereotypes;
3. Derogatory or demeaning racial or national origin-based comments even if not directed at a specific person or persons, including stereotyping or mimicry based on race, color, ancestry, immigration status or national origin;
4. Jokes or ridicule directed to a specific person or persons about their race, color, national origin or ethnicity, including demeaning comments or stereotyping concerning ancestry, ethnic food or customs, attire, appearance or other ethnic, tribal affiliation, cultural or linguistic characteristics, or national origin-based characteristics;
5. Racial or national origin-based epithets or slurs, or threats of deportation;
6. Threats of, or actual, violence based on race, color, national origin, ethnicity or immigration status.
7. Making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited

- to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of race, color, national origin or ethnicity;
8. Posting, sending, uploading or downloading discriminatory or harassing content based on race, color, national origin or ethnicity, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.
  9. Harassing or discriminatory treatment based on hair texture and protective hairstyles. Protective hairstyles include, but are not limited to, afros, braids, locks, and twists.

## **F. PHYSICAL AND/OR MENTAL DISABILITY DISCRIMINATION AND DISABILITY-BASED HARASSMENT**

### **F - 1. Definition and Examples**

The Department incorporates into this Policy the definition of disability found in state and federal laws. The Department prohibits disability-based discrimination and harassment.

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, or more severe or less favorable treatment based on disability. Additional examples include, but are not limited to: comments, expressions of resentment, jokes, slurs, visual displays, behavior that derides the abilities of any individual with a disability or portrays any individual with a disability as someone to be disdained or feared, mimicry or attempts to imitate any individual's disability, comments or other conduct evidencing stereotyping of individuals with disabilities.

**Examples:** Inappropriate conduct or harassment based on disability-based discrimination includes, but is not limited to: derogatory or demeaning comments, epithets or slurs, mimicry or gestures, visual displays, comments or conduct evidencing stereotyping based on disability, comments implying a lack of ability because of a disability, comments that denigrate or disparage on the basis of disability, contempt, condemnation, laughter, hostility or disgust at a person's disability or perceived disability.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of physical or mental disability or posting, sending, uploading or downloading discriminatory or harassing content based on physical or mental disability, in

any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Members who are qualified individuals with disabilities protected by the California Fair Employment and Housing Act and/or the Americans with Disabilities Act are entitled to reasonable accommodation for their disabilities. For information regarding the City's Interactive Process "IAP" and requests for Reasonable Accommodation under the ADA/FEHA, see Administrative Instruction 139, *Procedures for Complying with Employment Aspects of the ADA/FEHA*.

The complaint procedure for persons reporting allegations of discrimination/harassment based on disability are the same as that for reporting other forms of prohibited discrimination/harassment.

## **G. DISCRIMINATION AND/OR HARASSMENT BASED ON SEXUAL ORIENTATION**

### **G - 1. Definitions and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic, or written materials; hostility or less favorable treatment directed at a member because of their sexual orientation or perceived sexual orientation.

**Examples:** Inappropriate conduct or harassment based on sexual orientation or perceived sexual orientation includes, but is not limited to: derogatory or demeaning comments, epithets or slurs, mimicry or gestures, visual displays, comments or conduct evidencing stereotyping based on sexual orientation, comments implying a lack of masculinity or femininity or stereotypically appropriate male or female behavior, comments that denigrate or disparage on the basis of sexual orientation, contempt, condemnation, hostility or disgust at a person's sexual orientation, perceived sexual orientation, or openness regarding sexual orientation.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of sexual orientation or perceived sexual orientation or posting, sending, uploading or downloading discriminatory or harassing content based on sexual orientation or perceived sexual orientation, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media,

direct messaging applications, or text messaging.

## H. DISCRIMINATION AND/OR HARASSMENT BASED ON GENDER IDENTITY OR EXPRESSION

### H - 1. Definition and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment directed at a member because of their transgender or gender non-conforming/non-binary status or actual or perceived gender identity, and social/physical transition.

Further, conduct which violates [Administrative Instruction 73](#), the City's Gender Inclusion Policy, is prohibited and will be investigated as a violation of this policy and the City's Administrative Instruction 71.

**Examples:** Inappropriate conduct or harassment based on transgender or gender non-binary status or actual or perceived gender identity includes, but is not limited to: derogatory or demeaning comments; epithets or slurs; mimicry or gestures; intentionally using names or pronouns a person does not identify with (misgendering); comments, visual displays, or conduct evidencing stereotyping based on a person's transgender, gender non-conforming/non-binary status or actual or perceived gender identity; comments implying a lack of masculinity or femininity or of stereotypically appropriate male or female behavior or dress; comments that denigrate or disparage on the basis of transgender, gender non-conforming/non-binary status or actual or perceived gender identity such as denigrating intentional pronoun inclusive language and usage; contempt, condemnation, hostility or disgust at a person's transgender or gender non-conforming/non-binary status, or actual or perceived gender identity or openness regarding transgender, gender non-conforming/non-binary status or gender identity, and social /physical transition.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of gender identity or expression or posting, sending, uploading or downloading discriminatory or harassing content based on gender identity or expression, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Pursuant to state law, individuals who identify as transgender or gender non-

conforming/non-binary have the right to use a restroom or locker room that corresponds with the individual's gender identity, regardless of the individual's assigned sex at birth, and social/physical transition.

## **I. DISCRIMINATION AND/OR HARASSMENT BASED ON RELIGION**

### **I - 1. Definition and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment; or unwelcome proselytizing directed at a member because of their religious beliefs or practices, or lack of religion or religious beliefs.

**Examples:** Inappropriate conduct or harassment based on religion includes, but is not limited to: derogatory or demeaning comments; epithets, slurs or gestures; comments, visual displays, or conduct implying the superiority of one religion over another; hostility or less favorable treatment based on a member's religion or religious beliefs or lack thereof; stereotyping based on religion, religious practices, religious beliefs, or lack thereof; unwanted invitations to participate in religious activities or practices.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of religion or posting, sending, uploading or downloading discriminatory or harassing content based on religion, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Members have a right to reasonable accommodation of religious observance, practice and belief that does not constitute an undue burden on the Department.

## **J. DISCRIMINATION AND/OR HARASSMENT BASED ON AGE**

### **J - 1. Definitions and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment directed at a member because of their being at least 40 years of age or older.

**Examples:** Inappropriate conduct or harassment based on age includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures; comments, visual displays, treatment or conduct implying inferiority or inability based on age; hostility or less favorable treatment based on any individual's age; and stereotyping based on age.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of age over 40 or posting, sending, uploading or downloading discriminatory or harassing content based on age over 40, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

## **K. DISCRIMINATION AND/OR HARASSMENT BASED ON MEDICAL CONDITION**

### **K - 1. Definition and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at a member because of their medical condition. Discrimination and/or harassment based on medical condition includes, but is not limited to, harassment because of a health impairment related to or associated with a medical condition such as cancer, HIV/AIDS, or gender dysphoria.

**Examples:** Inappropriate conduct or harassment based on medical condition includes, but is not limited to, derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures; comments, visual displays, treatment or conduct implying inferiority or inability based on medical condition; hostility or less favorable treatment based on any individual's medical condition, stereotyping and negative comments about any individual taking job-protected medical leave.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of medical conditions or posting, sending, uploading or downloading discriminatory or harassing content based on medical conditions, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.



Disclosing medical-related information outside a need-to-know basis, or gossiping about a member's medical condition is also prohibited.

**L. DISCRIMINATION AND/OR HARASSMENT BASED ON MARITAL STATUS OR PREGNANCY**

**L - 1. Definition and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at any individual or individuals because of their marital status and/or pregnancy.

**Examples:** Inappropriate conduct or harassment based on marital status and/or pregnancy includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures; comments, treatment or conduct related to any individual's marital status, pregnancy, childbirth or medical conditions and/or use of medical leave related to pregnancy or childbirth; or unfavorable treatment on such bases.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of marital status or pregnancy or posting, sending, uploading or downloading discriminatory or harassing content based on marital status or pregnancy, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

**M. DISCRIMINATION AND/OR HARASSMENT BASED ON MILITARY OR VETERAN STATUS**

**M - 1. Definition and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at any individual or individuals because of their service or former service in any branch of the armed services and/or National Guard.

**Examples:** Inappropriate conduct or harassment based on military/veteran status includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures, comments, treatment or conduct relating to any individual's military or veteran status.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of military or veteran status or posting, sending, uploading or downloading discriminatory or harassing content based on military or veteran status, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

## **N. CONFIDENTIALITY**

### **N - 1. Limitation on Dissemination of Information**

The Department cannot guarantee absolute confidentiality with respect to complaints and/or investigations. Dissemination of information will be limited to those individuals who must be contacted in order to fulfill the Department and City's obligations to investigate and resolve the complaint.

### **N - 2. Confidentiality Requirements**

To the extent allowable by law, the Department requires that all involved parties maintain confidentiality regarding the existence of complaints made and investigations conducted under this Policy.

## **O. RETALIATION**

### **O - 1. Definition**

Retaliation is defined as any adverse action, including but not limited to denial of promotion, denial of preferred assignment, discharge, discipline, demotion, transfer or reassignment of a member, based on their expressed concern about unlawful or against-policy discrimination or harassment or for having filed a complaint or participated in a discrimination or harassment investigation.

### **O - 2. Prohibition Against Retaliation**

The Department strictly prohibits any retaliation against a member who has filed a complaint of discrimination, harassment or retaliation based on a protected status, or has participated in an investigation or proceeding related to such a complaint. The Department also strictly prohibits retaliation against a member who has opposed any practice or conduct that violates this Policy.

## **P. COMPLAINT AND REPORTING PROCEDURE**

### **P - 1. Oakland Police Department Complaint and Reporting**

Any member who believes they have experienced or witnessed conduct that may violate this Policy shall also report the conduct to the Department's Internal Affairs Division per the procedures set up in [General Order M-03](#). This includes:

1. If the member or job applicant reasonably believes they were subject to conduct which violates this policy;
2. If the member or job applicant reasonably believes they have been treated in an unlawful, discriminatory, or retaliatory manner; or
3. If the member or job applicant witnesses, observes, or otherwise becomes aware of conduct by Department members that may violate this policy.

**P - 2. City of Oakland Complaint and Reporting**

It is the responsibility of any member or job applicant who believes they have experienced or witnessed conduct that may violate this Policy to report the conduct promptly. This includes:

1. If the member or job applicant reasonably believes they were subject to conduct which violates this policy;
2. If the member or job applicant reasonably believes they have been treated in an unlawful, discriminatory, or retaliatory manner; or
3. If the member or job applicant witnesses, observes, or otherwise becomes aware of conduct by Department members that may violate this policy.

The City of Oakland maintains a complaint and reporting procedure that is separate from the Police Department; reference [Administrative Instruction 71](#) for the complete procedure.

**P - 3. Complaints and Reporting to the Equal Employment Opportunity Commission (EEOC) and California Department of Fair Employment and Housing (DFEH)**

Any member or job applicant may also complain directly to the [Equal Employment Opportunity Commission \(EEOC\)](#) or the [California Department of Fair Employment and Housing \(DFEH\)](#) in accordance with the agency's procedures.

By order of

LeRonne L. Armstrong  
Chief of Police

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



DEPARTMENTAL GENERAL ORDER

D-20: EQUAL EMPLOYMENT OPPORTUNITY / ANTI-DISCRIMINATION / NON-HARRASSMENT POLICY

Effective Date: DD MMM YY  
Coordinator: Office of Chief of Police



**CITY OF OAKLAND**

**ADMINISTRATIVE INSTRUCTION**

<b>SUBJECT</b>	<b>Equal Employment Opportunity/Anti-Discrimination/Non-Harassment Policy and Complaint Procedure</b>	<b>NUMBER</b>	71
<b>REFERENCE</b>		<b>EFFECTIVE</b>	
<b>SUPERSEDE</b>	AI 70, AI 71 dated 1/1/03, AI 115, AI 116, AI 126, AI 71 dated 4/1/04 AI 71 dated 1/1/08		

**I. PURPOSE**

**COMMAND INTENT**

The purpose of this ~~Administrative Instruction~~General Order is: (1) to outline the ~~City of Oakland's~~Oakland Police Department's Policy, standards, requirements, complaint procedures and disciplinary guidelines regarding inappropriate and/or unprofessional conduct that could potentially rise to the level of discrimination and/or harassment; and (2) to set out complaint and investigation procedures for all ~~employees~~members and job applicants who believe they have been subjected to inappropriate workplace conduct based on their protected status.

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## **A. ~~H-~~POLICY AND APPLICABILITY**

### **A - 1. ~~—A.—~~Unlawful ~~discrimination, harassment~~Discrimination, Harassment, or other inappropriate conduct basedOther Inappropriate Conduct Based on protected statusProtected Status**

The ~~City of Oakland~~ (~~City Police Department~~ (~~Department~~)) is committed to equal employment opportunity and to ensuring that all ~~employees~~members have a work environment free of conduct that could be considered discriminatory or harassing. The ~~City Department~~ strictly prohibits any form of unlawful employment discrimination and/or harassment or other inappropriate conduct based on protected status. Protected statuses include: race, color, ancestry, national origin (including immigration status, cultural or linguistic characteristics), religion, creed (including religious dress and grooming practices), age (over 40), disability (including both mental and physical), sex (including pregnancy or medical conditions related to pregnancy, childbirth or breastfeeding), sexual orientation, gender identity, gender expression, medical condition (including cancer and genetic characteristics), genetic information (including family medical history), marital status, military and veteran status, and other characteristic protected by law. The ~~City Department~~ will not tolerate any harassing or discriminatory conduct on these bases, nor retaliation for opposing illegal discrimination or harassment related to one of these categories.

~~Also~~Additionally, the ~~City Department~~ will not tolerate any inappropriate conduct that affects tangible job benefits, that unreasonably interferes with any individual's work performance, or that creates an intimidating, hostile, or offensive working environment. The ~~City Department~~ does not allow anyone, including any Chief, Command Officer, director, manager, supervisor, co-worker, vendor, elected official, or commissioner, to unlawfully harass or discriminate against ~~City employees~~Department members or applicants for employment. ~~Harassment and discrimination is~~are also prohibited against any person providing services to or working with the ~~City Department~~ pursuant to a contract. The ~~City Department~~ will work with the City to take prompt and effective remedial action within its power upon discovery of such conduct.

### **A - 2. ~~1.—~~Prohibition of Discrimination or harassment basedHarassment Based on a perceptionMembership or belief that a person is a member of**

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~~protected group or a person's association~~ Association with a ~~protected group~~ Protected Group

The CityDepartment prohibits discrimination and/or harassment based on a perception that a person has any of the ~~above~~ characteristics described in A-1, or that the person is associated with a person who has, or is perceived to have, any of the ~~above~~ listed characteristics. Harassment and/or discrimination based on these characteristics (whether actual, perceived or by association) is prohibited.

~~2. Retaliation against a person based on their expressed concern about unlawful discrimination or harassment or for having filed a complaint or participated in a discrimination or harassment investigation~~

A - 3. Prohibition on Retaliation

The CityDepartment prohibits retaliation against anyone who has expressed a good faith concern about unlawful discrimination or harassment or who has filed a complaint or participated in an investigation of any such complaint. The CityDepartment will not tolerate retaliatory conduct on these bases.

~~B. Who and What the Policy Covers~~

B. POLICY APPLICABILITY

~~A-3.B - 1. Who the Policy Covers~~

This Policy applies to all full-time ~~employees,~~ Department members (both sworn and professional staff), part-time employees, temporary employees, and job applicants. The Policy also applies to any person providing services to or working with the CityDepartment pursuant to a contract. For the purpose of this Policy only, the term "employees" members" also includes unpaid interns and volunteers. ~~including explorers and annuitants.~~

~~A-4.B - 2. Where the Policy Applies~~

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This Policy applies to all Department and City locations, as well as to all employer-sponsored activities, such as training, social, or other events. This Policy also applies to non-City locations (including locations where no employer-sponsored activity is taking place) and off-duty conduct if a reasonable connection or impact to the workplace can be shown. For example, a ~~City employee~~Department member sending a racist email from home to another ~~City employee~~Department member violates this Policy. Such conduct does not fall outside of the Policy just because both ~~employees~~members were not on-duty.

### ~~A-5.B-3.~~ What the Policy Covers

The Policy covers all terms and conditions of employment, including but not limited to: recruitment, hiring, promotion, termination, discipline, layoff, recall, transfer, leaves of absence, position / classification, training, compensation and benefits.

The Policy covers communications sent on personal devices. For example, a ~~City employee~~Department member sending harassing text messages to another ~~City employee~~Department member violates the Policy even if the messages were sent and received on personal devices.

This Policy prohibits not only unlawful harassment, but also any conduct that is unprofessional, disrespectful or inappropriate based on a protected status/characteristic, whether or not it rises to the level of legally prohibited harassment and whether or not the conduct is to a person in a protected category. **For example**, making ~~racists~~racist statements to a group of ~~employees~~members who are not members of that race still violates the Policy. It is the ~~City's~~Department's goal to prevent the occurrence of harassing activity and to stop harassing conduct when it occurs and before it becomes a violation of law. This Policy therefore prohibits activities based on protected status that are inappropriate whether or not they are sufficiently severe, persistent, or pervasive to

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constitute unlawful harassment.

Additionally, the ~~City~~Department wishes to note that inappropriate behavior is only workplace harassment when it is based on membership in a protected category (e.g., race, sex/gender, etc.). For example, even though ~~employees are often~~members may be offended when a supervisor or commander/manager yells at them, yelling itself is not workplace harassment unless the yelling can be linked to a protected status (e.g., yelling racist names, only yelling at women, etc.). While such behavior may not violate this Policy, as it is not based on a protected characteristic, it is the responsibility of all ~~City employees~~Department members to behave in a professional and respectful manner ~~in accordance with~~pursuant to the ~~City's Code~~Department's Manual of Conduct Policy—Administrative Instruction 596, so as to ~~create a comfortable working environment for everyone.~~Rules.

———This Policy will be interpreted in a manner that is consistent with federal and state laws regarding harassment, such as Title VII of the Civil Rights Act of 1964, California's Fair Employment and Housing Act, and the Americans with Disabilities Act. A determination as to whether a violation of this Policy has occurred will be evaluated on a case by case basis with consideration for the context and circumstances of the alleged conduct.



### **III.—DEFINITIONS AND APPLICATIONS**

#### **A.—Harassing Conduct**

#### **C. HARASSING CONDUCT**

##### **C - 1. Definition**

Prohibited behavior may include, but is not limited to: verbal, visual, physical, or any other type of conduct that denigrates, demeans, or shows hostility or aversion towards ~~an employee~~ a member because of their membership in a protected group.- Prohibited behavior also includes conduct directed towards a protected class. For example, saying, “That’s gay,” is prohibited behavior under the Policy, even if the phrase is not directed to a member of a protected class. ~~Some examples of the types of conduct that could violate this Policy include, but are not limited to, the following:~~

##### **C - 2. 1.—Examples:**

**Physical conduct:**- Unwanted touching, gesturing, leering, prolonged staring, assault, violence, impeding or blocking movement, or any physical interference with normal work or movement, as well as defacement of a person’s property.

**2.—Verbal conduct:**- Epithets, slurs, derogatory or demeaning comments, even if not directed at a specific person or persons, innuendos, jokes or ridicule, hostile or more severe treatment based on a person’s protected characteristic or status, threats of violence, or comments indicating stereotyping.

**3.—Visual conduct:**- Obscene, derogatory or demeaning posters, photos, text messages, cartoons, e-mail, screen savers, social media postings, or drawings.

**4.—Audio Conduct:**- Playing music with sexually degrading, racially or ethnically offensive or derogatory lyrics, for example, songs that include graphic references to certain parts of human anatomy or descriptions of various types of sexual conduct. Songs that involve hostile or abusive slang terms for members of certain genders, races or religions, including the “N-word” or “B-word.”

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Playing radio talk shows or other forms of media that have similar offensive or degrading content is also prohibited.

**5. — Other conduct:** — Hostility, harsh or less favorable treatment, or selection of \_\_\_\_\_ assignments based on a person’s protected status.

\_\_\_\_\_ a)

Making harassing telephone calls to a coworker, or sending harassing correspondence to ~~many~~ individual based on a person’s protected status, by any means, including but not limited to: public or private mail, interoffice mail, facsimile, email, intranet or internet websites, social media, direct-messaging applications, or text messaging.

\_\_\_\_\_ b) Posting, sharing, or uploading/downloading harassing, discriminatory, retaliatory, or other protected status-based content in any form, by any means, including but not limited to: —public or private mail, interoffice mail, facsimile, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

**B. — ~~Sexual/Gender Based Discrimination or Harassment~~**

**D. SEXUAL/GENDER-BASED DISCRIMINATION OR HARASSMENT**

**D - 1. Definition and Examples**

The ~~City of Oakland~~ Department incorporates in this Policy the Equal Employment Opportunity Commission’s definitions of “sexual harassment” as they have been interpreted and supplemented by federal and state case law:

**1. — Prohibited Conduct:** — Unwelcome sexual advances, or visual, verbal, physical or other conduct of a sexual or gender-based nature, or which creates an intimidating, hostile or offensive work environment, or which substantially interferes with ~~many~~ individual’s work performance based on gender.

**2. — Quid Pro Quo Harassment:** — Unwelcome sexual advances,

requests for sexual favors, and/or other verbal or physical conduct of a sexual nature that is made a term or condition of ~~an~~any individual's employment.

**3.—Unlawful Sexual Favoritism:** ~~An employee~~A member in a work group who is not involved in a sexual relationship with a supervisor is denied employment opportunities by a supervisor who grants greater opportunities to ~~an employee~~a member who is involved in a sexual relationship with that supervisor.

**4.—Examples:** Prohibited conduct based on sex or gender includes, but is not limited to:

1. Any display of sexually explicit pictures, greeting cards, articles, books, images, photos, art, cartoons, e-mails, text messages, calendars, screen savers, social media postings or other similar material;
2. Comments or displays of greeting cards, articles, books, images, photos, art, cartoons, emails, text messages, calendars, screen saver, social media postings or other similar material reflecting gender-based stereotypes;
3. Harsh or less favorable treatment based on gender;
4. Off-color language or jokes of a sexual nature. These jokes need not be directed to a member of a protected class. For example, making a sexually charged joke regarding women when no women are present is prohibited behavior pursuant to this Policy;
5. Sexual flirtation, touching or leering;
6. Sexually suggestive comments, propositions or advances;
7. Intrusive questions regarding another person's intimate relationships, dating, or sex life;
8. Slurs and other verbal, graphic or physical conduct relating to ~~an~~any individual's gender;
9. Sexually suggestive physical conduct such as pelvic thrusts, lip licking, kissing ~~or~~ sucking noises, groping one's own body, and other such gestures;
10. Making harassing telephone calls to a coworker, or sending harassing correspondence to ~~an~~any individual by any means including, but not limited to, public or private mail, interoffice mail, facsimile, ~~computer~~ email, through social media websites, direct-messaging websites or

applications or text messaging based on sex or gender;

11. Posting, sending, uploading/downloading harassing or discriminatory content based on sex or gender, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

~~C. Race/National Origin/Color/Ancstry Discrimination or Harassment~~

E. RACE/NATIONAL ORIGIN/COLOR/ANCESTRY DISCRIMINATION OR HARASSMENT

E - 1. Definition and Examples

**Prohibited Conduct:** -Harassment based on race, ethnicity, color, national origin, or ancestry includes, but is not limited to: threats, physical conduct, pranks, vandalism, jokes, slurs, ridicule, verbal, graphic, or written materials, or hostility or less favorable treatment directed at ~~an employee~~ a member because of their actual or perceived race, color, ancestry or —national origin.

**Examples:-** Inappropriate conduct based on race, color, ethnicity, ancestry or national origin includes, but is not limited to:

1. ~~a)~~ —Assault, impeding or blocking movement, or any physical interference with normal work or movement because of race, color, national origin, ancestry, or ethnicity;
2. Defacement of a person's property, derogatory or demeaning posters, cartoons, emails, text messages, screen savers, drawings or other similar materials depicting racial or ethnic stereotypes;
3. Derogatory or demeaning racial or national origin-based comments even if not directed at a specific person or persons, including stereotyping or mimicry based on race, color, ancestry, immigration status or national origin;
4. Jokes or ridicule directed to a specific person or persons about their race, color, national origin or ethnicity, including demeaning comments or stereotyping concerning ancestry, ethnic food or customs, attire, appearance or other ethnic, tribal affiliation, cultural or linguistic characteristics, or national origin-based characteristics;
5. Racial or national origin-based epithets or slurs, or threats of deportation;

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6. Threats of, or actual, violence based on race, color, national origin, ethnicity or immigration status.
7. Making harassing telephone calls to a coworker, or sending harassing correspondence to ~~any~~ individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, ~~computer~~ email or text messaging because of race, color, national origin or ethnicity;
8. Posting, sending, uploading/downloading discriminatory or harassing content based on race, color, national origin or ethnicity, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.
9. Harassing or discriminatory treatment based on hair texture and protective hairstyles. Protective hairstyles include, but are not limited to, braids, locks, and twists.

~~D. Physical and/or Mental Disability Discrimination and Disability Based Harassment~~

F. PHYSICAL AND/OR MENTAL DISABILITY DISCRIMINATION AND DISABILITY-BASED HARASSMENT

F - 1. Definition and Examples

The ~~City of Oakland~~Department incorporates in this Policy, state and federal laws' definition of disability. -The ~~City~~Department prohibits discrimination and disability-based harassment.

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, or more severe or less favorable treatment based on disability. Additional examples include, but are not limited to: comments, expressions of resentment, jokes, slurs, visual displays, behavior that derides the abilities of ~~any~~ individual with a disability or portrays ~~any~~ individual with a disability as someone to be disdained or feared, mimicry or attempts to imitate ~~any~~ individual's disability, comments or other conduct evidencing stereotyping of individuals with disabilities.

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**Examples**:- Inappropriate conduct or harassment based on disability-based discrimination includes, but is not limited to: derogatory or demeaning comments, epithets or slurs, mimicry or gestures, visual displays, comments or conduct evidencing stereotyping based on disability, comments implying a lack of ability because of a disability, comments that denigrate or disparage on the basis of disability, contempt, condemnation, laughter, hostility or disgust at a person’s disability or perceived disability.

EmployeesInappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of physical or mental disability or posting, sending, uploading/downloading discriminatory or harassing content based on physical or mental disability, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Members who are qualified individuals with disabilities protected by the California Fair Employment and Housing Act and/or the American with Disabilities Act are entitled to reasonable accommodation for their disabilities. For information regarding the City’s Interactive Process “IAP” and requests for Reasonable Accommodation under the ADA/FEHA, see Administrative Instruction 139, *Procedures for Complying with Employment Aspects of the ADA/FEHA*.

The complaint procedure for persons reporting allegations of discrimination/harassment based on disability are the same as that for reporting other forms of prohibited discrimination/harassment.

**E. — Discrimination and/or Harassment Based on Sexual Orientation**

**G. 1.—DISCRIMINATION AND/OR HARASSMENT BASED ON SEXUAL ORIENTATION**

**G - 1. Definitions and Examples**

**Prohibited Conduct**: Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks,

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vandalism, jokes, slurs; verbal, graphic, or written materials; hostility or less favorable treatment directed at ~~an employee~~ a member because of their sexual orientation or perceived sexual orientation.

2. ———

**Examples:** Inappropriate conduct or harassment based on sexual orientation includes, but is not limited to: derogatory or demeaning comments, epithets or slurs, mimicry or gestures, visual displays, comments or conduct evidencing stereotyping based on sexual orientation, comments implying a lack of masculinity or femininity or stereotypically appropriate male or female behavior, comments that denigrate or disparage on the basis of sexual orientation, contempt, condemnation, hostility or disgust at a person's sexual orientation or openness regarding sexual orientation.

~~F. Discrimination and/or Harassment Based on Gender Identity or Expression~~

1. ———

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of sexual orientation or posting, sending, uploading/downloading discriminatory or harassing content based on sexual orientation, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

**H. DISCRIMINATION AND/OR HARASSMENT BASED ON GENDER IDENTITY OR EXPRESSION**

**H - 1. Definition and Examples**

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment directed at ~~an employee~~ a member because of their transgender status or actual or perceived gender identity.

2. ———

**Examples:-** Inappropriate conduct or harassment based on transgender status or actual or perceived gender identity includes, but is not limited to:

derogatory or demeaning comments; epithets or slurs; mimicry or gestures; intentionally using names or pronouns a person does not identify with; comments, visual displays, or conduct evidencing stereotyping based on a person's transgender status or actual or perceived gender identity; comments implying a lack of masculinity or femininity or of stereotypically appropriate male or female behavior or dress; comments that denigrate or disparage on the basis of transgender status or actual or perceived gender identity; contempt, condemnation, hostility or disgust at a person's transgender status or actual or perceived gender identity or openness regarding transgender status or gender identity.

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of gender identity or expression or posting, sending, uploading/downloading discriminatory or harassing content based on gender identity or expression, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Pursuant to state law, individuals who identify as transgender have the right to use a restroom or locker room that corresponds with the individual's gender identity, regardless of the individual's assigned sex at birth.

### G. ~~Discrimination and/or Harassment Based on Religion~~

## I. ~~1. DISCRIMINATION AND/OR HARASSMENT BASED ON RELIGION~~

### I - 1. Definition and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment directed at ~~an employee~~ a member because of their; religious beliefs or practices, or lack of religion or religious beliefs.

**2. ~~Examples:~~**- Inappropriate conduct or harassment based on religion includes, but is not limited to: derogatory or demeaning comments; epithets, slurs or gestures; comments, visual displays, or conduct implying the



superiority of one religion over another; hostility or less favorable treatment based on ~~an employee's~~ a member's religion or religious beliefs or lack thereof; stereotyping based on religion, religious practices, religious beliefs, or lack thereof; unwanted invitations to participate in religious activities or practices.

~~3. Employees~~Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of religion or posting, sending, uploading/downloading discriminatory or harassing content based on religion, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Members have a right to reasonable accommodation of religious observance, practice and belief that does not constitute an undue burden on the ~~City~~Department.

## ~~H. Discrimination and/or Harassment Based on Age~~

### J. 1. DISCRIMINATION AND/OR HARASSMENT BASED ON AGE

#### J - 1. Definitions and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; verbal, graphic or written materials; hostility or less favorable treatment directed at ~~an employee~~ a member because of their being at least 40 years of age or older.

~~2. Examples:-~~ **Examples:-** Inappropriate conduct or harassment based on age includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures; comments, visual displays, treatment or conduct implying inferiority or inability based on age; hostility or less

favorable treatment based on ~~any~~ individual's age; and stereotyping based on age.

#### I. ~~Discrimination and/or Harassment Based on Medical Condition~~

~~1. — Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of age over 40 or posting, sending, uploading/downloading discriminatory or harassing content based on age over 40, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.~~

#### K. DISCRIMINATION AND/OR HARASSMENT BASED ON MEDICAL CONDITION

##### K - 1. Definition and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at ~~an~~ employeea member because of their medical condition. Discrimination and/or harassment based on medical condition includes, but is not limited to, harassment because of a health impairment related to or associated with a medical condition such as cancer, HIV/AIDS, or gender dysphoria.

~~2. — **Examples:** Inappropriate conduct or harassment based on medical condition includes, but is not limited to, derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures; comments, visual displays, treatment or conduct implying inferiority or inability based on medical condition; hostility or less favorable treatment based on ~~any~~ individual's medical condition, stereotyping and negative comments about ~~any~~ individual taking job-protected medical leave.~~

~~— Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of medical~~

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conditions or posting, sending, uploading/downloading discriminatory or harassing content based on medical conditions, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

Disclosing medical-related information outside a need-to-know basis, or gossiping about ~~an employee's~~ a member's medical condition is also prohibited.

~~J. — Discrimination and/or Harassment Based on Marital Status or Pregnancy~~

L. 1. — DISCRIMINATION AND/OR HARASSMENT BASED ON MARITAL STATUS OR PREGNANCY

L - 1. Definition and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at many individual or individuals because of their marital status and/or pregnancy.

**2. — Examples:** Inappropriate conduct or harassment based on marital status and/or pregnancy includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, ——— jokes, ridicule or gestures; comments, treatment or conduct related to many individual's marital status, pregnancy, childbirth or medical conditions and/or use of medical leave related to pregnancy or childbirth; or unfavorable treatment on such bases.

~~K. — Discrimination and/or Harassment Based on Military/Veteran Status~~

1. — Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of marital status or pregnancy or posting, sending, uploading/downloading discriminatory or

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harassing content based on marital status or pregnancy, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

## M. DISCRIMINATION AND/OR HARASSMENT BASED ON MILITARY/VETERAN STATUS

### M - 1. Definition and Examples

**Prohibited Conduct:** Verbal, physical, visual or other harassing conduct described above, including but not limited to: threats, assaults, pranks, vandalism, jokes, slurs; or verbal, graphic or written materials directed at ~~an~~any individual or individuals because of their service or former service in any branch of the armed services and/or National Guard.

2.—**Examples:** Inappropriate conduct or harassment based on military/veteran status includes, but is not limited to: derogatory or demeaning comments, epithets, slurs, jokes, ridicule or gestures, comments, treatment or conduct relating to ~~an individual's~~any individual's military or veteran status.

## L. Confidentiality

Inappropriate conduct or harassment also includes making harassing telephone calls to a coworker, or sending harassing correspondence to any individual by any means including, but not limited to, public or private mail, on social media accounts, direct-messaging websites and/or forums, interoffice mail, facsimile, email or text messaging because of military/veteran status or posting, sending, uploading/downloading discriminatory or harassing content based on military/veteran status, in any form, via public or private mail, facsimile, interoffice mail, email, intranet or internet websites, social media, direct messaging applications, or text messaging.

## N. CONFIDENTIALITY

### N - 1. Limitation on Dissemination of Information

The CityDepartment cannot guarantee absolute confidentiality with respect to complaints and/or investigations. Dissemination of information will be limited to those individuals who must be contacted in order to fulfill the Department and City's obligations to investigate and resolve the complaint.

### N - 2. Confidentiality Requirements

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To the extent allowable by law, the ~~City~~Department requires that all involved parties maintain confidentiality regarding the existence of complaints made and investigations conducted under this Policy.

~~— M. —~~ **Retaliation**

**O. RETALIATION**

**O - 1. Definition**

Retaliation is defined as any adverse action, including but not limited to discharge, discipline, demotion or transfer/reassignment, based on their expressed concern about unlawful / against policy discrimination or harassment or for having filed a complaint or participated in a discrimination or harassment investigation.

**O - 2. Prohibition Against Retaliation**

The ~~City of Oakland~~Department strictly prohibits any retaliation against ~~an employee~~a member who has filed a complaint of discrimination, harassment or retaliation based on a protected status, or has participated in an investigation or proceeding related to such a complaint. The ~~City of Oakland~~Department also strictly prohibits retaliation against ~~an employee~~a member who has opposed any practice or conduct that violates this Policy. ~~Retaliation is defined as any adverse action, including but not limited to discharge, discipline, demotion or transfer/reassignment.~~

~~IV. —~~ **PROCEDURES**

~~B.P. —~~ **COMPLAINT AND REPORTING PROCEDURE**

**P - 1. 1. — City of Oakland Complaint and Reporting**

It is the responsibility of ~~each any member or~~ job applicant ~~or employee~~ who believes they have experienced or witnessed conduct that may violate this Policy to report the conduct promptly. ~~Employees need not report a violation of this Policy to their direct supervisor but may report directly to the~~

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~~Employment Investigations and Civil Rights Compliance Department  
(EICRC). This includes:~~

~~2. A complaint may be made by any employee on the following bases:~~

~~a) The If the member or job applicant or employee reasonably  
believes they were subjected/subject to conduct that~~

~~1. which violates this Policy; policy;~~

~~b) The If the member or job applicant or employee reasonably  
believes they have been treated in an~~

~~2. unlawful, discriminatory, or retaliatory manner; or~~

~~c) The If the member or job applicant or employee witnesses,  
observes, or otherwise becomes aware~~

~~3. of conduct by City employee(s)/Department members that may violate this  
Policy/policy.~~

~~3. Verbal or written complaints must be made to:~~

~~a) Employment Investigations and Civil Rights Compliance  
Department (EICRC), 150 Frank H. Ogawa Plaza, 2nd  
Floor, Wilson Building, Oakland, CA 94612; 510/238-3500~~

~~b) Any City department or agency head, director, manager, or  
supervisor.~~

~~c) Unless otherwise directed, the Oakland Police Department  
Internal Affairs Division, will investigate discrimination,  
harassment and retaliation complaints filed by Oakland  
Police Department employees against Oakland Police  
Department employees.~~

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- ~~4. Any director, manager or supervisor, who becomes aware of or acquires knowledge of conduct that is in violation or may be in violation of this Policy, or who receives a verbal or written complaint, is required to report it immediately to the Employment Investigations and Civil Rights Compliance (EICRC) Director, 150 Frank H. Ogawa Plaza, 2nd Floor, Wilson Building, 510/238-3500.~~
- ~~5. Any employee or applicant may also complain directly to the Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH) in accordance with the agency's procedures.~~

#### ~~A. PROCESSING COMPLAINTS/INVESTIGATION PROCEDURE~~

- ~~1. An EICRC Investigator will contact the complainant in a timely manner upon receiving a complaint of discrimination, harassment or retaliation. The assigned investigator will seek information sufficient to determine if EICRC has jurisdiction over the complaint allegations.~~
- ~~2. When the assigned investigator determines there is sufficient information to support EICRC jurisdiction, the investigator will seek to resolve the issue or initiate an investigation into the allegations contained in the complaint.~~
- ~~3. The assigned investigator, whenever possible, will obtain a written, signed statement from the complainant describing the allegations in detail.~~
- ~~4. In the event of an investigation, the assigned investigator will interview the complainant, the charged party(ies), and all relevant witnesses to obtain further information. Employees must participate in the EICRC investigation and provide truthful and accurate information. The assigned investigator will also seek to obtain and retain all documentary and other evidence pertaining to the complaint allegations. Employees have a right to representation in accordance with Weingarten rules. Weingarten provides that an~~

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~~employee who reasonably believes that an investigatory interview could lead to discipline is entitled to ask for union representation.~~

- ~~5. Upon completion of a formal investigation, the investigator will prepare a thorough, written, fact-finding report that will contain findings related to each relevant, factual allegation in the complaint. Investigative reports are presumed confidential.~~
- ~~6. The EICRC may upon their discretion elect to hire an outside investigator to conduct investigations.~~

**B. CONCLUSION OF THE INVESTIGATION**

- ~~1. If the assigned investigator concludes that a City policy has been violated, EICRC will notify Employee Relations and the department director/manager in which the harassing or discriminatory conduct occurred. The department director/manager will collaborate with Employee Relations to determine appropriate remedial action. The remedial action shall be sufficient to end the harassing or discriminatory conduct. The department director/manager will inform EICRC what remedial action was taken and provide proof of said action for EICRC file. Remedial actions may include, but are not limited to, discipline up to and including termination, suspension, demotion, transfer/reassignment, training, coaching, and other measures that will remedy the situation giving rise to the violation. Disciplinary actions will be based on the nature, frequency and severity of the conduct, in addition to any prior discipline imposed for violation of this Policy.~~
- ~~2. Upon completion of the investigation, EICRC will prepare closing letters to the complainant and the accused summarizing the investigation's findings. The complainant will not be informed of the nature of the corrective action taken against an individual who has been found to have violated this Policy unless EICRC determines it is appropriate to do so.~~



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**Responsible Party**

**Action**

~~EICRC Director  
City Administrator's Office~~

- ~~1. Develops, maintains, implements, and administers appropriate Equal Employment Opportunity (EEO) related policies and procedures.~~
- ~~2. Develops, directs and implements policies, procedures, practices, programs, and standards for implementing, monitoring and evaluating EEO related program objectives. Works to mitigate risks and potential liability through proactive EEO related measures.~~
- ~~3. Advises the City Administrator, Assistant City Administrator, and other Department Heads on germane EEO related issues.~~
- ~~4. Educates Directors and Managers regarding their EEO related responsibilities.~~
- ~~5. Manages the analyses, interpretation, review and implementation of plans and strategies to address and resolve program related issues involving workplace discrimination complaints, and related compliance requirements.~~
- ~~6. Provides technical assistance to City departments on EEO related issues.~~
- ~~7. Collaborates with the Department of Human Resources Management,~~

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~~Employee Relations, and other departments to resolve EEO related issues; and when necessary, provides advice regarding remedial action.~~

- ~~8. Evaluates EEO related compliance reviews and barrier analyses; advises the Assistant City Administrator and Department Heads of findings, and provides advice on best practices and remedial actions.~~
- ~~9. Maintains and distributes current information on EEO related policies, procedures and standards.~~
- ~~10. Investigates and responds to DFEH and EEOC charges of discrimination.~~
- ~~11. Oversees the preparation and filing of compliance reports to related regulatory agencies.~~

~~**Department Heads, Managers  
and Supervisors**~~

- ~~1. Responsible for conducting themselves appropriately and in accordance with this Policy.~~
- ~~2. Responsible for ensuring a copy of this Policy is provided to current employees and newly hired employees, in addition to redistributing the Policy to current employees on a regular basis.~~
- ~~3. Responsible for monitoring the work environment to ensure that it is free from discriminatory, harassing or retaliatory behavior.~~
- ~~4. Responsible for participating in the City's EEO related training programs, including EICRC AI 71 training for supervisors, as well as~~

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- ~~online AB1825 harassment prevention training every two years.~~
- ~~5. Responsible for making all subordinates, including interns, volunteers, and part-time employees, aware of the City's anti-harassment policies, and explaining the complaint procedures available to employees.~~
  - ~~6. Responsible for reporting all complaints and potential violations of which they become aware, as required by this Policy.~~
  - ~~7. Responsible for taking appropriate remedial actions, as required by EICRC and Employee Relations~~
  - ~~8. Understanding that a failure to report complaints or violations of this Policy may result in disciplinary action.~~

~~All Employees~~

- ~~1. Responsible for conducting themselves appropriately and in compliance with this Policy.~~
- ~~2. Required to cooperate to the fullest extent possible during an EICRC complaint investigation.~~
- ~~3. Responsible for reporting violations of which they become aware, even if they are not the target of the prohibited conduct, in accordance with this Policy.~~
- ~~4. Responsible for participating in the City's EEO related training programs.~~

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DD MMM YY~~

~~V. ADDITIONAL INFORMATION~~

~~Please direct any questions regarding this Administrative Instruction to the Employment Investigations and Civil Rights Compliance Director, 150 Frank H. Ogawa Plaza, 2nd Floor, Wilson Building; 510/238-3500.~~

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~

~~SABRINA LANDRETH~~

~~\_\_\_\_\_ City Administrator~~ The City of Oakland maintains a complaint and reporting procedure that is separate from the Police Department; reference Administrative Instruction 71 for the complete procedure.

**P - 2. Oakland Police Department Complaint and Reporting**

Any member who believes they have experienced or witnessed conduct that may violate this Policy shall also report the conduct to the Department's

Equal Employment Opportunity/Anti-Discrimination/  
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Non-Harassment Policy and Complaint Procedure

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OAKLAND POLICE DEPARTMENT

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Internal Affairs Division per the procedures set up in General Order M-03.  
This includes:

1. If the member or job applicant reasonably believes they were subject to conduct which violates this policy;
2. If the member or job applicant reasonably believes they have been treated in an unlawful, discriminatory, or retaliatory manner; or
3. If the member or job applicant witnesses, observes, or otherwise becomes aware of conduct by Department members that may violate this policy.

By order of

LeRonne L. Armstrong  
Chief of Police

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



## DEPARTMENTAL GENERAL ORDER

**D-18: MEMBER PERSONAL SOCIAL MEDIA**

Effective Date: XX XX 22

Coordinator: Office of Chief of Police

**COMMAND INTENT**

This policy is intended to provide both guidance and rules about the use of personal social media by members of the Oakland Police Department. While this policy provides guidelines for the regulation and balancing of member speech and expression with the needs of the Department, it also addresses a larger need: that the Department and its staff commit to celebrating the best selves of the members and their service to the community while at the same time protecting members – with both guidance and accountability – against some of the pitfalls of social media. **The policy also makes clear that extreme views that denigrate others, advocate violence, or promote harm have no place within the Department, and those who espouse those views have no place guarding our community.**

The community of Oakland expects that all members of the Police Department will have a “Guardian” mindset when it comes to keeping the peace and to policing in concert with the community. With this mindset must come a recognition by police personnel, especially sworn officers, of the serious power with which they are entrusted. The Department has a commitment to serve and to prevent any information shared on social media platforms that might prejudice or seemingly prejudice the perception of OPD members beyond that they serve with the utmost respect, fairness, sound judgement, and a commitment to equity.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private individual, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Toxic, unreasonable, and inappropriate expression – such as social media posts that degrade others or promote extremism – threaten the relationship of the Department to the community and create the fear that the awesome powers given to police personnel will be misused. While this type of language may be allowed by First Amendment law, **this type of expression conflicts with the values of the Oakland Police Department and will likely lead to termination of employment by the Department and the City of Oakland.**

## A. VALUES AND RULES OF THE OAKLAND POLICE DEPARTMENT

### A - 1. Department Mission

The Oakland Police Department's mission is to provide police service focused on public safety and the *sanctity of life*, to hold ourselves accountable to a high standard of conduct, efficiency, and efficacy, and to promote mutual respect between the Department and the Communities of Oakland.

### A - 2. City of Oakland Administrative Instruction

The City of Oakland sets forth specific anti-discrimination and non-harassment policy in [Administrative Instruction \(AI\) 71](#).

AI 71 strictly prohibits any form of unlawful employment discrimination and/or harassment or other inappropriate conduct based on race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, state or local law.

Conduct includes not only physical conduct but also verbal conduct (epithets, slurs, derogatory or demeaning comments—even if not directed at a specific person or persons, innuendo, jokes or ridicule, hostile or more severe treatment based on a person's protected characteristic or status, threats of violence or comments indicating stereotyping) and visual conduct (obscene, derogatory or demeaning images, photos, cartoons, e-mail, screen savers or drawings).

### A - 3. Law Enforcement Code of Ethics

The Department expects that all members, both sworn and professional staff, adhere to the Law Enforcement Code of Ethics, including the following section:

*I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.*

### A - 4. Manual of Rules

The Oakland Police Department's Manual of Rules sets forth specific rules that members must follow. The following sections are highlighted because members' personal social media activity must also comport with these rules:

#### ➤ 314.03 – General Conduct

- **314.04 – Conduct Toward Others – Harassment and Discrimination**
- **384.32 – Political Activity**
- **384.56 – Membership in Organizations**
- **384.70 – Subversive Organization**

## **B. DEFINITIONS**

### **B - 1. Social Media**

A category of internet-based resources that integrate user-generated content and user participation. Social media includes, but is not limited to, social networking sites, local / national newspaper / news media comment sections, photo and video sharing sites, wikis, blogs, and websites/apps such as Facebook, Instagram, YouTube, LinkedIn, Snapchat, Twitter, Reddit, Discord, Twitch, and TikTok.

### **B - 2. Personal Social Media**

Personal social media includes:

- Accounts established by Department members with third-party providers (e.g., Facebook, Instagram, Twitter, etc.) that are not officially authorized by the Department, or accounts used by Department members for purposes outside of the scope of a member's official duties.
- Social media accounts established or administered by members of the Department for fraternal or charity organizations, off-duty employment, civic or community organizations, etc., are also subject to the provisions of this policy.

Personal social media does not include:

- Official accounts of the Oakland Police Department, curated and monitored as part of the job duties of members; and
- Social media accounts that are used solely for the purposes of criminal investigation, intelligence, or other job-related duties.

## **C. GENERAL CONSIDERATIONS FOR PERSONAL SOCIAL MEDIA USE**

### **C - 1. Personal Social Media Use May Impact Peer, Department, and Community Perception of the Member**

The community of Oakland expects that all members of the Police Department will have a "Guardian" mindset when it comes to keeping the peace and to policing in concert with the community. With this mindset must come a recognition by police personnel, especially sworn officers, of the serious power with which they are entrusted.

This trust can be easily damaged by unprofessional personal social media interactions. Furthermore, the perception of a member in the eyes of their



peers, the Department, and the community can be shaken, or even broken beyond repair, due to toxic, unreasonable, and inappropriate expression on personal social media. As public servants, even associations with ideas such as hate groups, racism, discrimination, or harassment on personal social media can weaken the moral foundation upon which the legitimacy of your ability to perform your duties is based.

**C - 2. Personal Social Media Use May Impact the Operation of the Department**

While members may consider the views, opinions, and actions expressed on social media as only reflecting their own personal views, this may not be the case in the eyes of the public. Once a member has been identified by the media or public as a member of the Oakland Police Department, any documented social media activity associated to the member will naturally be scrutinized. This scrutiny may increase with the member's assignment (e.g., Internal Affairs, OIG) or holding of a higher rank within the Department. The demonstrated views, opinions, and actions may not be scrutinized in the context of a private individual, but instead in a generalized context, representing the views of Department as an institution and/or all members of the Oakland Police Department.

Any views, opinions, and actions (taken in or out of context) that erode public trust and confidence in the members of the Oakland Police Department are unnecessarily distracting, and potentially detrimental, to the overall mission and operations of the Department.

Members have the right to express themselves as private individuals speaking on matters of public concern while using social media. At the same time, members must understand that their social media activity, even on personal social media accounts, may be seen by the public as attributable to the Department and has the potential to interfere with Department operations.

**C - 3. Any Social Media Content May Become Public**

Members must be mindful that any activities or statements made on social media are made in an online setting, where confidentiality cannot be assured even if the member creates "private" or "limited access" accounts or customizes privacy settings, or if they use another name, nickname, or moniker. Any statements, photographs, video clips, audio clips, live interactions, or other information sent over the internet may still be viewed and disseminated by third parties (including the social media provider), via screen shots or other methods, even after the content has been edited or deleted by the user.

**C - 4. Personal Social Media May Create Safety Risks**

Certain types of information or digital images posted on personal social media may endanger the safety of members of the Department and/or their family members, even if unintentionally. Members are urged not to disclose or allude to their status as a member of the Department on personal social media

accounts. Divulging identifying information on personal social media could possibly compromise ongoing investigations, as well as limit a member's eligibility for certain assignments (e.g., work in an undercover capacity, work in highly sensitive assignments, etc.).

**C - 5. Public Content May be Reviewed by the Department**

Any social media interactions by members that are public or become public through the efforts of third parties (e.g., press, hackers, authorized viewers sharing posts) may be reviewed by the Department. If this content violates this policy or other policies, the content may lead to discipline.

**C - 6. Member Personal Social Media Content May be Used to Impeach a Member in Court**

Personal social media activity that is public or becomes public may form the basis for undermining or impeaching a member's testimony in criminal or other court proceedings.

**C - 7. Content Accessed or Posted Using Department Resources May be Reviewed by the Department**

Members forfeit any expectation of privacy in any content published, maintained, or viewed on any Internet website that is accessed on any Department technology system or Department-issued device.

The Department reserves the right to access, audit, and disclose for whatever reason any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the Department e-mail system, computer network, Department-issued smartphone or other device, or any information placed into storage on any Department system or device. It also includes records of all keystrokes or web-browsing history made on any Department computer or any Department-issued smartphone or other device, or over any Department network.

The fact that access to a website requires a username or password will not create an expectation of privacy if it is accessed through a Department computer or network, or using a Department-issued device. The Department may request or require a member to disclose a personal username, password, or other method for the purpose of accessing an employer-issued electronic device. (California Labor Code § 980).

**C - 8. Department Requests for Personal Social Media Passwords or Access**

Generally, the Department may not require or request that an employee disclose a personal username or password for, or grant access to, a personal social media website, or involuntarily divulge any personal social media. However, the Department may request that an employee divulge personal

social media reasonably believed to be relevant to an investigation of allegations of member misconduct or member violation of applicable laws and regulations, provided that the social media is used solely for purposes of that investigation or a related proceeding. (California Labor Code § 980). If during an investigation the Department discovers offensive social media that may violate any other policy, manual of rules, or applicable law, the appropriate action may be taken by the Department.

## **D. SPECIFIC RULES FOR PERSONAL SOCIAL MEDIA USE BY MEMBERS**

### **D - 1. Compliance with City and Department Rules**

Members' social media use must comply with other City and Department rules and policies including but not limited to those rules and policies highlighted above in A - 2 through A - 4.

### **D - 2. Prohibition on Discriminatory Posts and Interactions**

Members shall not post, transmit, share, adopt, advocate for<sup>1</sup>, and/or disseminate any content, in any form, that denigrates, demeans, or shows hostility or aversion toward any person or group based on race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, political affiliation, pregnancy, medical condition, military or veteran status, or status in any other group protected by federal, state or local law or the putting down of persons for personal attributes or political beliefs.

### **D - 3. Prohibition on Harassment and Threats of Violence**

Members shall not post, transmit, share, and/or disseminate on personal social media any content that constitutes or advocates harassment, violence, or threats of violence.

### **D - 4. Prohibition on Personal Social Media that Compromises or Detracts from the Department's Mission**

Members shall not post, transmit, share, and/or disseminate any content on personal social media that is significantly linked to, or related to, the Department and which that interferes with or has the potential to interfere with members' performance of their job duties and/or Department operations. Examples include, but are not limited to, the following (unless otherwise protected by law):

- Expression that indicates disregard for the law or the state or U.S. Constitution.

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<sup>1</sup> While social media is ever changing, advocating for may include such actions as "liking" or "re-posting" another user's content, even if that content was not created or modified in any way by the member.

- Expression that demonstrates support for criminal activity.
- Expression that could reasonably be expected to have a negative impact on the credibility of the member as a witness, such as any expression that glorifies or endorses dishonesty, unlawful discrimination and/or harassment, or illegal behavior.
- Expression that could reasonably be expected to have a negative impact on the safety of Department members, such as operational plans or security precautions at Department buildings.
- Content that depicts any person in an obscene or sexually explicit manner.
- Content that advocates for, celebrates, or otherwise furthers the cause(s) of extremist political, racial, or gender-based positions or groups that espouse violence, a denigration, “othering”, or subjugation of another person or people based on the actual or perceived race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, political affiliation, pregnancy, medical condition, military or veteran status, or status in any other group protected by federal, state or local law or the putting down of persons for personal attributes or political beliefs.

Members are reminded that expression or content that compromises or detracts from the Department’s mission (such as the examples above) will not be excused nor ignored because it is couched or explained as humor, and abusive humor which compromises or detracts from the Department’s mission is similarly prohibited by this policy.

#### **D - 5. Display of Department Uniforms or Logos**

Members are cautioned against posting, on personal social media, images of themselves or other members in uniform. While celebration of achievements – such as successfully helping the community, progressing within the profession, or otherwise making a difference – is encouraged by the Department, members must curb their enthusiasm with an understanding of the messages their post may present, even if unintentional.

Members are cautioned against displaying images of official Department identification on their personal social media, including but not limited to patches, badges, emblems, logos, or marked/unmarked vehicles. Any such pictures shall be in accordance with all Department policies or similar rules about conduct, both in this policy and other policies.

These warnings do not apply to images or photographs taken at official Department events or that have been released or posted to official social media by the Department (e.g., promotions, awards, official photographs, photographs released to the public by the press information office, etc.).

Members should understand that posting photographs of themselves or others in uniform, or posting images or photographs from official Department events, will identify them as members of the Department and more closely tie a member's personal social media account and activity to the Department and opens the member's social media activity to closer scrutiny.

**D - 6. Display of Department Identification for Commercial or Endorsement Purposes**

Members shall not use Department identification, including but not limited to patches, badges, uniforms, emblems, logos, or marked/unmarked vehicles, on personal social media for commercial or endorsement purposes without authorization from the Department. Such authorization shall be limited to organizations that have 501(c) tax exemption from the Internal Revenue Service and which do not take positions or engage in activities which violate this or any other Department or City policy.

**D - 7. Using Department or Organizational Identifiers on Social Media**

Members are urged not to use Department or organizational identifiers (including but not limited to Bureau, Division, Section, or Unit names) as part of a personal or privately held social media moniker (e.g. @OPD\_JohnDoe, @BFOIII\_JaneDoe).

Members should understand that using Departmental or organizational identifiers more closely ties a member's personal social media account and activity to the Department and opens the member's social media activity to closer scrutiny.

**D - 8. Limitation on Use of Personal Social Media on Duty**

Members are prohibited from using personal social media while on duty, except in the following circumstances:

- When brief personal communication may be warranted by the circumstances (e.g. to inform family of extended hours); or
- During authorized breaks. Usage during breaks should be out of sight and sound of the public if feasible and shall not be disruptive to the work environment or interfere with the performance of any member's job duties.

**D - 9. Prohibition of Use of City Email for Personal Social Media**

Members shall not use their City email address to sign up for personal social media. However, the Chief of Police or designee may designate a list of specified social media whose sole purpose is professional networking that is exempt from this constraint.

**D - 10. Prohibition Against Disclosing Confidential Information**

Members shall treat all official Department business as confidential. Members shall not post, transmit, share, and/or disseminate any information obtained as a result of their position with the Department (e.g., witness statements, crime scene photographs, etc.) on personal social media except as authorized, in writing, by a commander of the rank of Captain of Police or above.

**D - 11. Removal of Personal Social Media Content**

Members shall take reasonable and prompt action to remove any content posted by others on the member's social media account (e.g., inappropriate comments) that is in violation of this policy from any web page, website, or user account maintained or controlled by the member (e.g., personal social media or personal website).

Members shall take reasonable and prompt action to remove any content from their personal social media depicting another member in which the other member requests its removal.

**D - 12. Mandatory Reporting of Social Media Violations**

Pursuant to [Manual of Rules](#) section 314.48 and DGO M-03<sup>2</sup>, all members shall report social media content or activity by other members which violates this policy.

**E. TRAINING**

**E - 1. Initial Training**

All newly hired members, either as part of recruit training (for newly-sworn members) or within six months of hire (for lateral or professional staff members) shall receive training on this policy and on personal use of social media.

**E - 2. Ongoing Training**

Subject to available resources, the Department should provide training regarding member speech and the use of social media periodically to all members of the Department.

By order of

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<sup>2</sup> Ref. DGO M-03, Section II, E, 1, k.

LeRonne L. Armstrong  
Chief of Police

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



## DEPARTMENTAL GENERAL ORDER

**D-18: MEMBER PERSONAL SOCIAL MEDIA**Effective Date: XX XX 2422

Coordinator: Office of Chief of Police

**COMMAND INTENT**

This policy is intended to provide both guidance and rules about the use of personal social media by members of the Oakland Police Department. While this policy provides guidelines for the regulation and balancing of member speech and expression with the needs of the Department, it also addresses a larger need: that the Department and its staff commit to celebrating the best selves of the members and their service to the community while at the same time protecting members – with both guidance and accountability – against some of the pitfalls of social media. **The policy also makes clear that extreme views that denigrate others, advocate violence, or promote harm have no place within the Department, and those who espouse those views have no place guarding our community.**

~~This Policy is intended to address issues associated with members' personal use of social media sites and to provide the guidelines for the regulation and balancing of employee speech and expression with the needs of the Oakland Police Department. Department legitimacy and effectiveness rests on the public's trust that Department members will discharge their duties faithfully and impartially, as well as internal equity and trust among its members.~~

The community of Oakland expects that all members of the Police Department will have a "Guardian" mindset when it comes to keeping the peace and to policing in concert with the community. ~~Within~~ With this mindset must come a recognition by police personnel, especially sworn officers, of the serious power with which they are entrusted: ~~the power to arrest, the power to use force, even (in rare and unfortunate situations) the power to take a life.~~ The Department has a commitment to serve and to prevent any information shared on social media platforms that might prejudice or seemingly prejudice the perception of OPD members beyond that they serve with the utmost respect, fairness, sound judgement, and a commitment to equity. ~~For~~ ~~exie,~~ ~~unreasonable, and inappropriate expression – such as social media posts that degrade others or promote extremism – threaten the relationship of the Department to the community and can create the fear that the awesome powers given to police personnel may be misused.~~

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private individual, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

**Commented [TJ1]:** Discussion needed here on creating the "guardian" mindset and the reasonable expectations of the community, not just the Department.

Discussion needed here on the power relationship that police have vis a vis the community, and how that is so impactful to community. Affiliations between these types of things and the police power create extremely deleterious effects. Words themselves lead to a worrying connection to the power police have on the lives of community. There is space to grapple with these power dynamics, and also this is something that should be spoken to in the training.

**Commented [TJ2R1]:** Both these things added.

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**Commented [TJ3]:** Specific bolding in this section to make things stick out to those who may not read everything thoroughly.



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Toxic, unreasonable, and inappropriate expression – such as social media posts that degrade others or promote extremism – threaten the relationship of the Department to the community and create the fear that the awesome powers given to police personnel will be misused. While this type of language may be allowed by First Amendment law, this type of expression conflicts with the values of the Oakland Police Department and will likely lead to termination of employment by the Department and the City of Oakland.

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- Commented [TJ4]: From Director Flynn’s suggestion – clear differentiation between free speech rights and things that can cause one to lose one’s job.
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Effective Date  
XX MMM ~~21~~22

## A. VALUES AND RULES OF THE OAKLAND POLICE DEPARTMENT

### A - 1. Department Mission

The Oakland Police Department's mission is to provide police service focused on public safety and the *sanctity of life*, to hold ourselves accountable to a high standard of conduct, efficiency, and efficacy, and to promote mutual respect between the Department and the Communities of Oakland.

### A - 2. City of Oakland Administrative Instruction

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The Department expects that all members, both sworn and professional staff, adhere to the Law Enforcement Code of Ethics, including the following section:

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### A - 4. Manual of Rules

The Oakland Police Department's Manual of Rules sets forth specific rules that members must follow. The following sections are highlighted because members' personal social media activity must also comport with these rules:

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- 314.03 – General Conduct
- 314.04 – Conduct Toward Others – Harassment and Discrimination
- 384.32 – Political Activity
- 384.56 – Membership in Organizations
- 384.70 – Subversive Organization

**B. DEFINITIONS**

**B - 1. Social Media**

A category of internet-based resources that integrate user-generated content and user participation. Social media includes, but is not limited to, social networking sites, local / national newspaper / news media comment sections, photo and video sharing sites, wikis, blogs, and websites/apps such as Facebook, Instagram, YouTube, LinkedIn, Snapchat, Twitter, Reddit, Discord, Twitch, and TikTok.

**B - 2. Personal Social Media**

Personal social media includes:

- Accounts established by Department members with third-party providers (e.g., Facebook, Instagram, Twitter, etc.) that are not officially authorized by the Department, or accounts used by Department members for purposes outside of the scope of a member’s official duties.
- Social media accounts established or administered by members of the Department for fraternal or charity organizations, off-duty employment, civic or community organizations, etc., are also subject to the provisions of this policy.

Personal social media does not include:

- Official accounts of the Oakland Police Department, curated and monitored as part of the job duties of members; and
- Social media accounts that are used solely for the purposes of criminal investigation, intelligence, or other job-related duties.

**C. GENERAL CONSIDERATIONS FOR PERSONAL SOCIAL MEDIA USE**

**C - 1. Personal Social Media Use May Impact Peer, Department, and Community Perception of the Member**

The community of Oakland expects that all members of the Police Department will have a “Guardian” mindset when it comes to keeping the peace and to policing in concert with the community. With this mindset must come a recognition by police personnel, especially sworn officers, of the serious power with which they are entrusted.

**Commented [TJ5]:** Added this section.  
First para is word-for-word from the intro, 2<sup>nd</sup> para goes towards those “grey areas” which were discussed at 1 Mar ad hoc.

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This trust can be easily damaged by unprofessional personal social media interactions, and Furthermore, the perception of a member in the eyes of their peers, the Department, and the community can be shaken, or even damaged broken beyond repair, due to toxic, unreasonable, and inappropriate expression on personal social media. As public servants, even associations with ideas such as hate groups, racism, discrimination, or harassment on personal social media can weaken the moral foundation upon which the legitimacy of your ability to perform the your duties is based.

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**C-1.C-2. Personal Social Media Use May Impact the Operation of the Department**

Members have the right to express themselves as private individuals speaking on matters of public concern while using social media. At the same time, members must understand that their social media activity, even on personal social media accounts, may be seen by the public as attributable to the Department and has the potential to interfere with Department operations.

Commented [TJ6]: Could also be "the member's" and "the member's duties"

Commented [TJ7]: Possibility to separate into two here to deal with some grey areas.

Alternatively, also could be addressed in much more depth in training and contemporary examples and learning activities (reality-based videos and scenarios, for example).

Commented [TJ8R7]: Added above.

While members may consider the views, opinions, and actions expressed on social media as only reflecting their own personal views, this may not be the case in the eyes of the public. Once a member has been identified by the media or public as a member of the Oakland Police Department, any documented social media activity associated to the member will naturally be scrutinized. This scrutiny may increase with the member's assignment (e.g., Internal Affairs, OIG) or holding of a higher rank within the Department. The demonstrated views, opinions, and actions may not be scrutinized in the context of a private individual, but instead in a generalized context, representing the views of Department as an institution and/or all members of the Oakland Police Department.

Any views, opinions, and actions (taken in or out of context) that erode public trust and confidence in the members of the Oakland Police Department are unnecessarily distracting, and potentially detrimental, to the overall mission and operations of the Department.

Members have the right to express themselves as private individuals speaking on matters of public concern while using social media. At the same time, members must understand that their social media activity, even on personal social media accounts, may be seen by the public as attributable to the Department and has the potential to interfere with Department operations.

Commented [TJ9]: Moved this para to the bottom of this section.

**C-2.C-3. Any Social Media Content May Become Public**

Members must be mindful that any activities or statements made on social media are made in an online setting, where confidentiality cannot be assured even if the member creates "private" or "limited access" accounts or customizes privacy settings, or if they use another name, nickname, or moniker. Any statements, photographs, video clips, audio clips, live

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interactions, or other information sent over the internet may still be viewed and disseminated by third parties (including the social media provider), via screen shots or other methods, even after the content has been edited or deleted by the user.

~~C-3.C-4.~~ **Personal Social Media May Create Safety Risks**

Certain types of information or digital images posted on personal social media may endanger the safety of members of the Department and/or their family members, even if unintentionally. Members are urged not to disclose or allude to their status as a member of the Department on personal social media accounts. Divulging identifying information on personal social media could possibly compromise ongoing investigations, as well as limit a member's eligibility for certain assignments (e.g., work in an undercover capacity, work in highly sensitive assignments, etc.).

~~C-4.C-5.~~ **Public Content May be Reviewed by the Department**

Any social media interactions by members that are public or become public through the efforts of third parties (e.g., press, hackers, authorized viewers sharing posts) may be reviewed by the Department. If this content violates this policy or other policies, the content may lead to discipline.

~~C-5.C-6.~~ **Member Personal Social Media Content May be Used to Impeach a Member in Court**

Personal social media activity that is public or becomes public may form the basis for undermining or impeaching a member's testimony in criminal or other court proceedings.

~~C-6.C-7.~~ **Content Accessed or Posted Using Department Resources May be Reviewed by the Department**

Members forfeit any expectation of privacy in any content published, maintained, or viewed on any Internet website that is accessed on any Department technology system or Department-issued device.

The Department reserves the right to access, audit, and disclose for whatever reason any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the Department e-mail system, computer network, Department-issued smartphone or other device, or any information placed into storage on any Department system or device. It also includes records of all keystrokes or web-browsing history made on any Department computer or any Department-issued smartphone or other device, or over any Department network.

The fact that access to a website requires a username or password will not create an expectation of privacy if it is accessed through a Department

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computer or network, or using a Department-issued device. The Department may request or require a member to disclose a personal username, password, or other method for the purpose of accessing an employer-issued electronic device. (California Labor Code § 980).

**C-7.C-8. Department Requests for Personal Social Media Passwords or Access**

Generally, the Department may not require or request that an employee disclose a personal username or password for, or grant access to, a personal social media website, or involuntarily divulge any personal social media. However, the Department may request that an employee divulge personal social media reasonably believed to be relevant to an investigation of allegations of member misconduct or member violation of applicable laws and regulations, provided that the social media is used solely for purposes of that investigation or a related proceeding. (California Labor Code § 980). If during an investigation the Department discovers offensive social media that may violate any other policy, manual of rules, or applicable law, the appropriate action may be taken by the Department.

**D. SPECIFIC RULES FOR PERSONAL SOCIAL MEDIA USE BY MEMBERS**

**D - 1. Compliance with City and Department Rules**

Members’ social media use must comply with other City and Department rules and policies including but not limited to those rules and policies highlighted above in A - 2- through A - 4.

**D - 2. Prohibition on Discriminatory Posts and Interactions**

Members shall not post, transmit, share, adopt, advocate for<sup>1</sup>, and/or disseminate any content, in any form, that denigrates, demeans, or shows hostility or aversion toward any person or group based on race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, political affiliation, pregnancy, medical condition, sexual orientation, military or veteran status, or status in any other group protected by federal, state or local law or the putting down of persons for personal attributes or political beliefs race, color, religion/religious creed, sex/gender, pregnancy, marital status, age, national origin/ancestry, physical and/or mental disability, medical condition, sexual orientation, gender identity, military or veteran status, or status in any other group protected by federal, state or local law.

**Commented [TJ10]:** Likely need to expand here around “likes” or similar.  
Added footnote

**Commented [TJ11]:** Mirror and expand – D-2 and D-4 will be the same with most expansive set prevailing.

**Commented [TJ12R11]:** Merged both to get most expansive and copied here from D-4.

**Commented [TJ13]:** Mirror and expand – D-2 and D-4 will be the same with most expansive set prevailing.

<sup>1</sup> While social media is ever changing, advocating for may include such actions as “liking” or “re-posting” another user’s content, even if that content was not created or modified in any way by the member.

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**D - 3. Prohibition on Harassment and Threats of Violence**

Members shall not post, transmit, share, and/or disseminate on personal social media any content that constitutes or advocates harassment, violence, or threats of violence.

**D - 4. Prohibition on Personal Social Media that Compromises or Detracts from the Department’s Mission**

Members shall not post, transmit, share, and/or disseminate any content on personal social media that is significantly linked to, or related to, the Department and which that interferes with or has the potential to interfere with members’ performance of their job duties and/or Department operations. Examples include, but are not limited to, the following (unless otherwise protected by law):

- Expression that indicates disregard for the law or the state or U.S. Constitution.
- Expression that demonstrates support for criminal activity.
- Expression that could reasonably be expected to have a negative impact on the credibility of the member as a witness, such as any expression that glorifies or endorses dishonesty, unlawful discrimination and/or harassment, or illegal behavior.
- Expression that could reasonably be expected to have a negative impact on the safety of Department members, such as operational plans or security precautions at Department buildings.
- Content that depicts any ~~member~~ person in an obscene or sexually explicit manner.
- Content that advocates for, celebrates, or otherwise furthers the cause(s) of extremist extremist views or extremism movements. In this context, extremism includes political, racial, or gender-based positions or groups which that typically espouse violence, a denigration, or “othering”, or subjugation of certain classes of another person or people based on the actual or perceived race, color, religion/religious creed, national origin/ancestry, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness, physical and/or mental disability, matriculation, or political affiliation, pregnancy, medical condition, sexual orientation, military or veteran status, or status in any other group protected by federal, state or local law or the subjugation putting down of persons for immutable characteristics personal attributes or political beliefs and which the majority of reasonable people would find unacceptable.

➤ Members are reminded that expression or content that compromises or detracts from the Department’s mission (such as the examples above) will not be excused nor ignored because it is couched or explained as humor, and

**Commented [TJ14]:** Possible area to flesh out further: “With respect to use...can we say something about “joking” being in poor taste? often people will say I was just playing or joking around...do we have some language to address this?”

Jokes that fall under other areas in here distinguish typical “bad jokes” from actions that could be against this policy.

Possible to address this as insubordination and/or other violation. “Abusive humor” could be a phrase that is used.

**Commented [TJ15R14]:** Added paragraph at the end here.

**Commented [TJ16]:** Change to persons – this broadens to prohibit depicting all persons in this manner.

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**Commented [TJ17]:** Extremism – this likely is the place for addressing things brought up in 18 Jan 22 ad hoc

Added this bullet.

**Commented [TJ18R17]:** Adjusted in response to suggestion from Director Flynn.

**Commented [TJ19]:** Mirror and expand – D-2 and D-4 will be the same with most expansive set prevailing.

**Commented [TJ20R19]:** Expanded and mirrored in D-2 as well.

**Commented [TJ21]:** Remove?

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abusive humor which compromises or detracts from the Department’s mission is similarly prohibited by this policy.

**D - 5. Display of Department Uniforms or Logos**

Members are ~~urged cautioned against to refrain from~~ posting, on personal social media, images of themselves or other members in uniform. While celebration of achievements – such as successfully helping the community, progressing within the profession, or otherwise making a difference – is encouraged by the Department, members must ~~leave their zeal~~ curb their enthusiasm with an understanding of the messages their post may present, even if unintentional.

Members are cautioned against displaying images of official Department identification on their personal social media, including but not limited to patches, badges, emblems, logos, or marked/unmarked vehicles. Any such pictures shall be in accordance with all Department policies or similar rules about conduct, both in this policy and other policies.

These warnings do not apply to images or photographs taken at official Department events or that have been released or posted to official social media by the Department (e.g., promotions, awards, official photographs, photographs released to the public by the press information office, etc.).

Members should understand that posting photographs of themselves or others in uniform, or posting images or photographs from official Department events, will identify them as members of the Department and more closely tie a member’s personal social media account and activity to the Department and opens the member’s social media activity to closer scrutiny.

**D - 6. Display of Department Identification for Commercial or Endorsement Purposes**

Members shall not use Department identification, including but not limited to patches, badges, uniforms, emblems, logos, or marked/unmarked vehicles, on personal social media for commercial or endorsement purposes without authorization from the Department. Such authorization shall be limited to organizations that have 501(c) tax exemption from the Internal Revenue Service and which do not take positions or engage in activities which violate this or any other Department or City policy.

**D - 7. Using Department or Organizational Identifiers on Social Media**

Members are urged not to use Department or organizational identifiers (including but not limited to Bureau, Division, Section, or Unit names) as part of a personal or privately held social media moniker (e.g. @OPD\_JohnDoe, @BFOIII\_JaneDoe).

Members should understand that using Departmental or organizational identifiers more closely ties a member’s personal social media account and

**Commented [TJ22]:** Work on this  
**Commented [TJ23R22]:** Revised to highlighted.

**Commented [TJ24]:** Narrow down here – possibly to say only for 501(c)(3) charities that are reviewed by the Department and have no conflicts with any other part of this policy or any other policies.  
  
Specific process with written authorization may be helpful – this could be in the form of a panel or some way to limit arbitrary and capricious use of discretion. Tracking  
  
There may be rules in place for existing 501s – look for this.  
**Commented [TJ25R24]:** Added a line.



activity to the Department and opens the member’s social media activity to closer scrutiny.

**D - 8. Limitation on Use of Personal Social Media on Duty**

Members are prohibited from using personal social media while on duty, except in the following circumstances:

- When brief personal communication may be warranted by the circumstances (e.g. to inform family of extended hours); or
- During authorized breaks. Usage during breaks should be out of sight and sound of the public if feasible and shall not be disruptive to the work environment or interfere with the performance of any member’s job duties.

**D - 9. Prohibition of Use of City Email for Personal Social Media**

Members shall not use their City email address to sign up for personal social media. However, the Chief of Police or designee may designate a list of specified social media whose sole purpose is professional networking that is exempt from this constraint.

**D - 10. Prohibition Against Disclosing Confidential Information**

Members shall treat all official Department business as confidential. Members shall not post, transmit, share, and/or disseminate any information obtained as a result of their position with the Department (e.g., witness statements, crime scene photographs, etc.) on personal social media except as authorized, in writing, by a commander of the rank of Captain of Police or above.

**D - 11. Removal of Personal Social Media Content**

Members shall take reasonable and prompt action to remove any content posted by others on the member’s social media account (e.g., inappropriate comments), including content posted by others, that is in violation of this policy from any web page, website, or user account maintained or controlled by the member (e.g., personal social media or personal website).

Members shall take reasonable and prompt action to remove any content from their personal social media depicting another member in which the other member requests its removal.

**D - 12. Mandatory Reporting of Social Media Violations**

Pursuant to Manual of Rules section 314.48 and DGO M-03<sup>2</sup>, all members shall report social media content or activity by other members which violates this policy.

**E. TRAINING**

<sup>2</sup> Ref. DGO M-03, Section II, E, 1, k.

**Commented [TJ26]:** Reword here to focus on the removal of content posted by others or which is linked or otherwise not posted by the member but is associated with their account.

This may need to be addressed in training with ways to ensure this type of thing doesn’t happen (e.g. privacy setting training or some sort of point of contact for help). Point of contact seems like better to stay up with rapidly changing mores.

**Commented [TJ27R26]:** Changed.

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**Commented [TJ28]:** Refer to M-3 here (find subsection)

**Commented [TJ29R28]:** Footnoted.

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**E - 1. Initial Training**

All newly hired members, either as part of recruit training (for newly-sworn members) or within six months of hire (for lateral or professional staff members) shall receive training on this policy and on personal use of social media.

**E - 2. Ongoing Training**

Subject to available resources, the Department should provide training regarding member speech and the use of social media periodically to all members of the Department.

**Commented [TJ30]:** Examples will be in the training – this was a comment from previous ad hocs and will need frequent updating to stay fresh and also keep up with trends in expression / social media.

There is possible area for incorporation of this in **Project Reset training**, which is being rolled out currently (1<sup>st</sup> Quarter 2022).

**Commented [TJ31]:** Here is where ongoing training could include videos etc. or methods for removing unwanted posts on ones own SM by someone else. Could also give space for checkup on things that otherwise are left in the dark until brought to the light.

**Commented [TJ32R31]:** Checkup and self audit – incorporate into training here?

By order of

LeRonne L. Armstrong  
Chief of Police

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



## DEPARTMENTAL GENERAL ORDER

**R-01: RISK MANAGEMENT**

Effective Date: DD MMM YY

Coordinator: Bureau of Risk Management

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**COMMAND INTENT**

Understanding, assessing, and managing risk – to officers, the Department, and the City of Oakland – is critically important. The Department’s Bureau of Risk Management conducts data-based assessments of risk behavior, helps the Department mitigate risk by developing interventions and other strategies for individual officers, and promotes policies and procedures to reduce risk in the Department.

**A. OVERVIEW OF RISK MANAGEMENT AND DEFINITIONS****A - 1. Defining Risk**

With regard to the practice of law enforcement, risk refers to the potential for damage, injury, inability to achieve objectives, or other negative occurrences. These negative occurrences adversely impact the community, the Department, and its members individually. The failure to address risk may result in lawsuits and legal claims, injuries to police officers or community members, property damage, damage to the Department’s reputation, harm to officers’ law enforcement careers, and the erosion of trust between the Department and the community it serves.

**A - 2. Risk Management**

Risk Management is a comprehensive, proactive approach to the reduction of risks associated with organizational operations. While it is impossible to eliminate all risk, a comprehensive risk management program, along with planned outcomes, allow an organization to fulfill its mission and build a culture where risk management is engrained at every level of the organization. Risk management involves recognizing, prioritizing, and mitigating risks. Some common risk mitigation strategies include a clear vision from leadership, data collection/analysis, training, supervisory review, and accountability measures.

**A - 3. Role of the Bureau of Risk Management**

The goal of the Bureau of Risk Management (BRM) is to identify and manage risk through analysis of individual and organizational activity, and includes employee conduct, citizen contacts, use of force, pursuits, traffic collisions, training, command and supervisory direction, and personnel decisions.

The BRM analyzes levels of risk, develops focused and specific risk management interventions, and provides training throughout the Department to ensure that all members understand and implement the overall risk management strategy of the Department. The BRM is integral in maintaining a culture of risk awareness and risk management throughout the different levels and units of the organization. It includes

the Office of Inspector General, the Training Division and the Internal Affairs Division.

Within the Office of Inspector General, there are four Units dedicated to risk management: the Risk Analysis Unit (RAU), the Personnel Assessment System (PAS) Unit, the Risk Impact Unit (RIU), and the Audit Unit. While the Training Division and Internal Affairs Division also fall under the BRM, their roles and responsibilities are clearly defined within other policies. The co-location of all these Divisions and Units allow for a coordinated approach to risk management.

## **B. CONSTITUENT PARTS OF THE DEPARTMENT'S RISK MANAGEMENT SYSTEM**

### **B - 1. Risk Management as Organization-Wide Responsibility**

The Department's risk management strategy depends on an overall understanding that every member of the organization has the responsibility to identify, respond to, and mitigate risk when possible, without fear of retaliation. This is consistent with the requirements that all members take steps to intervene if they observe another member using excessive force (as set forth in [DGO K-3](#)) and report any offenses in violation of Departmental policy (as required by the [Manual of Rules](#), Reporting Violations-Failure to Report Misconduct When Required, 314.48-1).

### **B - 2. Role of Supervisors and Commanders/Managers in Risk Management**

Supervisors play a key role in risk management by being a primary identifier of behavior or actions that could increase risk to their subordinates. It is incumbent on supervisors to constantly identify risk, manage it at their level whenever appropriate, and provide training to their subordinates on ways to appropriately manage acceptable risk and avoid unacceptable risk.

Commanders and Managers also play an important role in risk management by setting the expectations for their respective commands on proper risk management, as well as by acting as conduits for information coming from larger risk management entities and processes (e.g. the BRM or Risk Management Meetings).

### **B - 3. Personnel Assessment Systems (PAS) - Early Warning System**

The Department's early warning system, known as PAS (Personnel Assessment System), is a pro-active, non-disciplinary, early identification and intervention program designed to identify and positively influence conduct, correct performance – related problems, and recognize exemplary performance<sup>1</sup>. PAS oversees assessment, evaluation, and management of risk by officers, establishing performance standards and providing the requirement for supervisors, commanders, and managers to review their subordinate's performance as it relates to these standards. PAS allows for peer group threshold comparisons for review of outliers, with subsequent review and

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<sup>1</sup> [DGO D-17](#), *Personnel Assessment System*

potential follow-up action. The Department's use of PAS as part of its overall risk management strategy is key in its risk management processes.

PAS contributes to the Department's ability to better maintain supervisory and managerial accountability, ensure consistent high-quality performance standards vertically and laterally in the organization and ensure policy compliance throughout the organization. (Reference [DGO D-17](#), *Personnel Assessment System*).

#### **B - 4. Risk Analysis Unit**

The Risk Analysis Unit (RAU), overseen by the Department's Data Manager, is responsible for analyzing key areas of risk such as the PAS dimensions, stop and enforcement data (to include whether disparities exist in outcomes or practices), and other police data that is recorded by the Department. This analysis includes assessment of department trends, drilldowns to individual-level concerns, and drillups to review the impact of supervisory and command decisions on risk. The RAU is also responsible for analysis, preparation of documents and discussion points for Risk Management Meetings, and creation and evaluation of various risk management thresholds and measurements used by the Department in other areas of risk management. The Risk Analysis Unit shall at minimum be staffed by a Data Manager and an Administrative Analyst, though this does not preclude the Department from adding staff to the unit.

#### **B - 5. Risk Impact Unit**

The Risk Impact Unit (RIU) tracks data including, but not necessarily limited to, uses of force, collisions, and pursuits; and supports the use of force and pursuit board processes. The RIU identifies areas in need of improvement through data collection and analysis and training needs assessments, and makes recommendations for organizational improvements. The RIU shall at minimum be staffed by a supervisor and two support staff members, though this does not preclude the Department from adding staff to the unit.

#### **B - 6. Risk Management Meetings**

The Department's Risk Management Meetings (RMMs) provide data and command insight to analyze, assess, and mitigate risk, from the level of the Area/Division through the Bureau and to the Department as a whole. This includes recommendations and reviews of officers who are identified for supervisory monitoring and intervention. RMMs are held at the Division/Area level, Bureau level, and Citywide level.

### **C. RISK ANALYSIS UNIT (RAU)**

#### **C - 1. RAU Leadership and Authority**

The Department's Data Manager oversees the RAU. The RAU, at the direction of the Chief of Police or designee, may provide direction to other units and staff to accomplish the responsibilities of the office as set forth below.

## C - 2. RAU Responsibilities

The responsibilities of the RAU include, but are not limited to, the following:

- Assisting with preparations for Citywide, Bureau, and Area/Division RMM;<sup>4</sup>
- Consulting with the Audit Unit on trends for possible audits;
- Consulting with Area/Division commanders and executive staff on risk identification techniques and areas of concern;
- Creating reports and analyses which track risk indicators, and which can be used for RMM preparation (see C-3);
- Conducting assessments of department trends, drilldowns to individual-level concerns, and drillups to review the impact of supervisory and command decisions on risk;
- Facilitating the Bureau and Citywide RMM;
- Identifying areas of concern or trends for commanders to consider during RMM;
- Developing and setting peer group comparison and methodology in concert with the PAS Administration Unit (PAU);<sup>5</sup>
- Developing and defining specific criteria, utilizing PAS data, for determining whether members may be engaging in at-risk behavior.<sup>6</sup>

## C - 3. RAU Documentation Creation Responsibilities

The documents produced by the RAU include, but are not limited to, the following:

- *Risk Analysis Report* – Monthly. A snapshot report that shows critical PAS dimensions plus stop data, broken down by Bureau or Area with percentage changes and year-to-date comparisons;<sup>7</sup>
- *Risk Analysis Supplemental Analysis Report* – Quarterly. Additional charts, graphs, in-depth review, squad comparisons, and other analysis, including trend lines or other visual representations of data (e.g., sparklines) where appropriate, as directed by the RAU manager to provide context and analysis for upcoming topics of conversation at the Bureau and Citywide RMM;
- Quarterly reports for the IAD Commander, and a yearly report for the annual PAS meeting, regarding internal investigation outcomes by race. A copy of these reports shall be sent to the Office of Chief of Police, IAD Captain, all Bureau Deputy Chiefs, the Chair of the Police Commission, and the Police Commission's Inspector General;

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<sup>4</sup> NSA 41, VII.B.5

<sup>5</sup> NSA 41, VII.B.6

<sup>6</sup> NSA 41, VII.B.5

<sup>7</sup> NSA 40, VII.A.; NSA 34, VI.B

- Written responses to Public Records Act requests as needed.

## **D. AREA/DIVISION RISK MANAGEMENT MEETINGS**

### **D - 1. Area/Division RMM Frequency**

The following Divisions and Areas (Bureau of Field Operations geographical area, under the command of a Captain of Police) shall hold a RMM at least quarterly:

- All Bureau of Field Operations Patrol Areas
- Criminal Investigation Division
- Ceasefire Division
- Violent Crime Operations Center

Other Divisions, Sections, or Units may hold a RMM at the direction of their Commanding Officer, their Bureau Deputy Chief / Director, or the Chief or Assistant Chief of Police. While Area/Division RMMs constitute a quarterly review and analysis of all relevant employee performance information concerning personnel under that command<sup>8</sup>, additional review and individualized risk management will also be completed using the PAS process<sup>9</sup> and normal supervision and leadership<sup>10</sup>.

### **D - 2. Topics of Review in Area/Division RMM**

The Area/Division RMM is typically led by that Area/Division's Commanding Officer, which the respective Bureau Deputy Chief shall attend<sup>11</sup>. Area/Division RMMs shall include, but are not limited to, discussion and analysis of the following issues:

- Individual members who may be drivers of Area/Division trends identified in the RAU monthly report, supplemental analysis, or by the Area/Division Commanders;
- Top 5 Area/Division individual members for:
  - a. Non-dispatch stops
  - b. Complaint allegations and cases
  - c. Uses of force
  - d. Pursuits
  - e. Collisions

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<sup>8</sup> NSA 41, VII.B.5

<sup>9</sup> Reference DGO D-17, *Personnel Assessment System*.

<sup>10</sup> Reference for example DGO B-22, *Supervisory Notes Files*.

<sup>11</sup> For instance (under the Department organization as of February 2022), the BFO 1 Deputy Chief would attend the Area 1, 2, and 3 meetings, the BFO 2 Deputy Chief would attend the Area 4, 5, and 6 meetings, the Bureau of Investigations Deputy Chief would attend the VCOC and CID meetings, and the Assistant Chief would attend the Ceasefire meeting.

- Review of monitoring/intervention status and strategies for any individual members of the Area/Division on PAS monitoring/intervention;
- Identification of larger trends, analysis, and audit assignments (for Area/Division Commanders or Supervisors) regarding areas identified by RAU, relevant employee performance information concerning personnel under that command, supervision and leadership, and individual risk management, and ongoing or future risk management strategies to address both individual and overall risk trends.

### **D - 3. Description of Analyses Used During / as a Result of RMM Meetings**

Different types of analyses shall be warranted depending on the data and the issues observed during review in an Area/Division RMM. These analyses shall include, but are not limited to, the following:

- **Drilldowns:** A drilldown is a review that focuses on changes in data to determine which specific groups or individuals are impacting the changes. Drilldowns are useful to understand whether specific actions or events involving OPD members were consistent with Department priorities, expectations, and best practices, and help supervisors and commanders determine if intervention is required to change behavior or actions. Drilldowns may be completed using the Department's data systems such as Vision, Risk Management Dashboards, and other reporting tools.
- **Drillups:** A drillup is a way to "zoom out" from the data to examine the larger context, determining whether larger patterns or systemic issues exist that require more than individual interventions. Drillups may also be useful in detecting policy or training deficiencies, or larger issues with supervision or command that have an impact on more than one individual.
- **Pattern and Trend Analysis:** If a trend is noted (e.g., an increase in the amount of vehicle pursuits in an Area, a decline in the number of arrests versus the same period last year, etc.), utilizing pattern and trend analysis is a process of formulating hypotheses as to *why* the pattern or trend might be occurring and *testing* (as much as is possible) those hypotheses against available data.

## **E. BUREAU RISK MANAGEMENT MEETINGS**

### **E - 1. RMM Scheduling**

At the direction of the Assistant Chief of Police or their respective Bureau Deputy Chief, the following Bureaus may hold RMM following the RMM of their constituent Areas/Divisions<sup>12</sup>:

- **Bureau of Field Operations I and II:** Includes discussion of all Patrol Areas

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<sup>12</sup> Note that Area/Division RMMs are required at least quarterly; reference Section D-1.



- **Bureau of Investigations:** Includes Violent Crime Operations Center, Criminal Investigation Division, and Ceasefire Division

If these Bureaus do not hold a Bureau RMM for a period exceeding six (6) months, the respective Bureau Deputy Chief shall write a memorandum documenting the reason(s) why the Bureau meeting was not held. This memorandum shall be addressed to the Chief of Police with information copies to the City Administrator and the Chair of the Oakland Police Commission. This shall be limited solely to the Bureau meetings.

Other Bureaus may hold RMM at the direction of their Bureau Deputy Chief / Director or the Chief or Assistant Chief of Police.

## **E - 2. Topics of Review in Bureau RMM**

Bureau RMM shall include, but are not limited to, discussion and analyses of the following issues:

- Review of Bureau trends by Area in stops, force, complaints, pursuits, and collisions;
- Analyses conducted and outcomes of each Area/Division RMM held that quarter for Areas/Divisions under the respective Bureau;
- Results of specific drilldown or equivalent analyses into individual Bureau members during Area/Division RMM;
- Risk management strategies for any areas that, after analysis, were deemed at risk during Area/Division RMM or preparation for Bureau RMM. These may include strategies for individual members;
- A list of Bureau individual member outliers in comparison to their peer groups as guided in the PAS process;
- Any additional risk management issues deemed relevant by the Command staff in the Bureau under review.

## **E - 3. RMM Preparation**

Primary preparation for the Bureau RMM is completed at the Area/Division RMM, which shall be held prior to the Bureau RMM. Data used in preparation for Bureau RMM shall include, but is not limited to, information in the *Risk Analysis Monthly* and *Risk Analysis Supplemental Analysis* reports as well as any other data generated by the RAU or other units as is deemed necessary for the meetings. Additionally, Bureau command officers may use PAS data, the Department Risk Management Dashboards, stop data, and other data found in the Department's VISION program or other databases.

## **E - 4. Bureau RMM Format**

At the Bureau RMM, each Area/Division Commanding Officer (typically a Captain of Police or equivalent) shall provide a brief presentation (see section E-5). Following each presentation, members of the Executive Command Staff present may ask questions or provide comment as necessary. Additionally, follow-up of deliverable tasks from prior Bureau RMM will be presented as necessary.

#### **E - 5. Bureau RMM Presentations**

The Area/Division Commanding Officer's presentation at the Bureau RMM is designed to allow the commanding officer to:

- **summarize** the detailed discussions and analyses conducted at the Area/Division RMM and during preparation for the Bureau RMM;
- **describe** the most relevant and pertinent areas of concern;
- **show their work** regarding the analyses, audits, drilldowns, drillups, or other forms of review of the data;
- **detail** whether trends existed or if outlier individuals were identified;
- **identify** solutions and risk management efforts for issues discovered; and
- **forward** larger systemic issues for consideration at the Citywide RMM.

A sample outline and meeting presentation plan is available as *Appendix R-01.1*.

#### **E - 6. Bureau RMM Deliverable Tasks**

Any deliverable tasks arising from the Bureau RMM shall be approved and tracked by the RAU.

### **F. CITYWIDE RISK MANAGEMENT MEETINGS**

#### **F - 1. Frequency**

The Department shall hold a Citywide RMM at least quarterly.

#### **F - 2. Topics of Review in Citywide RMM**

Citywide RMM shall include, but is not limited to, discussion and analysis of the following issues:

- Report from the PAS Unit supervisor or commander on overarching trends observed in the PAS process and any individual or supervisory issues that may be better addressed by the Department as a whole;
- Discussion of any members who are on PAS monitoring and have had more than one extension or have been on monitoring more than once, to include an assessment of any supervisory concerns;
- Review of Citywide trends in stops, force, complaints, pursuits, and collisions;
- Review of select data trends that the RAU has identified as an indicator of risk or an indicator of positive progress;

- Highlights of Bureau RMM discussions that may help with risk management Citywide;
- A list of Citywide individual members who are outliers in any risk-related PAS dimension, with discussion and analysis (including any supervisory concerns) as necessary;
- Information from the Quarterly and Yearly Internal Investigation Outcomes by Race report created by the RAU, as well as information regarding any identified internal racial disparities in the IAD, Training, or hiring processes;
- Discussion of any events or occurrences of activity related to significant risks or significant risk management efforts.

**F - 3. Citywide RMM Format**

At the Citywide RMM, the RAU shall provide a presentation of Citywide trends and each Bureau Chief may provide a brief presentation of the highlights from the Bureau and/or Area/Division RMM that have implications for Citywide risk management. Following each presentation, members of the Executive Command Staff present may ask questions or provide comment as necessary.

**F - 4. Citywide RMM Deliverable Tasks**

Any deliverables arising from the Citywide RMM shall be approved and tracked by the RAU.

**F - 5. Cancellation or Postponement of any RMM**

If Area/Division (Section D-1) or Citywide (Section F-1) required RMM are cancelled or significantly postponed (i.e., such that the requirement for quarterly meetings is not fulfilled) for any reason, the reason for said cancellation or postponement shall be written in a memorandum by the respective Commanding Officer (for Area/Division meetings) or the Deputy Director of the BRM (for Citywide meetings). This memorandum shall detail at least:

- The reason for the cancellation or postponement, and
- The date for the next meeting or a replacement meeting.

This memorandum shall be addressed to the Chief of Police with an information copy to the City Administrator and the Chair of the Police Commission.

By order of

LeRonne L. Armstrong  
Chief of Police

Date signed:

DRAFT



## DEPARTMENTAL GENERAL ORDER

**R-01: RISK MANAGEMENT**

Effective Date: DD MMM YY

Coordinator: Bureau of Risk Management

**COMMAND INTENT**

Understanding, assessing, and managing risk – to officers, the Department, and the City of Oakland – is critically important. The Department’s Bureau of Risk Management conducts data-based assessments of risk behavior, helps the Department mitigate risk by developing interventions and other strategies for individual officers, and promotes policies and procedures to reduce risk in the Department.

**A. OVERVIEW OF RISK MANAGEMENT AND DEFINITIONS****A - 1. Defining Risk**

With regard to the practice of law enforcement, risk refers to the potential for damage, injury, inability to achieve objectives, or other negative occurrences. These negative occurrences adversely impact the community, the Department, and its members individually. The failure to address risk may result in lawsuits and legal claims, injuries to police officers or community members, property damage, damage to the Department’s reputation, harm to officers’ law enforcement careers, and the erosion of trust between the Department and the community it serves.

**A - 2. Risk Management**

Risk Management is a comprehensive, proactive approach to the reduction of risks associated with organizational operations. While it is impossible to eliminate all risk, a comprehensive risk management program allows, along with planned outcomes, allow an organization to meet its strategic goals/fulfill its mission and build a culture where risk management is engrained at every level of the organization. Risk management involves recognizing ~~risks~~, prioritizing ~~risks~~, and mitigating ~~those~~ risks. Some common risk mitigation strategies include a clear vision from leadership, data collection/analysis, training, supervisory review, and accountability measures.

**A - 3. Role of the Bureau of Risk Management**

The goal of the Bureau of Risk Management (BRM) is to identify and manage risk through analysis of individual and organizational activity, including and includes employee conduct, citizen contacts, use of force, pursuits, traffic collisions, training, command and supervisory direction, and personnel decisions.

The BRM analyzes levels of risk, develops focused and specific risk management interventions, and provides training throughout the Department to ensure that all members understand and implement the overall risk management strategy of the Department. The Bureau of Risk ManagementBRM is integral in maintaining a culture of risk awareness and risk management throughout the different levels and

units of the organization. It includes the Office of Inspector General, the Training Division and the Internal Affairs Division.

Within the Office of Inspector General, there are four Units dedicated to risk management: the Risk Analysis Unit (RAU), the Personnel Assessment System (PAS) Unit, the Risk Impact Unit (RIU), and the Audit Unit. While the Training Division and Internal Affairs Division also fall under the [Bureau of Risk Management BRM](#), their roles and responsibilities are clearly defined within other policies. The co-location of all these Divisions and Units allow for a coordinated approach to risk management.

## **B. CONSTITUENT PARTS OF THE DEPARTMENT'S RISK MANAGEMENT SYSTEM**

### **B - 1. Risk Management as Organization-Wide Responsibility**

The Department's risk management strategy depends on an overall understanding that every member of the organization has the responsibility to identify, respond to, and mitigate risk when possible, [without fear of retaliation](#). This is consistent with the requirements that all members take steps to intervene if they observe another member using excessive force (as set forth in [DGO K-3](#)) and report any offenses in violation of Departmental policy (as required by the [Manual of Rules](#), Reporting Violations-Failure to Report Misconduct When Required, 314.48-1).

### **B - 2. Role of Supervisors and Commanders/Managers in Risk Management**

Supervisors play a key role in risk management by being a primary identifier of behavior or actions that could increase risk to their subordinates. It is incumbent on supervisors to constantly identify risk, manage it at their level whenever appropriate, and provide training to their subordinates on ways to appropriately manage acceptable risk and avoid unacceptable risk.

Commanders and Managers also play an important role in risk management by setting the expectations for their respective commands on proper risk management, as well as by acting as conduits for information coming from larger risk management entities and processes (e.g. the [Bureau of Risk Management BRM](#) or Risk Management Meetings).

### **B - 3. Personnel Assessment Systems (PAS) - Early Warning System**

The Department's early warning system, known as PAS (Personnel Assessment System), is a pro-active, non-disciplinary, early identification and intervention program designed to identify and positively influence conduct, correct performance – related problems, and recognize exemplary performance.<sup>1</sup> PAS oversees assessment, evaluation, and management of risk by officers, establishing performance standards and providing the requirement for supervisors, commanders, and [managers](#) to

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<sup>1</sup> [DGO D-17](#), *Personnel Assessment System*

review their subordinate's performance as it relates to these standards. PAS allows for peer group threshold comparisons for review of outliers, with subsequent review and potential follow-up action. The Department's use of PAS as part of its overall risk management strategy is key in its risk management processes.

PAS contributes to the Department's ability to better maintain supervisory and managerial accountability, ensure consistent high-quality performance standards vertically and laterally in the organization and ensure policy compliance throughout the organization. (Reference [DGO D-17](#), *Personnel Assessment System*).

#### **B - 4. Risk Analysis Unit**

The Risk Analysis Unit (RAU), overseen by the Department's Data Manager, is responsible for analyzing key areas of risk such as the PAS dimensions, stop and enforcement data (to include whether disparities exist in outcomes or practices), and other police data that is recorded by the Department. This analysis includes assessment of department trends, drilldowns to individual-level concerns, and ~~drill-ups~~[drillups](#) to review the impact of supervisory and command decisions on risk. The RAU is also responsible for analysis, preparation of documents and discussion points for Risk Management Meetings, and creation and evaluation of various risk management thresholds and measurements used by the Department in other areas of risk management. ~~Note section C-1 for RAU minimum staffing~~[The Risk Analysis Unit shall at minimum be staffed by a Data Manager and an Administrative Analyst, though this does not preclude the Department from adding staff to the unit.](#)

#### **B - 5. Risk Impact Unit**

The Risk Impact Unit (RIU) tracks data including, but not necessarily limited to, uses of force, collisions, and pursuits; and supports the use of force and pursuit board processes. The RIU identifies areas in need of improvement through data collection and analysis and training needs assessments, and makes recommendations for organizational improvements. The RIU shall at minimum be staffed by a supervisor and two support staff members, though this does not preclude the Department from adding staff to the unit.

#### **B - 6. Risk Management Meetings**

The Department's Risk Management Meetings (RMMs) provide data and command insight to analyze, assess, and mitigate risk, from the level of the Area/Division through the Bureau and to the Department as a whole. This includes recommendations and reviews of officers who are identified for supervisory monitoring and intervention. [Risk Management Meetings](#)[RMMs](#) are held at the Division/Area level, Bureau level, and Citywide level.

### **C. RISK ANALYSIS UNIT (RAU)**

#### **C - 1. RAU [Staffing Leadership and Authority](#)**

The Department's Data Manager oversees the RAU. The RAU, at the direction of the Chief of Police ~~and/or~~ designee, may provide direction to other units and staff to accomplish the responsibilities of the office as set forth below. ~~The Risk Analysis Unit shall at minimum be staffed by a Data Manager and an Administrative Analyst, though this does not preclude the Department from adding staff to the unit.~~

### C - 2. RAU Responsibilities

The responsibilities of the RAU include, but are not limited to, the following:

- ~~➤ Developing and setting peer group comparison and methodology in concert with the PAS Administration Unit (PAU);<sup>2</sup>~~
- ~~➤ Developing and defining specific criteria, utilizing PAS data, for determining whether members may be engaging in at risk behavior;<sup>3</sup>~~
- Assisting with preparations for Citywide, Bureau, and Area/Division RMM;<sup>4</sup>
- Consulting with the Audit Unit on trends for possible audits;
- Consulting with Area/Division commanders and executive staff on risk identification techniques and areas of concern;
- Creating reports and analyses which track risk indicators, and which can be used for RMM preparation (see C-3);
- Conducting assessments of department trends, drilldowns to individual-level concerns, and ~~drill-ups~~drillups to review the impact of supervisory and command decisions on risk~~;~~;
- Facilitating the Bureau and Citywide RMM~~; and~~;
- ~~➤ Identifying areas of concern or trends for commanders to consider during RMM;~~
- ~~➤ Developing and setting peer group comparison and methodology in concert with the PAS Administration Unit (PAU);<sup>5</sup>~~
- ~~➤ Developing and defining specific criteria, utilizing PAS data, for determining whether members may be engaging in at-risk behavior.<sup>6</sup>~~
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### C - 3. RAU Documentation Creation Responsibilities

The documents produced by the RAU include, but are not limited to, the following:

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<sup>2</sup> [NSA 41, VII.B.6](#)

<sup>3</sup> [NSA 41, VII.B.5](#)

<sup>4</sup> [NSA 41, VII.B.5](#)

<sup>5</sup> [NSA 41, VII.B.6](#)

<sup>6</sup> [NSA 41, VII.B.5](#)



- *Risk Analysis Report* – Monthly. A snapshot report that shows critical PAS dimensions plus stop data, broken down by Bureau or Area with percentage changes and year-to-date comparisons;<sup>7</sup>
- *Risk Analysis Supplemental Analysis Report* – Quarterly. Additional charts, graphs, in-depth review, squad comparisons, and other analysis, including trend lines or other visual representations of data (e.g., sparklines) where appropriate, as directed by the RAU manager to provide context and analysis for upcoming topics of conversation at the Bureau and Citywide RMM;
- Quarterly reports for the IAD Commander, and a yearly report for the annual PAS meeting, regarding internal investigation outcomes by race. A copy of these reports shall be sent to the Office of Chief of Police, IAD Captain, all Bureau Deputy Chiefs, the Chair of the Police Commission, and the Police Commission’s Inspector General;
- Written responses to Public Records Act requests as needed.

## D. AREA/DIVISION RISK MANAGEMENT MEETINGS

### D - 1. Area/Division RMM Frequency

The following Divisions and Areas (Bureau of Field Operations geographical area, under the command of a Captain of Police) shall hold a RMM at least quarterly:

- All Bureau of Field Operations Patrol Areas
- Criminal Investigation Division
- Ceasefire Division
- Violent Crime Operations Center

Other Divisions, Sections, or Units may hold a RMM at the direction of their Commanding Officer, their Bureau Deputy Chief / Director, or the Chief or Assistant Chief of Police. While Area/Division RMMs constitute a quarterly review and analysis of all relevant employee performance information concerning personnel under that command,<sup>8</sup> additional review and individualized risk management will also be completed using the PAS process<sup>9</sup> and normal supervision and leadership.<sup>10</sup>

### D - 2. Topics of Review in Area/Division RMM

The Area/Division RMM is typically led by that Area/Division’s Commanding Officer, which the respective Bureau Deputy ~~or Assistant~~ Chief shall attend.<sup>11</sup>

<sup>7</sup> NSA 40, VII.A; NSA 34, VI.B

<sup>8</sup> NSA 41, VII.B.5

<sup>9</sup> Reference DGO D-17, *Personnel Assessment System*.

<sup>10</sup> Reference for example DGO B-22, *Supervisory Notes Files*.

<sup>11</sup> For instance (under the Department organization as of February 2022), the BFO 1 Deputy Chief would attend the Area 1, 2, and 3 meetings, the BFO 2 Deputy Chief would attend the Area 4, 5, and 6 meetings, the Bureau of

Area/Division RMMs shall include, but are not limited to, discussion and analysis of the following issues:

- Individual members who may be drivers of Area/Division trends identified in the RAU monthly report, [supplemental analysis](#), or by the Area/Division Commanders;
- Top 5 Area/Division individual members for:
  - a. Non-dispatch stops
  - b. Complaint allegations and cases
  - c. Uses of force
  - d. Pursuits
  - e. Collisions
- Review of monitoring/intervention status and strategies for any individual members of the Area/Division on PAS monitoring/intervention;
- Identification of larger trends, analysis, and audit assignments (for Area/Division Commanders or Supervisors) regarding areas identified by RAU, relevant employee performance information concerning personnel under that command, supervision and leadership, and individual risk management, and ongoing or future risk management strategies to address both individual and overall risk trends.

### D - 3. Description of Analyses Used During / as a Result of RMM Meetings

Different types of analyses shall be warranted depending on the data and the issues observed during review in an Area/Division RMM. These analyses shall include, but are not limited to, the following:

- **Drilldowns:** A ~~drill-down~~[drilldown](#) is a review that focuses on changes in data to determine which specific groups or individuals are impacting the changes. Drilldowns are useful to understand whether specific actions or events involving OPD members were consistent with Department priorities, expectations, and best practices, and help supervisors and commanders determine if intervention is required to change behavior or actions. Drilldowns may be completed using the Department's data systems such Vision, Risk Management Dashboards, and other reporting tools.
- ~~Drill-ups~~[Drillups](#): A ~~drill-up~~[drillup](#) is a way to "zoom out" from the data to examine the larger context, determining whether larger patterns or systemic issues exist that require more than individual interventions. ~~Drill-ups~~[Drillups](#) may also

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Investigations Deputy Chief would attend the VCOC and CID meetings, and the Assistant Chief would attend the Ceasefire meeting.

be useful in detecting policy or training deficiencies, or larger issues with supervision or command that have an impact on more than one individual.

- **Pattern and Trend Analysis:** If a trend is noted (e.g., an increase in the amount of vehicle pursuits in an Area, a decline in the number of arrests versus the same period last year, etc.), utilizing pattern and trend analysis is a process of formulating hypotheses as to *why* the pattern or trend might be occurring and *testing* (as much as is possible) those hypotheses against available data.

## E. BUREAU RISK MANAGEMENT MEETINGS

### E - 1. RMM Scheduling

At the direction of the Assistant Chief of Police or their respective Bureau Deputy Chief, the following Bureaus may hold RMM following the RMM of their constituent Areas/Divisions:<sup>12</sup>:

- **Bureau of Field Operations I and II:** Includes discussion of all Patrol Areas
- **Bureau of Investigations:** Includes Violent Crime Operations Center, Criminal Investigation Division, and Ceasefire Division

If these Bureaus do not hold a Bureau RMM for a period exceeding ~~one (1) calendar year~~ six (6) months, the respective Bureau Deputy Chief shall write a memorandum documenting the reason(s) why the Bureau meeting was not held. This memorandum shall be addressed to the Chief of Police with information copies to the City Administrator and the Chair of the Oakland Police Commission. This shall be limited solely to the Bureau meetings.

Other Bureaus may hold RMM at the direction of their Bureau Deputy Chief / Director or the Chief or Assistant Chief of Police.

### E - 2. Topics of Review in Bureau RMM

Bureau RMM shall include, but are not limited to, discussion and analysis of the following issues:

- Review of Bureau trends by Area in stops, force, complaints, pursuits, and collisions;
- Analyses conducted and outcomes of each Area/Division RMM held that quarter for Areas/Divisions under the respective Bureau;
- Results of specific ~~drill-down~~ drilldown or equivalent analyses into individual Bureau members during Area/Division RMM;
- Risk management strategies for any areas that, after analysis, were deemed asat risk during Area/Division RMM or preparation for Bureau RMM. These may include strategies for individual members;

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<sup>12</sup> Note that Area/Division RMMs are required at least quarterly; reference Section D-1.

- A list of Bureau individual member outliers in comparison to their peer groups as guided in the PAS process;
- Any additional risk management issues deemed relevant by the Command staff in the Bureau under review.

### **E - 3. RMM Preparation**

Primary preparation for the Bureau RMM is completed at the Area/Division RMM, which shall be held prior to the Bureau RMM. Data used in preparation for Bureau RMM shall include, but is not limited to, information in the *Risk Analysis Monthly* and *Risk Analysis Supplemental Analysis* reports as well as any other data generated by the RAU or other units as is deemed necessary for the meetings. Additionally, Bureau command officers may use PAS data, the Department Risk Management Dashboards, stop data, and other data found in the Department's VISION program or other databases.

### **E - 4. Bureau RMM Format**

At the Bureau RMM, each Area/Division Commanding Officer (typically a Captain of Police or equivalent) shall provide a brief presentation (see section E-5). Following each presentation, members of the Executive Command Staff present may ask questions or provide comment as necessary. Additionally, follow-up of deliverable tasks from prior Bureau RMM will be presented as necessary.

### **E - 5. Bureau RMM Presentations**

The Area/Division Commanding Officer's presentation at the Bureau RMM is designed to allow the commanding officer to:

- **summarize** the detailed discussions and analyses conducted at the Area/Division RMM and during preparation for the Bureau RMM;
- **describe** the most relevant and pertinent areas of concern;
- **show their work** regarding the analyses, audits, drilldowns, ~~drill-ups~~drillups, or other forms of review of the data;
- **detail** whether trends existed or if outlier individuals were identified;
- **identify** solutions and risk management efforts for issues discovered; and
- **forward** larger systemic issues for consideration at the Citywide RMM.

A sample outline and meeting presentation plan is available as *Appendix R-01.1*.

### **E - 6. Bureau RMM Deliverable Tasks**

Any deliverable tasks arising from the Bureau RMM shall be approved and tracked by the RAU.

## **F. CITYWIDE RISK MANAGEMENT MEETINGS**

### **F - 1. Frequency**

The Department shall hold a Citywide RMM at least quarterly.

### **F - 2. Topics of Review in Citywide RMM**

Citywide RMM shall include, but is not limited to, discussion and analysis of the following issues:

- Report from the PAS ~~u~~Unit supervisor or commander on overarching trends observed in the PAS process and any individual or supervisory issues that may be better addressed by the Department as a whole;
- Discussion of any members who are ~~in~~on PAS monitoring and have had more than one extension or have been on monitoring more than once, to include an assessment of any supervisory concerns;
- Review of Citywide trends in stops, force, complaints, pursuits, and collisions;
- Review of select data trends that the RAU has identified as an indicator of risk or an indicator of positive progress;
- Highlights of Bureau RMM discussions that may help with risk management Citywide;
- A list of Citywide individual members who are outliers in any risk-related PAS dimension, with discussion and analysis (including any supervisory concerns) as necessary;
- Information from the Quarterly and Yearly Internal Investigation Outcomes by Race report created by the RAU, as well as information regarding any identified internal racial disparities in the IAD, Training, or hiring processes;
- Discussion of any events or occurrences of activity related to significant risks or significant risk management efforts.

### **F - 3. Citywide RMM Format**

At the Citywide RMM, the RAU shall provide a presentation of Citywide trends and each Bureau Chief may provide a brief presentation of the highlights from the Bureau and/or Area/Division RMM that have implications for Citywide risk management. Following each presentation, members of the Executive Command Staff present may ask questions or provide comment as necessary.

### **F - 4. Citywide RMM Deliverable Tasks**

Any deliverables arising from the Citywide RMM shall be approved and tracked by the RAU.

### **F - 5. Cancellation or Postponement of any RMM**

If Area/Division (Section D-1) or Citywide (Section F-1) required RMM are cancelled or significantly postponed (i.e., such that the requirement for quarterly

meetings is not fulfilled) for any reason, the reason for said cancellation or postponement shall be written in a memorandum by the respective Commanding Officer (for Area/Division meetings) or the Deputy ~~Chief~~Director of the BRM (for Citywide meetings). This memorandum shall detail at least:

- The reason for the cancellation or postponement, and
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This memorandum shall be addressed to the Chief of Police with an ~~informational~~information copy to the City Administrator and the Chair of the Police Commission.

By order of

LeRonne L. Armstrong  
Chief of Police

Date signed: