



OAKLAND POLICE COMMISSION

MEETING AGENDA

April 25, 2019

6:30 PM

City Council Chamber, 3rd Floor
1 Frank H. Ogawa Plaza, Oakland, CA 94612

- I. **Call to Order**
Chair Regina Jackson
- II. **Roll Call and Determination of Quorum**
Chair Regina Jackson
Excused Absence: Tara Anderson
- III. **Welcome, Purpose, and Open Forum** (2 minutes per speaker)
Chair Regina Jackson will welcome and call public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.
- IV. **Oakland Black Officers Association (OBOA) Letter**
The Commission will hear from a representative on behalf of OBOA regarding their letter in the Oakland Post suggesting disparate and/or racist implications for OPD hiring and discipline practices. ***This was discussed on 4.11.19.*** ([Attachment 4](#))
 - a. Discussion
 - b. Public Comment
 - c. Action, if any
- V. **Review of CPRA Pending Cases and Completed Investigations**
To the extent permitted by state and local law, Interim Executive Director Karen Tom will report on the Agency's pending cases and completed investigations. ***This is a recurring item.*** ([Attachment 5](#))
 - a. Discussion
 - b. Public Comment
 - c. Action, if any
- VI. **Report from Ad Hoc Committee on CPRA Appellate Process**
The Ad Hoc Committee on CPRA Appellate Process will present its on-going analysis whether and how an appellate process for closed CPRA cases may be established. ***This was discussed on 9.13.18, 10.11.18, and 4.11.19.*** ([Attachment 6](#))
 - a. Discussion
 - b. Public Comment
 - c. Action, if any

VII. Retainer Agreement for Counsel Assisting with Oakland Police Chief Evaluation

The Commission will present the retainer agreement with the law firm chosen to assist with the Chief's evaluation and may vote to approve the agreement. ***This is a new item.*** ([Attachment 7](#))

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

VIII. Recess (8 minutes)

IX. National Association for Civilian Oversight of Law Enforcement (NACOLE) Conferences

The Commission will discuss participation at NACOLE's Regional Training and Networking Series event on May 3, 2019 at the Kaiser Center in Oakland. The Commission may also discuss and vote on participation at the National Conference in Detroit September 22-26, 2019. ***This is a new item.*** ([Attachment 9](#))

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

X. Creation of Ad Hoc Committee on OPD K-4 Use of Force Reporting Special Order

OPD has requested that the Commission establish an Ad Hoc Committee to work with members of OPD on K4 Use of Force Reporting Special Order. ***This is a new item.*** ([Attachments 10a, 10b](#))

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

XI. Schedule a Public Hearing on Excessive Force

The Commission will vote to schedule a public hearing on use of excessive force. ***This is a new item.***

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

XII. Executive Director Interview Process

The Commission will review the CPRA Executive Director interview process and may approve the process as is, or make edits so that the process can begin as soon as possible. ***This was discussed on 4.11.19.*** ([Attachment 12](#))

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

XIII. Committee/Liaison/Other Commissioner Reports

This time is set aside to allow Commissioners to present a brief report on their own activities, including service on committees or as liaisons to other public bodies. No action may be taken as a result of a report under this section other than to place a matter for consideration at a future meeting. ***This is a recurring item.***

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

XIV. Police Commission Retreat

The Commission will discuss potential dates, format, topics, presenters, location, and cost for a retreat. The Commission may vote on items to facilitate scheduling. ***This was discussed on 6.28.18, 7.12.18, 8.9.18, 8.23.18, and 9.13.18.***

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

XV. Meeting Minutes Approval

The Commission will vote to approve meeting minutes from March 28, 2019 and April 11, 2019. ***This is a recurring item.*** ([Attachment 15a, 15b](#))

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

XVI. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. ***This is a recurring item.*** ([Attachment 16](#))

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

XVII. Adjournment



This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please e-mail ktom@oaklandca.gov or call 510-238-7342 or TDD/TTY 510-238-2007 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a ktom@oaklandca.gov o llame al 510-238-7342 o 510-238-2007 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 ktom@oaklandca.gov 或致電 (510) 238-7401 或 510-238-2007 TDD/TTY。請避免塗搽香氛產品。參加者可能對化學成分敏感。

Because some persons are sensitive to certain chemicals, persons attending this meeting are requested to refrain from wearing scented products.

Oakland Black Officers challenge racist culture at OPD

By Sarah Carpenter
March 15, 2019

The following is an open letter to Oakland Police Department Chief Anne Kirkpatrick, Mayor Libby Schaaf, and City Administrator Sabrina Landreth.

The Oakland Black Officers Association (OBOA) is very concerned that a culture remains in place at Oakland Police Department (OPD) and in senior leadership that could be perceived as unfair, racist, inequitable and not in line with the Oakland Police Department's core values.

We believe the citizens of Oakland deserve a police department with strong senior leadership that acts quickly and decisively when faced with tough decisions and challenges around race and equity. We are even more concerned that our current leadership does not effectively meet these challenges.

The Oakland Black Officer's Association is the Oakland Police Department's first minority advocacy association and has been in existence for nearly 50 years. OBOA exists to advocate for the fair and equitable treatment of our members and the minority community.

Over the years, the OBOA has been made aware of instances of disparate treatment of our members, at all ranks, as well as from our professional/civilian staff members. Some of the disparate treatment includes:

- Unfair/biased treatment in personnel decisions
- Unfair and/or biased Internal Affairs Investigations and discipline
- Overlooking qualified Black officers/members for assignments and positions
- Biased/Unfair treatment of Black applicants during, hiring, the Academy, and Field Training Program

The most recent example of a lack of action by OPD leadership occurred in the mishandling of a Recruiting and Backgrounds Commander's conduct. The Recruiting and Backgrounds Unit works to attract candidates who are qualified, motivated and reflective of the diversity of the City of Oakland.

The unit's former commander threatened these efforts by engaging in the following conduct:

- Rejecting qualified minority candidates for very minor issues;
- Setting an internal, undocumented standard that favored applicants with a formal education over candidates without one. He also looked less favorably at online universities or trade schools like DeVry, Carrington College or the University of Phoenix— and would refer to these institutions as "fake schools;"
- Candidates who previously used Adderall, Cocaine, Mushrooms, Acid, LSD or drugs typically used by more affluent users were considered for employment while candidates who previously used Cocaine Base/Crack or Heroin were immediately rejected;
- Failing to grant extensions to two Black officers to remain in their positions but granting an extension to a similarly situated White Sergeant.

Despite OBOA's bringing these serious issues to the attention of Chief Kirkpatrick on Oct. 15, 2018, and Chief Kirkpatrick assurances that these issues would be addressed and the then Recruiting Backgrounds Commander would immediately be removed from his position; nearly 90 days lapsed before any action was taken.

It was only after the OBOA meet with the City Administrator and the Mayor that the former Unit Commander was removed from his position.

The Chief's inaction and unwillingness to address disparate treatment in the hiring and retention of officers is egregious and hurts our members and the public at large. It undermines the Department's ability to address one of the Community's top issues—secure candidates reflective of our community. And,

fosters inequity throughout the Department and our subsequent treatment of the community.

We cannot continue with this lack of leadership and ask that our concerns be addressed in a timely and transparent fashion.

This letter was submitted by the Executive Board of the Oakland Black Officers Association.

This was published in the *Oakland Post* on March 15, 2019



OAKLAND POLICE COMMISSION

Agenda Report

| | |
|-----------------|--|
| Subject: | CPRA Agency Report on Pending and Completed Cases |
| Date: | April 22, 2019 |
| Requested by: | Oakland Police Commission |
| Prepared by: | Karen Tom, CPRA Interim Executive Director |
| Approved by: | Karen Tom, CPRA Interim Executive Director |

Action Requested:

The Community Police Review Agency asks that the Oakland Police Commission accept this written report on: A) Pending Cases; and B) Completed Cases.

A. Information Item – Pending Cases

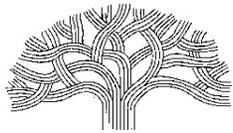
Background

Oakland Municipal Code section 2.46.040(D) provides that the Agency Director shall report to the Commission once a month with information regarding the Agency's pending cases. Attachment A contains the Agency's current pending case list.

B. Information Item – Completed Investigations

Background

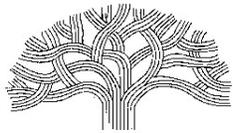
Pursuant to City Charter section 604(f)(3), the Agency submits its written findings and proposed discipline to the Commission and to the Chief of Police regarding allegations stated in a public complaint it has investigated. The Agency shall submit such written findings and proposed discipline to the Commission through confidential communications. California Penal Code sec. 832.7(d) provides that an agency "may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved." Attachment B contains the type and dispositions of recent complaint investigations completed by the Agency.



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases

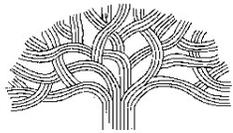
Attachment 5
ATTACHMENT A
4/22/2019
Page 1 of 3
 (Total Pending = 39)

| Case # | Incident Date | Rcv'd CPRA | Rcv'd IAD | Assigned Inv. | 180-day Goal | 3304 Deadline | Type (604(f)(1) or Other) | Description |
|---------|---------------|------------|-----------|---------------|--------------|---------------|---------------------------|--|
| 18-0509 | 05/14/18 | 05/29/18 | 05/15/18 | AL | 11/26/18 | 05/14/19 | Use of Force | Excessive force. |
| 18-0516 | 05/17/18 | 05/29/18 | 5/17/2018 | ED | 11/26/18 | 05/16/19 | Use of Force | Excessive force. |
| 18-0538 | 05/06/18 | 05/29/18 | 5/23/2018 | NG | 11/26/18 | 05/22/19 | Use of Force | Handcuffs too tight; false arrest; delay in Miranda Rights admonition; inaccurate police report. |
| 18-0612 | 06/06/18 | 06/14/18 | 6/8/2018 | AL | 12/11/18 | 06/07/19 | Other | Illegal detention; PDRD violation. |
| 18-1218 | 11/01/18 | 11/01/18 | 11/01/18 | ED | 12/10/18 | 06/13/19 | Other | PDRD |
| 18-0678 | 06/21/18 | 07/03/18 | 6/27/2018 | JS | 12/31/18 | 06/26/19 | Use of Force | Excessive force; false arrest; performance of duty. |
| 18-0695 | 06/29/18 | 07/02/18 | 6/29/2018 | JS | 12/31/18 | 06/28/19 | Other | Sleeping in vehicle while on duty. |
| 18-0942 | 08/27/18 | 08/27/18 | 08/27/18 | NG | 02/23/19 | 08/26/19 | Use of Force | Excessive force; improper search. |
| 18-0949 | 08/06/18 | 09/07/18 | 8/30/2018 | AL | 03/06/19 | 08/29/19 | Other | False arrest; improper search; illegal tow of vehicle. |
| 18-0954 | 08/30/18 | 09/17/18 | 8/30/2018 | NG | 03/18/19 | 08/29/19 | Use of Force | Pointing of firearm during arrest. |
| 18-0964 | 09/03/18 | 09/03/18 | 9/3/2018 | AL | 03/04/19 | 09/02/19 | Other | General conduct. |
| 18-0970 | 09/04/18 | 09/04/18 | 9/4/2018 | NG | 03/04/19 | 09/03/19 | Other | Racial slur. |
| 18-0971 | 09/04/18 | 09/17/18 | 9/4/2018 | NG | 03/18/19 | 09/03/19 | Use of Force | Excessive force; racial slurs; disrespectful conduct. |
| 18-0977 | 09/05/18 | 09/17/18 | 9/6/2018 | NG | 03/18/19 | 09/05/19 | Use of Force | Excessive force. |
| 18-0989 | 09/09/18 | 09/09/18 | 9/9/2018 | JS | 03/08/19 | 09/08/19 | Use of Force | Excessive force; harassment; illegal tow. |



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases

| Case # | Incident Date | Rcv'd CPRA | Rcv'd IAD | Assigned Inv. | 180-day Goal | 3304 Deadline | Type (604(f)(1) or Other) | Description |
|---------|---------------|------------|-----------|---------------|--------------|---------------|---------------------------|---|
| 18-0991 | 09/09/18 | 09/12/18 | 9/9/2018 | ED | 03/11/19 | 09/08/19 | Profiling | Racial profiling; lying to complainant. |
| 18-0997 | 08/03/18 | 09/13/18 | 9/12/2018 | JS | 03/12/19 | 09/11/19 | Other | Wrongful detention and arrest; property damage. |
| 18-0999 | 09/12/18 | 09/12/18 | 9/17/2018 | JS | 03/11/19 | 09/11/19 | Other | Rudeness. |
| 18-1016 | 09/14/18 | 09/17/18 | 9/15/2018 | ED | 03/18/19 | 09/14/19 | Other | Racial bias; care of property. |
| 18-1030 | 09/16/18 | 09/20/18 | 9/16/2018 | AL | 03/19/19 | 09/15/19 | Use of Force | Excessive force. |
| 18-1013 | 09/17/18 | 09/17/18 | 09/17/18 | JS | 03/18/19 | 09/16/19 | DUI | Officer arrested for DUI. |
| 18-1049 | 09/23/18 | 09/23/18 | 09/23/18 | ED | 03/22/19 | 09/22/19 | Use of Force | Excessive force; demeanor. |
| 18-1054 | 09/25/18 | 10/15/18 | 09/25/18 | NG | 04/13/19 | 09/24/19 | Use of Force | Excessive force; demeanor. |
| 18-1095 | 10/03/18 | 10/15/18 | 10/03/18 | JS | 04/13/19 | 10/02/19 | Use of Force | Excessive force. |
| 18-1137 | 09/01/18 | 10/18/18 | 10/18/18 | AL | 04/16/19 | 10/17/19 | Use of Force | Excessive force. |
| 18-1241 | 10/31/18 | 11/14/18 | 11/11/18 | ED | 05/13/19 | 11/10/19 | Other | Improper dissemination of computer information; unauthorized use of electronic systems. |
| 18-1260 | 11/08/18 | 11/28/18 | 11/15/18 | JS | 05/27/19 | 11/14/19 | Other | Demeanor; false arrest. |
| 18-0302 | 02/27/18 | 04/11/18 | 03/26/18 | ED | 10/09/18 | 11/20/19 | Other | Inappropriate sexual contact. |
| 18-1305 | 12/01/18 | 12/07/18 | 12/03/18 | NG | 06/05/19 | 12/02/19 | Other | Demeanor; performance of duty; PDRD violation. |
| 18-1331 | 12/10/18 | 12/17/18 | 12/10/18 | ED | 06/15/19 | 12/09/19 | Other | Demeanor |



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases

| Case # | Incident Date | Rcv'd CPRA | Rcv'd IAD | Assigned Inv. | 180-day Goal | 3304 Deadline | Type (604(f)(1) or Other) | Description |
|--|---------------|------------|-----------|---------------|--------------|---------------|---------------------------|---|
| 18-1364 | 12/06/18 | 12/19/18 | 12/19/18 | AL | 06/17/19 | 12/18/19 | Other | Wrongful detention; performance of duty; service complaint. |
| 18-0524 | 05/21/18 | 05/29/18 | 05/19/18 | ED | 07/07/19 | 01/07/20 | Other | Unlawful activity. |
| 17-1009 | 09/03/17 | 10/17/17 | 10/11/17 | ED | N/A | Tolled | Use of Force | Excessive force; PDRD and Taser policy violations. |
| 18-0214 | 02/24/18 | 02/27/18 | 02/24/18 | JS | N/A | Tolled | Use of Force | Improper pointing of firearm; false arrest. |
| 18-0249 | 03/11/18 | 03/13/18 | 03/12/18 | JS | N/A | Tolled | Use of Force | Officer-involved shooting. |
| 18-0335 | 04/04/18 | 04/12/18 | 04/04/18 | JS | N/A | Tolled | Use of Force | Use of Taser; PDRD violation. |
| 18-0972 | 09/04/18 | 09/07/18 | 9/4/2018 | ED | N/A | Tolled | Use of Force | Attacked by officers. |
| 18-0346 | 04/08/18 | 04/10/18 | 04/08/18 | NG | 10/09/18 | 4/7/2019* | DUI | Officer arrested for DUI. |
| 18-0345 | 04/09/18 | 04/12/18 | 04/09/18 | NG | 10/09/18 | 4/8/2019* | Use of Force | Excessive force. |
| <i>*These reports are in draft and have not been finalized. The investigator advised the Interim Executive Director that there is sufficient evidence to conclude that CPRA's findings will not differ from IAD.</i> | | | | | | | | |



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Recently Completed Investigations

ATTACHMENT B
 4/22/19
Page 1 of 1

| | | | | | | |
|---------|----------|----|--------|-------------------|--|---------------------------------------|
| 18-0354 | 4/1/2018 | AL | 4/5/19 | Subject Officer 1 | 1. Use of Force (level 3) 2. Use of Force | <i>Exonerated</i> |
| | | | | Subject Officer 2 | 1. Use of Force | <i>Unfounded</i> <i>Exonerated</i> |
| 18-0202 | 2/1/18 | AL | 4/8/19 | Subject Officer 1 | 1. Use of Force (level 3) 2. Use of Force (level 3) | <i>Exonerated</i> <i>Unfounded</i> |
| | | | | Subject Officer 2 | 1. Use of Force (level 3) 2. Use of Force (level 3) | <i>Exonerated</i> <i>Unfounded</i> |
| | | | | Subject Officer 3 | 1. Use of Force (level 3) 2. Use of Force (level 3) | <i>Exonerated</i> <i>Unfounded</i> |

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Police Commission

April 12, 2019

Chief (Ret.) Robert S. Warshaw
Independent Monitor and Compliance Director
Monitoring Team, Oakland Police Department
300 Frank Ogawa Plaza, Suite 222
Oakland, CA 94612

The Oakland Police Commission is a City of Oakland commission established in November 2016 by the enactment of Measure LL to oversee the City of Oakland Police Department.

As part of its regular meetings, the Oakland Police Commission receives testimony from members of the public regarding the Oakland Police Department. At its public meeting on February 28, 2019, Mr. Ali Saleem Bey and Mr. John Mohammed Bey provided documents to members of the Oakland Police Commission, including a complaint dated July 13, 2007, filed by Mr. Bey with the Citizens' Police Review Board, which eventually became Internal Affairs Division Case No. 07-0538, and then renamed 13-1062, and provided comments regarding mishandling of the subsequent investigation of this complaint.

On March 14, 2019, at the request of Mr. Bey, the Oakland Police Commission voted to provide notice to the Independent Monitor appointed in *Delphine Allen, et al., vs. City of Oakland, et al.*, of Mr. Bey's complaint and Mr. Bey's request that the Independent Monitor investigate the substance of his complaint and comments. Oakland Police Commission meetings are video recorded and Mr. Bey's comments are available at the following address: <https://www.oaklandca.gov/boards-commissions/police-commission/meetings>. It is my understanding that Mr. Bey will provide a packet of documents to you under separate cover.

Sincerely,

Regina Jackson

Regina Jackson
Chair, Oakland Police Commission

cc: Hon. William H. Orrick, U.S. District Court, Northern District of California
Oakland City Council

April 22, 2019

VIA U.S. AND ELECTRONIC MAIL

RJackson@Oaklandcommission.orgClove@oakladca.gov

Ms. Regina Jackson
Commission Chair
Oakland Police Commission
1 Frank H. Ogawa Plaza
Oakland, CA 94612

Re: Retainer Agreement for Legal Services

Dear Commission Chair Jackson:

Please allow me to express Garcia Hernández Sawhney LLP's ("GHS") appreciation to the Oakland Police Commission (the "Commission") for the opportunity to provide legal services to the Commission. We look forward to working with the Commission. This letter sets forth our firm's rate structure for the provision of any legal services that you may choose to have us provide for the Commission.

California *Business and Professions Code* Section 6148 requires a written fee agreement between the Commission and GHS. The written fee agreement sets forth the scope of legal services that GHS is prepared to perform and the fees that we charge for those services. This letter is intended to fulfill the requirements of Section 6148. Additionally, GHS carries professional liability insurance applicable to the services to be rendered. GHS will also complete any required City of Oakland forms and documents.

Scope of Services

In accordance with the contents of this Retainer Agreement, the Commission is hiring GHS as Special Counsel to advise on employment and labor matters within the scope of the Commission's responsibilities. We will provide all legal services reasonably required to represent the Commission's best interests in these matters and any other matter forwarded to us for handling. We will keep you informed of significant developments and promptly respond to all of your inquiries. The Commission agrees to cooperate with us, keep us informed of developments and pay our bills and all costs incurred on its behalf in a timely manner.

Fees

GHS will be compensated at the rate of \$375.00 an hour for all attorneys with eight or more years of experience, \$295.00 an hour for attorneys with up to seven years of experience and \$175.00 an hour for paralegals.

Costs and Expenses

The Commission hereby authorizes us to incur all reasonable costs and to hire any consultant, expert, or other service reasonably necessary in our judgment to accomplish the tasks for which we have been retained, subject to your prior approval. We reserve the right to advance payment on these costs or, in the alternative, to request the service provider/vendor to bill you directly. The Commission agrees to reimburse us for costs advanced on its behalf and pay service providers/vendors immediately when we have asked them to bill you directly.

GHS will absorb incidental charges such as minor in-house copy jobs, facsimile and minor postage charges. Other incidentals, such as filing fees, messenger and other delivery fees, parking, mileage at the IRS rate, travel expenses (including airfare at the least expensive rates, lodging, meals, and ground transportation), charges for outside assisted legal research, investigation expenses, and consultants' fees, are billed to the client on a monthly basis at cost. Our firm does not mark-up any of these incidental expenses. GHS would, of course, itemize all costs incurred and provide back-up documentation upon request.

Billings

GHS will bill the Commission for legal services and costs on a monthly basis. The Commission agrees to pay the full amount set forth in our statements within thirty (30) days of receipt of our invoices.

Term and Termination

This retainer agreement shall be effective as of April 1, 2019 and shall remain in effect until May 31, 2019 or until terminated by either the Commission or the Firm.

The Commission may discharge us at any time, and the Commission agrees to execute all documents reasonably necessary to complete our discharge. In the exercise of our sole discretion and consistent with the rules of ethics, we reserve the right to terminate this agreement on thirty days prior written notice, or to otherwise withdraw immediately from representing the Commission in any individual matter, and you agree to execute all documents reasonably necessary to complete our withdrawal. Conduct which may cause GHS to withdraw includes but is not limited to: (a) any failure to timely pay GHS's statements or costs incurred by GHS on the Commission's behalf; (b) any refusal to cooperate with GHS in a material matter; or (c) any fact or circumstance that would render GHS's continuing representation unlawful or unethical. In the event of such discharge, termination or withdrawal the Commission agrees to pay all outstanding invoices and such legal fees and costs incurred as of the last day of the firm's representation of the Commission.

If the foregoing terms and conditions are satisfactory, please execute this letter in the space provided below and return a signed copy to me in the enclosed self-addressed, stamped envelope. Again, we appreciate the opportunity to represent the Commission and look forward to working with you. As always, should you have any questions, comments or concerns, please do not hesitate to give me a call.

Sincerely,

Nitasha Sawhney
of Garcia Hernández Sawhney, LLP

I have read and am authorized to agree to the foregoing:

OAKLAND POLICE COMMISSION

By: Regina Jackson
Commission Chair



In partnership with the BART Office of the Independent Police Auditor and the Berkeley Police Review Commission, NACOLE is excited to announce that it will be holding one of its 2019 Regional Training and Networking events in the Bay Area.

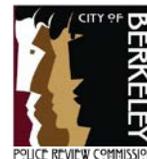
May 3, 2019
8:30 a.m. - 5:00 p.m.
Kaiser Center
Oakland, California

This event is geared toward a variety of audiences and will seek to address many issues important to those who support, are interested in, or work in the field of civilian oversight of law enforcement. Topics include implementing oversight in county jails, California’s new transparency laws, and implementing effective practices in civilian oversight of law enforcement.

For more information and to register, visit
www.nacole.org

This event is open to all those wishing to attend. The registration fee for this event is \$75 and includes training, continental breakfast, and lunch. ***Please note that no one will be turned away from this event for lack of funds.***

Thank you to our hosts and sponsors:



Plan to stay after for our post-event networking reception at Oakland’s Lake Chalet on the waterfront. From **5:00pm - 10:00 pm** attendees will have the opportunity to continue the discussions of the day and enjoy entertainment provided by local favorite DJ Davey D (Hard Knock Radio/Co-founder of the Bay Area Hip Hop Coalition) and live music with performances by a number of Bay Area standouts including Troy Lampkins (Bass), Sanford Barnett (Guitar), Alcide Marshall (Drums), Mic Blake (Vocals), Cat Brooks (Spoken Word), Sistah Imina (Spoken Word), and Chris Burger’s Alphabet Soup & Luv Phenomena.

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER 9196

TO: All Sworn Personnel

SUBJECT: Documentation of the Use of Force¹

EFFECTIVE DATE: XX XX 19

TERMINATION: Upon revision of DGOs K-03, *Use of Force* and K-04, *Reporting and Investigating the Use of Force*

Major Change Explanation

Pointing of a Firearm

All references to “intention” in reference to an officer pointing a firearm at a subject have been eliminated. Determining whether or not an officer intentionally or un-intentionally pointed a firearm at a person was unnecessarily subjective and did not capture the spirit of the policy: reporting every time that an officer points a firearm at a person.

Additionally, language about the “low-ready” position was deemed too subjective and potentially confusing, and was removed from the policy.

As such, force categorized as Level 4, Type 22 will now be titled “Pointing a Firearm at a Person.” Pointing means any time that the line of the muzzle intersects with the body of the subject such that, if the firearm were to discharge, the round would strike that person.

Redefinition of “Takedown”

“Takedowns” were deemed to be insufficiently defined, leaving officers, supervisors, and use of force reviewers unsure of whether certain actions were reportable uses of force. To alleviate this problem, “takedown” was re-defined as: “Physical force used by a member to cause a person to go to the ground not under their own control.”

Clarification on Injuries, Sustained During Force Incidents, and Their Effect on Reporting Levels

While serious injuries as a result of police uses of force are rare², documenting injuries and ensuring proper investigation of force resulting in injury to the force subject is essential to evaluation of officers and the Department in general. Concern was raised that the current standard of evaluating the seriousness of a resultant injury – whether the injury required

¹ 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.

² See e.g. William P. Bozeman, MD, et. al, “Injuries Associated with Police Use of Force”, *Journal of Trauma and Acute Care Surgery*, Vol. 84, Issue 3 (March 2018): 466-472 (“While minor UOF-related injuries were seen in roughly one third of the suspects, significant injuries are rare and most commonly associated with firearm and canine use.”)

“emergency medical treatment (beyond first aid) or hospital admittance” – was insufficiently clear.

To that end, “hospital admittance” will be replaced with “inpatient hospital care”. “Emergency medical treatment (beyond first aid)” will be further clarified by:

- Referencing a California Penal Code definition of injury: “‘Injury’ means any physical injury which requires professional medical treatment.” (Penal Code § 243(f)(5)). When evaluating injuries, officers and supervisors/commanders must evaluate the “nature, extent, and seriousness of the injury”³, and should err on the side of higher level reporting if unsure;
- Giving further examples “first aid” such as bandaging, ice packs, over-the-counter pain medications, observation, or precautionary scans or evaluations (such as x-rays). Suturing or stapling is beyond “first aid”.

This *does not* change the requirement set out in DGO K-04 I, E, that “[p]ersonnel shall request medical service without delay when a [force] subject has visible injuries or the subject has a complaint of injury.”

Re-categorization of Certain Force and Force on Restrained Persons

- **Level 2, Type 9** has been re-worded and will now say, “Personal weapon strikes to the head or to a **restrained** subject.”
- **Level 2, Type 30** has been added and will say, “Oleoresin Capsicum (OC / Pepper Spray) or other chemical agent applied to a **restrained**⁴ subject.”
- **Level 2, Type 31** has been added and will say, “An Electronic Control Weapon (ECW) is used against a **restrained** subject.”
- **Level 3, Type 16** has been re-named to “All non-carotid takedowns on a **restrained** subject.” As a Level 3, a supervisor must respond to the scene and evaluate the force. Depending on the totality of the circumstances, this type of force may be lowered to a Level 4, elevated to a Level 2, or kept as a Level 3 investigation.
- **Level 3, Type 16a** has been added and will include “Personal weapon⁵ strikes other than strikes to the head or to a restrained subject.”
- **Level 4, Type 29⁶** has been added and will say, “All non-carotid takedowns, except on a restrained subject.”

³ *People v. Longoria*, 40 Cal. Rptr. 2d 213 (Cal Ct. App. 1995)

⁴ As defined in DGO K-04 II, B, 7, a, “A restrained subject is a person who has been fully placed in a Department-authorized restraint device such as both hands handcuffed, a WRAP, or a RIP Hobble.”

⁵ Training Bulletin III I.01 (p. 11): Personal weapons are your hands, knuckles, fingers, elbows, forearms, knees, and feet.

⁶ Like all force, Type 29 force is still subject to policy regarding elevating the reporting of force to a higher level, to include:

- If the force subject incurs an injury requiring emergency medical treatment beyond first-aid or hospital admittance (K-04 II, B, 6);
- If there is an indication that the force was unreasonable (K-04 I, C); or
- At the direction of a supervisor or commander.

- **Level 4, Type 32** has been added. 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:

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 any individual from combative action by another person.

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

Details of Changes to Policies

DGO K-03

- Section IV, A, 1 will now read, “The pointing of a firearm at another person is a use of force.”
- Section IV, A, 2 will now read, “The drawing, exhibiting, and pointing of a firearm at another person is threatening and intimidating and when unwarranted may cast a negative impression on members. A member may point a firearm only when the member has reasonable cause to believe it may be reasonable for his/her safety or for the safety of others.”

DGO K-04

- Section II, A will now read as follows:

II. FORCE LEVELS

Force options enumerated in DGO K-03 are grouped in the following force levels for reporting and investigating purposes only.

A. Level 1

- ❖ [Type 1] A lethal firearm discharge at a person;
- ❖ [Type 2] Any force resulting in death;
- ❖ [Type 3] Any force creating a substantial risk of causing death;
- ❖ [Type 4] Intentional strikes to the head with an impact or impromptu impact weapon, regardless of injury;

- ❖ [Type 5] Any unintentional firearm discharge with injury or as directed by the CID Commander;
- ❖ [Type 6] Any force which results in Serious Bodily Injury (See DGO K-03 II, F) other than the Carotid Restraint;
- ❖ [Type 7] The use of the Carotid Restraint, including a Carotid Takedown, with loss of consciousness;
- ❖ [Type 8] Other. Used for non-enumerated lethal force such as intentionally striking a person with a vehicle, or to denote when Level 2-4 force has been elevated to Level 1 for purposes of investigation.
 - The use of a vehicle by a member to intentionally strike a suspect shall be considered deadly force, reported and investigated as a Level 1 UOF under this section. This includes at any vehicle speed, with or without injury, when the act was intentional, and contact was made.

B. Level 2

- ❖ [Type 9] Personal Weapon strikes to the head or to a **restrained** subject;
 - A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP, or a RIP Hobble;
 - A subject with one handcuff on is not considered restrained.
- ❖ [Type 10] Use of the Carotid Restraint, or Carotid Takedown, without loss of consciousness;
- ❖ [Type 12] Impact or impromptu impact weapon strike with contact, regardless of injury;
 - Includes Specialty Impact Munitions (SIM) or any other object;
 - Excludes intentional impact or impromptu impact weapon strikes to the head.
- ❖ [Type 13] Any use of force resulting in injury requiring emergency medical treatment (beyond first aid) or hospital admittance;
 - Excludes Level 1 force types;
 - For the purpose of this order, an evaluation by a medical professional to assess a complaint of injury is **not** emergency medical treatment.
- ❖ [Type 14] Police canine bites a person's clothing or skin, or causes an injury requiring emergency medical treatment (beyond first aid) or hospital admittance;
- ❖ [Type 27] Any unintentional firearms discharge that does not result in injury;
- ❖ [Type 30] Oleoresin Capsicum (OC / Pepper Spray) or other chemical agent applied to a **restrained** subject;

- A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP, or a RIP Hobble;
- A subject with one handcuff on is not considered restrained.
- ❖ **[Type 31]** An Electronic Control Weapon (ECW) is used against a **restrained** subject;
 - Includes probe mode and drive-stun mode;
 - A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP, or a RIP Hobble;
 - A subject with one handcuff on is not considered restrained.
- ❖ **[Type 15]** Other. Used for non-enumerated less-lethal force investigated at a Level 2, or to denote when any Level 3-4 force has been raised to Level 2 for purpose of investigation.

C. Level 3

- ❖ **[Type 11]** ECW probes impact a subject's clothing or penetrate the skin, or the ECW is used in drive-stun mode where the arc touches the subject's clothes or skin;
- ❖ **[Type 18]** ECW probes are fired at a subject but miss;
- ❖ **[Type 16]** All non-carotid takedowns on a **restrained** subject;
 - A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP, or a RIP Hobble;
 - A subject with one handcuff on is not considered restrained.
- ❖ **[Type 16a]** Personal Weapon strikes other than strikes to the head or to a restrained subject;
- ❖ **[Type 17]** OC is applied to an unrestrained person;
- ❖ **[Type 17a]** A chemical agent (other than OC) is deployed against or applied to an unrestrained person;
- ❖ **[Type 19]** Non-striking use of the baton against a person (e.g. prying limbs, moving or controlling a person);
- ❖ **[Type 20]** Attempted impact weapon strikes, including SIM, which miss where **no contact is made**;
- ❖ **[Type 21]** On-duty lethal firearm discharge at an animal, other than dispatching an injured animal.

D. Level 4

- ❖ **[Type 22]** Pointing a firearm at a person;
 - Includes pointing a firearm loaded with less-lethal ammunition at a person, except during Crowd Control Operations.
- ❖ **[Type 23]** Weaponless defense technique applied to a vulnerable area for the purpose of inducing pain, excluding strikes (e.g. hair grab, pressure to mastoid, trapezius grab);
- ❖ **[Type 24]** On-duty firearm discharge to dispatch an injured animal;
- ❖ **[Type 25]** A weaponless defense technique control hold is applied, for the purpose of inducing pain, including the Twist Lock, Arm-bar, Bent-wrist, or Arm-bar Hammerlock;
 - Handcuffing and escorting techniques which incorporate concepts common to control holds and are not used to overcome resistance or inflict pain are **NOT** reportable uses of force⁷.
- ❖ **[Type 26]** Any Level 3 force incident meeting the criteria to be reported as a Level 4 AND reviewed and approved by a supervisor or commander;
- ❖ **[Type 28]** A canine deployment where the subject is located by the canine but no bite occurs OR the canine makes non-biting physical contact with the subject with no injury beyond first aid;
 - Includes alert or detaining behavior such as barking at, growling at, or circling the subject;
 - Excludes canine deployments where the subject is located by means other than the canine or if no subject is located during the search.
- ❖ **[Type 29]** All non-carotid takedowns, except on a restrained subject;
- ❖ **[Type 32]** Any use of force, as defined in DGO K-03, to
 - Overcome resistance of a person during an arrest or a detention; or
 - Defend any individual from combative action by another person;And which is not categorized in reporting types 1-31.
- Section VI, A, 4 is stricken from the policy. Sections VI, A, 5 and 6 will be re-numbered as 4 and 5, respectively.

The above changes go into effect immediately and this Special Order will stay in effect until cancelled or until the revision of DGOs K-03 and K-04.

⁷ See e.g. “Applying Handcuffs in Standing Handcuffing”, 302.14.3(a), OPD Procedure 302 *Handcuffing and Restraints* (p. 14) or “Raising the Subject to His or Her Feet for High-Risk Kneeling Position Handcuffing”, 302.15.4(a), *ibid.* (p. 20).

By order of

Anne E. Kirkpatrick
Chief of Police

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 16 Oct 14

SUBJECT: Revised DGO K-4, REPORTING AND INVESTIGATING THE USE OF
FORCE (01 Aug 07)

The purpose of this revision is to update policy consistent with the revisions to DGO K-3, USE OF FORCE and DGO K-9, POLICE CANINES and to incorporate previously issued Special Orders.

SO 8999, SO 8977, SO 8970 and SO 9057 have been incorporated in the policy revision and are hereby cancelled.

The following is a summary of the substantive changes to DGO K-4. This summary shall not take the place of the review and understanding of the entire document:

- Added language raising a force level investigation to a Level 1

When the Watch Commander has raised a force a force level investigation to a Level 1, investigator preparing the Use of Force Report (TF-967) shall enter Force Type 8-XX (where “8” indicates the force investigation is being raised to a higher level and “XX” indicates the actual force type applied) into the Force Type # box in Part 2 of the Use of Force Report.

- Added language defining a restrained subject

- a. A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP or Rip Hobble.
- b. A subject with only one handcuff on is not a restrained person.

- Added a new Level 4 Use of Force for canine deployments

A canine deployment in which a suspect is located by the canine but no bite occurs.

- a. This includes alert or detaining behavior such as barking, growling circling or making non-biting physical contact with the subject which does not result in injury requiring emergency medical treatment (beyond first-aid) or hospital admittance.
- b. This does not include a canine deployment in which the suspect is located by means other than the canine or where no suspect is located.

- Added language for the minimal information required in the appropriate report when a member or employee has a use of force

Articulation of the reasonableness of the force

- Added requirement for transportation to a medical facility for evaluation

Any strike to the head with an impact weapon

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of



Sean Whent
Chief of Police

Date Signed: _____



DEPARTMENTAL
GENERAL
ORDER

Effective Date
16 Oct 14

K-4

Evaluation Coordinator:
BFO Commander:

Index as:

Evaluation Due Date:
16 Apr 15

Reporting and Investigating the
Use of Force

Automatic Revision Cycle:
3 Years

REPORTING AND INVESTIGATING THE USE OF FORCE

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REPORTING AND INVESTIGATING THE USE OF FORCE

The purpose of this order is to set forth Departmental policy and procedures for reporting, investigating, reviewing, and managing use of force incidents involving Departmental personnel.

I. POLICY

- A. Commanders, investigators and supervisors shall complete a Department approved training course for the Departmental use of force policy (DGO K-3) and reporting and investigating use of force incidents (DGO K-4) prior to conducting any use of force investigation. The training course shall include provisions of the Public Safety Officers’ Procedural Bill of Rights (POBR), Departmental General Order (DGO) M-3, RECEIVING AND PROCESSING COMPLAINTS AGAINST DEPARTMENT PERSONNEL OR PROCEDURES and DGO M-4.1, CRIMINAL INVESTIGATIONS INVOLVING ACTIVE LAW ENFORCEMENT, OR A MEMBER OR EMPLOYEE OF THE DEPARTMENT.
- B. Personnel shall notify his/her supervisor immediately or as soon as practical, of any use of force, allegation of a use of force, or an allegation of unreasonable force.
 - 1. When notified of a Level 1, 2, or 3 use of force, the supervisor or commander shall respond to the scene and conduct the appropriate force investigation.
 - 2. When notified of an allegation of a use of force and the member/employee denies using force, the supervisor or commander shall respond to the scene and conduct a preliminary investigation into the use of force allegation.
 - 3. When a subject who has incurred an injury requiring more than basic first-aid **and** the injury did not occur as a result of a member’s

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use of force (e.g. suspect attempts to flee and injures themselves during a fall or suspect intentionally bangs their head while in the back seat of a police vehicle) **and** there is no allegation of force by the subject; or

4. When there is a discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) by a member to accomplish a tactical police purpose that does not result in injury.
- C. If any force investigation indicates misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally initiate an internal investigation in accordance with the provisions of DGO M-3. Document the date the IAD was notified in the Use of Force Report (TF-967).
- D. If any force investigation indicates criminal misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally make the proper notifications in accordance with the provisions of DGO M-4.1. Document the date the CID was notified in the Use of Force Report.
- E. Personnel shall request medical service without delay when a subject has visible injuries or the subject has a complaint of injury.
- F. Supervisors and commanders shall be held accountable for the timely, accurate, and thorough documentation of all use of force incidents.
- G. Reports shall not contain “boilerplate” or “pat” language (e.g., “furtive movement” or “fighting stance,” etc.) without descriptive or explanatory details of the action.”
- H. Supervisors and commanders have the discretion, except as indicated in Part II, B, 7, to elevate any level of force investigation in order to conduct a more thorough investigation of the incident. The Watch Commander shall approve elevating a force investigation to a Level 1.

1. Raising to Level 2 Use of Force

When raising a force level investigation to a Level 2, the supervisor or commander preparing the Use of Force Report (TF-967) shall enter Force Type 15-XX (where “15” indicates the force investigation is being raised to a higher level and “XX” indicates the actual force type applied) into the Force Type # box in Part 2 of the Use of Force Report.¹

¹ The Force Type code must be reported in this specific order in the Force Type box to ensure proper entry into iPAS.

2. Raising to a Level 1 Use of Force

When the Watch Commander has raised a force a force level investigation to a Level 1, investigator preparing the Use of Force Report (TF-967) shall enter Force Type 8-XX (where “8” indicates the force investigation is being raised to a higher level and “XX” indicates the actual force type applied) into the Force Type # box in Part 2 of the Use of Force Report

- I. A supervisor or commander involved in a use of force shall not investigate the incident or review for approval the Use of Force Report.
 - 1. In the event personnel working a tour of duty in the Patrol Division, of the rank of sergeant or above, are involved in a Level 2 or 3 use of force incident, the Watch Commander shall assign an investigator to conduct the investigation.
 - 2. In the event personnel working a tour of duty in any division other than Patrol, of the rank of sergeant or above is involved in a Level 2 or 3 use of force incident, the unit commander shall assign an investigator to conduct the investigation with the approval of the division commander and, if unavailable, the Watch Commander².
 - 3. The Watch Commander may approve a supervisor or commander to investigate, a Level 2 or 3 use of force with their own self-reported Level 4 use of force when they occur in the same incident.
- J. In the event multiple members use the same level of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel.

In the event multiple members use different levels of force in a single incident, the reporting member shall prepare only one Use of Force Report listing all involved personnel. An investigation shall be conducted at the highest level when multiple force options are used.
- K. Supervisors and commanders shall identify Department or individual training and tactical issues and make recommendations for corrective action, when appropriate and document the recommendations in the Use of Force Report.

² When a member is assigned to investigate a use of force incident involving another member of equal rank and an arrest is made requiring approval, the provisions of DGO M-18, ARREST APPROVAL shall be followed.

- L. Supervisors and commanders shall ensure the provisions of POBR are properly applied.
- M. Personnel may delay compliance with the provisions of this order if the scene is unstable, there is community unrest, or other conditions make immediate compliance impracticable. The protection of Department personnel and the public, and the maintenance of public safety shall remain the priority. The approving supervisor or commander shall ensure the reason for the delay is documented in the Use of Force Report. Such compliance delays are subject to review by the appropriate review board.
- N. Injured or killed animals shall be handled and/or properly disposed of in accordance with the provisions of DGO A-5, ANIMAL CONTROL PROCEDURES.

II. FORCE LEVELS

Force options enumerated in DGO K-3 are grouped in the following force levels for reporting and investigating purposes only.

- A. Level 1
 - 1. Any use of force resulting in death;
 - 2. Any intentional firearm discharge at a person, regardless of injury;
 - 3. Any force which creates a substantial risk of causing death;

The use of a vehicle by a member to intentionally strike a suspect shall be considered deadly force, reported and investigated as a Level 1 UOF under this section. This includes at any vehicle speed, with or without injury, when the act was intentional, and contact was made.
 - 4. Serious bodily injury, to include:
 - a. Any use of force resulting in the loss of consciousness; and
 - b. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis.)
 - 5. Any unintentional firearms discharge:
 - a. If a person is injured as a result of the discharge; or

- b. As directed by the CID Commander.
 - 6. Any intentional impact weapon strike to the head.
 - 7. Any use of force investigation that is elevated to a Level 1 approved by a Watch Commander.
- B. Level 2
- 1. Any strike to the head (except for an intentional strike with an impact weapon);
 - 2. Carotid restraint is applied that does not result in the loss of consciousness;
 - 3. Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and **contact is made**, regardless of injury.
 - 4. Any unintentional firearms discharge that does not result in injury;
 - 5. A police canine bites the clothing or the skin of a subject, or otherwise injures a subject requiring emergency medical treatment (beyond first-aid) or hospital admittance.
 - 6. Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance.
- Note:** For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.
- 7. Any Level 3 use of force used on or applied to a restrained subject.
 - a. A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP or Rip Hobble.
 - b. A subject with only one handcuff on is not a restrained person.
- C. Level 3
- 1. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent is applied to an unrestrained person;

2. The use of an Electronic Control Weapon (ECW), except on a restrained subject, involving any of the following circumstances:
 - a. When one or more probes impacts or penetrates the subject's clothing or skin;
 - b. When the push stun arc touches the subject's clothing or skin; or
 - c. An ECW is fired at a person, but misses.
 3. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but **no contact is made**; or
 4. The baton is used for a non-striking purpose (e.g., prying limbs, moving or controlling a person);
 5. A Weaponless Defense Technique other than control holds, excluding strikes to the head. Examples include;
 - a. Hand/palm/elbow strikes;
 - b. Kicks;
 - c. Leg sweeps; and
 - d. Takedowns.
 6. An on-duty firearm discharge at an animal other than to dispatch an injured animal.
- D. Level 4
1. The intentional pointing of a firearm at a person.
 - a. This includes intentional pointing a firearm loaded with less-lethal ammunition at a person, except during Crowd Control Operation.
 - b. This does not include the low ready/retention position as specified in Part VI, A, 4.)

Refer to Part IV, A, 1-3 of DGO K-3, USE OF FORCE, for further information specific to the pointing of firearms.

2. A Weaponless Defense Technique is applied to a Vulnerable Area, excluding strikes (e.g., Hair grab, pressure to mastoid or jaw line; and shoulder muscle grab).
3. An on-duty firearm discharge to dispatch an injured animal; or
4. A Weaponless Defense Technique Control Hold is applied:
 - a. Escort (elbow);
 - b. Twist lock;
 - c. Arm-bar; or
 - d. Bent-wrist.

A Weaponless Defense Technique Control Hold applied for the purpose of handcuffing or escorts that do not result in injury or a complaint of injury are **NOT** reportable uses of force.

5. A canine deployment in which a suspect is located by the canine but no bite occurs.
 - a. This includes alert or detaining behavior such as barking, growling circling or making non-biting physical contact with the subject which does not result in injury requiring emergency medical treatment (beyond first-aid) or hospital admittance.
 - b. This does not include a canine deployment in which the suspect is located by means other than the canine or where no suspect is located.

III. LEVEL 1 FORCE OR IN-CUSTODY DEATH INCIDENTS

These incidents require concurrent investigations conducted by the Homicide Section and the Internal Affairs Division.

- A. Involved personnel and personnel witnessing the use of force responsibilities:
 1. Notify and brief their supervisor immediately, or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
 2. Every member or employee who uses or is a witness to a Level 1 use of force shall not discuss the incident with others and limit any discussion of the incident to information required:

- a. For a Public Safety Statement;
 - b. To assist in the investigations; or
 - c. To lead to the apprehension of the suspect.
- B. Uninvolved personnel who did not witness the use of force shall perform the following, as directed by a supervisor or commander:
1. Conduct a reasonable canvas in an effort to identify and obtain statements from witnesses in the proximity of the use of force incident.
 2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935). Statements shall be taken, when practical, and included in the Use of Force or In-Custody Death Report packet. The following criteria shall be used when listing witnesses:
 - a. Outside Agency Personnel

Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

 - 1) Name;
 - 2) Rank/Title;
 - 3) Serial number; and
 - 4) Agency affiliation.
 - b. Private Person Witnesses

Private persons, at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified, when possible, as follows:

 - 1) Name;
 - 2) Sex, Race, DOB;
 - 3) Contact number(s); and
 - 4) Home address.
 3. Document, in the appropriate report, why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, public safety concerns, insufficient police resources), when the witness refused to remain at the scene, or is uncooperative.

4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness' physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.
5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.
6. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report. Group interviewing is prohibited.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged.
2. Scene security:
 - a. Ensure a Crime Scene Security Log is maintained to record the time and identifying information of all persons entering and exiting the scene, to include:
 - 1) Department personnel;
 - 2) Medical personnel;
 - 3) Fire Department unit number and personnel; and
 - 4) Other persons.
 - b. Ensure the Crime Scene Security Log is delivered to the Homicide Section investigator for inclusion in the investigative case file.
3. Manage the scene, until relieved by the Incident Commander.
4. Ensure the Watch Commander has been notified and briefed of the incident.

5. Manage the scene, until relieved by the Incident Commander.
6. Attempt to obtain and document a Public Safety Statement, to include:
 - a. A verbal account from involved personnel to help determine the general circumstances of the incident;
 - b. Assess the need for resources and notifications;
 - c. Help set the perimeter;
 - d. Locate injured persons;
 - e. Determine the nature of the evidence to seek;
 - f. Identify the number of suspects involved;
 - g. Identify the number of suspects outstanding; and
 - h. The number and direction of shots fired, if any.

The supervisor shall not ask the involved personnel to provide a step-by-step narrative of the Level 1 (lethal force) incident or to provide a motive for their actions.

7. Coordinate the apprehension of the suspect, if still outstanding.
8. Coordinate the preliminary investigation with the IAD and Homicide investigators, to include but not limited to:
 - a. Identifying involved and witness personnel;
 - b. Designating a reporting officer;
 - c. Ensuring the preservation of evidence;
 - d. Identifying other witnesses in accordance with the provisions of Part III, B; and
 - e. Assisting investigators to ensure statements are taken.
9. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee.

The outcome shall be documented in the member's Supplemental Report after the supervisor has talked to the witness.

10. Separate and prohibit communication between involved personnel and witnesses.
11. Ensure involved personnel limit any discussion of the incident to information necessary:
 - a. For a Public Safety Statement;
 - b. Required to assist in the investigations; or
 - c. Leading to the apprehension of the suspect.
12. Ensure personnel complete a Supplemental Report who were on scene at the time of the incident (not including involved or witness personnel) or were assigned to assist at the scene.

Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting and interviewing is prohibited.

13. Document the reason in a Supplemental Report when personnel are directed not to complete a required report.
14. Contact and provide the IAD investigator with the complaint information if notified of an allegation of unreasonable force.

D. Follow-up Investigators Responsibilities

1. Homicide Section

The Homicide Section shall conduct a follow-up investigation and prepare and forward a Follow-up Investigation Report (336-201) to the IAD for review in accordance with the provisions of Homicide Section Policy and Procedure, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS, **within 45 calendar days**, unless extended by the CID Commander.

2. District Attorney's (DA) Office Standby Team

- a. The DA's Office will respond with their on-call shooting team to all fatal officer-involved shootings and other incidents as they deem necessary.

- b. In the event of an officer-involved shooting in which a person is struck, and when a conflict of interest exists, the Bureau of Investigation Deputy Chief shall confer with the DA's Office to determine the most appropriate agency or investigative body to conduct the investigation.

3. Internal Affairs Division

The IAD shall conduct a concurrent but independent use of force investigation and prepare a Use of Force/In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 **within 60 calendar days**, unless extended by the COP.

E. The Watch Commander or Designee Responsibilities

- 1. Respond to the scene and take command of the incident.
- 2. Monitor the incident to ensure good scene management and ensure the assigned supervisor coordinates and assists with a thorough and proper preliminary investigation.
- 3. Ensure the following notifications are made as soon as possible unless conditions at the scene make such notification impractical:
 - a. The Homicide Section Commander, Homicide Call-Out Team and the CID Commander;
 - b. Internal Affairs Division Investigative Section Commander and IAD Call-Out Team;
 - c. Chief of Staff (OCOP);
 - d. Chief of Police (COP);
 - e. Alameda County District Attorney's Office Standby Team for force incidents resulting in death or injury likely to result in death;
 - f. Office of the City Attorney (OCA);
 - g. Office of Inspector General (OIG);
 - h. City Administrator;

- i. Appropriate Bureau of Field Operations (BFO) Deputy Chief;
- j. Division commander of the involved member or employee.

IV. LEVEL 2 FORCE INCIDENTS

A use of force investigation conducted by a supervisor or commander.

Responsibilities

- A. Involved or witness personnel to the use of force shall:
 - 1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
 - 2. Complete and submit for review the appropriate Offense/ Supplemental Report **prior to the end of tour of duty**, unless extended by the Watch Commander. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
 - 3. Ensure the subject is transported to a medical facility for medical evaluation if a carotid restraint is applied. Document a refusal for medical treatment.
- B. Uninvolved personnel who did not witness the use of force shall perform the following, when directed by a supervisor or commander:
 - 1. Conduct a reasonable canvas in an effort to identify and obtain statements from other witnesses in the proximity of the use of force incident, commensurate with the availability of resources and the conditions of the event.
 - 2. Witnesses to a use of force shall be identified to the extent that it is reasonable and listed in a Supplemental Report (536-937) or Victim/Witness Report (536-935).

Statements shall be taken from outside agency personnel or private person witnesses, when practical. The following criteria shall be used when listing witnesses:

a. Outside Agency Personnel

Outside agency personnel at the scene of a use of force incident, whether they witnessed the use of force or not, shall be identified as follows:

- 1) Name;
- 2) Rank/Title;
- 3) Serial number; and
- 4) Department affiliation.

b. Private Person Witnesses

Private persons at the scene of a use of force incident whether they witnessed the use of force or not, shall be identified, when possible, as follows:

- 1) Name;
- 2) Sex, Race, DOB;
- 3) Contact number(s); and
- 4) Home address.

3. Document in the appropriate report why witness information was not obtained in situations where it was unsafe or impractical to obtain, (e.g., hostile crowd, insufficient police resources), the witness refused to remain at the scene, or is uncooperative.
4. Members shall not detain or delay a witness who refuses to remain at the scene; however the witness' physical description, license plate, comments, or other identifiers shall be obtained when available and documented in the appropriate report.
5. Members shall summon a supervisor to the scene in the event a witness refuses to give a statement or provide identification information.
6. Complete a Supplemental Report without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.

7. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report.

C. Supervisor Responsibilities

1. Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged;

In the event the Watch Commander is involved in the use of force incident, he/she shall contact his/her immediate superior officer. The superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.

2. Secure and manage the scene.
3. Coordinate the apprehension of the suspect, if still outstanding.
4. Ensure the subject is transported to a medical facility for medical evaluation when a carotid restraint is applied or there is any strike to the head with an impact weapon.
5. Contact the Communications Division before the end of tour of duty and advise the Communications Division Shift Supervisor to enter the use of force incident into the Daily IAD Incident Log.
6. When the situation has been stabilized and it can be accomplished safely:
 - a. Advise the Watch Commander or commander of the operation of the incident;
 - b. Ensure involved personnel and witnesses, outside agency personnel, and private person witnesses are identified in accordance with the provisions of RWM Insert U-1.
 - c. Ensure involved personnel and witnesses have been separated and advised that communication regarding the incident is prohibited.

7. Conduct an investigation in a timely manner to include, but not limited to, the following:
 - a. A separate, personal interview with involved and witness personnel including, if necessary, a written or recorded statement.
 - b. Personnel on scene at the time of the use of force incident, but not involved in or a witness to the use of force, shall be separately interviewed by the investigating supervisor, prior to clearing from the incident. Any relevant information revealed in the interview shall be included in the member or employee's Supplemental Report. Group interviewing is prohibited.
 - c. A personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.
 - d. Contact medical personnel, when practical, who evaluated and/or provided treatment to the subject for available information on the subject's injuries and condition.
 - e. Ensure photographs are taken of:
 - 1) The physical condition of the subject and involved personnel, to record the presence or lack of injuries;
 - 2) The location of the use of force incident; and
 - 3) Other relevant evidence.Document the reason why photographs were not taken.
 - f. Ensure digital photographs or films are submitted and processed utilizing one of the following procedures:
 - 1) Digital – Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or
 - 2) Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:

- a) **Comments** box – Indicate “Use of Force” & RD No. & “Put on CD”;
 - b) **Send To** box – “To IAD Administrative Supervisor.”
8. Respond to the location of a witness who has declined to give a statement or has refused to give witness identification information when requested by a member or employee. The outcome shall be documented in the member’s Supplemental Report after the supervisor has talked to the witness.
 9. Ensure personnel who were on scene at the time of the incident or were assigned to assist at the scene complete the appropriate report.
 10. Offense/Supplemental Reports shall be prepared independently without discussing the details of the incident with other personnel on scene. Group reporting is prohibited.
 11. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.
 12. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.
 13. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
 14. Incomplete or inadequate reports shall be returned for additional details or clarification.
 15. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.
 16. Ensure the Use of Force Report packet contains:

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- a. The **original** Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;
 - b. A **copy** of the appropriate report (e.g., Offense Report or field contact card); and
 - c. **Copies** of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).
17. Email only the Use of Force Report face sheet (page 1) to the following, **prior to the end of tour of duty**:
- a. opdiad@oaklandnet.com;
 - b. bfoadmin@oaklandnet.com;
 - c. Involved member or employee's Division Commander; and
 - d. Involved member or employee's Bureau Deputy Chief/Assistant Chief (CID).
18. Ensure the **original** Offense Report **and** ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
19. Retain an electronic **copy** of the Use of Force Report until documented in the member/employee's annual performance appraisal.
20. Complete and forward the Use of Force Report packet, **within seven (7) calendar days**, through the appropriate chain-of-review³. The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.
- D. Watch Commander or Commander of the Operation Incident Scene Responsibilities

³ For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.

1. Respond to the scene and take Incident Command when advised the incident involves significant Department resources or is likely to generate unusual public interest.
2. Monitor and ensure the use of force investigation is conducted in a thorough, methodical, and efficient manner.

V. LEVEL 3 FORCE INCIDENTS

A review of a Level 3 force incident conducted by a supervisor or commander to assess the appropriate reporting level.

A. Involved or witness personnel to the use of force shall:

1. Notify and brief their supervisor immediately or as soon as practical. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified.
2. Every member or employee who uses or witnesses a level of force requiring a Level 3 investigation shall independently complete the appropriate Offense or Supplemental Report;

The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense or Supplemental Report:

- a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force; and
 - c. A detailed description of the force used.
3. Personnel who are assigned to assist at the scene shall complete a Supplemental Report if directed by a supervisor, commander or investigator.

B. Supervisor/Commander Responsibilities

Respond to the location of the incident unless community unrest or other conditions make such response impracticable. In such instances, an alternate safe location shall be arranged; and

1. Secure the scene, if necessary;
2. Coordinate the apprehension of the suspect, if still outstanding;

3. Discuss the general circumstances of the incident with the involved personnel and witnesses to assess the appropriate reporting level, the need for resources, and to assess whether injuries, if present, are consistent with the force applied;
4. Conduct a personal interview with the subject(s) upon whom the use of force was used to include a written or recorded statement, when possible.
5. The responding on-scene supervisor or commander may authorize a Level 3 use of force incidents to be reported as a Level 4 when there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, **and** no indication the use of force was out of policy. Affirmative approval shall be made by signing the approval box on the Use of Force Report - Part 3a. The following Level 3 use of force incidents may be considered:
 - a. An ECW is fired at an unrestrained subject, but misses;
 - b. Oleoresin Capsicum (OC/Pepper Spray) or other chemical agent applied to a person;
 - c. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person but **no contact is made**;
 - d. A baton used for a non-striking purpose (e.g., prying limbs, moving or controlling a person); or
 - e. A Weaponless Defense Technique other than control holds, excluding strikes to the head, to include:
 - 1) Hand/palm/elbow strikes;
 - 2) Kicks;
 - 3) Leg sweeps; and
 - 4) Takedowns.

In the event the Watch Commander is involved in a Level 3 use of force incident enumerated above in Part V, B, 5, a-e, he/she shall contact his/her immediate superior officer to determine the appropriate level of reporting. If a Level 3 investigation is determined, the superior officer has the discretion to respond to the scene to conduct the investigation or assign another investigator.

6. Level 3 reporting shall include documentation of the following:
 - a. The absence of injuries to the subject;
 - b. A description of the injury not requiring emergency medical treatment or hospital admittance; or
 - c. Any injury to OPD personnel and any medical care or treatment provided.
7. Assess any complaint of injury and consider it as a factor toward elevating the Level 3 force to a Level 2 force investigation.
8. Ensure photographs are taken of the subject and involved member/employee to record the presence or absence of injuries, the location of the incident, and other relevant evidence. Document the reason why photographs were not taken.
9. Ensure digital photographs or films are submitted and processed utilizing one of the following procedures:
 - a. Digital – Copy digital files to a compact disk, handle and submit as evidence, and list as evidence in the Use of Force Report; or
 - b. Film – Submit film for processing utilizing a Photo Evidence Card (536-317). Complete the appropriate boxes on the card. Additionally, ensure the following information is on the card:
 - 1) **Comments** box – Indicate “Use of Force” & RD No. & “Put on CD”;
 - 2) **Send To** box – “To IAD Administrative Supervisor.”
10. Interview available witnesses at the scene.

NOTE: Written/recorded statements are not required for a Level 3 force incident.
11. Contact Communications Division and advise the Communications Supervisor, or in his/her absence, the on-duty Police Communications Supervisor, to enter the use of force into the Daily IAD Incident Log.

12. Ensure personnel complete a Supplemental Report who were witnesses to a Level 3 force incident or were assigned to assist at the scene.
13. When a supervisor, commander or investigator directs personnel not to complete a required report, the reason shall be documented in the Use of Force Report.
14. Conduct a thorough review of all documents to be included in the Use of Force Report packet to ensure completeness, accuracy, and quality.
15. Ensure the appropriate Offense or Supplemental Report contains the following minimum information regarding the use of force incident:
 - a. The original reason for police presence on the scene;
 - b. The circumstances that resulted in the use of force;
 - c. A detailed description of the force used; and
 - d. Document the number of bursts, duration of each burst, the approximate distance from the subject, and the location of spray contact, when OC is used.
16. Incomplete or inadequate reports shall be returned for additional details or clarification.
17. Prepare a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT, unless otherwise directed by a commander or investigator.
18. Ensure the Use of Force Report packet contains:
 - a. The **original** Use of Force Report to include a Chronological Activity Log and Use of Force Checklist;
 - b. A **copy** of the appropriate report (e.g., Offense Report or field contact card); and
 - c. **Copies** of ancillary documents, if necessary (e.g., statements (if any), Supplemental Reports, Technician Reports, Detail, CAD purge, available medical information obtained, and photographs, if available).

19. Email only the face sheet of the Use of Force Report to the following, **prior to the end of tour of duty**:
 - a. opdiad@oaklandnet.com;
 - b. bfoadmin@oaklandnet.com;
 - c. Involved member or employee's Division Commander; and
 - d. Involved member or employee's Bureau Deputy Chief/Assistant Chief (CID).
20. Ensure the **original** Offense Report **and** ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
21. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.
 - a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a **Level 2** force investigation and initiate an internal investigation.
 - b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Report.
22. Retain an electronic **copy** of the Use of Force Report until documented in the member/employee's annual performance appraisal.
23. Complete and forward the Use of Force Report packet, **within seven (7) calendar days**, through the appropriate chain-of-review⁴. The due date may be extended with the approval of the reviewing Division Commander and shall be documented in the Chronological Activity Log.

VI. LEVEL 4 FORCE INCIDENTS

A self-reported use of force.

⁴ For the purpose of this order, the appropriate chain-of-review refers to the chain-of-command under which the involved member was working during that tour of duty when the force incident occurred.

A. Involved Personnel Responsibilities

1. Notify and brief their supervisor immediately or as soon as practical after the Level 4 use of force. If the immediate supervisor is unavailable, another field supervisor or commander shall be notified. This notification shall take place before the member clears the call in which the UOF incident took place. If circumstances exist that prevent this notification, before the call is cleared, it shall be documented in the UOF report.

2. Complete a Use of Force Report (TF-967) in accordance with the provisions of RWM Insert U-1, USE OF FORCE REPORT or when authorized by a supervisor or commander.

A narrative shall be included in the Use of Force Report if no other required Offense or Supplemental Report is completed.

3. The member or employee who uses force shall include the following minimum information regarding the use of force incident in their Offense, Supplemental, or Use of Force Report:

- a. The initial reason for the police encounter;
- b. The circumstances that resulted in the use of force;
- c. Articulation of the reasonableness of the force; and
- d. A detailed description of the force used.

4. Low Ready/Retention Position

The low ready/retention position is where the firearm is pointed at a 45-degree angle or less and **not at a person**. The purpose of the low ready/retention position is to:

- a. Scan areas for threats without the weapon obscuring the officer's view;
- b. Make a proper assessment of persons by being able to see the hands and areas where weapons can be concealed; and
- c. Move around persons so the muzzle does not sweep them.

Although the use of the low ready/retention position is not a reportable use of force, members should document their use of the position in the appropriate report.

5. In the event a firearm loaded with less-lethal munitions is pointed at multiple people, members shall document in their report:

- a. Approximately how many people the officer intentionally pointed the firearm with less-lethal munitions at;
 - b. The justification for pointing the firearm with less-lethal munitions; and
 - c. The approximate time and location of the incident(s)
6. Place the **original** Use of Force Report and, if applicable, the appropriate Offense Report and ancillary documents in an In-Custody/Case Envelope and deliver to his/her immediate supervisor or, if unavailable, to an on-duty supervisor for review **prior to the end of tour of duty**.

B. Supervisor/Commander Responsibilities

1. When contacted by involved personnel, supervisors shall review the general circumstances of the incident with the involved personnel as necessary, and ensure the facts are consistent with the reporting level. Supervisors are not required to respond to the incident.
2. Prior to reducing a Level 3 use of force incident to a Level 4, the approving supervisor shall ensure there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, **and** there is no indication the use of force was out of policy. Affirmative approval shall be made by the supervisor by signing the appropriate box on the Use of Force Report - Part 3a.
3. If notified of an allegation of unreasonable force, the supervisor shall conduct a preliminary investigation.
 - a. If there is corroborating evidence that unreasonable use of force occurred, the supervisor shall conduct a **Level 2** force investigation and initiate an internal investigation.
 - b. If there is no corroborating evidence that unreasonable use of force occurred, the supervisor shall document the results of the preliminary complaint investigation in a Risk Management Memorandum if no Use of Force Report is completed.
4. **Level 4** incidents do not require witness identification.

5. Supervisors shall monitor officers' performance through direct observation, UOF investigations, report review or other methods to ensure the drawing at low-ready or the pointing of firearms at or in the direction of a person is safe, tactically sound and reasonable.

If safety or tactical deficiencies are identified, or the level of force by the officer(s) is inappropriate or disproportionate (e.g. too many officers pointing a firearm at a single person), AND the deficiency or the level of force does not denote Class-1 misconduct or a pattern of similar conduct by the involved officer(s), supervisors shall address the matter by counseling the officer and documenting such counseling in the officers' SNF file.

VII. LEVEL 1 FORCE INCIDENTS INVOLVING AN OUTSIDE AGENCY

- A. A Level 1 force incident occurring outside the City of Oakland
 1. Upon notification, the Watch Commander shall:
 - a. Send an on-duty supervisor to the jurisdiction in which the incident occurred unless the distance makes it impractical. The supervisor shall remain with the member(s) during the investigation by the outside agency;
 - b. Notify the CID Commander who shall determine if Homicide investigators are to be called-out; and
 - c. Notify the IAD Commander who shall determine if IAD investigators are to be called-out.
 2. The law enforcement agency which has jurisdiction, in which the incident occurred, shall have incident command and primary criminal investigation responsibility. The Homicide Section shall only assume primary criminal investigation responsibility upon the request of the outside agency.
 3. Homicide Section investigators shall request to attend the interview of OPD personnel, unless the distance involved makes this impractical.
 4. IAD investigators shall request to monitor the interview of OPD personnel, unless the distance involved makes this impractical.
- B. A Level 1 force incident involving outside agency personnel within the City of Oakland

1. The Homicide Section shall conduct the criminal investigation for the following incidents:
 - a. Any use of force resulting in death;
 - b. Any intentional firearm discharge at a person regardless of injury;
 - c. Any force which creates a substantial risk of causing death;
 - d. Any unintentional firearms discharge if a person is injured as a result of the discharge; or
 - e. Any use of force incident referred by a Watch Commander.
2. The outside agency may assist at the discretion of the CID Commander.

VIII. COMMAND REVIEW AND ENDORSEMENT

- A. All reviewers shall:
 1. Review the Use of Force Report packet and evaluate the Use of Force Report and ancillary documents for completeness, accuracy, and quality and ensure reports do not contain “Boilerplate” or “Pat” language without descriptive or explanatory details of the action. Return any reports that are incomplete or inadequate and ensure corrections are made;
 2. Order further investigation or additional investigative resources when necessary;
 3. Evaluate and document whether the use of force was in compliance with Departmental policy and comment on any training and tactical issues, when appropriate; and
 4. Document extension approvals by the reviewing Division Commander on the Use of Force Chronological Activity Log. The Division Commander shall ensure the IAD and BFO Administrative Unit are notified of any approved extensions.
 5. Complete, endorse, and sign a Use of Force Report Signature Page (TF-967c) and forward the Use of Force Report packet within four (4) calendar days.

B. Level 1 Force Review Responsibilities

1. The Homicide Section Commander shall:
 - a. Ensure a follow-up investigation is conducted and the assigned Homicide investigator prepares a Follow-up Investigation Report (336-201) in accordance with the provisions of Homicide Section Policy and Procedure 01, LEVEL 1/IN-CUSTODY DEATH INVESTIGATIONS.
 - b. Review and forward the approved Follow-up Investigation Report to the IAD **within 45 calendar days of the incident**, unless extended by the CID Commander in accordance with the provisions of Homicide Section Policy and Procedure.
 - c. Provide an oral report to the Chief of Police within 72 hours of the incident.
2. The IAD Commander shall:
 - a. Ensure IAD investigators have conducted a concurrent use of force investigation and prepared a Use of Force or In-Custody Death Report in accordance with the provisions of RWM Insert U-1 and IAD Policy and Procedure 05-04 **within 60 calendar days of the incident**, unless extended by the Chief of Police.
 - b. Review and forward the approved Use of Force or In-Custody Death Report packet to the BOS Deputy Chief and Chief of Staff, **within 15 calendar days from receipt**, unless extended by the COP in accordance with the provisions of IAD Policy and Procedure 05-04.
 - c. Provide an oral report to the COP within 72 hours of the incident.
3. Force Board Coordinator (FBC)
 - a. Enter data from the Use of Force/In-Custody Death Report face sheet into a log upon receipt;
 - b. Track the Use of Force/In-Custody Death Report due date to ensure the timeliness of the investigation, and ensure the EFRB Chairperson has received the Use of Force Report packet and information necessary to conduct the EFRB.

Contact the IAD Commander and ascertain the delay if not received **within 76 calendar days of the incident** and notify the COP of the delay.

C. Level 2 and 3 Force Review Responsibilities

1. Reviewing Commanders shall:

- a. Review and forward all approved Use of Force Report packets through the Division Commander to BFO Administration Unit.

NOTE: BFO Administration Unit shall receive and track **ALL** Use of Force Report packets, regardless of originating unit.

- b. If a training issue arises from a Level 3 incident, the Division Commander shall ensure training is conducted and a Training Memorandum is completed and forwarded to the Training Division for input into the Training Management System (TMS).

AND/OR

- c. Training is requested from the Training Division, through a Training Memorandum, when it cannot be accomplished at the division level. Training Division personnel shall input completed training in the TMS.
- d. If a Department-related service recommendation (e.g., policy revision, equipment evaluation, new Department publication) arises from a Level 3 incident, the Division Commander shall prepare and forward a recommendation memorandum through the chain-of-command to the Chief of Police.

2. BFO Administrative Unit shall:

- a. Notify the appropriate commander if the Use of Force Report packet has not been received **within 16 calendar days of the incident**.
- b. Review the Use of Force Report;
- c. If the Use of Force Report is returned for additional follow-up or clarification, the due date may be extended, as needed, by the BFO Administrative Supervisor and documented in the Chronological Activity Log.

- d. Forward completed Use of Force Report packet to the FBC, **within four (4) calendar days of receipt of a completed packet.**

D. Level 4 Force Review Responsibilities

- 1. Reviewing supervisor:
 - a. Conduct a thorough review of all documents to ensure completeness, accuracy, and quality. This includes ensuring the time of notification of the use of force on the force reporting form.
 - b. Ensure the appropriate Offense, Supplemental, or Use of Force Report contains the following minimum information regarding the use of force incident:
 - 1) The original reason for police presence on the scene;
 - 2) The circumstances that resulted in the use of force; and
 - 3) A detailed description of the force used.
 - c. Incomplete or inadequate reports shall be returned for additional details or clarification.
 - d. Ensure the Use of Force Report has an Incident number. Advise the Communications Division Shift Supervisor to enter the use of force into the Daily IAD Incident Log.
 - e. Ensure the **original** Offense Report **and** ancillary documents are deposited in the Report Writing Receptacle in an In-Custody or Case Envelope.
 - f. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and
 - g. Ensure the Use of Force Report packet contains:
 - 1) The **original** Use of Force Report (No Chronological Activity Log or Use of Force Checklist is required);

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- 2) A **copy** of the appropriate report (e.g., Offense/Supplemental Report or field contact card); and
 - 3) **Copies** of statements (if any).
- h. Forward the **original** Use of Force Report packet to the first-level commander for review by the end of the next scheduled shift not to exceed five (5) calendar days from the date of the incident.
2. The first-level commander shall:
- a. Review the **original** Use of Force Report packet. If the Use of Force Report is returned for additional follow-up or clarification, the due date may be extended, as needed, and documented in the Chronological Activity Log.
 - b. Upon approval, sign the appropriate Level 4 Reviewer box on the Use of Force Report; and
 - c. Forward approved Use of Force packet to the BFO Administrative Unit **within four (4) calendar days of approval.**

In the event the Watch Commander prepares a Level 4 Use of Force Report, he/she shall forward the report to the BFO Administrative Unit.

E. FBC

Upon receipt of a Level 2-4 Use of Force Report, the FBC shall assign a Use of Force Tracking Number to and enter the Use of Force Report information into the appropriate database, and scan the file into electronic format. The FBC shall retain a hardcopy and an electronic file of the Use of Force Report packet.

Additionally, FBC shall forward the entire electronic file of Level 2 Use of Force Report packets, via email or appropriate media, to the Training Section Commander within **four (4) calendar days of receipt.**

IX. RISK MANAGEMENT

The purpose of documenting risk management issues is to ensure a proper preliminary investigation is conducted and notification of the incident is made to the IAD (for units outside of the IAD) when any of the incidents enumerated in Part I, B, 2-4 occur.

The supervisor shall:

- A. Respond to the scene;
- B. Ensure the involved member documents the circumstances of the incident in the appropriate report;
- C. Obtain an Incident Number from the Communications Division;
- D. Conduct a preliminary investigation;
 - 1. If the preliminary investigation reveals corroborating evidence that a use of force occurred, the supervisor or commander shall conduct a Level 2 force investigation⁵, initiate an internal investigation in accordance with the provisions of DGO M-3, and notify the Watch Commander;
 - 2. The Watch Commander shall contact the IAD to determine if a call-out is warranted;
 - 3. If the preliminary investigation reveals no corroborating evidence that an alleged use of force occurred, the supervisor or commander shall document the results of the preliminary complaint investigation in the narrative of the Use of Force Narrative Report (Level 2-4) or a Risk Management Memorandum if no Use of Force Report is completed.
- E. Risk management documentation shall include:
 - 1. A summary of the incident;
 - 2. Written or recorded statement(s) from the complainant, injured person, and witnesses, if practical;
 - 3. Indicate complainant was:

⁵ The IAD shall include risk management documentation in a Level 1/In-Custody Death Report.

- a. Advised of their right to file a complaint with CPRB;
- b. Provided with a Complaint Packet (TF-3208); and
- c. Provided with the Incident Number.

This does not apply if the injury occurred unintentionally as a result of an officer's actions or due to the suspect's own actions and the suspect makes no allegation of a use of force or does not indicate they want to file a complaint.

- 4. Photographs;
 - 5. Documentation of evidence collected or reason why evidence was not collected.
 - 6. Offense or Supplemental Report(s) from involved personnel; and
 - 7. Other pertinent documents (if available).
- F. Contact the Communications Division Shift Supervisor, at the conclusion of the preliminary investigation, and provide the following information:
- 1. Complainant's name (for verification);
 - 2. Time contact made with complainant;
 - 3. Name of Watch Commander/Unit Commander notified; and
 - 4. Disposition of complaint.
- G. If a Level 2-4 Use of Force Report is being prepared, check the "Risk Management Advisement" box on the Use of Force face sheet.

For Level 4 force incidents only:

- 1. The officer who used the force shall prepare a Use of Force Report.
- 2. The notified supervisor shall prepare a Use of Force Narrative Report to include the required elements enumerated in Part IX, A-F.
- 3. Include in the Use of Force Report packet.

DEPARTMENTAL GENERAL ORDER
OAKLAND POLICE DEPARTMENT

K-4

Effective Date:
16 Oct 14

- H. When no Use of Force Report is required, the notified supervisor shall prepare a Risk Management Memorandum to include the required elements enumerated in Part IX, A-F.
- I. Forward the Use of Force Report packet or the Risk Management Memorandum with documentation, through the appropriate chain-of-review to the IAD.

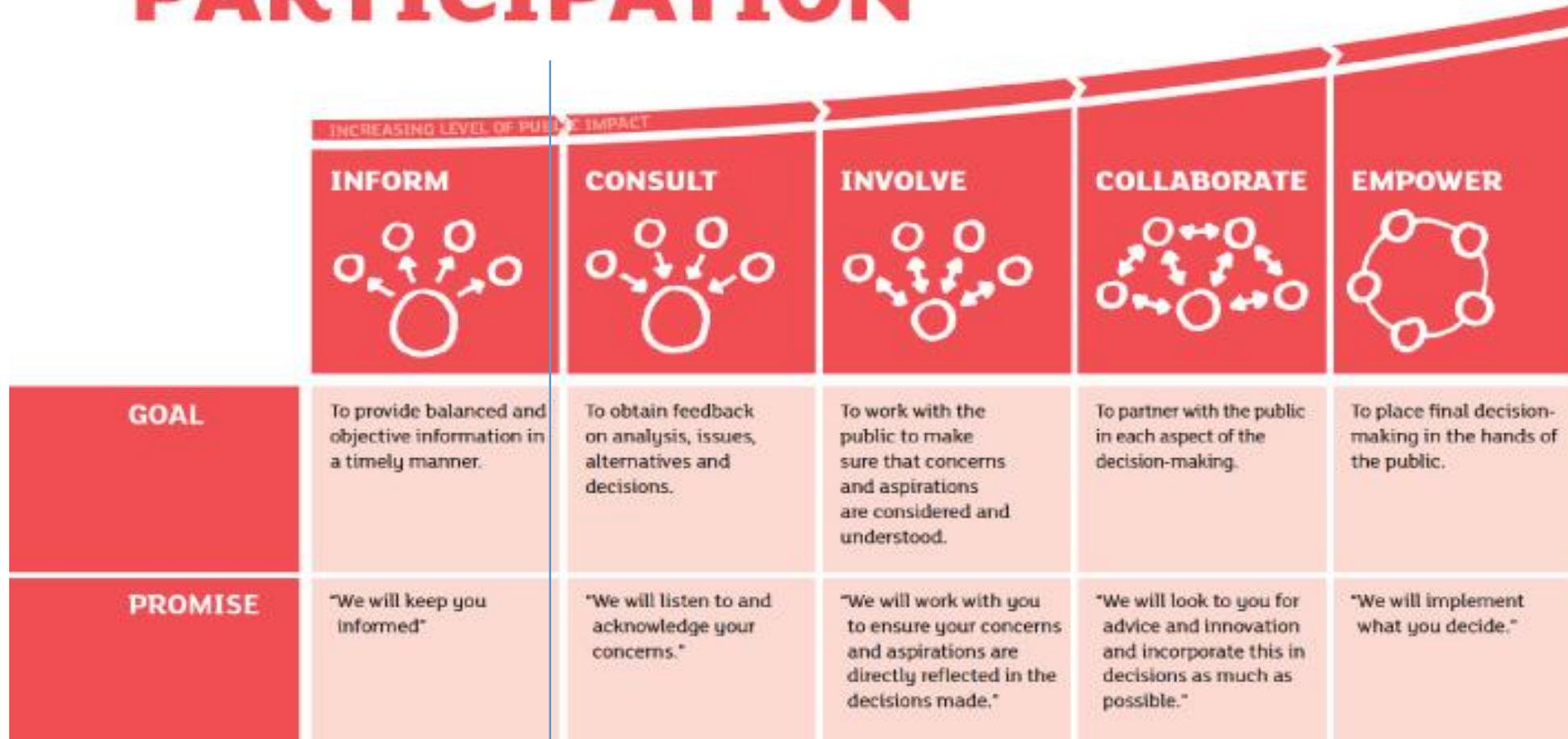
By order of



Sean Whent
Chief of Police

Date Signed: _____

IAP2 SPECTRUM OF PUBLIC PARTICIPATION



Note:

Depending on the stage of your project, you may be on a different place on the spectrum.

Oakland Police Commission Interview Process

Respectfully Submitted by G. Harris and M. Benson, modified per the December meeting

Step 1: Preliminary Essay

All candidates put forth by the ad hoc committee review of qualification are asked to answer the following three questions (date due TBD by ad hoc committee.)

All candidates will be scored by the ad hoc committee on a scale of 1-5 for each question. Any candidate that scores 12 or higher by any member of the ad hoc committee moves forward to Step 2.

| | | | | |
|------------------------|-------------------|-----------------|-----------------|-------------------------|
| Exceptional (5) | Strong (4) | Fair (3) | Weak (2) | Unacceptable (1) |
|------------------------|-------------------|-----------------|-----------------|-------------------------|

"Directions to candidates:

There are three essay questions below. Answer all three with each answer not to exceed 750 words.

1. What do you understand to be the greatest challenges currently facing the Oakland Police Department, what is your vision of the role of the CPRA Executive Director and its relationship with the Police Commission and OPD leadership in addressing them?

2. What are the key factors to building trust between the police department and the community it serves, and how can your personal background and experiences help enable the CPRA to support such trust in the short, intermediate, and long terms?

3. Tell us your thoughts on why poverty in Oakland exists and how it is connected to the work of the ED of the CPRA?

Step 2: Past Experiences Interview

This is a Phone Interview Process. There will be Interview Panels of 3 people each that are a blend of community members (nominated by Commissioners, see below) and Commissioners.

Each Commissioner can nominate up to 2 community members of their choice to be on an Interview Panel. These nominees will be placed in a pool and scheduled in teams to conduct interviews.

All Interview Panels will conduct the Past Experiences Interview according the protocol. Each panelist will score the answers. Every candidate that scores a 40 or higher by at least 2 members of the Interview Panel will move to the Behavioral and Competency Interview. Scores are submitted to the ad hoc committee which work with the Admin Analyst to schedule the candidates moving forward to Step 3. *How do we ensure these go to all members of the Ad Hoc without violating Brown Act?

Step 3: Behavioral and Competency Interview

This is an In-Person Interview Process.

There will be Interview Panels of 3 people each that are a blend of community members (nominated by Commissioners, see below) and Commissioners.

Each Commissioner can nominate up to 2 community members of their choice to be on an Interview Panel. These nominees will be placed in a pool and scheduled in teams to conduct interviews. All Interview Panels will conduct the Behavioral and Competency Interview according to the protocol. Each panelist will score the answers. Every candidate that scores a 48 or higher by at least 2 members of the Interview Panel will move to the Final Interview. Scores are submitted to the ad hoc committee which work with the Admin Analyst to schedule the candidates moving forward. *How do we ensure these go to all members of the Ad Hoc without violating Brown Act?

Step 4: Final Interviews

These will be conducted in Closed Session. Final Candidates will be narrowed down to three to be submitted to the City Administrator for consideration.

Final Interview Questions asked by Commissioners must be limited to re-asking any of the essay or interview questions previously approved. Scores for all previously asked questions will be available to the Commissioners in Closed Session.



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, March 28, 2019

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Council Chamber
Oakland, CA 94612

I. Call to Order
Regina Jackson

The meeting started at 6:32 p.m.

II. Roll Call and Determination of Quorum
Regina Jackson

Commissioners Present: Tara Anderson, José Dorado, Ginale Harris, Regina Jackson, Edwin Prather, and Thomas Smith. Quorum was met.

Absence (Planned): Mubarak Ahmad

Counsel for this meeting: Sergio Rudin

III. Welcome, Purpose and Open Forum (2 minutes per speaker)

Chair Regina Jackson will welcome Alternate Commissioner Chris Brown and call public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's policies, practices, and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency which investigates police misconduct and recommends discipline.

Chair Jackson welcomed and introduced Alternate Commissioner Chris Brown. He was a former Chair of the CPRB and comes to us with wonderful experience. She asked him to speak. Commissioner Brown said thank you and is looking forward to this opportunity.

Comments were provided by the following public speakers:

Lorelei Bosserman
Oscar Fuentes
John Bey
Assata Olugbala
Gene Hazzard
Saleem Bey
Brightstar Ohlson

IV. Oakland Police Department (OPD) Budget for Managing Job-Related Stress

Chief Anne Kirkpatrick will provide her proposed budget and timeline recommendations to the Commission for providing education and training to OPD sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. *This was discussed at previous meetings.*

Comments were provided by the following public speakers:

Gene Hazzard
Saleem Bey
Assata Olugbala
John Bey

A motion was made by Vice Chair Harris, seconded by Commissioner Dorado, to write a letter to the City Council. The motion carried by the following vote:

Aye: Anderson, Dorado, Harris, Jackson, Prather, and Smith

Chair Jackson will send a draft letter to Commissioners tomorrow.

V. R-02: Searches of Individuals on Probation and Parole

The Commission will review an amended version of R-02: Searches of Individuals on Probation and Parole, and may vote on approving that version. Members of communities directly impacted by the policy may share their experiences and views. *This has been discussed at previous meetings.*

Comments were provided by the following public speakers:

Brendon Woods, Chief Public Defender, Alameda County
Gene Hazzard
Lorelei Bosserman
Assata Olugbala
Elise Bernstein
Saleem Bey
Bruce Schmiechen
Anne Janks
Sam Johnson

A motion was made by Commissioner Prather, seconded by Commission Dorado, to table Item V on the Agenda to the next meeting and if there's input either from members of the public or the Commission itself, they can come to him and he will try to incorporate that into further edits into the document to make it better. The motion carried by the following vote:

Aye: Anderson, Dorado, Harris, Jackson, Prather, and Smith.

VI. Community Police Review Agency (CPRA) Pawlik Investigation Update

CPRA Interim Executive Director Karen Tom will provide a verbal progress report on CPRA's Pawlik investigation. *This is a new item.*

Comments were provided by the following public speakers:

Assata Olugbala
Gene Hazzard
Jim Chanin
Saleem Bey
John Bey
Lorelei Bosserman
Bruce Schmiechen

VII. Review of Agency's Pending Cases and Completed Investigations

The CPRA provided to the Commission confidential investigation file summaries for 11 administratively closed complaints. The Commission may vote to call a closed session to review additional information in the investigation files to determine whether

to call a vote to reopen any of those complaints for further investigation.
This is a recurring item.

Comments were provided by the following public speakers:
Assata Olugbala
Lorelei Bosserman
John Bey
Saleem Bey

A motion was made by Commissioner Dorado, seconded by Vice Chair Harris, to review all the cases (Attachment C) in Closed Session(s).

A substitute motion was made by Commissioner Anderson, seconded by Commissioner Dorado, to support what Commissioner Dorado originally stated in terms of opening the 11 Administrative Closed cases (Attachment C), for the Commissioners to have a Closed Session(s) to review, but such a time in the future whereas we are not compromising the integrity or the speed of the Pawlik investigation. The motion carried by the following vote:

Aye: Anderson, Dorado, Jackson, Prather, and Smith.
Oppose: Harris

VIII. Police Commission Annual Report

Commissioner Prather will lead a discussion on the Commission's annual report which is due to be submitted to the Mayor, City Council, and the public on April 17, 2019.
This is a new item.

Comments were provided by the following public speaker:
Saleem Bey

IX. Chief's Goals Ad Hoc Committee Update

The Chief's Goals Ad Hoc Committee will provide an update. ***This was continued from previous meetings and is a new item.***

Comments were provided by the following public speakers:
Henry Gage III
Assata Olugbala
Saleem Bey
John Bey
Lorelei Bosserman

X. Recess (8 minutes)

XI. Meeting Minutes Approval

The Commission will vote to approve meeting minutes from March 14, 2019.
This is a recurring item.

Commissioner Prather referenced Page 11, Paragraph 2, Line 1 – Change: digression to discretion.

Commissioner Prather said the Minutes are inconsistent in listing names – sometimes it is full name, commissioner and last name, first initial and last name. Individuals will be listed as Commissioner Smith, Chair Jackson, Vice Chair Harris.

Vice Chair Harris referenced Page 5, Item XI – Change Patrol to Parole.

Comments were provided by the following public speaker:
Saleem Bey

Counsel Rudin stated that you adjourn since it is a hair past 10:30 p.m. unless you vote to extend the meeting time. Chair Jackson asked for a motion to continue the meeting until 11:00 p.m.

MOTION to continue this meeting until 11:00 p.m. was made by Commissioner Dorado and seconded by Vice Chair Harris. The vote was Aye: 4 (Anderson, Dorado, Harris, and Jackson); Oppose: 2 (Prather, Smith). The motion passed.

A motion was made by Chair Jackson, seconded by Commissioner Dorado, to accept the March 14, 2019 minutes as amended. The motion carried by the following vote:

Aye: Anderson, Dorado, Harris, Jackson, Prather, and Smith.

XII. Vote to Support AB 392 Peace Officers: Deadly Force

Commissioner Tara Anderson has asked that the Commission vote to support AB 392 which will limit when police can use deadly force. *This is a new item.*

Comments were provided by the following public speakers:

Bruce Schmiechen
John Bey
Lorelei Bosserman
Anne Janks
Saleem Bey

A motion was made by Commission Smith to support AB 392.

A friendly amendment was made by Commissioner Prather to add that the Commission send a letter authored by Commissioner Anderson, signed by the Chair, to the Assembly Public Safety Committee, including a cc communication to the introducer, Member Weber and Members of the State Senate, Skinner and Wicks. Commissioner Smith amended his motion to include what was just stated (the letter). It was seconded by Commissioner Prather. The motion carried by the following vote:

Aye: Anderson, Dorado, Jackson, Prather, and Smith.
Abstain: Harris

XIII. Creation of Ad Hoc Policy Committee (This Item was heard after Item XIV on the Agenda).

OPD has requested a Policy Committee to work with the Department on policy development to address those situations where officers encounter people who are asleep or in various stages of unresponsiveness and are armed. *This is a new item.*

Comments were provided by the following public speakers:
No speakers were called.

XIV. Creation of Racial Equity Ad Hoc Committee (This Item was heard before Item XIII on the Agenda)

Commissioner Tara Anderson will discuss the creation of a Racial Equity Statement Ad Hoc Committee. *This is a new item.*

Comments were provided by the following public speakers:

John Bey
Assata Olugbala
Saleem Bey

Chair Jackson said an Ad Hoc Committee will be created on the creation of racial equity. She will appoint someone else to the Committee. Commissioner Anderson will come back when committee members are confirmed.

XV. Standing and Ad Hoc Committee Assignments

The Commission will work on assigning Commissioners to serve on at least one standing committee or ad hoc committee. *This was continued from previous meetings and is a new item.*

Chair Jackson reported that since the last time we met she accepted the request by Commissioner Anderson to be placed on the Personnel Committee. Are there other members who would like to be placed on standing or ad hoc committees?

Commissioner Smith raised a Point of Order citing a potential Brown Act violation by Vice Chair Harris.

Comments were provided by the following public speaker:
Saleem Bey

XVI. Agenda Setting and Prioritization of Upcoming Agenda Items

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

Comments were provided by the following public speakers:

Lorelei Bosserman
Saleem Bey
Assata Olugbala
John Bey

XVII. Adjournment

A motion was made by Commissioner Smith, seconded by Commissioner Anderson, to adjourn. The motion carried by the following vote:

Aye: Anderson, Dorado, Harris, Jackson, Prather, and Smith.

The Commission adjourned the meeting at 11:27 p.m.



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, April 11, 2019

5:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Council Chamber
Oakland, CA 94612

I. Call to Order

Chair Regina Jackson

The meeting started at 5:31 p.m.

II. Roll Call and Determination of Quorum

Chair Regina Jackson

Commissioners Present: Mubarak Ahmad, Tara Anderson, Ginale Harris, Regina Jackson, and Edwin Prather. Quorum was met.

Alternate Commissioner Present: Chris Brown

Commissioners Absent (Excused): José Dorado and Thomas Smith.

Counsel for this meeting: Sergio Rudin

THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION IN CITY HALL BUILDING BRIDGES ROOM, 3RD FLOOR AND WILL REPORT ON ANY FINAL DECISIONS IN THE CITY COUNCIL CHAMBER DURING THE POLICE COMMISSION'S OPEN SESSION MEETING AGENDA.

III. Closed Session

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Gov't Code § 54957(b) Title: Chief of Police

Action – Report out of Closed Session

Chair Regina Jackson stated that it is now 6:34 p.m. and called the meeting to order. There is a reportable item coming out of Closed Session. The Commission determined that we need the assistance of legal counsel to conduct an appropriate and valid assessment of the Police Chief's performance pursuant to the Commission's responsibilities. We have asked the firm of Garcia Hernández Sawhney, LLP to assist us and will be bringing their Retainer Agreement to the next Commission meeting for appointment.

Comments were provided by the following public speakers:
No speakers were called.

IV. Welcome, Purpose and Open Forum (2 minutes per speaker)

Chair Regina Jackson will welcome and call public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's policies, practices, and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency which investigates police misconduct and recommends discipline.

Chair Regina Jackson took a moment as a Point of Privilege to remark on the last meeting. Her statement was that upon reflection of the unprofessional atrocity that was our recent meeting, there are three words that come to mind – out of order. These are the words that escaped her while she was under the shock and utter disbelief of witnessing both the deplorable insulting engagement with Public Defender Brendon Woods. To quote our special guest, Sam Johnson, “I was triggered by the shouting match and would hope that we could show each other some respect.” This behavior, to say the least, is unbecoming to the positions we hold. Our Commission meetings should be where people come to share their stories, concerns, and traumas. Not to be triggered and certainly not to be disrespected. It is of the highest importance that these meetings be conducted with class. Anything less, then that is a detriment to the effectiveness of our collective goals. As Commissioners, we have the role and responsibility to listen, ask questions, make policy and other recommendations. As sworn individuals, our conduct should be professional always. We must remember that anyone Commissioner’s behavior reflects on us all. We are a major City and we must hold ourselves to a higher standard.

Secondly, Chair Regina Jackson said the Commissioner to Commissioner argument was also troublesome. In watching the tape, it seemed that Commissioner Thomas Smith was calling for a Point of Order because the conversation had gone off topic from Agenda Setting. However, the Rules on Points of Order allow for someone to interrupt and that she did not realize. However, the back and forth that ensued which led up to a threat of bodily harm, was the worst moment she had been party to since joining this Commission. As Chair, the role is to manage meetings and provide leadership in word and deed. She will be more accountable for keeping everyone on track and shutting down disrespectful conversations. While all Commissioners are leaders in their own right, and we come to this work from diverse paths, she expects that all Commissioners moving forward will display the kind of respectful decorum with the community, the staff, and each other that the City of Oakland deserves and that which we agreed to when we accepted this assignment.

Chair Regina Jackson took an additional roll call in order to identify the additional Commissioners present: Mubarak Ahmad, Tara Anderson, Chris Brown (Alternate Commissioner), Ginale Harris, Regina Jackson, and Edwin Prather. Quorum was met.

Commissioners Absent (Excused): José Dorado (Commission received notice after the Agenda was let) and Thomas Smith.

Comments were provided by the following public speakers:

Mary Vail
Rashidah Grinage
Jesse Smith
Gene Hazzard
John Jones III
Oscar Fuentes
Nino Parker
Assata Olugbala
Saleem Bey
John Bey
Anne Janks

- V. Oakland Police Department (OPD) Budget for Managing Job-Related Stress**
Chief Anne Kirkpatrick, or her designee, will present a detailed budget for providing education and training to OPD sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder,

drug and alcohol abuse, and other job-related mental and emotional health issues.
This was discussed on 3.28.19.

Comments were provided by the following public speakers:

Gene Hazzard
Elise Bernstein
Cathy Leonard
Mary Vail
Jesse Smith
Nino Parker
John Bey
Assata Olugbala
Saleem Bey
John Jones III

VI. OPD Response to Oakland Black Officers Association (OBOA) Letter

Chief Anne Kirkpatrick will offer a response to OBOA’s open letter in the Oakland Post suggesting disparate and/or racist implications for OPD hiring and discipline practices.
This is a new item.

Comments were provided by the following public speakers:

Gene Hazzard
Mary Vail
Lorelei Bosserman
Cathy Leonard
John Bey
Saleem Bey
Rashidah Grinage
Assata Olugbala
John Jones III
Nino Parker
Art Doug Blacksher

VII. R-02: Searches of Individuals on Probation and Parole

The Commission will review an amended version of R-02: Searches of individuals on Probation or Parole, and may vote on approving that version. Members of communities directly impacted by the policy may share their experiences and views. ***This was discussed on 1.24.19, 3.14.19, and 3.28.19.***

Comments were provided by the following public speakers:

John Jones III
Lorelei Bosserman
Nino Parker
Michael Tigges
Mary Vail
Assata Olugbala
Saleem Bey

Commissioner Tara Anderson provided several edits to the document.

A motion was made by Commissioner Edwin Prather that subject to these edits, add a Section A – 2; thereby making A – 2, A – 3 and A – 3, A – 4. The added Section A – 2 will be titled Violent Offense; the text will say: A violent offense is as defined in California Penal Code section 667.5(c). Edit Section B – 3, Line 2, striking the word especially. Edit Section B – 3, Line 3, striking the words: can be viewed as and inserting the word is. Subject to those edits, we adopt this version of R-02: Searches of

Individuals on Probation, Parole, Mandatory Supervision and PRCS (Post-Release Community Supervision) as our version of this policy. The motion was seconded by Chair Regina Jackson. The motion passed unanimously.

A second motion was made by Commissioner Edwin Prather, seconded by Chair Regina Jackson, to set a deadline of May 10 for the OPD to provide comment if any and that we submit this to the City Council for their approval subject to comments by the OPD. The motion passed unanimously.

VIII. Recess (8 minutes) [This Item was X on the Agenda]

Chair Regina Jackson called the meeting back to order at 9:36 p.m.

Chair Regina Jackson said that for clarification when they reported out from the Closed Session, she neglected to report the votes. There were five affirmative votes to support the hiring legal counsel to advise the Commission on developing a process for the Police Chief's performance.

IX. Review of Community Police Review Agency (CPRA) Pending Cases and Completed Investigations [This Item was VIII on the Agenda]

To the extent permitted by state and local law, Acting Interim Executive Director Joan Saupe will report on the Agency's pending cases and completed investigations. *This is a recurring item.*

Comments were provided by the following public speakers:

Gene Hazzard
Cathy Leonard
Lorelei Bosserman
Melody Davis
Michael Tigges
Oscar Fuentes
Assata Olugbala
Saleem Bey
Rashidah Grinage

X. Bey Case – Noticing the Federal Monitor [This Item was IX on the Agenda]

The Commission will discuss, and may vote on, a letter that will be submitted to the Federal Monitor regarding new evidence in the Bey case. *This was discussed on 3.14.19.*

Comments were provided by the following public speaker:
Saleem Bey.

A motion was made by Vice Chair Ginale Harris, seconded by Mubarak Ahmad, to hire outside counsel for this specific process. The motion passed unanimously,

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

Comments were continued by the following public speakers:
Saleem Bey
Assata Olugbala
Gene Hazzard

A motion was made by Commissioner Edwin Prather, seconded by Vice Chair Ginale Harris, that we approve the letter (Attachment 9) for distribution to Mr. Warshaw with a

copy to Judge Orrick and the Oakland City Council with the following changes: Make sure that Mr. Bey's name is in correct order reflecting Ali Saleem Bey and it should reference John Muhammad Bey. Paragraph two, sentence two should read – At its public meeting on February 28, 2019, Mr. Ali Saleem Bey and Mr. John Muhammad Bey provided documents to members ... It should also reference not only Case No. 07-0558 but also Case No. 13-1062 (should be inserted prior to the comma on the next to last line on paragraph two). The word testimony on that same line should be replaced with the word comments. Paragraph 3, Line 3, says complaint and to request - to should be replaced by the words Mr. Bey's. At the end of Line 3, replace the words Mr. Bey's with his. Line 5, replace the word testimony by comments. An additional sentence added at the end of Paragraph 3 that says "It is my understanding that Mr. Bey will provide a packet of documents to you under separate cover." The motion passed unanimously.

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

MOTION to continue this meeting until 11:30 p.m. was made by Commissioner Edwin Prather and seconded by Chair Regina Jackson. The vote was Aye: 4 (Anderson, Harris, Jackson, and Prather); Abstain: 1 (Ahmad). The motion passed.

XI. Police Commission Annual Report

Commissioner Edwin Prather will present the Commission's annual report which must be submitted to the Mayor, City Council, and the public on or before April 17, 2019. *This was discussed on 3.28.19.*

Comments were provided by the following public speakers:
No public comment.

A motion was made by Chair Regina Jackson, seconded by Mubarak Ahmad, to appropriately edit with comments that have been identified by Commissioner Edwin Prather and the typo Vice Chair Ginale Harris mentioned, and forward the Annual Report in a timely fashion. Friendly amendments (edits) were made by Commissioner Edwin Prather: Page 1 – Footer (Delete reference to Public Safety Committee). Page 2, Change the Term Ending to Oct. 2020 for Commissioner Tara Anderson. Page 2, Change the Term Ending to October 2022 for Chris Brown, Alternate Commissioner. Page 10, Paragraph 1, Change the wording to - Additionally the Commission appointed Karen Tom to the position of CPRA Interim Director in December 2018 to fill the recently made vacant position. The motion passed unanimously,

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

XII. Committee/Liaison/Other Commissioner Reports

This time is set aside to allow Commissioners to present a brief report on their own activities, including service on committees or as liaisons to other public bodies. No action may be taken as a result of a report under this section other than to place a matter for consideration at a future meeting. *This is a new item and will be recurring at future meetings.*

Comments were provided by the following public speakers:
No public comment.

XIII. Meeting Minutes Approval

The Commission will vote to approve meeting minutes from March 28, 2019. *This is a recurring item.*

Comments were provided by the following public speakers:
No public comment.

A motion was made by Commissioner Edwin Prather, seconded by Commissioner Tara Anderson, to table the Item until the next meeting. The motion passed unanimously.

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

XIV. Executive Director Interview Process

The Commission will review the CPRA Executive Director interview process and may approve the process as is, or make edits so that the process can begin as soon as possible. *This is a new item.*

Comments were provided by the following public speaker:
Rashidah Grinage

XV. Inspector General Position Status Update

The Commission will provide an update on the status of the Inspector General Position. *This has been discussed on multiple occasions.*

Comments were provided by the following public speakers:
No public comment.

A motion was made by Commissioner Edwin Prather, seconded by Commissioner Tara Anderson, to table the Item until the next meeting. The motion passed unanimously.

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

XVI. Receive Bids for Investigator Services

Commissioner Edwin Prather will present bids he has received for Investigator Services. The Commission may discuss the bids and may vote on further actions. *This is a new item.*

MOTION to continue this meeting until 11:40 p.m. was made by Commissioner Edwin Prather and seconded by Vice Chair Ginale Harris. The vote was Aye: 5 (Ahmad, Anderson, Harris, Jackson, and Prather). The motion passed unanimously.

Comments were provided by the following public speakers:
No public comment.

A motion was made by Commissioner Edwin Prather, seconded by Chair Regina Jackson, to hire Eric Mason for the Joshua Pawlik investigation and that we either hire him directly and/or direct Interim Executive Director Karen Tom to hire him through CPRA and assign him the file immediately. The motion carried by the following vote:

Aye: (4) Ahmad, Harris, Jackson, and Prather; Recusal (1) Anderson.

Counsel Rudin for clarification of the motion on the record – The motion is to direct the Interim Executive Director of CPRA to enter in a contract with Eric Mason (Mason Investigative Group) and an alternative is that if that contract process cannot be completed, to authorize the Commission acting through the Chair to enter into a contract with the same group.

XVII. Agenda Setting and Prioritization of Upcoming Agenda Items

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

Comments were provided by the following public speaker:
Saleem Bey

XVIII. Adjournment

A motion was made by Commissioner Edwin Prather, seconded by Vice Chair Ginale Harris, to adjourn. The motion passed unanimously.

Aye: Ahmad, Anderson, Harris, Jackson, and Prather.

The Commission adjourned the meeting at 11:41 p.m.



OAKLAND POLICE COMMISSION

Agenda Report

Subject: Pending Agenda Matters List
Date: April 22, 2019
Requested by: Police Commission
Prepared by: Chrissie Love, Administrative Analyst II
Approved by: Karen Tom, Interim Executive Director, CPRA

Action Requested:

Review Pending Agenda Matters List and decide on which, if any, to include in upcoming agendas.

Background:

The following exhaustive list was begun in early 2018 and includes items submitted for consideration on future agendas. Community members may suggest agenda items by completing and submitting the Agenda Matter Submission Form found on the Commission’s webpage.

Discussion:

The following items have upcoming deadlines:

| Agenda Matter | Deadline | Notes | Measure LL and Enabling Ordinance Sections |
|---|----------|---|--|
| NACOLE Northern California Regional Conference on May 3rd at BART | 5/3/2019 | | |
| Public Hearing on OPD Budget | 5/9/2019 | Conduct at least one public hearing on the Police Department’s budget | LL Section 604(b)(7) |

Attachments (16a):

Pending Agenda Matters List (9 pages)

**Police Commission
Pending Agenda Matters List**

| Pending Agenda Matter | Date Placed on List | Duties/Deliverables | Additional Information/Details | Priority Level | Timeline/Deadline | Scheduled | Lead Commissioner(s), if any |
|---|---------------------|--|--|----------------|-------------------|-----------|------------------------------|
| Alleged Disparate and/or Racist Implications in OPD Hiring and Discipline Practices | 3/15/2019 | Ask Chief Kirkpatrick to respond to allegations with data on OPD's actions | OBOA (Oakland Black Officers Association) published an open letter in the Oakland Post to the Chief, Mayor, and City Administrator suggesting disparate and or racist implications for OPD hiring and discipline practices. | High | | 4/25/2019 | |
| Stop Data and Racial Profiling | 1/1/2018 | | Need regular reporting on stop data and racial profiling directly from research, and coordinate from NSA team with IG for data and policy recommendations. Do a deep dive on racial profiling. | High | | 5/23/2019 | Jackson |
| Commissioner Training, Part 1 | 1/1/2018 | Complete the training described in section 2.45.190(A) through (H) | The training described in subsections (G) and (H) must be done in open session. The 1 year deadline only applies to the first group of Commissioners and alternates; all other Commissions must complete this training within six months of appointment. | High | 10/17/2018 | | Ahmad, Dorado |
| Commissioner Training, Part 2 | 1/1/2018 | Complete the training described in section 2.45.190(I) through (M) | The 18 month deadline only applies to first group of Commissioners and alternates; all other Commissioners must complete this training within 12 months of appointment. | High | 4/17/2019 | | Ahmad, Dorado |
| Finalize hiring of CPRA full-time Executive Director | | | Decide on 2-3 candidates to submit to City Administrator. | High | | | Personnel Committee |
| Hire Inspector General (IG) | 1/14/2019 | Hire IG once the job is officially posted | HR staff is completing a compensation study for the position. Since this position is new to the City's Salary Ordinance, this step is required so the IG can be properly funded. Concurrently, HR staff has been conforming the IG job description approved by the Police Commission to fit a class specification for the position. HR staff anticipates this work to be completed in the coming weeks. The next two immediate steps are: 1) The Civil Service Board will need to approve the class specification, which staff anticipates will happen in February; and 2) The salary ordinance will then need to be approved by the City Council. The IG position will become open after these two steps are completed. | High | | | Personnel Committee |

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| Notification of OPD Chief Regarding Requirements of Annual Report | 1/1/2018 | Commission must notify the Chief regarding what information will be required in the Chief's annual report | <p>The Chief's report shall include, at a minimum, the following:</p> <ol style="list-style-type: none"> 1. The number of complaints submitted to the Department's Internal Affairs Division (IAD) together with a brief description of the nature of the complaints; 2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated; 3. The number of investigations completed by IAD, and the results of the investigations; 4. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions; 5. Revisions made to Department policies; 6. The number and location of Department sworn employee-involved shootings; 7. The number of Executive Force Review Board or Force Review Board hearings and the results; 8. A summary of the Department's monthly Use of Force Reports; 9. The number of Department sworn employees disciplined and the level of discipline imposed; and 10. The number of closed investigations which did not result in discipline of the Subject Officer. <p>The Chief's annual report shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7</p> | High | June 14, 2018 and June 14 of each subsequent year | | Dorado |
| Performance Reviews of CPRA Director and OPD Chief | 1/1/2018 | Conduct performance reviews of the Agency Director and the Chief | <p>The Commission must determine the performance criteria for evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation. The Commission may, in its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Administrator and other City staff who are familiar with the Agency Director's or the Chiefs job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary.</p> | High | Annually; Criteria for evaluation due 1 year prior to review | | |

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| Revise employment contracts with CPRA and Commission legal counsels | 10/10/2018 | | The employment contract posted on the Commission's website does not comport with the specifications of the Ordinance. As it stands, the Commission counsel reports directly to the City Attorney's Office, not the Commission. The Commission has yet to see the CPRA attorney's contract, but it, too, may be problematic. | High | | | |
| NACOLE Northern California Regional Conference on May 3rd at BART | 1/28/2019 | | Determine Commissioners' attendance at event and cost. | Medium | 5/3/2019 | 4/25/2019 | |
| Public Hearing on Excessive Force | 4/22/2019 | | Work with Coalition on Police Accountability on presenting a public hearing on use of excessive force. | Medium | | 5/9/2019 | |
| Public Hearing on OPD Budget | 1/1/2018 | Conduct at least one public hearing on the Police Department's budget | Tentative release date of Mayor's proposed budget is May 1, 2019. | Medium | Biennial, per budget cycle | 5/9/2019 | |
| Ad-Hoc Discipline Committees for Each Discipline or Termination Case | 1/1/2018 | Discipline Committees may not decide disputes until the following training is completed: * Department operations, policies and procedures, including but not limited to discipline procedures for Misconduct, and * Training described in section 2.45.190(A) through (F) of the enabling ordinance | Establish on an as-needed basis | Medium | | | |
| Brian Hoefler case: review video | 10/11/2018 | | Response to allegation was officer was Just and Honorable, when allegations were the officer was untrue. All of the issues, despite what the officer said, was a deportation matter. Chief stated that people were charged with crimes, when they were not. | Medium | | | |
| Community Policing Task Force/Summit | 1/24/2019 | | | Medium | | | Dorado |

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| CPAB Report | | | Oakland Municipal Code §2.45.070 (O) Receive any and all reports prepared by the Community Policing Advisory Board (hereinafter referred to as "CPAB") and consider acting upon any of the CPAB's recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community. | Medium | | | |
| De-escalation Policy | 1/1/2018 | | Review existing policy (if any) and take testimony/evidence from experts and community about best practices for de-escalation. Draft policy changes as needed. | Medium | | | |
| Finalize Bylaws and Rules | 1/24/2019 | | | Medium | | | Prather |
| Follow up on Najiri Smith Case | 10/10/2018 | | Community members representing Najiri claim the officer lied re. the time of interaction, which makes the citation (loud music after 10pm) invalid. They claimed he was engaged by OPD around 9.10pm. | Medium | | | |
| Need for an easy to read process to determine if Commission can open or re-open an investigation | 10/2/2018 | | We've been hearing a lot from community members about concerns about what the commission's power actually is. We've passed a few motions to ask for legal advice on whether we have the authority to open an investigation, but an easy to read flow chart or checklist format might be easier to digest by the community. We are suggesting a flow chart for what our parameters are and resources for where we can send people if we can't help them. | Medium | | | |
| Offsite Meetings | 1/1/2018 | Meet in locations other than City Hall | The offsite meetings must include an agenda item titled "Community Roundtable" or something similar, and the Commission must consider inviting individuals and groups familiar with the issues involved in building and maintaining trust between the community and the Department. (OMC § 2.45.090(B).) | Medium | Annually; at least twice each year | | Ahmad, Dorado, Jackson |
| Proposal For Staff Positions for Commission and CPRA | 1/1/2018 | Provide the City Administrator with its proposal for staff positions needed for Commission and Agency to fulfill its functions and duties | | Medium | June 14, 2018, and on an ongoing basis as appropriate | | |

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| Report Regarding OPD Chief's Report | 1/1/2018 | Submit a report to the Mayor, City Council and the public regarding the Chief's report in addition to other matters relevant to the functions and duties of the Commission | The Chief's report needs to be completed first. | Medium | Annually; once per year | | |
| Reports from OPD on such issues as response times, murder case closure rates, hiring and discipline status report (general number for public hearing), any comp stat data they are using, privacy issues, human trafficking work, use of force stats, homelessness issues, towing cars of people who sleep in their vehicles | 10/6/2018 | | | Medium | | | |
| Review budget and resources of IAD | 10/10/2018 | | In our discipline training we learned that many "lower level" investigations are outsourced to direct supervisors and sergeants. We spoke with leaders in IAD ad they agreed that it would be helpful to | Medium | | | |
| Review taser policy per outcome of Marcellus Toney | 10/10/2018 | | In the report we were given, we were told that officers have choice as to where to deploy a taser. Commission to review these policies and make recommendations and/or find if there is connection to NSA. | Medium | | | |
| Supervision policies | 10/2/2018 | | Review existing policy (if any) and take testimony/evidence from experts and community about best practices for supervisory accountability. Draft policy changes as needed. In addition, IG should conduct study of supervisor discipline practices. In other words, how often are supervisors held accountable for the misconduct of their subordinates. | Medium | | | |
| What are the outstanding issues in meet and confer and what is the status of the M&C on the disciplinary reports? | 10/6/2018 | | Need report from police chief and city attorney. Also need status report about collective bargaining process that is expected to begin soon. | Medium | | | |

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| Amendment of DGO C-1 (Grooming & Appearance Policy) | 10/10/2018 | | DGO C-1 is an OPD policy that outlines standards for personal appearance. This policy should be amended to use more inclusive language, and to avoid promoting appearance requirements that are merely aesthetic concerns, rather than defensible business needs of the police department. | Low | | | |
| Annual Report | 1/1/2018 | Submit Commission's first annual report to the Mayor, City Council and the public | | Low | 4/17/2020 | | Prather, Smith |
| Assessing responsiveness capabilities | 10/6/2018 | | Review OPD policies or training regarding how to assess if an individual whom police encounter may have a disability that impairs the ability to respond to their commands. | Low | | | |
| Consider creating a list of ways to be engaged with OPD so that Commission can clearly state what issues should be addressed. | 2/6/2019 | | | Low | | | |
| CPRA report on app usage | 10/10/2018 | | Report from staff on usage of app. | Low | | | |
| Creation of Form Regarding Inspector General's Job Performance | 1/1/2018 | Create a form for Commissioners to use in providing annual comments, observations and assessments to the City Administrator regarding the Inspector General's job performance. Each Commissioner shall complete the form individually and submit his or her completed form to the City Administrator confidentially. | To be done once Inspector General position is filled. | Low | | | |
| Discipline: based on review of MOU | 10/6/2018 | | How often is Civil Service used v. arbitration? How long does each process take? What are the contributing factors for the length of the process? How often are timelines not met at every level? How often is conflict resolution process used? How long is it taking to get through it? Is there a permanent arbitration list? What is contemplated if there's no permanent list? How often are settlement discussions held at step 5? How many cases settle? Is there a panel for Immediate dispute resolution? How many Caloca appeals? How many are granted? What happened to the recommendations in the Second Swanson report? | Low | | | |

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| Discipline: Second Swanson Report recommendations – have these been implemented? | 10/6/2018 | | Supervisor discipline Process for recommending improvements to policies, procedures and training, and to track and implement recommendations Tracking officer training and the content of training Comparable discipline imposed – database of discipline imposed, demonstrate following guidelines IAD civilian oversight for continuity in IAD Improved discovery processes Permanent arbitration panel implemented from MOU OPD internal counsel Two attorneys in OCA that support OPD disciplines and arbitration (why not use CPRA attorney who knows the detailed investigation and is already paid for?) Reports on how OCA is supporting OPD in discipline matters and reports on arbitration Public report on police discipline from mayor’s office (Why not from CPRA? The history is that it was included in the annual CPRB report provided to City Council.) OIG audit includes key metrics on standards of discipline | Low | | | |
| Do Not Call list issues – cops whose untruthfulness prevents them from testifying | 10/6/2018 | | This is impacted by SB1421 and will require legal analysis. | Low | | | |
| Feedback from Youth on CPRA app | 10/10/2018 | | We want to get some feedback from youth as to what ideas, concerns, questions they have about its usability. We’ve already cleared a process with CPRA, just wanted to get this on the list of items to calendar in the future (ideally early 2019) | Low | | | |
| Modify Code of Conduct from Ethics Commission for Police Commission | 10/2/2018 | | On code of conduct for commissioners there is currently a code that was developed by the Ethics Commission. It is pretty solid, so perhaps we should use portions of it and add a process for engagement with city staff and community. | Low | | | |
| OPD Data and Reporting | | | Oakland Municipal Code §2.45.070(P) Review and comment on the Department’s police and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the comments in writing. | Low | | | |

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| Outreach Committee: work with Mayor's Office and City Admin to publicize app | 10/10/2018 | | | Low | | | |
| Outreach Plan Discussion, including use of social media | 10/6/2018 | | | Low | | | |
| Overtime Usage by OPD (cost and impact on personnel health + moonlighting for AC Transit) | 1/1/2018 | | Request Office of Inspector General conduct study of overtime usage and "moonlighting" practices. | Low | | | |
| Policy on Tasers | | | Policy on the discretion of tasers, review with Cunningham | Low | | | |
| Process to review allegations of misconduct by a commissioner | 10/2/2018 | | Maureen Benson has named concerns/allegations about a sitting commissioner since early in the year, | Low | | | Jackson |
| Promotions of officers who have committed crimes | 10/6/2018 | | | Low | | | |
| Proposed Budget re: OPD Training and Education for Sworn Employees on Management of Job-Related Stress | 1/1/2018 | Prepare for submission to the Mayor a proposed budget regarding training and education for Department sworn employees regarding management of job-related stress. (See Trauma Informed Policing Plan) | Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of posttraumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. Prepare and deliver to the Mayor, the City Administrator and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection (C) above. | Low | 4/15/2020 | | |
| Protocol on how OPC handles serious incidents | 10/6/2018 | | | Low | | | |
| Protocol on how to handle issues that are non-critical | 10/6/2018 | | | Low | | | |
| Public Hearings on OPD Policies, Rules, Practices, Customs, General Orders | 1/1/2018 | Conduct public hearings on Department policies, rules, practices, customs, and General Orders; CPRA suggests reviewing Body Camera Policy | Coalition for Police Accountability is helping with this. | Low | Annually; at least once per year | | Dorado |

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| Recommendations for increasing communication between CPRA and IAD (ensure prompt forwarding of complaints from IAD to CPRA and prompt data sharing) | 10/6/2018 | | Review of existing communication practices and information sharing protocols between departments, need recommendations from stakeholders about whether a policy is needed. | Low | | | |
| Request City Attorney Reports | 1/1/2018 | Request the City Attorney submit semi-annual reports to the Commission and the City Council | <p>Oakland Municipal Code 2.45.070(I). Request the City Attorney submit semi-annual reports to the Commission and City Council which shall include a listing and summary of:</p> <ol style="list-style-type: none"> 1. To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration; 2. Arbitration decisions or other related results; 3. The ways in which it has supported the police discipline process; and 4. Significant recent developments in police discipline. <p>The City Attorney's semi-annual reports shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code 832.7</p> | Low | Semi-annually | | Smith |
| Select Topics and Facilitators for Retreat | | | | Low | | | |