



OAKLAND POLICE COMMISSION

SPECIAL MEETING AGENDA

November 18, 2021

5:30 PM

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department to ensure its policies, practices, and customs conform to national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

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



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PUBLIC PARTICIPATION

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

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/83498437461> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled “Joining a Meeting”
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592
Webinar ID: 834 9843 7461

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

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

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

If you have any questions about these protocols, please e-mail radwan@oaklandca.gov.



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

Chair Regina Jackson

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

II. **Closed Session Item**

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

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

PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT

(California Government Code Section 54957(b))

Title: Inspector General

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(California Government Code Section 54957(b))

Title: Director, Community Police Review Agency

III. **Call to Order and Re-Determination of Quorum**

Chair Regina Jackson

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

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

After ascertaining how many members of the public wish to speak, Chair Regina Jackson will invite the public to speak on any items not on the agenda but may be of interest to the public, and that are within the subject matter jurisdiction of the Commission. Comments on specific agenda items will not be heard during Open Forum but must be reserved until the agenda item is called. The Chair has the right to reduce speaking time to 1 minute if the number of speakers would cause this Open Forum to extend beyond 15 minutes. Any speakers not able to address the Commission

during this Open Forum will be given priority to speak during Open Forum Part 2, at the end of the agenda.

V. Selection of Alternate Commissioner to Fill Vacancy

To fill the vacancy arising from a Commissioner's resignation, whose letter is available in the agenda packet, the Commission will discuss and consider a vote to select an Alternate Commissioner as a new Commissioner, per Oakland City Charter Section 604(c)(8). ***This is a new item.*** (Attachment 5).

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

VI. Update from Police Chief

OPD Chief Armstrong will provide an update on the Department. Topics discussed in the update may include crime statistics; an update on the Negotiated Settlement Agreement; a preview of topics which may be placed on a future agenda; responses to community member questions sent in advance to the Police Commission Chair; and specific topics requested in advance by Commissioners. ***This is a recurring item.*** (Attachment 6).

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

VII. Revised CID Policies & Procedures for the Police Department Homicide Section

The Commission will review and discuss the approval of the Police Department's revised Policies and Procedures manual for the Department's Criminal Investigation Division; Homicide Section (19-01). ***This is a new item.*** (Attachment 7).

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

VIII. Report on and Review of CPRA Pending Cases, Completed Investigations, Staffing, and Recent Activities

To the extent permitted by state and local law, Executive Director John Alden will report on the Agency's pending cases, completed investigations, staffing, and recent activities. ***This is a recurring item.*** (Attachment 8).

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

IX. Militarized Equipment Ad Hoc Committee Final Report Out

Leads of the Militarized Equipment Ad Hoc will discuss the Commission's obligations under the new Military Equipment Ordinance, Oakland Municipal Code § 9.65.010 – 9.65.060, confirm the completion of the time-limited task of the ad hoc and recommend next steps. ***This is a recurring item.***

- a. Discussion

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

X. Referral of Prior-Subpoenaed Records to the Inspector General

The Commission will vote on whether to refer Department records previously subpoenaed by the Commission related to IAD Numbers 07-0538, 13-1062, and 16-0146 to the new Inspector General, per Oakland Municipal Code § 2.45.120(F). ***This is a new item.***

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

XI. Committee Reports

Representatives from Standing and Ad Hoc Committees will provide updates on their work. ***This is a recurring item.*** ([Attachment 11](#)).

**Missing Persons Ad Hoc
(Commissioners Jackson, Jordan)**

The Missing Persons Ad Hoc Committee is tasked with reviewing and updating the OPDs missing persons policy, to ensure that it is in line with the standards of constitutional policing and evolving community values. The resulting policy will be presented for review and approval to the full Police Commission, with the intent that it be formally adopted as the guiding policy for the investigations of missing persons by the OPD.

**Inspector General Search
(Commissioners Milele, Jackson, Peterson)**

The Inspector General Search Ad Hoc Committee is tasked with conducting a nationwide search for a civilian Inspector General who will report to the Police Commission.

**Chief's Performance Evaluation
(Commissioners Garcia, Milele, Peterson)**

The mission of the Chief Goals Ad Hoc is to establish goals and objectives that determine the criteria upon which the Oakland Chief of Police will be evaluated by the Oakland Police Commission.

**CPRA Director Performance Evaluation
(Commissioners Milele, Jackson)**

The purpose of this Ad Hoc Committee is to provide a transparent performance review of the CPRA Executive Director. The Committee will craft constructive critiques, as well as performance expectations for the coming year.

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

XII. Open Forum Part 2 (2 minutes per speaker)

Chair Regina Jackson will invite public speakers to speak on items that were not on the agenda, and that are within the subject matter jurisdiction of the Commission, with priority given to speakers who were unable to address the Commission during Open Forum at the beginning of the meeting.

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

XIII. Robert's Rules of Order

Refresher Training. This is a new item. ***This is a new item.***

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

XIV. Cancel a November 2021 meeting

Staff will recommend cancelling the November 25 meeting. ***This is a new item.***

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

XV. Adoption of Meeting Minutes

The Commission will vote to approve minutes from the October 28 Special Meeting. ***This is a recurring item. (Attachment 15).***

- 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

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

Sergio Garcia

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

November 17, 2021

Dear Regina:

Confirming our recent discussion, I have decided to step down as a Commissioner of the Oakland Police Commission. As I mentioned, I did not arrive at this decision lightly. The past year has been a wake-up call for so many of us and, like many folks in our community, I have had to limit my activities due to personal and family reasons. I am also finding it challenging to balance other work I am engaged in, including statewide efforts to identify, recruit and nominate more folks from diverse backgrounds to become judges during this critical moment of criminal justice reform and threats to our democracy.

I am deeply grateful for having the opportunity to engage in the meaningful and transformational work of the Commission over the past year. We all want a police department where officers are accountable, and I believe that the Commission has made important strides toward making sure the OPD recognizes that racism, white supremacy and misogyny run deep within the department, and that leaders commit to eradicating these from police culture in Oakland.

I look forward to continuing to support the critical work of the Commission as a community participant going forward, including the work to address the community's demand for effective, nonmilitarized, anti-racist policing in Oakland.

It has truly been an honor to serve alongside you and each of the members of the Police Commission.

In gratitude,

Sergio Garcia



Weekly Crime Report — Citywide

01 Nov. – 07 Nov., 2021

Part 1 Crimes <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2019	YTD 2020	YTD 2021	YTD % Change 2020 vs. 2021	3-Year YTD Average	YTD 2021 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	114	5,064	5,052	5,587	11%	5,234	7%
Homicide – 187(a)PC	2	62	90	113	26%	88	28%
Homicide – All Other *	-	3	7	6	-14%	5	13%
Aggravated Assault	63	2,403	2,816	3,100	10%	2,773	12%
Assault with a firearm – 245(a)(2)PC	10	256	401	534	33%	397	35%
Subtotal - Homicides + Firearm Assault	12	321	498	653	31%	491	33%
Shooting occupied home or vehicle – 246PC	11	218	347	473	36%	346	37%
Shooting unoccupied home or vehicle – 247(b)PC	3	110	179	235	31%	175	35%
Non-firearm aggravated assaults	39	1,819	1,889	1,858	-2%	1,855	0%
Rape	3	176	191	125	-35%	164	-24%
Robbery	46	2,423	1,955	2,249	15%	2,209	2%
Firearm	19	885	607	920	52%	804	14%
Knife	4	120	145	99	-32%	121	-18%
Strong-arm	13	1,081	831	664	-20%	859	-23%
Other dangerous weapon	2	79	69	60	-13%	69	-13%
Residential robbery – 212.5(a)PC	2	84	73	81	11%	79	2%
Carjacking – 215(a) PC	6	174	230	425	85%	276	54%
Burglary	30	12,322	7,808	8,066	3%	9,399	-14%
Auto	14	10,106	5,607	6,484	16%	7,399	-12%
Residential	6	1,521	1,100	863	-22%	1,161	-26%
Commercial	8	539	881	480	-46%	633	-24%
Other (Includes boats, aircraft, and so on)	-	137	160	135	-16%	144	-6%
Unknown	2	19	60	104	73%	61	70%
Motor Vehicle Theft	108	5,524	7,582	7,441	-2%	6,849	9%
Larceny	24	6,449	5,255	4,839	-8%	5,514	-12%
Arson	4	132	171	148	-13%	150	-2%
Total	280	29,494	25,875	26,087	1%	27,152	-4%

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

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

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



2021 Year-to-Date Recovered Guns

Recoveries through 07 Nov., 2021

Grand Total	1,017
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Crime Recoveries	
Felony	545
Felony - Violent	191
Homicide	31
Infraction	0
Misdemeanor	33
Total	800

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun	1	3				4
Other	2					2
Pistol	443	159	24		29	655
Revolver	14	5	2		1	22
Rifle	52	17	2		3	74
Sawed Off	5					5
Shotgun	16	3	2			21
Sub-Machinegun						0
Unknown/Unstated	12	4	1			17
Total	545	191	31	0	33	800

Non-Criminal Recoveries	
Death Investigation	19
Found Property	103
SafeKeeping	95
Total	217

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun		1		1
Other				0
Pistol	10	45	51	106
Revolver	6	29	19	54
Rifle		9	18	27
Sawed Off		1		1
Shotgun	3	12	7	22
Sub-Machinegun				0
Unknown/Unstated		6		6
Total	19	103	95	217



OAKLAND POLICE DEPARTMENT

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

CRIME ANALYSIS

Week: 01 Nov. to 07 Nov., 2021

Weekly Total 15

Crime Recoveries	This Week	Last Week	+/- Change	% Change
Felony	8	5	3	60%
Felony - Violent	2	1	1	100%
Homicide	1	2	-1	-50%
Infraction	0	0	0	PNC
Misdemeanor	0	0	0	PNC
Total	11	8	3	38%

Other Recoveries	This Week	Last Week	+/- Change	% Change
Death Investigation	0	0	0	PNC
Found Property	3	1	2	200%
Safekeeping	1	0	1	PNC
Total	4	1	3	300%

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



2021 vs. 2020 — Year-to-Date Recovered Guns

Recoveries through 07 Nov.

Gun Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Grand Total	1,090	1,017	-73	-7%

Crime Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Felony	573	545	-28	-5%
Felony - Violent	188	191	3	2%
Homicide	50	31	-19	-38%
Infraction	0	0	0	PNC
Misdemeanor	50	33	-17	-34%
Total	861	800	-61	-7%

Non-Criminal Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Death Investigation	21	19	-2	-10%
Found Property	93	103	10	11%
SafeKeeping	115	95	-20	-17%
Total	229	217	-12	-5%

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



For Immediate Release
OPD NEWS: October 21, 2021

A BRAZEN DAYTIME ROBBERY LEAVES ONE PERSON DEAD AND ANOTHER INJURED

The Oakland Police Department is investigating a robbery and shooting that resulted in a homicide. A ShotSpotter Activation alerted officers to the incident which occurred just after 1:00 PM, in the 1700 block of Castro Street.

Upon arrival, officers located two individuals suffering from gunshot wounds. The preliminary investigation shows several individuals exited a vehicle and began to rob the victim of their belongings.

Multiple gunshots were fired and one of the individuals involved in the robbery was fatally wounded. The robbery victim was struck and sustained several gunshot wounds. The suspects entered a waiting black four door sedan and left the area.

The robbery victim was transported to Highland Hospital where they are listed in critical but stable condition.

Anyone with information can contact the Homicide Section at (510) 238-3821 or the TIP LINE at (510) 238-7950.



News from: Oakland Police Department

FOR IMMEDIATE RELEASE:

October 25, 2021

OPD Recovers Flame Thrower, Drugs, and Cash During an Illegal Casino Bust

The Oakland Police Department (OPD) is investigating an illegal casino operation. On October 14, 2021, OPD Community Resource Officers (CRO) from Areas One, Two, and Three executed a search warrant on an illegal gambling establishment, in the 1400 block of 17th Avenue.



Officers recovered four loaded firearms, a 50 round drum magazine, a flame thrower and more than \$17,500 in cash. Officers also recovered eight gambling machines, a quarter pound of suspected meth, and a large amount of tar heroin packaged for distribution inside of the gambling shack.

While executing the search warrant, more than 11 individuals were detained exiting the establishment, two of which were arrested for outstanding warrants.

A third individual believed to be running the illegal operation was arrested for being a felon in possession of a firearm.

This is part of an ongoing investigation. Anyone with information about this case can contact (510) 238-3728



News from: Oakland Police Department

FOR IMMEDIATE RELEASE:

October 29, 2021

A Person is Arrested for Brandishing a Replica Firearm, After Several Calls from Community Members

The Oakland Police Department (OPD) is investigating an incident of a man armed with a firearm in public. The incident occurred on October 28, 2021, just after 1:30 PM, in the area of Skyline Boulevard and Joaquin Miller Road.

Several community members called OPD's Communications Division to report a man walking in public armed with a rifle. OPD Air Support Unit (ARGUS) located the suspect from above and observed the individual, pointing what appeared to be a rifle in their direction.

Officers on the ground took safety precautions, directing vehicle and pedestrian traffic away from the scene. Officers on the ground located the individual and established communication. The officers gave verbal commands for the suspect to surrender. The individual complied and was taken into custody safely.

During the preliminary investigation, officers determined the rifle to be a replica firearm, incapable of firing live ammunition. The suspect was arrested for brandishing the replica rifle at officers in ARGUS.

Anyone who has information regarding this information is encouraged to contact the Oakland Police Department Felony Assault Unit at (510) 238-3426.



For Immediate Release
OPD NEWS: October 8, 2021

SAFELY LOCATED:

Thank you to our community and media partners, Amirh Hewitt is no longer a Missing Person.

BACKGROUND:

Help Locate A Runaway Person at Risk Due to Age Amirh Hewitt

The Oakland Police Department is requesting assistance from our community and media in locating a runaway person at risk due to age. Amirh Hewitt is 11 years old and was last seen October 6, 2021, at 10 PM, in the 900 block of Campbell Street.



Hewitt's family states he is in good physical and mental condition. The 11-year-old is described as a black male, weighing 85 pounds and is 4'5" tall. He has black hair and brown eyes. Hewitt was last seen wearing a brown jacket, blue jeans and unknown color Nike sneakers.

If you have any information regarding the whereabouts of Hewitt, please notify the **Oakland Police Department's Missing Persons Unit at (510) 238-3641.**

Visit [Nixle.com](https://www.nixle.com) to receive Oakland Police Department alerts, advisories and community messages, or follow OPD on Twitter, Facebook, and Instagram @oaklandpoliceca



For Immediate Release October 14, 2021

OPD NEWS:

Help Locate Missing Person at Risk, Joe Ricks

The Oakland Police Department is requesting assistance from our community and media partners in locating Missing Person at risk, Joe Ricks.



Ricks was last seen at 11:30 PM, on October 6, 2021, in the 5400 block of Vicente Way, possibly headed to San Francisco. He was wearing a brown jacket, black jeans, black boots, and possibly carrying a black backpack.

Ricks is described as a 35-years-old Caucasian male. He stands 5'4, weighs 150 pounds, with brown hair and brown eyes. His family reports he has mental health challenges.

Ricks possibly has associates in the area of People's Park in Berkeley.

If you have any knowledge or information regarding the whereabouts of Ricks, please notify the **Oakland Police Department's Missing Persons Unit at 510-238-3641.**

Visit [Nixle.com](https://www.nixle.com) to receive Oakland Police Department alerts, advisories and community messages, or follow OPD on Twitter, Facebook, Instagram @oaklandpoliceca.



For Immediate Release

OPD NEWS: November 3, 2021

Help Locate Missing Person Michael Martinez



The Oakland Police Department is requesting assistance from our community and media in locating missing person Michael Martinez. He is 40 years old and was last seen leaving his workplace in the 200 block of 2nd Street on October 22, 2021, at 9 PM. Martinez is in good physical and mental condition. He is described as a Hispanic male, weighing 285 pounds, 6'1" tall, with black hair, and brown eyes. Martinez was last seen wearing a white or light blue polo top and blue pants.

If you have any information regarding the whereabouts of Martinez, please notify the **Oakland Police Department's Missing Persons Unit at (510) 238-3641.**

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MEMORANDUM

TO: Regina Jackson
Chair, Oakland Police Commission

FROM: LeRonne Armstrong
Chief of Police

SUBJECT: Proposed Policy Submission – CID P&P 19-01

DATE: October 7, 2021

PURPOSE

One of the Oakland Police Commission’s powers is to approve or reject any changes proposed by the Department to policies, procedures, customs, and General Orders surrounding many aspects of the Department’s operation and administration. Pursuant to this power, enumerated in Oakland City Charter section 604(b)(5), the Department respectfully submits the attached Policy and Procedure document for consideration for approval by the Oakland Police Commission.

BACKGROUND

The Oakland Police Department, like the majority of law enforcement agencies in the United States, categorizes uses of force by its officers based on a variety of criteria, increasing the scrutiny and intensity of investigation in proportion to the severity of the force or its aftermath. “Level 1” force, as enumerated in the Department’s force reporting policy (DGO K-04), is the most serious incident of police force, to include incidents where a person loses their life as a result of a use of force or where an officer fires a lethal firearm at a person.

When Level 1 force occurs, the Department, City, and other government agencies may activate multiple investigatory teams to probe the incident. These include investigators from the prosecuting agency such as the District Attorney’s office or the Office of the State Attorney General (depending on the situation), administrative investigators from the Citizen’s Police Review Agency (CPRA) and the Department’s Internal Affairs Division (IAD), and criminal investigators from the Department’s Criminal Investigation Division (CID). The policy and procedure document (P&P) attached governs solely this last aspect – the criminal investigation – and gives specific direction to criminal investigators and all members of the Department on how to conduct these crucial investigations. Additionally, this document includes recommendations and enhancements to Department procedures in response to the Court-appointed Monitor’s report regarding the investigation of the shooting of Joshua Pawlik in 2018.

POLICY DEVELOPMENT AND OVERSIGHT

This policy was initially drafted by the Department’s Homicide Commander with input from the Homicide unit investigators. Additional Department resources tapped to provide input and drafting assistance were the CID Captain, the Bureau of Investigation Deputy Chief, CID investigators from other units, the Policy and Publication Lieutenant, and the Executive Team including Chief LeRonne L. Armstrong.

Once an internal draft was completed, multiple meetings and review sessions were convened with the members of the Independent Monitoring Team (led by Chief Robert Warshaw) and plaintiff’s attorney James B. Chanin. At least nine (9) revisions of the policy were worked through as a result

of this development process, which incorporated many of the suggestions and input from these stakeholders. The result is the attached document, which the Department respectfully requests be placed on the agenda for approval consideration.

CONCLUSION AND RECOMMENDATION

While this document is still in a draft form, the Department has already implemented many of its provisions, which set forth clearly best practices and stringent guidelines to ensure thorough, unbiased, equitable, transparent, and comprehensive criminal investigations into Level 1 incidents. The Department is committed to utilizing the best practices for these investigations and, with input from the Monitoring Team and the plaintiff's attorneys, submits that this document represents these best practices. As such, staff respectfully recommend that the Oakland Police Commission place this P&P document on the agenda for approval consideration and approve the document for use in administration of the Department.

Respectfully submitted,

LeRonne L. Armstrong
Chief of Police
Oakland Police Department

Attachment (1):

A – Criminal Investigation Division Level 1 Investigations Policy & Procedure 19-01

CRIMINAL INVESTIGATION DIVISION HOMICIDE SECTION

Level 1 Investigations

Policy & Procedure 19-01



Revised **** 2021

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Preface

The Oakland Police Department values the protection and sanctity of human life. The Level 1 Investigation Team is committed to thorough, unbiased, equitable, transparent, and comprehensive criminal investigations into Level 1 incidents. The Department will work collaboratively with prosecutorial agencies and, as much as is possible, the Internal Affairs Division and the City of Oakland's Community Police Review Agency.

The Department is responsible for ensuring the investigative processes used during our investigations are ever evolving, utilizing best practices. The Level 1 Investigation Team will produce comprehensive, thorough, accurate, unbiased, transparent, and timely investigations.

Purpose

The purpose of this directive is to set forth policy and procedures for all Level 1 Investigation Team activations. This document supplements existing homicide investigative policy and procedures identified in CID Policy and Procedure 15-01, General Orders K-04, M-04.1 and others. The intent of this directive is to reinforce procedures and conduct that should result in a thorough and quality investigation, serving as the foundation for prosecutorial decisions to be made by the Alameda County District Attorney's Office (or other sanctioned entity).

The investigation report may also provide facts to administrative investigators for the Department's own internal use. Criminal investigators should recognize their priority is the criminal investigation but should also be conscientious about addressing information and evidence pertaining to the Department's administrative investigation.

Applicability

This directive is applicable to all personnel regularly assigned to the Level 1 Investigation Team and to other Departmental personnel participating in Level 1 investigations, as defined below.

Definition

A "Level 1 Investigation" is one in which the Department sends specifically trained investigators, who are members of the Criminal Investigation Division's Homicide Section, on a "call-out" basis to investigate a major incident involving the actions, or alleged actions / involvement, of OPD members. **While the name of this type of investigation stems from the Department's force reporting structure (where "Level 1" force is the most serious type of force, such as an officer-involved shooting), OPD uses the Level 1 Investigation for Level 1 uses of force and other serious incidents.** These include:

Level 1 Uses of Force¹:

¹ Departmental General Order K-04 Section II, A as modified by [Special Order 9196](#)

- ❖ A lethal firearm discharge at a person;
- ❖ Any force resulting in death;
- ❖ Any force creating a substantial risk of causing death;
- ❖ Intentional strikes to the head with an impact or impromptu impact weapon, regardless of injury;
- ❖ Any unintentional firearm discharge with injury or as directed by the CID Commander;
- ❖ Any force² which results in Great Bodily Injury³;
- ❖ The use of the Carotid Restraint, including a Carotid Takedown⁴;
- ❖ The use of a vehicle by a member to intentionally strike a suspect. This includes a vehicle at any speed, with or without injury, when the act was intentional, and contact was made;
- ❖ Any Use of Force incident raised to a Level 1 at the direction of the Chief of Police (COP) or designee, including those raised in the field by a Watch Commander.⁵

Level 1 Vehicle Pursuits⁶:

- ❖ A vehicle pursuit that results in death or serious injury likely to cause death; or
- ❖ A Level 2 pursuit raised to a Level 1 by a supervisor or commander.

In-Custody Deaths:

- ❖ The death of a person who is detained by, under arrest by, or otherwise in the custody of OPD members.

Significant Incidents Involving Outside Law Enforcement Agencies Within Oakland:

- ❖ Where an outside agency on-duty law enforcement officer uses lethal force within the jurisdiction of the Oakland Police Department resulting in the death of a person.
- ❖ Where an outside agency on-duty law enforcement officer's pursuit of a vehicle results in the death of anyone involved in the pursuit or occurs as a result of the pursuit, and the death occurs within the jurisdiction of the Oakland Police Department.
- ❖ Where an outside agency on-duty law enforcement officer is involved in a Level 1 incident in their own jurisdiction, which is wholly or partially within the jurisdiction of the city of Oakland, and the outside agency requests that OPD take primary responsibility

² Including positional asphyxia

³ "Great bodily injury is significant or substantial physical injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body. It is an injury that is greater than minor or moderate harm, and is more severe than serious bodily injury." DGO K-03, as passed by the Police Commission 8 October 2020

⁴ The Carotid Restraint is banned by policy (DGO K-03, I-1)

⁵ CID PP 15-01 Section I, Homicide Section Protocol; Refer to K-04 Reporting and Investigating Use of Force Policy and J-4 Pursuit Policy.

⁶ [DGO J-04, Pursuit Driving](#), Appendix A, J.

for the criminal investigation (e.g., an event where California Highway Patrol officers use lethal force on a controlled-access freeway wholly within the city of Oakland).

When Oakland Police personnel are involved in one of the above incidents, the Level 1 Investigation by the Criminal Investigation Division is typically paralleled by administrative investigations from the Department's Internal Affairs Division (IAD) and the City's Community Police Review Agency (CPRA).

OPD INCIDENTS OUTSIDE THE CITY OF OAKLAND

Upon notification of a Level 1 force incident involving on-duty Oakland Police members occurring outside the City of Oakland, Level 1 investigators shall respond and liaise with the agency with jurisdiction over the incident.

Level 1 investigators may be directed to attend and/or monitor subsequent interviews of Oakland Police Department members, unless other factors make this impractical. The law enforcement agency with jurisdiction over the Level 1 incident shall retain incident command and primary criminal investigation responsibility. Level 1 investigators shall only assume primary criminal investigation responsibility of these incidents upon the request of the outside agency.

OUTSIDE STATE/LOCAL AGENCY INCIDENTS WITHIN THE CITY OF OAKLAND

Upon notification of a Level 1 force incident involving outside agency personnel that occurred wholly within the City of Oakland, the CID Commander shall deploy Level 1 Investigators to conduct the criminal investigation for the incident. The CID Commander will ensure the subject officer's home agency has been notified of the Level 1 incident and will determine if the outside agency investigators may observe and be present during the criminal investigation, upon the request of that agency.

For Level 1 force incidents involving outside agency personnel that occurred within multiple jurisdictions including the City of Oakland, the BOI Deputy Chief shall make the determination of whether OPD Level 1 investigators or an outside agency will conduct the criminal investigation for the incident.

In all instances involving Level 1 force incidents and outside agency personnel, requests – or specific direction – to outside agency personnel may be disregarded by those agencies. In cases where OPD cannot enforce compliance, and outside agency personnel do not follow the direction of OPD command or policy, these deviations shall be communicated to the lead investigator, who shall memorialize the deviation in their Investigation Report.

SECTION I

DUTIES & RESPONSIBILITIES AT LEVEL 1 INCIDENTS

On-Duty Watch Commander or Initial Incident Commander

The first command officer (rank of Lieutenant of Police or above) to respond to the scene of a Level 1 incident will take command as the Incident Commander. This person's role is crucial in the time between when the incident takes place and when the Level 1 Investigation team and its attendant apparatus arrives. While for incidents involving the Bureau of Field Operations this is typically the on-duty Watch Commander for that area, another command officer may take this role.

The on-duty Watch Commander or initial incident commander⁷ (hereafter "Watch Commander") at a Level 1 incident shall:

1. Follow the direction in [DGO K-04](#) regarding responsibilities at a Level 1 force incident, if applicable, including managing the apprehension of outstanding suspects and ameliorating any public safety threats;
2. Follow the direction in [DGO J-04](#) regarding responsibilities at a Level 1 pursuit incident, if applicable, including managing the apprehension of outstanding suspects and ameliorating any public safety threats;
3. Ensure that all involved and witness members are physically separated immediately after the scene has been secured and that these members are sequestered with an uninvolved member who was not a witness to or involved in the use of force. Sequestered means:
 - a. Sequestered members cannot communicate with each other, including by use of their personal phones;
 - b. Sequestered members have their BWCs collected (see number 7);
 - c. Sequestered members have their departmentally owned cellular devices collected (see number 7);

If physical sequestration is impossible, involved and witness members shall be admonished to not discuss the incident with other involved or witness members (an inability to physically sequester shall be documented and explained, and should only occur in exceptional circumstances).

Involved in this context means that the member:

- a. Used **any** force during the level 1 incident
- b. Directed **any** force as a supervisor or commander during the level 1 incident

⁷ Refer to MOR 250.01, *Authority and Responsibilities of the Watch Commander*

- c. Was the driver or passenger in a police vehicle engaged at any point in a vehicle pursuit that ended as a Level 1 pursuit or was directed to be investigated as a Level 1 pursuit
 - d. Was part of any physical detention, arrest, or custody of a person who died in custody of OPD members.
4. When there is a doubt as to whether a member's involvement requires sequestering, the Watch Commander should sequester that member as a precaution until a determination can be made by the Level 1 investigation team.
5. Ensure that a supervisor receives a Public Safety Statement⁸ from all involved personnel if a firearm discharge occurred.
6. Ensure a Crime Scene Security Log is prepared;
7. Collect (or direct that a designee collect) the body-worn cameras (BWC) of all involved and witness officers and maintain custody of the cameras until he/she can pass them to the Level 1 investigator or designee;
8. Collect (or direct that a designee collect) any departmentally owned cellular devices in possession of all involved and witness officers and maintain custody of these devices until he/she can pass them to the IAD investigator or designee;
9. Direct preliminary scene investigation to include:
 - a. identifying and canvassing for witnesses and surveillance footage; and
 - b. identifying an appropriate primary report writing officer with the experience and capacity to complete the initial crime report.

⁸ Definition: A Public Safety Statement is information obtained by a supervisor at an officer-involved incident using questions intended to determine existing threats to public safety and identify transitory evidence that must be preserved. The scope of this statement is limited to the collection of such critical, fleeting information in the immediate aftermath of these critical incidents. If there are multiple officers involved, the field supervisor should separately obtain Public Safety Statements from each involved officer, if feasible.

This task should be handled by a field supervisor. The field supervisor shall direct the involved officer to answer limited questions of an exigent nature. These include, but are not limited to:

- Have you been involved in an Officer-Involved Shooting?.
- Is anyone injured? Where are they?
- Are there any outstanding suspects? If so, can you provide a description, direction, mode of flight? How long ago did the outstanding suspect(s) flee? What weapons are they armed with?
- Did the suspect(s) fire at you? Where was the suspect? Where were you?
- Where were you when you fired at the suspect? Where was the suspect?
- Did you move during the encounter? From where to where?
- Are you aware of weapons or evidence that needs to be secured or protected?
- Are you aware of any witnesses? Where are they?

10. Ensure that a space (similar to a media staging area) has been designated for family members of persons who have had force used against them as well as other impacted community members, if applicable;
11. Once the Level 1 investigation team has arrived, lead a briefing and a scene **investigation** walk-through for the Level 1 investigators, outside agency investigators (if any), IAD investigators, Homicide Section Commander, CID Commander, District Attorney Inspectors (if applicable), and Traffic Investigators (if applicable).
12. Watch Commanders initially responding to the scene should ask each member at the scene whether any discussions regarding the incident have occurred prior to the Watch Commander's arrival or prior to the member being sequestered. The Watch Commander should then brief Level 1 investigators immediately after investigators arrive at the scene about whether any discussions have occurred so that these can be clarified during subsequent interviews.
13. If the Watch Commander played an active role in the incident, tactical event, or directed the force, he or she shall:
 - a. Immediately request relief as the incident commander from another command officer (typically another on-duty Watch Commander), and
 - b. Inform the Level 1 Investigation team of his/her involvement in the incident, so that he/she can be sequestered.
14. Involved commanders should contact their Division Captain or Bureau Chief to coordinate relief.

The Bureau of Investigations Deputy Chief

Upon notification of a Level 1 incident, the BOI Deputy Chief shall:

1. Notify and brief the Assistant Chief and Chief of Police;

The Bureau of Investigations Deputy Chief will also adjudicate any disputes between the IAD Commander (Captain of Police) and the Criminal Investigation Division Commander (Captain of Police) over whether personnel are to be considered as "involved" in a Level 1 incident (and thus subject to the provisions of this policy, including sequestration and interview). The IAD Commander may appeal this decision to the Assistant Chief of Police, who will be the final arbiter of any disputes of this sort.

Criminal Investigation Division Commander

Upon notification of a Level 1 incident, the CID Commander or designee shall:

1. Notify and brief the Bureau of Investigation (BOI) Deputy Chief;
2. Notify the Internal Affairs Division Commander (if CPRA investigators respond to the scene, the IAD Commander will coordinate with CPRA investigator[s]);
3. Respond to the incident location within one hour of notification, or as soon as practical;
4. Review the investigative plan coordinated by the Homicide Commander;

5. Ensure that BWC footage from involved officers has been uploaded and locked so that uninvolved persons cannot access it;
6. Ensure that any applicable search warrant affidavits have sealing order requests attached, if supported by law.
7. Ensure that the primary crime report has been locked by Records Manager with limited access for authorized personnel.
8. Coordinate with the Public Information Officer (PIO) on a preliminary media statement to be issued in accordance with Section IV, below, if applicable.
9. Ensure that investigative plan is completed within 48-72 hours by the Homicide Section Commander and documented on the Investigative Action Report (IAR).
 - a. Review and approve investigative plan within ten days and forward to chain of command.
 - b. Ensure that investigative plan is completed and forwarded to Bureau of Investigation Chief and Executive Command Team within ten days after the incident.

Homicide Section Commander

The Homicide Section Commander is responsible for overseeing all Level 1 investigations to ensure procedures outlined in this policy are addressed, followed, and properly memorialized. The Homicide Section Commander is also responsible for the overall command and control of the use of force crime scene and investigation, as well as ensuring that all primary investigators conducting Level 1 Investigations have completed the mandated training courses⁹ prior to being activated as a Level 1 Investigator.

Upon being notified of a Level 1 incident the Homicide Commander or his/her designee shall:

1. Notify and brief the CID Commander;
2. Notify the District Attorney's Office standby team¹⁰;
3. Respond to the incident location within one hour of notification, or as soon as practical;
4. Confirm that all involved members, witness members, and non-member witnesses have been identified, properly separated, and sequestered (for members) by the incident commander;
 - a. When there is a doubt as to whether a member's involvement requires sequestering, the Homicide Commander should isolate parties as a precaution until a determination can be made by the CID Commander, the BOI Deputy Chief, or, at last resort, the Assistant Chief of Police.

⁹ Mandatory training courses are set forth in CID P&P 13-05, *CID Investigative Training Program*.

¹⁰ If the District Attorney's Office standby team declines to respond, this information shall be memorialized in the primary investigator's case notes.

5. Ensure all Body Worn Cameras (BWC) were collected by the Watch Commander and uploaded to the server as soon as possible, pursuant to [DGO I-15.1](#).
6. Designate the lead investigator and coordinate the investigative plan for the incident with the force investigators. The plan may include, but is not limited to, determining if there is probable cause for an arrest, the direction of ongoing criminal investigations, apprehending outstanding suspects, search warrants to be authored, etc.
7. In cases of a fatality, the Homicide Section Commander will confer with the Alameda County Coroner's Office to determine whether OPD or the Coroner's office will perform next-of-kin notification.
8. Contact communications supervisor and obtain copy of radio purge. Review document as soon as practical and ensure:
 - a. Identify any witnesses who may have called the OPD Communications Division.
 - b. Ensure appropriate follow up once witnesses have been identified from the radio purge.
9. Ensure that the investigative plan is completed within 48 – 72 hours and documented within the body of the Investigative Action Report (IAR).
 - a. Forward copy of investigative plan to CID Commander no later than seven days from date of incident.

CID Level 1 Investigators

The primary investigator is generally the on-call Level 1 Investigation Team Sergeant, and the primary investigator shall be at the rank of Sergeant or above (assisting investigators may be at the rank of officer). The Homicide Section Commander may, at any point in the investigation, designate a different investigator (Sergeant or above) as the primary investigator. All primary investigators for Level 1 Investigations must have previously completed specific training for investigating Level 1 uses of force.

The Primary Level 1 Investigator holds authority over the crime-scene(s) and may order the delegation of investigative tasks, remove unnecessary personnel from the scene (regardless of rank or assignment), and take other investigative actions as necessary to ensure a thorough, unbiased, and equitable investigation may take place. Typically, while many personnel might be within the outer perimeter of the incident, only the following personnel will be allowed into the inner perimeter which contains the crime scene:

- Lead investigator
- Secondary investigator
- Assigned primary Police Evidence Technician
- Homicide Section Commander
- BOI Deputy Chief (if necessary)
- IAD Lead investigator
- IAD Secondary investigator
- IAD Investigations Lieutenant

- If CPRA personnel respond to the incident, they shall be escorted while inside the crime scene by the IAD Lieutenant or designee
- District Attorney (if applicable)
- District Attorney Investigator (if applicable)

Upon being notified of a Level 1 incident the assigned Level 1 Investigator(s) shall:

- Notify and confer with the Homicide Section Commander;
- Respond to the incident location within one hour of notification, or as soon as practical;
- Note all relevant information involving the notification of the incident for eventual inclusion in the Investigative Action Report (IAR).

Upon arrival the Investigator shall:

1. Assume control of the crime scene.
2. Ensure that the crime scene is protected, including the assemblance of the crime scene visibility barriers (e.g. dignity curtains) if available and if they can be erected without impacting the scene integrity or investigation.
3. Ensure that all items of evidence are identified and protected prior to collection by Police Evidence Technicians (PET).
4. Receive a briefing and scene walk-through from the assigned report writer, on-scene sergeant, on-scene commander, and Police Evidence Technician(s). This should include:
 - a. The outcome of all Public Safety Statements already obtained by the incident commander or designated supervisors;
5. Conduct a briefing for other law enforcement or civilian agencies with jurisdiction to investigate or oversee Level 1 investigations, if applicable. The extent of this briefing will depend on the agencies or other parties (outside of OPD) who are present.
6. Confirm that all non-member witnesses, member witnesses, and involved members have been identified.
7. Ensure statements have been taken from available witnesses, subject officers, and the subjects of the force or that arrangements have been made for interviews (see Section II for interview considerations). *Note: part of the ongoing investigation will be to find and interview witnesses who were not available or identified at the initial scene, if they exist.* Direct any additional necessary canvassing efforts and collect all results of the canvass.
 - a. Canvassing efforts should include identifying:
 - i. Witnesses;
 - ii. Video evidence from cellular telephones;
 - iii. Video evidence from surveillance cameras around the scene of the incident.
8. Assess, in coordination with the Homicide Section Commander, whether a Crime Lab call-out is needed;

9. Assess, in coordination with the Homicide Section Commander, whether a Fatal Accident Standby Team (FAST) activation to include application of Total Station¹¹ or equivalent technology for evidence identification and scene mapping is needed;
10. Request aerial assets be made available for overhead photography of the scene (when appropriate). Options may include:
 - a. Oakland Police Department's helicopter unit (ARGUS) or other air-borne assets.
 - b. Other local agency's air-borne assets.
11. Work towards apprehension of outstanding suspects, if necessary.
12. Review and approve crime report and supplemental reports by applicable staff.

Police Evidence Technicians

The primary PET processing the scene shall be designated and properly identified during the incident by the Level 1 Investigation Team, and the Level 1 Investigation Team has the discretion to replace the primary PET or add PETs as needed.

The Level 1 investigation Team will direct the duties of the primary PET on scene, which may include:

1. Inspecting and collecting all involved members' firearms¹² and magazines in their possession, and/or other weapons or equipment as relevant:
 - a. Describe the condition of the member's firearm(s) and magazines and round count (e.g., ammunition remaining in magazine, damage to firearm, weapon malfunction, and safety on if applicable);
 - b. Describe the condition of the member's other weapons or equipment;
 - c. Process for evidence as applicable;
2. Conducting a round count of involved members' firearms and magazines in their possession, even if it is not known whether they fired their firearm (if applicable);
3. Assemble crime scene visibility barriers (e.g. dignity curtains) if available and if they can be erected without impacting the scene integrity or investigation;
4. Photograph the scene, subject's injuries or absence of injuries, and all involved members' injuries or absence of injuries;
 - a. Photographs should include full length as well as close-up photographs of the involved members depicting their appearance at the time of the incident;
5. Conduct a Gunshot Residue (GSR) examination on all involved parties, if necessary / applicable;
6. Recover all relevant and identified evidence;

¹¹ Laser Scanning equipment is stored in the Crime Lab and must be formally requested by a commander for access/use.

¹² CID Level 1 personnel will have access to loaner equipment to replace items collected in the field.

7. Prepare a report as well as scale drawings and diagrams of the crime scene to include, when possible:
 - a. Identification of relevant reference points within the scene, such as vehicles, structures, street lights, or telephone poles;
 - b. Locations of known bullet holes and strike marks;
 - c. Locations of spent casings, live rounds, and magazines;
8. Ensure the assigned Level 1 Investigator reviews the Technician report for accuracy and completeness prior to finalizing.

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SECTION II - INTERVIEWS

Summary

The interview of police personnel involved in a Level 1 incident, especially one involving the use of lethal force, is necessarily fraught with many challenges. Sworn peace officers are allowed, in certain circumstances, to use lethal force to protect themselves and others; in other circumstances, the use of lethal force by a peace officer may constitute a crime. Unlike other crimes that criminal investigators investigate, the identity of the perpetrator of the action (a peace officer) is rarely in doubt in a use of force by an officer. Instead, investigators of Level 1 incidents are faced with the complex task of discovering as many facts as possible about the case, while also eliciting information from the officer about their recollection of the incident and why they took the actions they took. In-person interviews are one of the main opportunities for investigators to elicit information about the incident from involved personnel, witnesses, and the subjects of force (if possible).

General Considerations for Level 1 Interviews

Deciding Who is Interviewed

As the first-level commander of the Level 1 investigators and the coordinator of the investigative plan for the incident, the Homicide Commander will approve the investigation's plan on who is interviewed and the manner in which the interview takes place. **For Level 1 incidents, all OPD members who are determined to be materially involved in the incident by the Level 1 investigation team shall be asked to submit to an in-person voluntary interview.** Materially involved means directly involved in the use of force incident; this may be of a narrower scope than those personnel who are initially sequestered on scene by the watch commander. As the Level 1 investigation moves forward, for instance, certain members caught in the wide net of sequestration may be determined to have not been materially involved and the Level 1 investigation team may decide not to formally interview that person. *For every instance where a member is initially sequestered but determined to not be materially involved, the investigator shall include in their investigation report the reason why that member was determined to not be materially involved.*

For OPD personnel who are witnesses to Level 1 incidents, the Level 1 investigation team will make a determination on whether they will be personally interviewed and who will conduct the interview. Certain witness personnel who are determined to not be involved nor needed for a witness interview may be directed to complete a supplemental report detailing their recollections of the incident. Witness personnel who complete supplemental reports may be called for interview by the Level 1 investigators at a later point, if necessary.

For civilian witnesses to Level 1 incidents whose in-person interview would improve the quality of the investigation, the Level 1 investigators shall request that the witness voluntarily come to the location of the interviews or location where a thorough interview with the investigators can occur (typically the Police Administration Building) to provide a recorded interview. Private

person witnesses who are not in custody are free to refuse this request; if they do so, the Level 1 investigation team will review any statement taken of the witness by canvassing officers, and may elect to contact the witness for more details if the witness is still on scene and/or available.

Type of Interview for OPD Materially Involved Members

Materially involved members who are not under arrest shall be asked to submit to a voluntary interview about their involvement in the incident. These members shall be given an admonition that minimally includes:

- That the member is not under arrest;
- That the member's interview is being sought on a voluntary basis, and is not being compelled by policy or direction of a superior officer;
- That the member is free to leave and terminate the interview at any time.

Materially involved members who are under arrest shall be read their *Miranda* rights and asked to provide a signed waiver of their rights. If a valid *Miranda* waiver has been obtained, the member shall be interviewed about their involvement in the incident.

Interviews of all materially involved members shall be recorded by video (preferred) and/or audio recording. If video recording is not used, the primary investigator shall note the reason why in their report.

Type of Interview for Witness Members

Witness members may be asked to provide an in-person interview about their recollections of the incident in lieu of writing a crime or supplemental report. Interviews of witness members shall be recorded by video (preferred) and/or audio. If video recording is not used, the primary investigator shall note the reason why in their report.

Location of Interviews and Persons Allowed to be Present

Interviews of materially involved members shall be completed in an interview room. Only the following persons may be physically in the room during the interview:

- The interviewee;
- The Legal Representative for the interviewee;
- The primary Level 1 investigator;
- The secondary Level 1 investigator;
- One supplemental investigation team member to control the recording device, if necessary;
- The Deputy District Attorney from the Alameda County District Attorney's Office, Officer Involved Shooting Team;
- The Inspector from the Alameda County District Attorney's Office, Officer Involved Shooting Team;

- With approval of the BOI Deputy Chief or CID Commander, other law enforcement agency with investigative jurisdiction;
- The Homicide Section Commander.

The following persons may observe the interview remotely (e.g. telephonically or via video streaming), but may not participate in the interview:

- IAD primary and secondary investigators;
- CPRA Personnel (for OPD incidents);
- The CID Commander;
- The BOI Deputy Chief.

Interviews of witness members and other private person witnesses may be completed in an appropriate interview room or office. The Level 1 investigation team shall decide whether to have these members interviewed by the primary Level 1 investigators or a supplemental investigation team.

Interview Sequence

While each investigation is different, typically interviews will be sequenced so that private person witnesses are interviewed first, followed by OPD member witnesses, followed by the force subject (if possible), and finishing with materially involved members. This allows for the Level 1 investigation team to have the most thorough understanding of events prior to interviewing the members who used force, or whose actions are under scrutiny. Factors that may be considered when determining the interview sequence may include:

- Whether investigators have enough of an understanding of the incident, and the interviewed member's involvement, from other sources that they are ready to conduct the interview;
- Investigative resources available;
- Physical and mental fatigue of witnesses and materially involved persons, and whether these factors will impact the quality of interview or recollection provided.

Delaying OPD Materially Involved Member Interviews

It shall be the policy of the OPD that all materially involved members to a Level 1 use of force incident shall be interviewed as soon as practical after the incident, consistent with the investigation plan of the Level 1 investigation team. However, in certain cases (e.g. exhaustion or injury on the part of the involved member, lack of investigative resources, etc.) the Level 1 investigation team may decide to postpone the interview of materially involved members. All delays of this type shall be approved by the Chief of Police.

Regardless of the length of time, any materially involved members who are allowed to leave sequestration (e.g. to go home and sleep prior to returning for their interview) **shall be verbally admonished to not discuss the incident with anyone outside of their legal counsel and the Level 1 investigation team.** This admonition shall be witnessed by the Homicide Section Commander or designee.

Interview Protocols and Considerations

Interview Questions and Plan

The primary Level 1 investigator will be the lead interviewer during all interviews of materially involved members and has the responsibility of administering the interview and controlling the flow of the session. While Level 1 investigators may utilize the question sets in the appendices to this document to formulate their interview plan and questions, they shall prepare their general interview questions prior to the interview. The interview questions shall be reviewed by the Homicide Section Commander prior to the interview.

Introductions, Administration, and Order of Questioning

Typically, the following protocols are followed during an interview of a materially involved member once the recording equipment has been activated:

- The primary investigator introduces all active participants in the room and explains who (if anyone) is monitoring the interview remotely.
- The primary investigator explains the normal Level 1 procedures (if necessary), explains the format of the interview (one questioner at a time), and explains that the completed investigation will be reviewed by the Alameda County District Attorney's Office (or appropriate prosecuting body).
- The primary investigator will explicitly state that no discussion of the incident will occur while the recording equipment is not activated, except for privileged conversations between the involved member and his/her legal counsel.
- The primary investigator will begin the interview with basic background questions, then allow the member to provide a cognitive recall of the incident. Following the member's recollection of the incident, the primary investigator will ask questions to obtain a thorough understanding of the facts and circumstances surrounding the incident, including questions about a member's decisions and actions during the incident.
- **It is essential that all questions be neutral, non-leading, and do not make assumptions that are not based in facts or previously-stated assertions by the person being interviewed.**
- The Level 1 investigators may use a diagram or map of the scene, to allow the interviewee to describe his or her movements during the incident or otherwise provide information about the incident.
 - A new, unmarked diagram or map shall be used for each interviewee;
 - The diagram or map shall not depict anything that would influence the statement of the interviewee;
 - If a diagram or map is used, it should be signed and dated by the interviewee at the end of the interview.

- Level 1 investigators shall question interviewees about any responses that are inconsistent with evidence, other statements, or facts already known to the investigators, or other discrepancies that arise during the interview¹³.
- Level 1 investigators shall attempt to clarify assertions of fact made during interviews that are either not supported by other evidence or contradicted by other evidence or statements.
- Once the primary investigator has completed their initial questioning, he or she will allow each person present in the interview to ask questions of the interviewee, typically in the following order:
 - Secondary investigator
 - Homicide Section Commander
 - Deputy District Attorney (if applicable)
 - District Attorney Inspector (if applicable)
 - Member's legal counsel.
- After questioning by each person at the table is completed, but before the interview is complete, the primary investigator will determine whether to provide the involved member the opportunity to review their BWC footage (if applicable). If they view their BWC footage, the involved member will be given the opportunity to provide additional information to supplement their statement and may be asked additional questions by the investigators to clarify any discrepancies between the BWC footage and the member's statement.

Post-Interview Considerations

Information to Provide the Member

If the member discharged their firearm, the firearm will be taken for testing. Sworn members will typically be provided with a replacement sidearm if necessary.

Members involved in an incident where a person dies or is seriously injured shall attend employee assistance and counseling services provided by the City before his/her return to duty.¹⁴ Affected members will be contacted by the Bureau of Services or their chain of command regarding these City-provided resources.

Administrative Leave

If a member is subject to the administrative leave provisions of [DGO K-03](#)¹⁵, the CID Commander will inform the member that he or she will be placed on paid administrative leave

¹³ As a reminder, allegations of misconduct related to departmental policy should be handled in accordance with DGO M-03.

¹⁴ DGO K-03, Section J-3.

¹⁵ *Ibid.*, Section J-2: "Officers involved in a lethal force incident shall be placed on paid administrative leave for not less than three days, unless otherwise directed by the Chief of Police."

pending further notice, but for no less than three (3) working days. After a Level 1 incident, the CID Commander will prepare a list of all members placed on administrative leave and send it to:

- The Chief of Police
- The Captain of IAD
- The Bureau of Services Deputy Director; and
- The involved members' chain(s) of command

Follow-Up Interviews

Follow-up interviews shall be conducted in the same manner as the primary interview after the incident, unless the investigative plan approved by the Homicide Commander dictates a deviance.

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SECTION III – FOLLOW-UP INVESTIGATION

Investigation Basics

Mission

The mission of every Level 1 investigation is to provide a thorough, impartial, transparent, and timely investigation of the incident and present the facts in the professional, unbiased, and systematic fashion using statements, physical evidence, and all available technological and investigative means to achieve that goal. The fact finding for the Level 1 investigation is geared towards giving the appropriate prosecuting authority enough information to determine whether anyone involved in the incident committed any violation of criminal statutes.

Standard of Review

For Level 1 incidents that result from a use of force by peace officers, the Level 1 investigation shall minimally focus on gaining information which will allow the appropriate prosecuting authority to determine whether the use of force was compliant with [California Penal Code § 835a](#), which confers upon peace officers the ability to use force to overcome resistance and in defense of themselves or others.

Investigation Timelines and Briefings

Timelines

Depending on the complexity of the incident and other factors, the investigation may be completed within a few weeks or stretch out for several months. Regardless of the length of the investigation, the Level 1 investigation team will endeavor to complete the investigation in a timely manner and forward it for review through the chain of command and ultimately to the relevant prosecuting authority.

72-Hour Briefing

Within 72 hours of a Level 1 incident involving OPD personnel, the Bureau of Investigations Deputy Chief will give a basic presentation to the Chief of Police on the status of the Level 1 investigation. This will include:

- Status of the involved officers and subject of force; and
- Basic investigative plan of the Level 1 investigation team.

30-Day Briefing

Within 30 days of a Level 1 incident involving OPD personnel, the Bureau of Investigation Deputy Chief or designee will give a presentation to the Chief of Police, Departmental counsel, and Public Information Officer on the status of the Level 1 investigation. This will include:

- Investigative challenges or resource needs
- Estimated timeline of the investigation, if available

- Discussion on whether the investigation would be compromised by release of any video or audio recording of the incident pursuant to [Government Code § 6254\(f\)\(4\)\(A\)\(i\)](#)¹⁶ (if applicable).
 - If release of video or audio would not compromise the investigation (with the final determination on this matter resting with the BOI Deputy Chief), the Level 1 investigation team should have available a list of those recordings which best encapsulate the incident for forwarding to the PIO.
 - Prior to release of video or audio pursuant to the Government Code, the BOI Deputy Chief or designee shall advise the prosecuting authority of the Department's planned information releases.

Ongoing Briefings

While the investigation is ongoing after the first 30 days, the BOI Deputy Chief or designee will give a briefing to the Chief of Police on the status of the Level 1 investigation involving OPD personnel at least every 30 days. This will include:

- Investigative challenges or resource needs
- Estimated timeline of the investigation, if available

Final Briefing

Once the investigation has been completed and reviewed through the level of the BOI Deputy Chief, the Level 1 investigation team will provide a briefing to the Assistant Chief of Police and Chief of Police on the entirety of the investigation, in conjunction with providing the investigation report to these two officers for review (if applicable).

Evidentiary Considerations

Expected Evidence

While every Level 1 investigation is unique, it is expected that certain evidence will be collected or requested by the Level 1 investigation team. This may include:

- Body worn camera video
- Surveillance video
- In-car camera video
- Cellphone video
- Shotspotter activation recordings

¹⁶Government Code § 6254(f)(4)(A)(i): During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

- Patrol radio channel recordings
- Computer-aided dispatch (CAD) printouts
- Physical evidence on scene (e.g. casings, weapons)
- Photographs of the scene
- Medical or autopsy reports
- Criminalistics Division Laboratory reports

Case File Management

The primary investigator is responsible for documenting the overall investigation of the incident as well as coordinating with the IAD Force Investigation investigators to facilitate the transfer of documents to IAD. The primary investigator shall organize their investigation in accordance with the CASE FILE MANAGEMENT steps outlined in the Homicide Manual 15-01.

Chain of Review

The ability of the Department to investigate itself, and other law enforcement officers, relies on the transparency of the investigation and the duty to consider criminal culpability.

Investigative Action Reports (IAR) completed by the Level 1 Force Investigation Team will be reviewed and approved by the Homicide Section Commander and forwarded to the CID Commander.

The Command review process shall include:

1. Homicide Section Commander;
2. CID Commander;
3. BOI Deputy Chief.

For Level 1 incidents involving only outside agency personnel, the review process may terminate at the BOI Deputy Chief. For incidents involving OPD personnel as involved, the chain of review shall include:

1. Assistant Chief; and
2. Chief of Police

If an IAD investigation includes compelled (*Lybarger*) statements which, if known to criminal investigators, could be used to direct or further a criminal investigation of the member making the compelled statement, that investigation shall be flagged by IAD before submitting it to the Chief or Assistant Chief for review. For any flagged case, the Chief or Assistant Chief shall not receive the IA investigation for review until the Chief or Assistant Chief has approved the related CID IAR. This will prevent the Chief or Assistant Chief from using, even inadvertently, the information contained in a compelled statement to direct or further a criminal investigation of the member who made the compelled statement. In these cases, the Chief or Assistant Chief shall

document next to their signature on the IAR that he or she completed CID IAR review before receiving the IAD Investigation Report.

The review of the investigation is complete once the final reviewer has signed off on the investigation. Once the investigation has been approved by the final reviewer the investigation can be submitted to the DA's office for possible charges. An exception to the final reviewer approval can be made if a person is under arrest and documents are needed for criminal prosecution.

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SECTION IV – MEDIA

Initial Information Releases

For any incident which requires a Level 1 Investigation, The Public Information Officer (PIO) shall, at a minimum, be notified of the incident in order to determine whether their involvement is required. For any Level 1 incident where there is great bodily injury or death, the Public Information Officer shall be called out to the scene. The Public Information Officer (PIO) will prepare and disseminate all related press releases and will be the primary point of contact for all public and press inquiries about the incident.

For Level 1 incidents where a PIO is not called out, the incident commander or members of the Level 1 investigation team may respond to immediate questions from the media received at the scene if feasible and practical. Detailed requests will be referred to the PIO.

The PIO, or other assigned staff member designated to speak with the media, shall be prepared to deliver confirmed facts regarding Level 1 incidents involving the department or which the department is investigating. Upon arrival at an incident, the PIO shall be briefed and provided a public information walk-through (enough situational awareness to be able to convey critical information to the community and media) to assist the PIO in appropriately presenting information to the public going forward. The PIO assigned to this role should understand that any police use of force cannot be pre-judged, and that the public information provided should remain neutral and consistent throughout the reporting incident. All public messages shall be approved by the Chief of Police before dissemination.

Approved by

Drennon Lindsey
Deputy Chief of Police
Bureau of Investigations

Date Signed: _____

Appendix A – Key Investigative Points for Uses of Force

The mission of every Level 1 investigation is to provide a thorough, impartial, transparent, and timely investigation of the incident and present the facts in the professional, unbiased, and systematic fashion using statements, physical evidence, and all available technological and intellectual means to achieve that goal. The fact finding for the Level 1 investigation is geared towards providing the appropriate prosecuting authority enough information and evidence to determine whether anyone involved in the incident, OPD member or the subject of force, committed any violation of criminal statutes.

The following material addresses points of emphasis that an investigator should look for in the statement of an involved officer or employee – the questions do not necessarily all need to be asked, or asked in the form in which they are presented here. Knowledgeable questioning by investigators should elicit responses that properly address these important areas in order for investigators to complete the most transparent, thorough, and accurate criminal investigation possible. **It is essential that all questions be neutral, non-leading, and do not make assumptions that are not based in facts or previously-stated assertions by the person being interviewed.**

The term officer is used in these questions and is understood to mean officer or professional staff member who was engaged in the Level 1 incident.

1. Did the shooting or force application violate state law?

California Penal Code Section 835a (a)(3): ...*[T]he decision made by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.*

2. What brought the person(s) or situation to the officer's attention in the very beginning? This requires an evaluation of the reason for the initial contact. An officer could be faced with a defense of life or a justifiable shooting situation, but also one that stemmed from an unlawful detention or arrest.
3. What tactics were utilized by the officer?
 - a. Evaluate the tactics prior, during, and after the OIS or Level 1 Force incident.
 - b. Were the tactics consistent with best practices and departmental training?
 - c. Was the utilization of poor tactics a contributor to circumstances that caused or necessitated the use of deadly force, or force which resulted in death? Alternately, did good or exceptional tactics allow for restraint, de-escalation, or other beneficial interventions to be utilized? How did the tactics used impact the event?
4. Why did the officer use force? Why did they use the particular force they did?
5. Was the use of force:

a. Objectively reasonable based on the totality of the circumstances, including the *immediacy of the threat, severity of the crime at issue, and whether the subject of force was actively resisting arrest or attempting to evade by flight*¹⁷?

b. Necessary^{18, 19}? DGO K-03 defines necessary as:

An action is necessary if it is reasonably believed to be required by the totality of the circumstances. The evaluation of whether an action was necessary shall be based on whether

1. Objectively reasonable *alternatives* to the action were available and/or practical AND
2. Whether the action was reasonably likely to *effect the lawful purpose* intended.²⁰

c. Proportional²¹? DGO K-03 defines proportional as:

Proportional force is force which is deemed reasonably effective to overcome the level of resistance posed, taking into account the severity of the offense or law enforcement need facing the officer(s) using force. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied.²²

¹⁷ *Graham v. Connor*, 490 US 386, 396 (1989)

¹⁸ California Penal Code 835a(c)(1)

¹⁹ DGO K-03, Section D-1.

²⁰ *Ibid.*, Section B-17.

²¹ *Ibid.*, Section D-1.

²² *Ibid.*, Section B-22.

Appendix B – Investigative Checklist for Level 1 Use of Force Interviews

The following questions cover topics to be considered during the interview(s) of the involved subject officer(s) or subject employee and witness officer(s) or witness employee(s) in an OIS or ICD interview. These questions need not be asked verbatim, but are meant to provide guidelines for the investigators as they develop a set of questions and interview plan.

These questions will help structure the interview so that the information is presented in a logical order and grouped by the subject matter. Knowledge developed from these questions may provide background information and identify important factors surrounding the shooting or force incident. The sum of the information will assist with achieving a transparent, thorough, and accurate criminal investigation.

The term officer is used in these questions, and is understood to mean officer or employee engaged in an OIS or any other use of force resulting in a Level 1 Use of Force Investigation. While an OIS would likely involve only sworn members/officers, an ICD could involve officers and other members of the department.

Information Pertaining to the Officer

1. The officer's name, serial number, and age.
2. Date of the officer's hire at OPD (or employing agency, if an outside agency incident).
3. Other law enforcement experience, length of service, and names of other agencies worked at?
4. Unit designation during the involved shift (Radio call sign)?
5. Area/beat assigned during this shift and time period assigned to that Area and/or beat.
6. The officer's normal shift hours; were they working overtime or an additional shift?
7. Who is the officer's supervisor and was it the same supervisor at the time of this incident?
8. Training the officer has received that might be relevant to the Level 1 incident?
9. Is the officer right-handed, left-handed, or ambidextrous?

Information on the Officer's Condition

1. Any significant events in their shift which occurred before the Level 1 incident?
2. What was the last shift the officer worked prior to the shift on which the Level 1 took place?
3. Any second jobs, schooling, or extended hours worked prior to the shift when the Level 1 incident took place?
4. Any medications taken by the officer? Both prescription and non-prescription drugs; what is it, when was it taken, and the dosage?

5. Any alcoholic beverage consumed in the past 24 hours? The beverage(s) and how much?
6. Any medical conditions that might impact the officer's judgement or physical abilities?
7. Last time the officer slept? How long and what hours?
8. Did the officer receive any injuries during this incident? What are the injuries, were they photographed, and did a physician evaluate them? Does OPD have a copy of the medical treatment records?
9. Does the officer wear glasses or contacts and were the items being worn during the OIS or ICD incident? Other vision problems?

The Officer's Uniform

1. Full uniform description.
 - a. Items to cover are full duty gun belt and equipment, such as baton, flashlight, badge, uniform markings (Wool uniform or utility uniform), hat, and any special equipment.
2. Was there any damage to the uniform or the equipment during the incident?
3. On which side of the body does the officer have their sidearm holster?
4. In incidents of a gun taken away, do investigators have possession of the officer's holster and gun belt?
5. In incidents of an ICD, do investigators have possession of the involved impact item(s), if any?

The Officer's Vehicle

1. Vehicle number, make, and model.
2. Vehicle markings (light, siren, painted, & etc.)? Does the officer normally drive this vehicle?
3. Single or Adam unit at the time of the OIS incident? Name of the other officer?
4. This area should be expanded if the interview involves a pursuit; reference DGO J-4 and Appendix C.

The Officer's Weapon

1. Make, model and color of the officer's gun. Was it issued by the Department (OPD issues the Glock 17, Gen4, 9mm firearm)? Was this the firearm fired by the officer?
2. The caliber of the weapon.
3. Any special modifications to the gun or equipment?

4. Ammunition used in the officer's gun, caliber, type, and was it Department issued?
5. Number of live rounds with which the weapon was loaded, including the chamber. This should be the same as the weapon's capacity (ex: Glock 17 Gen.4, 9mm holds 17 in the magazine and 1 in the chamber, total 18).
6. Was the officer trained in the use of a semi-automatic pistol in the academy or by transition training? Other training if the weapon is a shotgun or rifle, etc?
7. The date of the transitional training by the officer to the semi-automatic pistol (i.e. from a revolver) if they remember and if applicable?
8. Last qualification date for the officer (OPD qualifies with handguns twice a year)?
9. Was the officer carrying any other firearm? If so, was the weapon fired?
10. If the officer had a second weapon, repeat the questions that document that firearm (make sure the technician also examines this weapon).
11. The applicable questions should be repeated for the involved weapon if other than a firearm discharge or if the incident is an ICD.

Officer's Communications

1. Does the officer have a cellular telephone or other electronic communications device?
2. Did the officer communicate with anyone immediately before, during, or after the OIS (or Level 1 Use Of Force) by cellular telephone, electronic communication device, patrol vehicle MDT, direct communication with any mobile radio(s), or other means than the main Communications Division channel for the OIS incident's location?
3. If so, to whom and by what means?

Scene Conditions

1. Location of the OIS or Level 1 Use Of Force.
2. Weather conditions at the time of the OIS or Level 1 Use Of Force.
3. Lighting condition at the time of the shooting. OIS or Level 1 Use Of Force.

Information to Seek in Interview regarding an OIS

1. The officer or employee sets the scene, time, date, location, and parties involved.
2. Did the officer have any prior knowledge of the situation before the OIS or ICD took place?
3. What brought the person or situation to the attention of the officer?

4. Determine the reason for the first contact. If the contact was initiated by enforcement action, what was the legal justification for the contact? Was this probable cause valid?
5. Did the officer have prior knowledge of the suspect(s) or witnesses?
6. Did the officer have prior contact with any of the suspect(s) or witnesses?
7. What was the officer's state of mind at the time of contact and throughout the incident?
8. What tactics were utilized by the involved officer(s) during the incident?
 - a. What was the reasoning behind the tactics used (if any)?
 - b. Was there any discussion of tactics between officers prior to contact? Why or why not? If so, what tactics were discussed? Which officers were involved?
9. Can the officer articulate the imminent danger to themselves or another person?
10. When did the officer draw their weapon, and why?
11. Did the officer utilize physical cover?
 - a. If so, what physical cover was the officer utilizing?
 - b. If physical cover was not utilized, was there physical cover which was reasonably available to the officer?
 - c. If physical cover was available, but not utilized, what was the officer's reasoning for not doing so?
12. Why did the officer fire their weapon?
13. What was targeted at the time the officer fired their weapon?
14. Where was the suspect in relation to the officer?
15. What was the response and/or actions of the suspect following the officer firing their weapon?
16. How many shots did the officer fire and from what distance?
17. What was the officer's sequence of fire? (Rapidly, in pairs, burst, etc.)
18. Did the officer reload their firearm at any time? How many times? For what reason? (expended magazine, malfunction, etc.)
19. What position/stance did the officer fire from? For what reason(s)?
20. Were the shots fired with one hand or with two hands? If one hand, which one?
21. What was the background (the area beyond the target) at the time of the OIS?
22. Did the officer assess the effectiveness of the force being used? At what point and how many times?
23. Were there any other alternatives available to the officer before the use of deadly force? If so, what were they and why were they not attempted/used (if applicable)?
24. Which is the officer's dominant hand, right, left, or is the officer ambidextrous?

25. Who relieved the officer of their weapon after the OIS incident?

Ending the interview

1. Is there anything that the officer thinks we need to know that has not been asked?
2. Does the officer have any questions?
3. End the interview, secure the video or audio tapes.
4. The officer or employee signs and dates the 'rough' scene diagram.
5. Retain audio tape recording, diagram, and notes as evidence.

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Appendix C – Level 1 Pursuit Interviews

The following material addresses points that the investigator should inquire about in an interview related to a Level 1 pursuit. These questions need not be asked verbatim, but are meant to provide guidelines for the investigators as they develop a set of questions and interview plan .

Key Investigative Points for Pursuits²³

1. Did the pursuit or actions of a member during the pursuit violate State Law?
2. What brought the person(s) or situation to the officer's attention in the very beginning? Evaluate the reason for the first contact.
3. The officer's tactics.
 - a. Look at the tactics prior, during, and after the Officer Involved Pursuit – Injury or Death (OIPID) incident.
 - b. Were the tactics consistent with best practices and department training?
 - c. Did poor tactics cause a dangerous situation which culminated in a traffic collision?

Questions to Consider Regarding an Officer Involved Pursuit – Injury or Death Interview

The following questions should be considered during the interview(s) of the involved subject member(s) and witness member(s) in a pursuit-related interview.

These questions will help structure the interview, so the information is presented in a logical order and grouped by the subject matter. Knowledge from these questions may provide background information and factors surrounding the pursuit that are important. The totality of the information gathered will allow for the completion of a thorough, transparent, and accurate criminal investigation.

Information Pertaining to the Officer

1. Officer's name and serial number.
2. Officer's age.
3. Date of the officer's hire at OPD (or employing agency).
4. Other law enforcement experience the officer has, the length of service at the agency, and which agency.
5. Unit designation during the involved shift (radio call sign).

²³ DGO J-04, III (A): A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a subject operating a motor vehicle while the subject is trying to avoid arrest by using high speed driving or other evasive tactics. A failure to yield does not constitute a pursuit unless the driver's actions demonstrate the above factor.

6. Area/beat assigned during this shift and time period the officer has been assigned to this beat or particular assignment (knowledge of the Area).
7. Officer's normal shift hours, were they working overtime or an additional shift?
8. Name of the officer's supervisor; was it the same supervisor at the time of this incident?
9. Training the officer has received that might be relevant to the OIPID incident.

Information on the Officer's Condition

1. Was there any significant event in the officer's shift that occurred before the OIPID incident?
2. What was the last shift the officer worked prior to the shift on which the OIPID took place?
3. Any second jobs, schooling, or extended hours worked prior to the OIPID shift?
4. Any medications taken by the officer? Include the names of prescription and non-prescription drugs, the time taken, and the dosage.
5. Any alcoholic beverage consumed in the past 24 hours? The beverage(s) and the amount?
6. Any medical conditions that might impact the officer's judgement or physical abilities?.
7. Last time the officer slept? How long and what hours?
8. Did the officer receive any injuries during this incident? What are the injuries, were they photographed, and did a physician evaluate them? Does OPD have a copy of the medical treatment records?
9. Does the officer wear glasses or contacts and were the items being worn during the OIPID incident? Other vision problems? Does the officer's California Driver's License have a corrective lenses restriction?

The Officer's Uniform

1. Full uniform description and confirmation that photographs were taken of the officer at the scene or how the officer looked on the scene.
2. Items to cover are full gun belt and equipment, baton, flashlight, badge, uniform markings (wool uniform or utility uniform), hat, and any special equipment.
3. Was there any damage to the uniform or the equipment during the incident?

The Officer's Vehicle

1. Vehicle number, make, and model.

2. Vehicle mileage, if known.
3. Vehicle markings (light, siren, painted, & etc.).
4. Does the officer normally drive this vehicle?
5. Single or Adam unit at the time of the OIPID incident? Name of the other officer?
6. Did the officer conduct an inspection of the vehicle before going on duty?
7. Does the officer know of any problems with the police vehicle?
8. Does the officer know of any problems with the subject's vehicle?
9. Did the police vehicle have any damage before the pursuit?
10. Does the police vehicle now have any damage(s)?
11. Were photographs taken of the police vehicle?

Officer's Communication

1. Does the officer have a cellular telephone or another electronic communications device?
2. Did the officer communicate with anyone immediately before, during, or after the OIPID by cellular telephone, electronic communication device, patrol vehicle MDT, direct communication with any mobile radio(s), or other means than the main Communication Division channel for the OIPID incident's location.
3. If so, to whom and by what means?

Scene Conditions

1. Location or area, if a long pursuit, of the OIPID.
2. Weather conditions at the time of the OIPID.
3. Lighting condition at the time of the OIPID.

Questions covering the Pursuit Incident

These questions should be considered during the interview of the involved subject officer(s) or witness officer(s). A distinction is made in these questions between the operation of a police vehicle during a Code 3 assignment and during immediate pursuits of suspected offenders. Some provisions equally apply to both circumstances. Not all questions will apply to each pursuit incident and the officer's narrative response may address several questions.

1. Have the officer set the scene of the incident, time, date, location, and parties involved.
2. Did the officer have any prior knowledge of the developing situation before the OIPID took place?

3. What brought the driver/person or situation to the attention of the officer? Validate the reason for the first contact.
4. Did the officer have prior knowledge of the driver/suspect(s) or witnesses?
5. Did the officer have knowledge of any other vehicle occupants, such as passengers, children, hostages, etc.?
6. Did the officer have prior contact with any of the driver/suspect(s) or witnesses?
7. Look at the officer's tactics prior, during, and after the OIPID incident. Did poor tactics facilitate the pursuit resulting in injury or death?
8. Were the vehicle's emergency and auxiliary lights in operation as required by 21055 CVC?
9. Was the siren on automatic or sounded intermittently?
10. Was there any non-OPD person in the vehicle? If so, who was that person and their reason for being in the vehicle?
11. What actions by the suspect exhibited their intent to flee?
12. What was the underlying criminal violation justifying the pursuit?
13. What was the gravity of the offense and the importance of and necessity for immediate apprehension in relationship to community safety?
14. Did the officer know the suspect, and could they be apprehended at a later time?
15. Was the suspect known to be a juvenile?
16. How close was the police vehicle to the subject's vehicle before the pursuit was initiated?
17. Did the distance between the pursuit and fleeing vehicles increase?
18. Did the officer immediately notify the dispatcher, on the primary patrol channel, the known reason for the pursuit? Was the description of the vehicle pursued given; the number and description of known occupants; the location and direction of travel; and speed of the vehicle?
19. Did the officer stay in radio contact with the Communications Division and continuously update the information provided in the preceding question?
20. Did the officer hear a supervisor or command officer advise they were monitoring the pursuit?
21. Was the officer operating a motorcycle or unmarked vehicle and did they yield the pursuit to a marked unit upon their arrival on the scene?
22. How many police units were in the pursuit?
23. Was the officer a second unit in the pursuit and did they notify Communication Division that they were in Code 3 status?
24. Were there public safety issues in the area of the pursuit?

25. Were schools close-by?
26. What was the volume of vehicular traffic in the area?
27. What was the pedestrian traffic in the area?
28. What was the location of the pursuit? Is the officer familiar with the area?
29. What were the road conditions?
30. What were the weather conditions?
31. What were the speeds involved?
32. What time of day did this occur?
33. Were the pursuing officers able to maintain radio communication with dispatch and/or supervisors?
34. Was air or field support available?
35. Did the officer have a ride-along passenger with them?
36. Did a non-suspect vehicle and/or pedestrian accident occur during the pursuit?
37. Was a Pursuit Intervention Maneuver completed or attempted?
38. Which supervisor or commander approved the Pursuit Intervention Maneuver?
39. Which Pursuit Intervention Maneuver was done? Channelization, Boxing In, or Pursuit Immobilization Technique?
40. Is the officer trained in the Pursuit Intervention Maneuver that was used?
41. What was the speed of the vehicles at the time of the maneuver if the Pursuit Immobilization Technique was used?
42. Was the officer wearing their seatbelt during the Pursuit Immobilization Technique?
43. Did the pursuit travel into another jurisdiction?
44. Was the pursuit relinquished to another jurisdiction?
45. If so, did the officer travel to the end location of the pursuit?

The Pursuit Travels into Oakland From Another Jurisdiction

1. What were the circumstances of the officer joining an outside pursuit?
2. Who authorized joining the pursuit?

Termination of the Pursuit

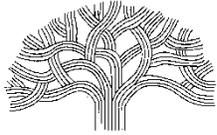
1. Did the Initiating Unit, Supervisor, or Command Officer terminate the pursuit?
2. Did the officer notify the Communications Division?
3. Did the officer revert to Code 2 and abandon the pursuit?

Ending the interview

1. Is there anything that the officer thinks we need to know that has not been asked?
2. Does the officer have any questions?
3. End the interview, secure the video or audio tapes.
4. The officer or employee signs and dates any 'rough' scene diagram.

Retain audio tape recording, diagram, and all notes as evidence.

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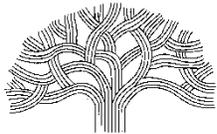


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
(Allegations in bold were discovered by CPRA investigators)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
FC	21-0405	9/18/20	10/28/21	10/3/22	Unknown Officer	Use of Force	<i>Unfounded</i>
						Use of Force	<i>Unfounded</i>
AL	20-1283	10/6/20	10/1/21	10/5/22	Subject Officer 1	Performance of Duty – General	<i>Unfounded</i>
						Conduct Toward Others – Demeanor	<i>Unfounded</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
					Subject Officer 2	Performance of Duty – General	<i>Unfounded</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Conduct Toward Others – Demeanor	<i>Sustained</i>
						Failure to Accept or Refer a Complaint	<i>Unfounded</i>

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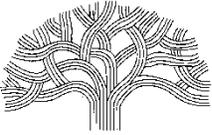


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
(Allegations in bold were discovered by CPRA investigators)

Table with 8 columns: Assigned Inv., Case #, Incident Date, Completion Date, 1-year goal, Officer, Allegation, Finding. Rows include Subject Officer 3, Subject Officer 4, Subject Officer 5, and Unknown Officer with various allegations and findings like 'Unfounded' and 'Exonerated'.

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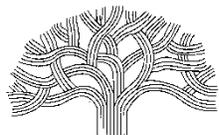


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
(Allegations in bold were discovered by CPRA investigators)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Performance of Duty – General	<i>Exonerated</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
FC	20-1526	11/24/20	10/7/21	11/23/21	Subject Officer 1	Performance of Duty – General	<i>Unfounded</i>
					Unknown Officer	Performance of Duty – General	<i>Unfounded</i>
AL	20-1524	11/28/20	10/25/21	11/30/21	Subject Officer 1	Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Performance of Duty – General	<i>Unfounded</i>
						Conduct Toward Others – Demeanor	<i>Not Sustained</i>
AN	21-0270	3/7/21	10/22/21	3/7/22	Subject Officer 1	Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Use of Force (Level 4)	<i>Exonerated</i>

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
(Allegations in bold were discovered by CPRA investigators)

Page 4 of 11
 (Total Completed = 22)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
					Subject Officer 2	Use of Force (Level 4)	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
					Subject Officer 3	Use of Force (Level 4)	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
					Subject Officer 4	Failure to Accept or Refer a Complaint	<i>Sustained</i>
FC	21-0852	5/8/21	10/14/21	7/21/22	Unknown Officer	Conduct Toward Others – Harassment and Discrimination/Race	<i>Not Sustained</i>
RM	21-0517	5/9/21	10/15/21	5/9/22	Subject Officer 1	Use of Force	<i>Exonerated</i>

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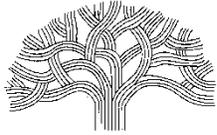
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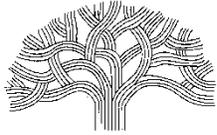
CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
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Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
					Subject Officer 2	Use of Force	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
					Subject Officer 3	Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>

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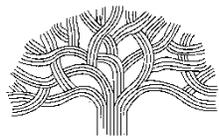
CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
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Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
					Subject Officer 4	Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>
					Unknown Officer	No Duty/No MOR Violation	<i>No MOR Violation</i>
RM	21-0564	5/20/21	10/14/21	5/19/22	Subject Officer 1	Conduct Toward Others – Harassment and Discrimination/Race	<i>Not Sustained</i>
RM	21-0629	6/4/21	10/7/21	6/6/22	Unknown Officer	Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – General	<i>Unfounded</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
FC	21-0964	7/3/21	10/28/21	8/18/22	Unknown Officer	Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Unfounded</i>

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
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Page 7 of 11
 (Total Completed = 22)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Performance of Duty – General	<i>Unfounded</i>
						Performance of Duty – General	<i>Unfounded</i>
FC	21-1038	7/7/21	10/21/21	9/2/22	Subject Officer 1	Conduct Toward Others – Demeanor	<i>Unfounded</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Service Complaint	<i>No MOR Violation</i>
MB	21-0817	7/14/21	10/11/21	7/13/22	Subject Officer 1	Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
					Subject Officer 2	Performance of Duty – Unintentional/Improper Search Seizure or Arrest	<i>Exonerated</i>

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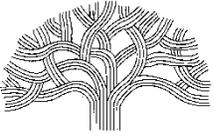
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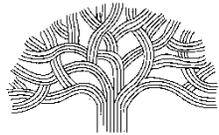


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
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Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
MB	21-0836	7/19/21	10/14/21	7/18/22	Unknown Officer	Obedience to Laws – Felony/Serious Misdemeanor	<i>Not Sustained</i>
MB	21-0840	7/21/21	10/14/21	7/20/22	Unknown Officer	No Duty/No MOR Violation	<i>No MOR Violation</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Conduct Toward Others – Demeanor	<i>Unfounded</i>
						Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Care of Property	<i>Unfounded</i>
MB	21-0872	7/23/21	10/22/21	7/29/22	Unknown Officer	Use of Force	<i>Exonerated</i>

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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
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Page 9 of 11
 (Total Completed = 22)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Conduct Toward Others – Harassment and Discrimination/ General	<i>Unfounded</i>
						Performance of Duty – Care of Property	<i>Not Sustained</i>
MB	21-0850	7/23/21	10/20/21	7/22/22	Unknown Officer	Performance of Duty – General	<i>ICR</i>
						Use of Force	<i>Exonerated</i>
FC	21-0858	7/23/21	10/14/21	7/26/22	Subject Officer 1	Refusal to Accept or Refer a Complaint (Intentional)	<i>Unfounded</i>
					Unknown Officer	Performance of Duty – General	<i>Unfounded</i>
						Conduct Toward Others – Demeanor	<i>Unfounded</i>
						Service Complaint	<i>Service Related</i>

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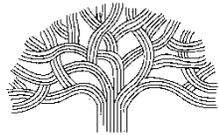
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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
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Page 10 of 11
 (Total Completed = 22)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
						Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
FC	21-0917	7/24/21	10/28/21	8/10/22	Unknown Officer	Conduct Toward Others – Harassment and Discrimination/Race	<i>Unfounded</i>
MB	21-0922	8/12/21	10/22/21	8/11/22	Subject Officer 1	Use of Force	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
						Use of Force	<i>Unfounded</i>
MB	21-0981	8/18/21	10/28/21	8/23/22	Subject Officer 1	Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – General	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>

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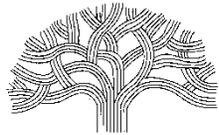
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CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Investigations Completed in October 2021
(Allegations in bold were discovered by CPRA investigators)

Page 11 of 11
 (Total Completed = 22)

Assigned Inv.	Case #	Incident Date	Completion Date	1-year goal	Officer	Allegation	Finding
						Use of Force	<i>Unfounded</i>
					Subject Officer 2	Use of Force	<i>Exonerated</i>
						Use of Force	<i>Unfounded</i>
					Subject Officer 3	Performance of Duty – Unintentional/ Improper Search Seizure or Arrest	<i>Exonerated</i>
						Performance of Duty – Care of Property	<i>Exonerated</i>
						Use of Force	<i>Exonerated</i>
						Use of Force	<i>Unfounded</i>
MB	21-0982	8/23/21	10/26/21	8/22/22	Subject Officer 1	Performance of Duty – General	<i>No Jurisdiction</i>

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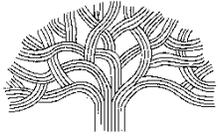
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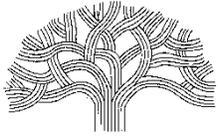


CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of October 31, 2021
(Sorted by One-Year Goal)

Attachment 8
Page 1 of 2
 (Total Pending = 81)

Case #	Incident Date	Rcv'd CPRA	Rcv'd IAD	Intake or Investigator	Assigned Staff	180-day Goal	1-year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
20-1551	12/7/2020	12/16/2020	12/16/2020	Investigator	JS	6/14/2021	12/15/2021	Use of Force	1	2	9	Use of Force, Performance of Duty, Care of Property, PDRD activation, Demeanor
20-1578	10/31/2020	5/18/2021	12/17/2020	Investigator	AN	6/15/2021	12/17/2021	Other	1	2	9	General Conduct, Obedience to Laws (Felony + Misdemeanor), Obstructing/Interfering with Investigations, Failure to Report
21-0606	12/31/2017	6/2/2021	4/28/2021	Intake	RM	11/29/2021	1/3/2022	Other	2	2	2	Performance of Duty
21-0025	1/7/2021	1/7/2021	1/7/2021	Investigator	MM	7/6/2021	1/6/2022	Other	2	3	3	General conduct
21-0070	1/1/2021	1/21/2021	1/19/2021	Investigator	AL	7/20/2021	1/18/2022	Use of Force	1	1	5	Use of Force, Demeanor
21-0202	1/9/2021	1/29/2021	1/29/2021	Investigator	MM	7/28/2021	1/28/2022	Other	2	4	4	Performance of Duty
21-0151	2/6/2021	2/10/2021	2/6/2021	Investigator	JS	8/5/2021	2/5/2022	Use of Force	1	2	2	Use of Force
21-0977	8/21/2021	8/25/2021	8/21/2021	Intake	RM	2/21/2022	2/21/2022	Use of Force	1	6	6	Use of force
21-0252	3/1/2021	3/11/2021	3/5/2021	Investigator	AL	9/7/2021	3/4/2022	Use of Force	1	5	13	Use of Force, Performance of Duty, Demeanor, Refusal to Accept or Refer a Complaint
21-0358	4/2/2021	4/7/2021	4/2/2021	Investigator	AL	10/4/2021	4/1/2022	Use of Force	1	1	2	Use of Force; Performance of Duty
21-0366	4/5/2021	4/7/2021	4/5/2021	Investigator	MM	10/4/2021	4/4/2022	Use of Force	1	4	8	Use of Force
21-0354	4/1/2021	4/2/2021	4/7/2021	Investigator	AN	10/4/2021	4/6/2022	Other	1	2	5	Performance of Duty/ Miranda Violation
21-0527	6/20/2017	5/18/2021	4/16/2021	Investigator	JS	10/15/2021	4/15/2022	Other	1	3	17	Search and seizure; discrimination; demeanor; report writing
21-0422	4/18/2021	4/20/2021	4/18/2021	Investigator	JS	10/17/2021	4/17/2022	Racial Discrimination	1	2	5	Discrimination, Refusal to Provide Name or Serial Number, PDRD Activation, Demeanor
21-0430	4/20/2021	4/21/2021	4/20/2021	Investigator	JS	10/19/2021	4/19/2022	Use of Force	1	2	5	Performance of Duty, Use of Force; Improper/ Unlawful Search & Seizure
21-0555	11/26/2020	5/19/2021	5/18/2021	Investigator	AN	11/15/2021	5/18/2022	Other	2	8	15	Performance of Duty, Demeanor
21-0618	6/3/2021	6/4/2021	6/3/2021	Intake	RM	12/11/2021	6/2/2022	Other	1	1	3	Demeanor, Refusal to Provide Name or Serial Number, Failure to Accept or Refer a Complaint
21-0621	6/3/2021	6/8/2021	6/3/2021	Investigator	AL	12/5/2021	6/4/2022	Racial Discrimination	1	2	2	Racial Discrimination
21-0652	6/2/2021	6/10/2021	6/10/2021	Investigator	MM	12/7/2021	6/9/2022	Racial Discrimination	1	2	4	Racial Discrimination, Performance of Duty
21-0677	6/11/2021	6/18/2021	6/17/2021	Intake	RM	12/15/2021	6/16/2022	Racial Discrimination	1	1	2	Racial Discrimination, Demeanor
20-0174	3/1/2019	6/29/2021	2/13/2020	Investigator	AN	12/20/2021	6/20/2022	Other	1	1	6	Obedience to Laws
21-0719	6/23/2021	6/25/2021	6/23/2021	Intake	RM	12/22/2021	6/22/2022	Other	2	2	2	Performance of Duty
21-0720	6/22/2021	6/25/2021	6/25/2021	Intake	RM	12/22/2021	6/22/2022	Racial Discrimination	1	1	3	Racial Discrimination, Demeanor, Performance of Duty
21-0761	7/3/2021	7/7/2021	7/3/2021	Investigator	JS	1/3/2022	7/2/2022	Use of Force	1	2	2	Use of Force
21-0770	7/3/2021	7/7/2021	7/3/2021	Intake	RM	1/3/2022	7/2/2022	Other	1	1	2	Demeanor, Refusal to Provide Name or Serial Number
21-0803	7/9/2021	7/15/2021	7/13/2021	Investigator	AL	1/17/2022	7/13/2022	Use of Force	1	2	4	Use of Force; Performance of Duty
21-0816	7/17/2020	7/29/2021	7/14/2021	Investigator	AN	1/25/2022	7/13/2022	Other	1	1	2	Reports and Bookings, Performance of Duty
21-0823	6/30/2021	7/19/2021	7/15/2021	Intake	RM	1/15/2022	7/14/2022	Use of Force; Discrimination	1	1	3	Use of Force, Performance of Duty, Racial Discrimination
21-0889	7/4/2021	7/19/2021	7/15/2021	Intake	RM	7/14/2022	7/14/2022	Racial Discrimination	1	1	3	Racial discrimination, Performance of Duty
21-0844	7/20/2021	7/22/2021	7/21/2021	Investigator	AL	1/18/2022	7/20/2022	Other	2	2	3	Conduct, Performance of Duty
21-0863	7/2/2021	8/2/2021	7/28/2021	Investigator	JS	1/2/2022	7/27/2022	Use of Force	1	3	4	Use of Force (Taser); false arrest; demeanor
21-0874	7/28/2021	7/27/2021	7/28/2021	Intake	RM	1/23/2022	7/27/2022	Other	2	1	1	Performance of Duty
21-0868	7/29/2021	8/9/2021	7/29/2021	Investigator	MM	1/25/2022	7/28/2022	Racial Discrimination	1	1	4	General Conduct, Performance Of Duty, Compromising Criminal Cases, Racial Bias
21-0871	7/26/2021	8/4/2021	7/30/2021	Intake	MB	1/31/2022	7/30/2022	Other	2	1	2	Performance of Duty
21-0878	8/1/2021	8/4/2021	8/1/2021	Intake	FC	1/31/2022	7/31/2022	Use of Force	1	2	6	Performance of Duty, Demeanor
21-0882	7/2/2021	8/4/2021	8/2/2021	Intake	FC	1/31/2022	8/1/2022	Discrimination	2	1	2	No MOR Violation, Performance of Duty
21-0885	8/3/2021	8/4/2021	8/3/2021	Intake	RM	1/31/2022	8/2/2022	Racial Discrimination	2	1	1	Racial discrimination
21-0898	7/30/2021	8/6/2021	8/5/2021	Intake	RM	2/2/2022	8/4/2022	Truthfulness	1	1	1	Truthfulness
21-0932	3/1/2021	8/17/2021	8/14/2021	Intake	RM	2/13/2022	8/13/2022	Harassment	1	1	2	Racial Discrimination, Conduct toward others
21-0961	8/18/2021	8/25/2021	8/18/2021	Intake	RM	2/21/2022	8/17/2022	Use of Force	1	1	2	Performance of Duty, Use of force
21-0985	4/17/2017	8/25/2021	8/24/2021	Intake	FC	2/21/2022	8/23/2022	Harassment/Discrimination	1	1	1	Harassment/Discrimination
21-1010	8/31/2021	9/1/2021	8/31/2021	Investigator	JS	2/28/2022	8/31/2022	Use of Force; Discrimination	1	2	2	Use of Force and Racial Discrimination
21-1024	8/31/2021	9/2/2021	9/1/2021	Intake	RM	3/1/2022	8/31/2022	Racial Discrimination	1	1	3	Racial Discrimination, Conduct toward others, Performance of Duty

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



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases as of October 31, 2021
(Sorted by One-Year Goal)

Attachment 8
Page 2 of 2
 (Total Pending = 81)

Case #	Incident Date	Rcv'd CPRA	Rcv'd IAD	Intake or Investigator	Assigned Staff	180-day Goal	1-year Goal	Type (604(f)(1) or Other)	Class	Subject Officers	Allegation Count	Allegation(s)
21-1052	6/20/2021	9/3/2021	9/7/2021	Intake	FC	3/2/2022	9/2/2022	Gender Discrimination	2	0	1	Performance of Duty
21-1046	9/5/2021	9/8/2021	9/5/2021	Intake	RM	3/7/2022	9/4/2022	Use of Force	1	2	2	Use of Force
21-1047	9/3/2021	9/8/2021	9/3/2021	Intake	MB	3/7/2022	9/4/2022	Use of Force	1	2	2	Use of Force
21-1060	9/7/21	9/9/2021	9/7/2021	Intake	FC	3/8/2022	9/6/2022	Use of Force	1	1	3	Performance of Duty, False Arrest, Use Of Force
21-1057	9/8/2021	9/9/2021	9/8/2021	Intake	RM	3/8/2022	9/7/2022	Use of Force	1	1	1	Use of Force
21-1055	9/7/2021	9/9/2021	9/7/2021	Intake	MB	3/8/2022	9/7/2022	Racial Discrimination	1	1	2	Racial Discrimination
21-1072	9/11/2021	9/23/2021	9/11/2021	Intake	FC	3/22/2022	9/10/2022	Use of Force	1	1	2	Unlawful Detention, Use of Force
21-1121	7/12/2018	9/13/2021	9/13/2021	Intake	RM	3/12/2022	9/12/2022	Other	2	4	4	Performance of Duty
21-1089	9/16/2021	9/17/2021	9/16/2021	Intake	MB	3/16/2022	9/16/2022	Use of Force	1	1	1	Use of Force
21-1118	9/21/2021	9/27/2021	9/21/2021	Intake	FC	3/26/2022	9/20/2022	Use of Force	1	2	2	Use of Force
21-1099	9/19/2021	9/23/2021	9/19/2021	Intake	MB	3/22/2022	9/20/2022	Racial Discrimination	1	2	1	Racial Discrimination
21-1114	9/22/2021	9/22/2021	9/22/2021	Investigator	JS	3/22/2022	9/21/2022	Use of Force	1	4	3	Use of Force
21-1119	8/30/2021	9/23/2021	9/22/2021	Intake	MB	3/22/2022	9/21/2022	Other	2	1	4	Failure to Accept or Refer a Complaint, Performance of Duty
21-1139	9/23/2021	9/23/2021	9/23/2021	Intake	FC	3/22/2022	9/22/2022	Discrimination	1	1	2	Discrimination Race/Gender
21-1123	3/14/2021	9/14/2021	9/23/2021	Intake	MB	3/13/2022	9/23/2022	Use of Force	1	1	2	Use of Force
21-1135	7/20/2014	9/24/2021	9/24/2021	Intake	MB	3/23/2022	9/24/2022	Use of Force	1	1	3	Use of Force
21-1148	9/24/2021	9/29/2021	9/24/2021	Intake	MB	3/28/2022	9/24/2022	Use of Force	1	1	1	Use of Force
21-1161	9/28/2021	9/29/2021	9/28/2021	Intake	MB	3/28/2022	9/27/2022	Use of Force	1	1	1	Use of Force
21-1168	9/27/2021	9/29/2021	9/29/2021	Intake	RM	3/28/2022	9/28/2022	Other	2	1	1	Performance of Duty
21-1164	9/30/2021	10/1/2021	9/30/2021	Intake	MB	3/30/2022	9/29/2022	Use of Force	1	1	1	Use of Force
21-1177	10/3/2021	10/8/2021	10/3/2021	Intake	RM	4/6/2022	10/2/2022	Racial Discrimination	1	1	2	Racial Discrimination, Conduct toward others
21-1178	10/2/2021	10/8/2021	10/2/2021	Intake	MB	4/6/2022	10/2/2022	Use of Force; Racial Discrimination	1	1	2	Use of Force; Racial Discrimination
21-1207	10/7/2021	10/13/2021	10/7/2021	Intake	FC	4/11/2022	10/6/2022	Discrimination	1	1	1	Discrimination
21-1203	9/8/2021	10/7/2021	10/7/2021	Investigator	MM	4/5/2022	10/6/2022	Other	2	1	1	Performance of Duty
21-1206	9/24/2021	10/13/2021	10/8/2021	Intake	MB	4/11/2022	10/8/2022	Use of Force	1	1	8	Use of Force
21-1209	10/10/2021	10/13/2021	10/10/2021	Intake	MB	4/11/2022	10/9/2022	Racial Discrimination	1	1	2	Racial Discrimination, Performance of Duty
21-1236	9/17/2021	10/13/2021	10/13/2021	Intake	RM	4/11/2022	10/12/2022	Racial Discrimination	1	1	1	Racial discrimination
21-1218	10/11/2021	10/13/2021	10/12/2021	Intake	MB	4/11/2022	10/12/2022	Use of Force	1	2	2	Use of Force
21-1231	10/13/2021	10/16/2021	10/13/2021	Intake	FC	4/13/2022	10/12/2022	Use of Force	1	1	1	Use of Force
21-1263	10/13/2021	10/21/2021	10/20/2021	Intake	MB	4/19/2022	10/20/2022	Use of Force	1	1	3	Use of Force
21-1275	10/13/2021	10/26/2021	10/20/2021	Intake	MB	4/24/2022	10/20/2022	Use of Force	1	1	8	Use of Force
21-1278	10/22/2021	10/26/2021	10/26/2021	Intake	FC	4/24/2022	10/25/2022	Discrimination	1	1	3	Racial Discrimination, Performance of Duty
20-0438	4/16/2020	4/16/2020	4/16/2020	Investigator	AN	10/13/2020	Tolled	Use of Force	1	21	30	Use of Force (Level 1, Level 4), Performance of Duty
20-1406	11/3/2020	11/3/2020	11/3/2020	Investigator	AN	5/2/2021	Tolled	Use of Force	1	2	2	Use of Force
21-0238	3/2/2021	3/2/2021	3/2/2021	Investigator	AN	8/29/2021	Tolled	Use of Force	1	5	5	Use of Force, Supervisory
21-1140	9/26/2021	9/26/2021	9/26/2021	Investigator	AN	3/25/2022	Tolled	Use of Force	1	4	4	Use of Force
19-1169	10/17/2019	10/22/2019	10/17/2019	Investigator	ED	4/19/2020	Tolled	Use of Force, Profiling/ Discrimination	1	2	7	Bifurcated - use of force, false arrest, discrimination
21-0993	8/25/2021	8/25/2021	8/25/2021	Investigator	MM	2/27/2022	Tolled	Use of Force	1	3	6	Use of Force, Performance of Duty, Supervision

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



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

Current Committees

Standing Committee	Commissioners
Outreach	Hsieh, Jordan, Howell
Personnel	Jackson

Ad Hoc Committee	Commissioners
Annual Report	Jackson
Budget	Jackson
Community Policing OPD 15-01	Harbin-Forte, Hsieh, Howell
CPRA Director Performance Evaluation	Milele, Jackson
Inspector General Search	Jackson, Milele, Peterson
Mental Health Model	
Militarized Police Equipment	Gage, Garcia, Jordan
Missing Persons Policy	Jackson, Jordan
OBOA Allegations Investigation	Harbin-Forte, Jackson
Police Chief Goals and Evaluation	Garcia, Milele, Peterson
Racial Profiling Policy	Jackson, Milele
Rules of Procedure	Gage, Garcia, Harbin-Forte
White Supremacists and Other Extremist Groups	Harbin-Forte, Jackson
OPD's Social Media Policy	Jordan, Hsieh, Jackson

Remarks from Ms. Michelle Lazaneo Missing Persons Ad Hoc: Public Hearing (11.2)

My name is Michele Lazaneo and I am a community representative on the Ad-Hoc Missing Persons Policy Committee. How did my involvement begin?

On May 6, 2019, I received a telephone call from a community partner, a soccer coach, who told me that one of his players disappeared. He told me about Jonathan Bandabaila and asked me to help his family to find him. I accompanied Jonathan's parents to speak up during the City Council and Police Commission meetings and was later asked by the Bandabaila family to be their spokesman. After speaking out at meetings for four months, Police Commissioner Ginale Harris stepped-up and volunteered to act as our liaison. She facilitated meetings where the Bandabaila family and I spoke directly to OPD supervisors, detectives and even to former Chief Kirkpatrick. Commissioner Harris and I read everything we could find about missing persons investigations and policies. We made OPD aware that their existing Missing Persons Policy, DGO O-6, was outdated and needed to be revised to reflect the current best standard practices.

Before this AD Hoc committee was established, OPD was responsive to our suggestions, especially regarding increasing public awareness via social media outreach. April 2020, OPD provided an information report to the Public Safety Committee along with an updated investigative checklist. They also created a Missing Persons page on the City of Oakland website as an additional resource to share active missing persons cases with the community. They answered common questions about how to make a missing persons report and about Amber Alerts. April 2, 2021, OPD produced a seven-minute YouTube video with a step-by-step explanation that families could follow called "Missing Persons FAQ", which they shared on all of their social media platforms. These are all improvements that OPD made prior to the formation of this committee.

The Missing Persons Policy Committee began its work in April 2021 and brought together members of the Oakland Police Department, the Oakland Police Commission, the Citizens Police Review Agency, The Department of Violence Prevention and the community. One critical factor was for us to include the voices of families directly impacted by OPD's Missing Persons policy. Some families expressed interest to participate and we understood the importance of their presence and including them to be part of this conversation. It was important for us to acknowledge their lived experiences, to listen to their critique, perspective, input, suggestions and incorporate them into the new policy.

Our objective is to update OPD's Missing and Abducted Persons Policy to reflect the current best standard practices which includes:

- 1) Changes to the Law
- 2) Updated Procedures and Processes
- 3) Timely and widespread media outreach

Remarks from Ms. Michelle Lazaneo
Missing Persons Ad Hoc: Public Hearing (11.2)

- 4) Incorporating the Use of Body Worn Cameras (BWC)
- 5) Providing Resources for Reporting Parties and the Community

The California Penal Code sections 14211 and 14212 were updated September 28, 2020. These sections cover missing persons reports and procedures with significant changes added.

OPD has already implemented the following changes as part of their missing persons checklist and investigative procedures. They are all included in the draft policy.

- + California law has expanded the definition of at-risk youth from only being those 16 and under, to include all missing individuals under the age of 21.
- + If the missing person is under 21 years of age, or there is evidence that the person is at risk, the police department or sheriff's department shall broadcast a "Be On the Lookout" bulletin, without delay, within its jurisdiction.
- + If the person reported missing is under 21 years of age, or if there is evidence that the person is at risk, the law enforcement agency receiving the report shall, within two hours after the receipt of the report, electronically transmit the report to the Department of Justice via the California Law Enforcement Telecommunications System for inclusion in the Violent Crime Information Center and the National Crime Information Center databases.
- + An Endangered Missing Advisory (EMA) is a tool available to law enforcement agencies investigating the suspicious disappearance of at-risk missing children or other endangered persons. EMAs provide immediate information to the public to aid in the swift recovery of at-risk persons. EMAs fulfil the federally mandated requirement of the Ashanti Alert Act of 2019. This is similar to an Amber or Silver Alert, but this change allows law enforcement to issue an alert for missing persons between 18-64 years of age. There was no special alert for those 18-64 before.
- + The Department of Justice Missing Persons Report form (CJIS 8568) was updated in 2018 to include the Silver Alert and EMA. This form is already being used by OPD, but was added to the new policy.
- + The Police Officers Standards and Training (POST) updated their Missing Persons Investigations Guidelines and Curriculum in May 2021. OPD is utilizing The DOJ Investigative Checklist for First Responders and The POST Missing and Unidentified Persons Reporting Reference Chart.
- + Outreach/Social Media: This committee is still working on developing specific requirements for social media use in missing persons investigations and creating innovative ideas and partnerships can make Oakland a leader in this area. Currently, these changes are being facilitated by the Media Relations Office which includes their Strategic Communications Manager and Public Information Officers. OPD and the Police Commission have plans to

Remarks from Ms. Michelle Lazaneo
Missing Persons Ad Hoc: Public Hearing (11.2)

establish a social media policy separate from the City of Oakland and solely covering employees of OPD. The Media Relations Office has their own policies and procedures separate from DGO O-6. This committee will be making recommendations to the Media Relations Office regarding their policies that affect missing persons outreach, social media coverage and the public alerts. The Media Relations Office has been responsive to our suggestions and improved the timeliness of their posts on OPD's social media platforms. This committee is still working on finalizing this section of the policy.

- + OPD didn't use body-worn cameras when the original missing persons policy was written. This draft policy includes how responding and investigating officers should activate and use their BWC's throughout a missing persons investigation, especially when interviewing involved parties, taking statements and documenting investigative steps.
- + In order to establish community partnerships and provide more resources to the community, the committee invited Amba Johnson from DreamCatchers to speak as a subject matter expert on human trafficking. She was later invited to speak to the OPD Academy recruits about the intersection of human trafficking and missing persons cases, to make them aware of the signs, the risk factors and prevalence of commercial sex trafficking in Oakland. OPD's newly established Victim Specialist is creating literature to share with families and the larger community to educate them about the available resources and support services they may need.

OPD receives 100 new missing persons reports each month and that is a lot. Although OPD is understaffed and under-resourced, the community is still depending on them to locate their missing family members. Updating this policy is a first step and offers an opportunity for OPD to build positive relationships with 100 families each month. Members of this committee have demonstrated courageous leadership and with the implementation of our innovative ideas, we can create community partnerships that can supplement and assist OPD in their efforts.

A breakthrough is described as big changes resulting after continuous effort and courageous consistency. When this policy receives critical community input and is finalized by this committee, Chief Armstrong and finally the Police Commission, it will produce a breakthrough which will allow OPD to build trust with the community by delivering on its promise that OPD CARES.

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

Chair Regina Jackson

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

Absent/excused: Comm. Gage

II. Closed Session Item

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

Public Employee Performance Evaluation (California Government Code Section 54957(b)):
Title: Director, Community Police Review Agency

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

No reportable action from Closed Session.

Public Comment provided by the following speakers:

None

III. Call to Order and Re-Determination of Quorum

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

Absent/excused: Comm. Gage

Commissioner Harbin-Forte did not voice her presence, it was noted later in the meeting that she did rejoin at approximately 6:50pm.

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

After ascertaining how many members of the public wish to speak, Chair Regina Jackson will invite the public to speak on any items not on the agenda but may be of interest to the public, and that are within the subject matter jurisdiction of the Commission. Comments on specific agenda items will not be heard during Open Forum but must be reserved until the agenda item is called. The Chair has the right to reduce speaking time to 1 minute if the number of speakers would cause this Open Forum

to extend beyond 15 minutes. Any speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2, at the end of the agenda.

Public Comment provided by the following speakers:

John Jones III
Rashidah Grinage
Elise Bernstein
Mary Vail
Anne Janks

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

Comm. Harbin-Forte moves to re-adopt the City Resolution to allow the Oakland Police Commission to continue meeting virtually.

Comm. Garcia seconds the motion.

Public Comment provided by the following speakers:

None

Ayes

Comms. Garcia, Harbin-Forte, Howell, Jordan, Milele, Jackson

Nays

None

Abstentions

None

Absent/excused: Comm. Gage

- VI. Welcome Commissioner Rudolph Howell.**

The Commission welcomes new Commissioner Rudolph Howell to the Oakland Police Commission.

This is a new item.

Public Comment provided by the following speakers:

Elise Bernstein
Anne Janks
Rashidah Grinage

Mariano Contreras

VII. Update from Police Chief

OPD Chief Armstrong will provide an update on the Department. Topics discussed in the update may include crime statistics; an update on the Negotiated Settlement Agreement; a preview of topics which may be placed on a future agenda; responses to community member questions sent in advance to the Police Commission Chair; and specific topics requested in advance by Commissioners. ***This is a recurring item.***

Chief Armstrong shared the rise in homicides, shooting and robbery numbers along with other pertinent statistics, including firearm recovery. He noted the missing persons press releases and the work and efforts of the Ad Hoc Committee to update the Department's missing persons policy and practice, including leveraging social media.

The Chief discussed the initiation of contracts that would update technology and body worn cameras as part of the OPD's compliance efforts, as well as beginning Task 2, modifying risk management meetings and preparing the next stop data report.

Current staffing is at 682 officers, with a continued trend of officer departures, be it retirement and other reasons. Sixty officers have left in last six months and a new academy will begin in November with 40 trainees. The Department continues to conduct exit interviews and is working with the OPOA on officer surveys to understand the reasons behind the departures.

Public Comment provided by the following speakers:

Anne Janks
Oscar Yassin
Assata Olugbala
Mary Vail

VIII. Office of the City Attorney's Report Regarding Support for the Police-Discipline Process and Recent Arbitration Decisions

The Office of the City Attorney (OCA) will present a report which summarizes recent efforts by the OCA to help improve the police discipline and data on arbitration decisions. ***This is a semi-annual report.***

City Attorney Ryan Richardson shared the City's bi-annual report to the Police Commission, starting the discussion with civil matters specifically the challenge brought by OPA against the City. Other civil cases discussed: Updates to the officer challenges in the Pollack case, the case to overturn officer terminations in the Pollack case, and an arbitration decision regarding a truthfulness/termination case.

Public Comment provided by the following speakers:

Assata Olugbala

Oscar Yassin

Saleem Bey

IX. Report on and Review of CPRA Pending Cases, Completed Investigations, Staffing, and Recent Activities

To the extent permitted by state and local law, Executive Director John Alden will report on the Agency's pending cases, completed investigations, staffing, and recent activities. ***This is a recurring item.***

Executive Director Alden presented the CPRAs monthly statistical report, focusing on the publicly available information regarding the Instagram case.

Public Comment provided by the following speakers:

Assata Olugbala

Oscar Yassin

Saleem Bey

Rashidah Grinage

X. Election of Oakland Police Commission Vice Chairperson. The Commission will nominate and vote on the appointment of a Vice Chairperson to serve from November 2021 to the next election, February 2022.

Chair Jackson noted that since Comm. Dorado has rolled off the Commission, his role as Vice Chair has since been made vacant.

Chair Jackson nominated Commissioner Tyfahra Milele for the position, seconded by Comms. Harbin-Forte and Jordan (the two inadvertently chimed in at the same time).

The Commission voted unanimously, Commissioner Milele becomes the new Vice Chair of the Oakland Police Commission.

Public Comment provided by the following speakers:

Saleem Bey

Assata Olugbala

XI. Militarized Equipment Ad Hoc Committee Completion and Dissolution.

Commission representatives from this Ad Hoc confirm the end of this committee's work and discuss suggested next steps.

In Comm. Gage's Absence, Comm. Jordan – as a member of this ad hoc – noted Commissioner Gage's previously publicly noted desire to reconfigure this Ad Hoc as a Standing Committee, pending the continuation of the Commission's resourcing and capacity discussion.

Comm. Harbin-Forte suggests tabling this agenda item for the next meeting for a more comprehensive discussion with Comm. Gage present.

Public Comment provided by the following speakers:

John Lindsey-Poland

Saleem Bey

Assata Olugbala

Reisa

XII. Committee Reports

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

Inspector General Search

(Commissioners Milele, Jackson, Peterson)

The Inspector General Search Ad Hoc Committee is tasked with conducting a nationwide search for a civilian Inspector General who will report to the Police Commission.

Comm. Milele discussed the progress of the search, noting the public forum held the previous evening that introduced the three finalists and conducted their final interview in public. Next steps include this Committees review of the candidates before their presentation to the full Commission and announcing the nominee.

Chief's Performance Evaluation

(Commissioners Garcia, Milele, Peterson)

The mission of the Chief Goals Ad Hoc is to establish goals and objectives that determine the criteria upon which the Oakland Chief of Police will be evaluated by the Oakland Police Commission.

Comm. Peterson noted the Ad Hoc was still in its research and discovery phase, requesting and reviewing best practice as they continue working with the Chief's office and the City, the Committee is also designing a public engagement campaign.

CPRA Director Performance Evaluation

(Commissioners Milele, Jackson)

The purpose of this Ad Hoc Committee is to provide a transparent performance review of the CPRA Executive Director. The Committee will craft constructive critiques, as well as performance expectations for the coming year.

Chair Jackson reported the Ad Hoc continues to move forward, having agreed on a rubric the Committee is seeking the perspectives and comments of other Commissioners as well as Oakland communities.

**White Supremacists and Other Extremist Groups
(Commissioners Harbin-Forte, Jackson)**

The purpose of the Oakland Police Commission Ad Hoc Committee on White Supremacy is to ensure the Commission's oversight of the Oakland Police Department and the Chief of Police is properly focused on identifying and eradicating white supremacist infiltration of local law enforcement agencies, including in Oakland. The Ad Hoc's charge is to elevate the visibility of this issue, which is long overdue, and to ensure the Department is prepared, informed, and proactive about identifying and eradicating any links to white supremacy within our Department. Because a police department shapes a city's culture in countless ways, the Ad Hoc's long term goal is to root out the evil of White Supremacy in both our Police Department and all across our City for the safety of all Oakland residents and Police Officers.

Comm. Harbin-Forte mentioned the Committee's meeting with the Department and the Chief to discuss ways to root out White Supremacy and extremist thinking within the Department. The Commissioner suggested a hiatus of this ad hoc until the Social Media Policy Ad Hoc moves further along and can provide suggestions and recommendations. She also noted that former Commissioner/Vice Chair Dorado would like to remain on the Committee and requested the Chair appoint him as a community representative when the Ad Hoc reconvenes.

Commissioner Jordan promoted the Missing Persons Public Hearing scheduled for November 2, 2021.

Public Comment provided by the following speakers:

Assata Olugbala
Reisa
Saleem Bey
Anne Janks

XIII. Open Forum Part 2 (2 minutes per speaker)

Chair Regina Jackson will invite public speakers to speak on items that were not on the agenda, and that are within the subject matter jurisdiction of the Commission, with priority given to speakers who were unable to address the Commission during Open Forum at the beginning of the meeting. Speakers who made comments during Open Forum Part 1 will not be permitted to make comments

during this Open Forum. Comments previously made during public comment on agenda items may not be repeated during this Open Forum. The Chair has the right to reduce speaking time to 1 minute for reasons the Chair will state on the record. ***This is a recurring item.***

Public Comment provided by the following speakers:

Saleem Bey
 Maria Arroyo
 Assata Olugbala

XIV. Review and adoption of meeting minutes

The Commission will vote to approve minutes from September 23, Special Meeting October 14 and Regular Meeting October 14. ***This is a recurring item.***

No edits for the minutes of the Sep 23 meeting, an edit to the October 14 Special Meeting regarding former Vice Chair Dorado's absent voice in the resolution vote, and a spelling correction of Comm. Hsieh's name in the Regular Meeting on October 14.

Public Comment provided by the following speakers:

None

Chair Jackson requests a motion to adopt the minutes with the recommended edits, Comm. Harbin-Forte makes the motion and Comm. Garcia seconds.
 Commission votes unanimously, with Comm. Howell choosing to abstain.

XV. 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.***

Chair Jackson notes that the Commission's regular meeting on November 11 will be moved to November 18 since 11.9 is Veterans day. The Chair reiterates the items she'd called out during the meeting for a future agenda, including:

- + Militarized Equipment
- + CPRA Exec Director Evaluation
- + The Bey matter
- + The Instagram Case
- + Roberts Rules of Order training
- + Chief report out on policies and the Council report on the exit interview
- + Police Commission retreat

Public Comment provided by the following speakers:

Saleem Bey
Assata Olugbala
Anne Janks

- XVI. Adjournment**
Meeting adjourned at 9:46pm.

Police Commission Pending Agenda Matters List

	A	B	C	D	E	F	G	H
1	Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
2	Commissioner Trainings	1/1/2018	<p>Complete trainings mandated by City Charter section 604 (c)(9) and Enabling Ordinance section 2.45.190</p> <p>Some trainings have deadlines for when they should be completed (within 3 months, 6 months, etc.)</p> <p>Several trainings were delivered in open session and have been recorded for future use</p>	<p>The following trainings must be done in Open Session:</p> <ol style="list-style-type: none"> 1. California's Meyers Milias Brown Act (MMBA) and Public Employment Relations Board's Administration of MMBA (done 3.12.20) 2. Civil Service Board and Other Relevant City Personnel Policies and Procedures (done 2.27.20) 3. Memoranda of Understanding with Oakland Police Officers Association and Other Represented Employees (done 4.22.21) 4. Police Officers Bill of Rights (done 12.12.19; 2021) 	High	COMPLETED (as to current commissioners)		

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1	Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
3	Confirming the Process to Hire Staff for the Office of Inspector General	5/17/2019	Per the Enabling Ordinance: The City shall allocate a sufficient budget for the OIG to perform its functions and duties as set forth in section 2.45.120, including budgeting one (1) full-time staff position comparable to the position of Police Program and Audit Supervisor. Within thirty (30) days after the first Inspector General is hired, the Policy Analyst position and funding then budgeted to the Agency shall be reallocated to the OIG. All OIG staff, including the Inspector General, shall be civil service employees in accordance with Article IX of the City Charter.	This will require information presented from the City Administrator's Office.	High			
4	Finalize Bylaws and Rules	1/24/2019			High	COMPLETED		Gage
5	Hire Inspector General (IG)	1/14/2019	Hire IG once the job is officially posted	Pending Measure LL revisions to be included in the November 2020 ballot. Recruitment and job posting in process.	High			Jackson
6	Modify Code of Conduct from Public Ethics Commission for Police Commission	10/2/2018		On code of conduct for Commissioners there is currently a code that was developed by the Public Ethics Commission.	High	COMPLETED		
7	Neighborhood Opportunity and Accountability Board (NOAB) Update	5/13/2021	Receive a report on the Neighborhood Opportunity and Accountability Board which launched in April 2020	Tabled from May 13, 2021 meeting	High	July 22, 2021		

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8	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		Jackson
9	OPD to Provide a 30 Day Snapshot on the Effectiveness of SO 9202	2/27/2020		On 2.27.20, at the request of OPD the Commission considered and approved SO 9202 which amends the section in SO 9196 regarding Type 32 reportable force	High			

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10	Performance Reviews of CPRA Director and OPD Chief	1/1/2018	Conduct performance reviews of the Agency Director and the Chief	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.	High	Annually; Criteria for evaluation due 1 year prior to review		Jackson
11	Prioritization of OPD Policies for Review	5/13/2021	Discuss and prioritize OPD policies for review	Tabled from May 13, 2021 meeting; discussed June 24, 2021 - Gage to reorganize by category	High			
12	Recommendations for Community Engagement	5/13/2021	Discuss recommendations for community engagement	Tabled from May 13, 2021 meeting	High			
13	Reports from OPD	10/6/2018	Commission to decide on what reports are needed prior to receiving them.	Receive reports from OPD on issues such 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	High	Ongoing as appropriate		

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14	Request City Attorney Reports	1/1/2018	Request the City Attorney submit semi-annual reports to the Commission and the City Council	Request the City Attorney submit semi-annual reports to the Commission and City Council which shall include a listing and summary of: 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. 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	High	Semi-annually Next one should be October, 2021		Jackson
15	Sloan Report	5/13/2021	Discuss the independent review commissioned by the City as part of a Step 3 Grievance procedure related to the Pawlik investigation	Tabled from May 13, 2021 meeting, discussed June 24, 2021 -- Commission counsel submitted report	High	COMPLETED		
16	Training on Brown Act, Sunshine Ordinance, and Parliamentary Procedure	5/21/2021	Receive a training session for Commissioners to understand rights and obligations under the Brown Act, the Sunshine Ordinance, Robert's Rules of Order, and the Commission's Rules		High	COMPLETED		
17	Community Policing Task Force/Summit	1/24/2019			Medium			Dorado

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18	CPAB Report			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			
19	Determine Outstanding Issues in Meet and Confer and the Status of M&C on 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			
20	Free Gun Trace Service	1/27/2020		This service was mentioned at a meeting in 2019.	Medium			Dorado
21	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.	Medium	Annually; at least twice each year		Dorado, Jackson
22	OPD 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			
23	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 1st of each year.	Medium	COMPLETED for 2021		
24	Report from OPD Regarding Found/Confiscated Items	7/12/2019	OPD will report on the Department's policy for disposition of found/confiscated items.	This came about through a question from Nino Parker. The Chief offered to present a report at a future meeting.	Medium			

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25	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		
26	Review Budget and Resources of IAD	10/10/2018		In Discipline Training it was noted that many "lower level" investigations are outsourced to direct supervisors and sergeants. Leaders in IAD have agreed that it would be helpful to double investigators and stop outsourcing to Supervisors/Sgts. Commissioners have also wondered about an increase civilian investigators. Does the Commission have jurisdiction over this?	Medium			
27	Review Commission's Outreach Policy	4/25/2019			Medium			Dorado
28	Revise Contracts with CPRA and Commission Legal Counsels	10/10/2018		The 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.	Medium			
29	Revisit Standing and Ad Hoc Committee Assignments	10/29/2019	The chair will create adhoc and staff standing committees as appropriate		Medium	Ongoing		Jackson
30	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			
31	Annual Report	1/1/2018	Submit an annual report each year to the Mayor, City Council and the public		Low	Spring, 2022		Jackson

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32	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			
33	CPRA Report on App Usage	10/10/2018		Report from staff on usage of app.	Low	August, 2021		
34	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			
35	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	2023		

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36	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 Reports on how OCA is supporting OPD in discipline matters and reports on arbitration Public report on police discipline from Mayor’s office OIG audit includes key metrics on standards of discipline	Low			
37	Feedback from Youth on CPRA App	10/10/2018		Get some feedback from youth as to what ideas, concerns, questions they have about its usability.	Low			
38	OPD Data and Reporting			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			
39	Outreach Committee: Work with Mayor's Office and City Admin to Publicize CPRA App	10/10/2018			Low			
40	Overtime Usage by OPD - Cost and Impact on Personal Health; Moonlighting for AC Transit	1/1/2018		Request Office of Inspector General conduct study of overtime usage and "moonlighting" practices.	Low			

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41	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	4/15/2021		
42	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		Low	Annually; at least once per year		Dorado
43	Social Media Communication Responsibilities, Coordination, and Policy	7/30/2019		Decide on social media guidelines regarding responsibilities and coordination.	Low			