



OAKLAND POLICE COMMISSION

SPECIAL MEETING AGENDA

May 13, 2021

5:30 PM

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

Pursuant to the Governor's Executive Order N-29-20, 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/82571176741> 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: 825 7117 6741

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 clove@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 on 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 clove@oaklandca.gov.



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

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

Commissioners Excused: José Dorado

II. Public Comment on 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.

III. Closed Session

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(1)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
(Government Code Section 54957(b))

IV. Report out of Closed Session

- a. The Commission will report on any actions taken during Closed Session, as required by law.

V. 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.

VI. Update from Police Chief

OPD Chief Armstrong will provide an update on the Department. Topics discussed in the update may include crime statistics; 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. Neighborhood Services Presentation to the Oakland Police Commission

Joe DeVries, Director of Interdepartmental Operations, will deliver a presentation on Neighborhood Services. ***This is a new item. (Attachment 7).***

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

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. (Attachment 8).***

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

IX. Supplemental Formal Request for Commissioner Access to Personnel Information

Supplementing the March 25, 2021 Commission approval of a request for certain personnel information in further of its policymaking authority under the Charter, the Commission will consider approving a formal request for certain confidential personnel records. ***This is a new item.***

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

X. Police Commission Code of Conduct Policy

The Commission will review, and may vote to approve, a new Code of Conduct presented by the Rules Committee. ***This item was discussed on 4.8.21. (Attachment 10).***

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

XI. Prioritization of OPD Policies for Review

The Commission will discuss and prioritize OPD policies for review. ***This item was discussed on 1.30.21 and 4.22.21. (Attachment 11).***

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

XII. Recommendations for Community Engagement

The Commission will discuss recommendations for community engagement. *This is a new item.* ([Attachment 12](#)).

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

XIII. Meeting Minutes Approval

The Commission will vote to approve minutes from April 22, 2021. *This is a recurring item.* ([Attachment 13](#)).

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

XIV. Committee Reports

Representatives from Standing and Ad Hoc Committees will provide updates on their work. *This is a recurring item.* ([Attachment 14](#)).

**Community Resource Officer Deployment OPD 15-01
(Commissioners Dorado, Harbin-Forte, Jackson)**

The mission of the OPC Community Policing Ad Hoc Committee is to refine OPD Draft Policy 15-01 to assure the full implementation of Resolution 79235 and provide for specific procedures to address Beat level challenges. This mission also includes the development of Beat and block leaders into viable Citywide networks, expanded public access to information and resources as well as increased community involvement in OPD and staff training, especially that of Community Resource Officers.

**Military Police Equipment
(Commissioners Gage, Jackson, Jordan)**

The Military Police Equipment Ad Hoc Committee is tasked with drafting, revising, and lobbying for passage of a city ordinance to regulate the acquisition and use of militarized equipment by the Oakland Police Department.

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

XV. 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.*

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



OAKLAND POLICE DEPARTMENT

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

CRIME ANALYSIS

Weekly Crime Report — Citywide 03 May – 09 May, 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)	98	1,990	2,015	2,311	15%	2,105	10%
Homicide – 187(a)PC	2	26	20	46	130%	31	50%
Homicide – All Other *	-	2	1	3	200%	2	50%
Aggravated Assault	67	957	1,003	1,222	22%	1,061	15%
Assault with a firearm – 245(a)(2)PC	14	95	110	208	89%	138	51%
Subtotal - Homicides + Firearm Assault	16	123	131	257	96%	170	51%
Shooting occupied home or vehicle – 246PC	9	90	112	209	87%	137	53%
Shooting unoccupied home or vehicle – 247(b)PC	6	43	49	104	112%	65	59%
Non-firearm aggravated assaults	38	729	732	701	-4%	721	-3%
Rape	2	74	83	36	-57%	64	-44%
Robbery	27	933	909	1,007	11%	950	6%
Firearm	13	316	266	409	54%	330	24%
Knife	-	42	84	48	-43%	58	-17%
Strong-arm	7	424	424	306	-28%	385	-20%
Other dangerous weapon	2	32	25	27	8%	28	-4%
Residential robbery – 212.5(a)PC	1	36	33	34	3%	34	-1%
Carjacking – 215(a) PC	4	83	77	183	138%	114	60%
Burglary	83	4,517	4,384	2,506	-43%	3,802	-34%
Auto	65	3,621	3,514	1,920	-45%	3,018	-36%
Residential	13	617	488	331	-32%	479	-31%
Commercial	2	229	293	169	-42%	230	-27%
Other (Includes boats, aircraft, and so on)	-	42	70	56	-20%	56	0%
Unknown	3	8	19	30	58%	19	58%
Motor Vehicle Theft	105	2,290	2,921	2,996	3%	2,736	10%
Larceny	46	2,413	2,631	1,742	-34%	2,262	-23%
Arson	3	40	58	70	21%	56	25%
Total	335	11,252	12,010	9,628	-20%	10,963	-12%

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.



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CRIME ANALYSIS

2021 Year-to-Date Recovered Guns

Recoveries through 09 May, 2021

Grand Total 374

Crime Recoveries	
Felony	201
Felony - Violent	83
Homicide	9
Infraction	
Misdemeanor	11
Total	304

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun		2				2
Other	1					1
Pistol	163	68	6			237
Revolver	6	4	1		9	20
Rifle	22	8	1		1	32
Sawed Off	2					2
Shotgun	7					7
Sub-Machinegun						0
Unknown/Unstated		1	1		1	3
Total	201	83	9	0	11	304

Non-Criminal Recoveries	
Death Investigation	11
Found Property	39
SafeKeeping	20
Total	70

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun				0
Other				0
Pistol	7	18	8	33
Revolver	3	6	7	16
Rifle		5	3	8
Sawed Off		1		1
Shotgun	1	5	2	8
Sub-Machinegun				0
Unknown/Unstated		4		4
Total	11	39	20	70



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CRIME ANALYSIS

Week: 03 May to 09 May, 2021

Weekly Total 19

Crime Recoveries	This Week	Last Week	+/- Change	% Change
Felony	13	8	5	63%
Felony - Violent	1	6	-5	-83%
Homicide	0	0	0	PNC
Infraction	0	0	0	PNC
Misdemeanor	3	0	3	PNC
Total	17	14	3	21%

Other Recoveries	This Week	Last Week	+/- Change	% Change
Death Investigation	0	1	-1	-100%
Found Property	0	4	-4	-100%
Safekeeping	2	0	2	PNC
Total	2	5	-3	-60%

PNC = Percentage not calculated

[Percentage cannot be calculated.](#)



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CRIME ANALYSIS

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

Recoveries through 09 May

Gun Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Grand Total	388	374	-14	-4%

Crime Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Felony	204	201	-3	-1%
Felony - Violent	78	83	5	6%
Homicide	6	9	3	50%
Infraction	0	0	0	PNC
Misdemeanor	13	11	-2	-15%
Total	301	304	3	1%

Non-Criminal Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Death Investigation	9	11	2	22%
Found Property	30	39	9	30%
SafeKeeping	48	20	-28	-58%
Total	87	70	-17	-20%

PNC = Percentage not calculated

[Percentage cannot be calculated.](#)

OPD is Investigating Two Homicides and Nearly a Dozen Shootings

Date Posted: **May 10th, 2021 @ 2:43 PM**

Last Updated: **May 10th, 2021 @ 2:59 PM**



The violence started early Friday morning just before 12:45 AM. Officers responded to the 2300 block of 55th Avenue to investigate the report of a male on the ground. Once on scene officers located an unresponsive male suffering from gunshot wound(s). Unfortunately, the victim succumbed to his injuries and was pronounced deceased on the scene.

Less than four hours later, officers were investigating a second homicide. Around 4:15 AM, officers were dispatched to the 1400 block of 3rd Street to investigate the report of a shooting. Upon arrival, officers located an unresponsive male suffering from gunshot wound(s). Unfortunately, the victim succumbed to his injuries and was pronounced deceased on the scene.

"As a lifelong resident of Oakland, I am deeply saddened each time a person is killed in our city," says Oakland Police Chief LeRonne L. Armstrong.

Over the next 13 hours, the Oakland Police Department responded to seven shootings with a total of 10 victims. The first incident happened just before 2:00 PM, when officers responded to the 7300 block of International Boulevard. Officers found a male victim suffering from a gunshot wound. Minutes later, additional officers responded to the 1400 block of 85th Avenue, where officers located a female victim suffering from gunshot wound(s). Both victims were transported to an area hospital where they were listed in stable condition. Officers are treating these incidents as related.

The violence continued, just before 9:00 PM, officers responded to the 1400 block of 89th Avenue. Once on scene, officers found one male victim suffering from a gunshot wound. He was transported to an area hospital where he was listed in critical condition.

Around 12:30 AM, officers responded to the 2600 block of East 27th Street where one male victim was shot. He was transported to an area hospital and was listed in stable condition.

Roughly 45 minutes later, officers responded to yet another shooting, this time in the area of the 5800 block of Howell Street. Upon arrival, officers located a male victim suffering from a gunshot wound. He was transported to an area hospital and was listed in stable condition.

Just after 3:00 AM, officers were dispatched to the 1700 block of Broadway on a report of a shooting. A male victim was later located at an area hospital where he was listed in stable condition.

Just before 3:30 AM, officers were dispatched to the 1400 block of Lakeshore Avenue on reports of a shooting. Upon arrival, officers located a male suffering from a gunshot wound. Three additional shooting victims were located at an area hospital. The victims were identified as two male San Francisco residents and one male Tracy resident. All were listed in stable condition. One female Vacaville resident was listed in critical condition.

"Hearing the constant gunfire, many of you may feel hopeless, frustrated, and fearful. As your Chief, I refuse to give up! OPD needs your help to reduce the violence in our city." says Armstrong.

Crime Stoppers of Oakland and the Oakland Police Department are offering a reward of up to \$20,000 for information leading to an arrest in the Lakeshore Avenue shooting and up to \$5,000 in the other shootings. Call Crime Stoppers at [\(510\)777-8572](tel:(510)777-8572).

The victim's identities in both homicides are being withheld pending notification to the next of kin. Oakland Police Homicide Investigators ask, anyone with information to contact them at (510) 238-3821 or the TIP LINE at (510) 238-7950.

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

Check Twice for Motorcycles: May is Motorcycle Safety Awareness Month

Date Posted: April 30th, 2021 @ 12:42 PM

Last Updated: April 30th, 2021 @ 12:45 PM



News from: Oakland Police Department

For Immediate Release

May 1, 2021

Oakland, Calif. — May is Motorcycle Safety Awareness Month, and the Oakland Police Department reminds drivers to check twice for motorcycles.

"It's important for drivers to understand motorcycle rider behaviors and learn how to drive safely around riders," Lieutenant Jeff Thomason said. "Motorcycle riders are more vulnerable and have much less protections as those in vehicles do, which is why it is critical for drivers to be mindful of those on two wheels."

During May's Motorcycle Safety Awareness Month, the Oakland Police Department Traffic Division will have officers enforcing motorcycle laws.

Motorcycle riders are 28 times more likely to die in a crash than vehicle occupants. In 2019, there were 474 motorcycle deaths on California roads.

To help protect you and your family, keep the following tips in mind while driving or riding:

Drivers

- Always check twice for motorcycles, looking at all mirrors and blind spots.
- Motorcycle riders have the same rights to the road as other vehicles. Allow motorcycles to always use the full width of a lane.
- Never follow a motorcycle too closely. Always keep a safe distance.
- If you see a motorcycle with a signal on, be careful. The rider may have forgotten to turn the signal off. Be sure that the rider is turning before proceeding.

Motorcyclists

- Always wear a [DOT compliant helmet](#). Learn how to identify a safe helmet that fits on the National Highway Traffic Safety Administration [website](#).
- Wear appropriate gear like leather clothing, boots with nonskid soles, and gloves. Consider adding reflective tape to your clothing to make it easier for other drivers to see you.
- Ride defensively. Don't assume a driver can see you. Try staying out of a driver's blind spot.
- Always keep your lights on, even during the day.

- Signal well in advance before changing lanes and watch for turning vehicles.

Lastly, both drivers and riders should never drive/ride under the influence of alcohol and/or drugs.

Funding for this program is provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.

For more information, please contact the Media Relations Office at (510) 238-7230 or opdmedia@oaklandca.gov.

Three People Arrested and Two Firearms Recovered After Carjacking

Date Posted: April 29th, 2021 @ 1:13 PM

Last Updated: April 29th, 2021 @ 1:26 PM



For Immediate Release: April 29, 2021

OPD NEWS:

On April 26, 2021, around 10:12 PM, Oakland Police Officers responded to the 1200 block of Lakeshore Avenue to investigate a report of an armed carjacking.

Around 10:49 PM, officers located the stolen vehicle in a parking lot in the 3300 block of 72nd Avenue. As officers approached, the occupants in the

stolen vehicle began to flee on foot. Officers quickly set up a perimeter around the area.

For the safety of the residents and visitors of Oakland and the potential level of violence, OPD approved the use of the Emergency Rescue Vehicle and SUV. This deployment was necessary because officers believed that the additional individuals who fled on foot may have been armed. California Highway Patrol provided aerial support.

Officers located and arrested two adult Oakland residents and a juvenile Oakland resident. Officers also recovered two firearms.

The stolen vehicle was processed for evidence and returned to the owner.

We understand when crime-related incidents occur it causes trauma to our community. We appreciate those who came forward and reported this crime. We will continue to support our community members who were inconvenienced during this incident.

This investigation is ongoing and anyone with information is asked to contact **OPD's Robbery Division at (510) 238-3326.**

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A Man is Arrested After Firing a High-Powered Rifle in Oakland

Date Posted: April 22nd, 2021 @ 5:19 PM

Last Updated: April 22nd, 2021 @ 5:34 PM



On April 20, 2021, at approximately 8:36 pm, Oakland Police Department (OPD) officers responded to the area of 54th Avenue and East 8th Street to investigate the reports of a man armed with a rifle. Once on scene, officers contacted victims, who advised that the suspect was pointing the firearm in their direction and threatening to kill them. The victims stated they heard gunfire as they left the area.

Officers located the individual hiding under a vehicle armed with a stolen assault-style rifle. Officers established communication and safely took the suspect into custody and recovered the firearm along with 10 high-powered rifle rounds.

"Our officers are encountering these types of firearms every day," says Chief LeRonne L. Armstrong. "These firearms were created for places of war and our residents are dealing with them being fired in our neighborhoods. To date, our officers have recovered 318 firearms. That's nearly three a day. This should cause all of us serious concern."

The investigation is ongoing, and anyone with information is asked to contact the Criminal Investigations Division at (510) 238-3326.

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Neighborhood Services Division

Presentation to the Oakland Police
Commission May 13, 2021

Joe DeVries

Director, Interdepartmental Operations

Office of the City Administrator

History: Resolution 72727 passed in 1996

Established Community Policing as the City's public safety philosophy

Established 57 Community Policing Beats and Defined NCPCs or Neighborhood Councils

Created the Neighborhood Services Coordinator and Community Policing Officer Positions

Created the Community Policing Task Force

History: Resolution 79235 passed in 2005

Linked Neighborhood Councils with Neighborhood Watch/Merchant Watch to create a block-neighborhood-citywide organizational structure



Created the Community Policing Advisory Board and Neighborhood Watch Steering Committee as the citywide advisory bodies



Created management oversight and required an Annual Safety Summit

Transition to the City Administrator's Office

Expand	Expand scope to a <i>citywide approach</i> to problem solving
Elevate	Elevate NSCs to have the support of all departments in their portfolio
Maintain	Maintain relationship with OPD and existing leaders
Identify	Identify new leaders and provide needed training

Efforts Since January

One on one interviews with staff

Survey for shared ideas

Completion of the City's Equity
Training

Series of departmental
presentations/trainings

Evaluating workload

Current Challenges

Staffing: only 7 NSCs, 1 Supervisor and 2 Police Service Technicians

Average number of beat assignments per NSC: 7

Zoom meetings limit engagement in hard-to-reach communities

Uncertainty with budget and evolving conversation on Reimagining Public Safety

Vision for the
future:
Engagement

Improve	Improve community engagement efforts
Invest	Invest in training new leaders
Network	Network beyond the Neighborhood Council structure
Diversify	Diversify Neighborhood Council focus on upstream interventions instead of enforcement

Vision for the
future:
*Service
Delivery*

Teams	Create interdepartmental teams to focus on neighborhoods that need the most support
Track	Use Cityworks to track service requests
Website	Expand the website to provide resources for a variety of new activities
Data	Implement a database and tracking system to measure success

Questions?



OAKLAND CITY COUNCIL
RESOLUTION NO. 72727 C. M. S.

INTRODUCED BY COUNCILMEMBER _____

WPR:trc

A RESOLUTION ESTABLISHING IMPLEMENTATION OF THE
CITY OF OAKLAND'S COMMUNITY POLICING POLICY

WHEREAS, the people of Oakland require that their municipal government provide police services in the manner calculated to best insure public safety; and

WHEREAS, for the last two decades cities and police departments across the United States have adopted strategies to reduce reliance on 911-response policing and instead utilize approaches known as "Community Oriented Policing," "Problem Oriented Policing," or "Community Policing;" and

WHEREAS, the experience of the police departments which have adopted community policing strategy demonstrates the effectiveness of this approach in both reducing crime levels and increasing public sense of safety; and

WHEREAS, the Oakland Police Department has been a pioneer in the development and utilization of community policing strategies through such programs as Beat Health, Neighborhood Watch, and Home Alert; and assuming a leadership role in comparable efforts by the Oakland Housing Authority; and

WHEREAS, community policing creates a working partnership between the community and the police to analyze neighborhood problems, set priorities, develop strategies, and work together to improve the quality of life in our neighborhoods; and

WHEREAS, community policing focuses on issues of ongoing public concern rather than specific incidents as reported; and

WHEREAS, community policing employs a comprehensive City inter departmental approach to solving neighborhood problems; and

WHEREAS, community policing assists in the empowerment of neighborhoods by relying on the organization of people in our communities to identify problems, prioritize concerns, and develop solutions which are implemented through the cooperation and collaboration of neighborhood residents, public employees, and public officials;

NOW THEREFORE, the City Council of the City of Oakland hereby adopts the following policies for the implementation and institutionalization of community policing:

Section 1 - Title and Philosophy

1.1. This program shall be known as the Community Policing Program of the City of Oakland.

1.2. Community policing is hereby reaffirmed as the public safety policy and philosophy of the City of Oakland.

Section 2 - Police Beats

2.1. Police beats shall be established to as nearly as possible conform to the natural boundaries of neighborhoods and communities in the City of Oakland, taking into account historical neighborhood boundaries, natural boundaries such as streams, artificial boundaries such as major thoroughfares and highways, shopping and commercial districts, and public school attendance areas.

2.2. Each police beat should, to the extent feasible, contain between 5,000 and 7,000 residents.

Section 3 - Neighborhood Councils

3.1. A neighborhood council shall be established in each police beat.

3.2. Neighborhood councils shall strive to include representatives of a variety of organizations sensitive to community needs and interests, such as, but not limited to, community organizations, service groups, Home Alert groups, church organizations, youth groups, labor unions, merchant associations, school parent-teacher organizations, as well as interested members of the community.

3.2.1. Neighborhood councils shall meet regularly, as determined by their members, but at least quarterly.

3.2.2. Meetings of neighborhood councils shall be publicly announced.

3.2.3. All meetings of neighborhood councils shall be public. Whenever feasible, the City's Neighborhood Services Coordinator, dedicated beat officer, and other city staff assigned to the beat shall be directed to attend meetings of the neighborhood council.

3.2.4. Meetings of neighborhood councils shall be democratically run, but need not conform strictly to Robert's Rules of Order.

3.2.5. Neighborhood councils shall, following notice to residents of the police beat and an opportunity for interested persons to speak and vote on proposals, determine their form of organization, including whether to elect officers, the titles of such officers, and whether to select and empower a steering committee to act on behalf of the council between regular meetings.

3.2.6. Each neighborhood council shall adopt written rules to govern the conduct of its meetings. These rules shall be available to all residents of the police beat.

3.3. Neighborhood councils shall make every effort to meet with their Neighborhood Services Coordinators, police officers assigned to their beat, and employees of other city departments to identify neighborhood concerns regarding issues of public health and safety, establish priorities for law enforcement efforts, and develop strategies to resolve public health, safety, and other concerns.

3.4. Neighborhood councils shall cooperate actively with police officers and other public employees and interested individuals and organizations to improve the quality of life in their neighborhoods, through such activities as involvement in litter and graffiti abatement, community patrols, providing supervision for youth recreation activities, monitoring problems at liquor stores, and other actions.

3.5. Neighborhood councils shall be encouraged to establish a community center in each police beat in order to provide a regular place for their meetings and activities, a location for positive interaction between residents and police officers, and a center for the provision of activities and services to residents of that police

beat. To the extent possible public facilities, which can accommodate a large range of activities, such as youth recreation and classes for adults, shall be utilized as community centers. The City Council shall solicit the cooperation of the Oakland Unified School District in making school facilities available for Neighborhood Council meetings without charge to the community.

Section 4 - Neighborhood Services Coordinator

4.1. It shall be a goal of the City to assign a Neighborhood Services Coordinator to each community policing beat.

4.1.1. Neighborhood Services Coordinators shall be non-sworn employees of the police department.

4.1.2. To the extent allowed by law Neighborhood Services Coordinators shall be residents of Oakland.

4.1.3. Neighborhood Services Coordinators shall receive sufficient training and supervision to adequately perform their duties.

4.2. The Neighborhood Services Coordinator shall work under the supervision of the police command structure for that community policing beat.

4.3. The Neighborhood Services Coordinator shall have the following responsibilities:

(a) Organization of the Neighborhood Council for that community policing beat;

(b) Acting as staff for the Neighborhood Council in that community policing beat;

(c) Initiating contact with each resident of the beat;

(d) Assessing neighborhood concerns and identifying neighborhood problems;

(e) Working with the Neighborhood Council, other residents, police officers, and employees of other city agencies and other institutions to

establish priorities and develop and implement community policing strategies and other activities to improve the safety and health of the community;

(f) Coordination of special events and programs to assist community development and crime prevention efforts.

Section 5 - Police Staffing

5.1. All City of Oakland police officers shall be trained in the philosophy and practice of community policing.

5.1.1. Police officers shall be known as "community police officers."

5.2. It shall be a goal of the City to staff each police beat fully with community police officers.

5.2.1. To the extent possible, and if consistent with applicable agreements with employee organizations, assignments of community police officers to beats and shifts shall be made for terms of no less than two years.

5.2.2. Community police officers assigned to each beat shall work with any assigned Neighborhood Council and Neighborhood Services Coordinator in that beat to carry out the objectives of this program.

5.3. Specialized police units shall be decentralized to the extent possible in order to establish continuity of services and relationships between police department personnel assigned to such units and community residents, community police officers, Neighborhood Councils, and Neighborhood Services Coordinators.

Section 6 - Implementation

6.1. The City Manager or his designated agency head(s) shall be primarily responsible for the implementation of this program.

6.2. The implementation of this program shall require the cooperation of all city departments. The City Manager shall establish an inter-departmental coordinating committee to insure the prioritization of community policing programs and activities by all relevant city departments and employees.

6.3. City staff shall work with other public agencies, the non-profit sector, and the business community to insure the successful implementation of this program.

Section 7 - Community Policing Task Force

7.1. The Mayor and City Council shall establish a nine-member Community Policing Task Force to oversee, monitor, and report at least twice yearly on the implementation of this Resolution and to provide recommendations to the Mayor, Council, City Manager, and Chief of Police on further steps necessary to carry out its objectives.

7.2. The City Manager or his designated representative and Chief of Police shall attend task force meetings and provide the task force with all information it deems necessary to carry out its responsibilities.

7.3. The City Council shall seek to provide the Community Policing Task Force with sufficient funding for its activities, including attendance at conferences, observation of community policing programs elsewhere in the country, and retaining consultants to assist it with its responsibilities.

I certify that the foregoing is a full, true and correct copy of a Resolution passed by the City Council of the City of Oakland, California on

JUN 11 1996

CEDA FLOYD
City Clerk and Clerk of the Council

Per Onetha Middleton Deputy

OAKLAND CITY COUNCIL

RESOLUTION NO. 79235 C. M. S.

INTRODUCED BY COUNCILMEMBER _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND
Bruce V. Diery
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RESOLUTION AMENDING RESOLUTION NO. 72727 C.M.S., WHICH IMPLEMENTED
THE CITY OF OAKLAND'S COMMUNITY POLICING POLICY, TO PROVIDE A
STRUCTURED APPROACH TO COMMUNITY INVOLVEMENT

WHEREAS, the people of Oakland require that their municipal government provide police services in the manner calculated to best insure public safety; and

WHEREAS, for the last two decades cities and police departments across the United States have adopted strategies to reduce reliance on 911-response policing and instead utilize approaches known as "Community Oriented Policing," "Problem Oriented Policing," or "Community Policing;" and

WHEREAS, the experience of the police departments which have adopted community policing strategy demonstrates the effectiveness of this approach in both reducing crime levels and increasing public sense of safety; and

WHEREAS, the Oakland Police Department has been a pioneer in the development and utilization of community policing strategies through such programs as Beat Health, Neighborhood Watch, and Home Alert; and assuming a leadership role in comparable efforts by the Oakland Housing Authority; and

WHEREAS, on June 11, 1996 the City Council of the City of Oakland passed Resolution No. 72727 to implement the community policing program in the City of Oakland and this Resolution was subsequently amended by Resolution No. 73185 C.M.S on December 17, 1996 and by Resolution No. 73916 C.M.S. on November 4, 1997; and

WHEREAS, community policing creates a working partnership between the community and the police to analyze neighborhood problems, set priorities, develop strategies, and work together to improve the quality of life in our neighborhoods; and

WHEREAS, community policing focuses on issues of ongoing public concern rather than specific incidents as reported; and

WHEREAS, community policing employs a comprehensive City inter-departmental approach to solving neighborhood problems; and

WHEREAS, community policing assists in the empowerment of neighborhoods by relying on the organization of people in our communities to identify problems, prioritize concerns, and develop solutions which are implemented through the cooperation and collaboration of neighborhood residents, public employees, and public officials;

NOW THEREFORE, the City Council of the City of Oakland hereby adopts the following policies for the implementation and institutionalization of community policing:

Section 1 - Title and Philosophy

- 1.1 This program shall be known as the Community Policing Program of the City of Oakland.
- 1.2 Four principles govern the Community Policing Program of the City of Oakland:
 - 1.2.1 Its purpose is to reduce crime, enhance public safety, and to improve quality of life.
 - 1.2.2 It is a peer level partnership between the community, the Police Department, and other city agencies.
 - 1.2.3 In contrast to the 911 emergency response system, it addresses long term, chronic problems using proactive, collaborative problem solving methods.
 - 1.2.4 It fosters a geographically based crime prevention effort on three levels: at the block level, at the *neighborhood level*, and at the *citywide level*.
- 1.3 Community policing is hereby reaffirmed as the public safety policy and philosophy of the City of Oakland.

Section 2 - Police Beats

- 2.1 Police beats shall conform as nearly as possible to the natural boundaries of neighborhoods and communities in the City of Oakland, taking into account historical neighborhood boundaries, natural boundaries such as streams, artificial boundaries such as major thoroughfares and highways, shopping and commercial districts, and public school attendance areas. The beat boundaries shall be reviewed from time to time to accommodate the natural evolution of population and neighborhood boundaries.
- 2.2 Each police beat should, to the extent feasible, contain between 5,000 and 7,000 residents.

Section 3: Block Level Organization

- 3.1 Home Alert is the block-level component of the City's Community Policing Program.
- 3.2 Home Alert will recruit and engage residents in crime prevention and problem solving through block-level organizing.
- 3.3 Home Alert Groups shall, to the extent safe and reasonable, strive to include representatives from each address on the block.
- 3.4 City Staff will partner with Home Alert Groups regarding issues of block health and safety. Home Alert Groups shall cooperate actively with police officers and other city staff and interested individuals and organizations to improve the quality of life on their blocks.
- 3.5 Once a year there will be a citywide meeting of Home Alert captains.
- 3.6 The Home Alert Coordinator will oversee the Home Alert Program and shall be a non-

sworn employee of the police department working under the supervision of the Neighborhood Services Manager.

3.7 The Neighborhood Services Manager will determine the specific duties of the Home Alert Coordinator.

3.8 The city shall encourage Home Alert captains and members to participate in neighborhood-level and citywide-level components of the Community Policing Program.

Section 4 - Neighborhood Level Organization

4.1 Neighborhood Councils (also known as Neighborhood Crime Prevention Councils or NCPCs) are the neighborhood-level component of the City's Community Policing Program.

4.2 A Neighborhood Council shall be established and maintained in each police beat.

4.3 Neighborhood Councils shall strive to include representatives of a variety of organizations sensitive to community needs and interests, such as, but not limited to, community organizations, service groups, Home Alert groups, church organizations, youth groups, labor unions, merchant associations, school parent-teacher organizations, as well as interested members of the community.

4.4 Neighborhood Councils shall meet regularly, as determined by their members, but at least quarterly.

4.5 Meetings of Neighborhood Councils shall be publicly announced.

4.6 All meetings of Neighborhood Councils shall be public. The Neighborhood Services Coordinators and Community Policing Officers shall be directed to attend meetings of the Neighborhood Council. Other city staff shall attend Neighborhood Council meetings when appropriate or as requested.

4.7 Meetings of Neighborhood Councils shall be democratically run, but need not conform strictly to Robert's Rules of Order.

4.8 The Neighborhood Council will, to the extent safe and reasonable, provide notice of meetings to all addresses in the police beat at least once each year.

4.9 Each Neighborhood Council shall adopt written bylaws to govern the conduct of its meetings. These bylaws must include a requirement for annual elections of any leadership positions, whether they are called officers, steering committee members, or other names. These bylaws shall be available to all residents of the police beat.

4.10 Neighborhood Service Coordinators, police officers assigned to the beat, and employees of other city departments shall meet with Neighborhood Councils to identify neighborhood concerns

regarding issues of public health and safety, establish priorities for law enforcement efforts, and develop strategies to resolve public health, safety, neighborhood improvement and revitalization, and other concerns.

4.11 Neighborhood Councils shall cooperate actively with police officers and other public employees and interested individuals and organizations to improve the quality of life in their neighborhoods, through such activities as involvement in litter and graffiti abatement, community patrols, providing supervision for youth recreation activities, monitoring problems at liquor stores, and other actions.

4.12 Neighborhood Councils shall be encouraged to establish a community center in each police beat in order to provide a regular place for their meetings and activities, a location for positive interaction between residents and police officers, and a center for the provision of activities and services to residents of that police beat. To the extent possible public facilities, which can accommodate a large range of activities, such as youth recreation and classes for adults, shall be utilized as community centers. The City Council shall solicit the cooperation of the Oakland Unified School District in making school facilities available for Neighborhood Council meetings without charge to the community.

4.13 An organized group may represent itself as a Neighborhood Council, and therefore representative of the citizens of that beat, only if that group is in compliance with Section 4 of this Resolution and has passed certification by the Community Policing Advisory Board (CPAB).

Section 5 – Citywide Organization

5.1 The Community Policing Advisory Board (CPAB) and the Home Alert Steering Committee (HASC) are citywide advocates for community policing, and help bring the block and neighborhood groups together as a citywide voice for community policing.

5.2 The Community Policing Advisory Board (CPAB) shall be comprised of the following fifteen appointees:

- 5.2.1 Three members appointed by the Mayor.
- 5.2.2 One Member appointed by each Councilperson (total of eight appointees).
- 5.2.3 One Member appointed by the Board of Commissioners of the Oakland Housing Authority
- 5.2.4 One member appointed by the Board of Trustees of the Oakland Unified School District.
- 5.2.5 Two members appointed by the Oakland Home Alert Steering Committee.

5.3 The Community Policing Advisory Board shall oversee, monitor, and report at least annually on the implementation of Resolution 72727 C.M.S. and provide recommendations to the Mayor, City Council, City Administrator, and Chief of Police on further steps necessary to carry out its objectives.

5.4 A member selected by the Board shall serve as the Community Policing Advisory Board Chairperson.

5.5 As part of its responsibilities for overseeing and monitoring the implementation of Resolution 72727 C.M.S., the Community Policing Advisory Board has the authority to establish a process to include documentation for certifying that Neighborhood Councils have been organized and continue to function in compliance with the requirements of this resolution. Should the Board discover that a Neighborhood Council is not in compliance, it has the authority to *withdraw certification from that Neighborhood Council and require that it reorganize itself and reapply for certification.*

5.6 The Board may hear and mediate disputes relating to a Neighborhood Council's compliance with Resolution 72727 C.M.S.

5.7 To facilitate the Community Policing Advisory Board in carrying out its duties, the Oakland Police Department will consult the Board before implementing policy, operational or organizational changes that will affect the functioning and operation of Community Policing as described in the provisions of Resolution 72727 C.M.S.

5.8 The City Administrator or his designated representative and Chief of Police shall attend advisory board meetings and provide the advisory board with all information it deems necessary to carry out its responsibilities.

5.9 The City Council shall provide the Community Policing Advisory Board with sufficient funding for its activities, *including attendance at conferences, observation of community policing programs elsewhere in the country, and retaining consultants to assist it with its responsibilities.*

5.10 The Home Alert Steering Committee (HASC) is an advisory group drawn from Home Alert participants and other interested residents to provide advice and feedback regarding the Home Alert Program. The HASC is sponsored by the Oakland Police Department.

5.11 The CPAB, HASC, Police Department and City Council will sponsor an annual citywide Community Policing Summit.

Section 6 – Neighborhood Services Coordinator

6.1 The City shall assign a Neighborhood Services Coordinator (NSC) to each community policing beat.

6.2 The Neighborhood Services Coordinator shall be a non-sworn employee of the police department working under the supervision of the Neighborhood Services Manager.

6.3 To the extent allowed by law Neighborhood Services Coordinators shall be residents of Oakland.

6.4 Neighborhood Services Coordinators shall receive sufficient training and supervision to adequately perform their duties.

6.5 The Neighborhood Services Coordinator shall have, but no be limited do, the following duties:

6.5.1 Organization of the Neighborhood Council for that community policing beat.

6.5.2 Assist the leaders of the neighborhood council to develop peer level partnerships with the police to solve problems.

6.5.3 Initiate contact with residents, block level organizations, merchant and community organizations of the beat for participation in crime prevention and community engagement efforts.

6.5.4 Working with the Neighborhood Council, other residents, police officers and employees of other city agencies and other institutions to establish priorities and develop and implement community policing strategies and other activities to improve the safety and health of the community.

6.6 The Neighborhood Services Manager shall determine the specific duties or job description of the Neighborhood Services Coordinators. The NSC job description shall be available to the public upon request.

Section 7 – Police Staffing

7.1 All City of Oakland police officers shall be trained in the philosophy and practice of community policing and problem solving.

7.2 Police officers assigned to each community policing beat shall be known as Community Police Officers. Community Police Officers shall focus their efforts on problem solving and quality of life improvement on their community policing beat, and shall not be routinely reassigned to 911 patrol or other non-community policing duties.

7.3 The City shall staff each police beat with community police officers, a minimum of one officer per police beat.

7.4 Assignments of Community Police Officers to beats shall be made for terms in accordance with Police Department policy. As a specialized assignment, they can remain in this assignment for six years with extensions of up to two years as approved by the Chief of Police. The city will negotiate applicable agreements with employee organizations to allow such six-year assignments.

7.5 Community Police Officers assigned to each beat shall work with any assigned Neighborhood Council and Neighborhood Services Coordinator in that beat to carry out the objectives established by the Neighborhood Council.

7.6 Specialized police units shall be decentralized to the extent possible in order to establish

continuity of services and relationships between police department personnel assigned to such units and community residents, community police officers, Neighborhood Councils, and Neighborhood Services Coordinators.

Section 8 – Implementation

8.1 The City Administrator or his/her designated agency head(s) shall be primarily responsible for the implementation of this program.

8.2 The implementation of this program shall require the cooperation of all city departments. The City Administrator shall establish an inter-departmental coordinating committee to insure the prioritization of community policing programs and activities by all relevant city departments and employees.

8.3 City staff shall work with other public agencies, the non-profit sector, and the business community to insure the successful implementation of this program.

In council, Oakland, California, MAY 17 2005, 2005

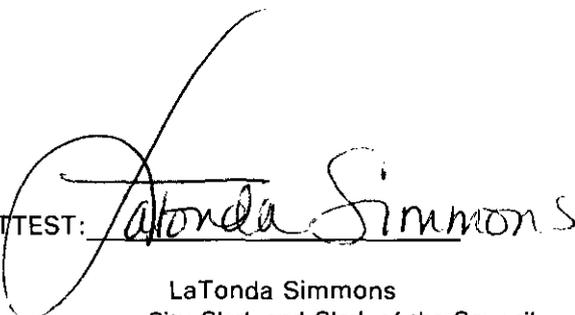
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID AND
PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney

(510) 238-3601
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May 7, 2021

OAKLAND POLICE COMMISSION

**Re: Office of the City Attorney's Support for the Police-Discipline
Process and Recent Arbitration Decisions**

Police Commission Chair Jackson and Members of the Oakland Police Commission:

I. INTRODUCTION

This report summarizes recent efforts by the Office of the City Attorney (OCA) to help improve police Oakland's accountability processes.

II. OCA's EFFORTS TO SUPPORT THE POLICE DISCIPLINE PROCESS

IAD Attorney-Liaison

Since 2015, OCA has assigned a Deputy City Attorney as its principal advisor and liaison to IAD. We've similarly assigned a liaison to CPRA, in addition to hiring the outside counsel that was required prior to the passage of Measure S1. When we provided our last report to the Commission, we had recently lost the attorney filling that IAD Attorney-Liaison position. We are happy to report that we have since hired a very experienced labor and employment attorney to resume that work.

III. CIVIL MATTERS

***Oakland Police Officers' Association; Doe Officers 1-4 v. City of Oakland
California Court of Appeal, First District - Case No. A158662***

In 2019, OCA partnered with the CPRA to challenge an appellate decision from southern California (*Santa Ana Police Officers Assn. v. City of Santa Ana* (2017) 13 Cal.App.5th 317) that misinterpreted Public Safety Officers Procedural Bill of Rights Act (POBRA).

OAKLAND POLICE COMMISSION

Page 2

Re: OCA's Support for the Police Accountability Processes

May 7, 2021

POBRA, at Government Code section 3303(g), provides that officer are entitled to, among other things, any "reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential." Although the legislature did not explicitly provide a deadline for providing the information, there had been an understanding for decades that the information would be provided after the investigation was complete.

In 2017, the *Santa Ana* upended decades of past practice by misinterpreting this POBRA provision and relevant California Supreme Court case law. Specifically, that court decided that if an agency had already interrogated an officer once, and decided it needs a follow-up interview, the agency must first provide the subject officer with any reports or complaints it has collected up to that point. The OPOA's lawyers began citing the case to argue that subject officers who have already been interviewed by IAD cannot be interviewed by the CPRA unless the CPRA turns over extensive materials from its investigative file, including any interviews that had already been conducted.

The harm that this faulty decision posed to the integrity of Oakland's police investigation, and in particular its civilian oversight model, were obvious and unacceptable. On OCA's advice, the CPRA refused provide such materials in a particular case, and the OPOA filed a petition for an injunction and writ of mandate. While the superior court predictably determined it was bound by the higher-court's decision in *Santa Ana*, the City promptly appealed in our appellate district. To our knowledge, the City of Oakland was the first to mount such a challenge.

We are happy to report that the court of appeal recently sided with the City, and clarified that the CPRA and the City of Oakland (as well as cities and counties throughout California) are entitled to control their evidence as long as an investigation is ongoing. The opinion is included with this report at Attachment A. Should the California Supreme Court take up the issue, we will continue to defend the City's ability to thoroughly investigate police misconduct.

Negrete, et al, v. City of Oakland; Oakland Police Commission, et al
U.S. Court of Appeal, 9th Circuit - Case No. 20-16244

Petitioners sought a writ in Alameda Superior Court to overturn their terminations from OPD, alleging their terminations should never have gone before the Police Commission's Discipline Committee and thus violated the City Charter. After consulting with the Police Commission, the City Attorney's Office and outside counsel succeeded in removing the matter to federal court and further succeeded in associating the matter with *Delphine Allen*, putting it before Judge Orrick. Judge Orrick ruled for the City, finding the City's action were consistent with both the Charter and the NSA.

Petitioners appealed and the case to the Federal 9th Circuit Court of Appeal. That appeal will be heard on Monday, May 10 at 1:00 p.m. The City hopes to have an appellate ruling shortly thereafter.

OAKLAND POLICE COMMISSION

Page 3

Re: **OCA's Support for the Police Accountability Processes**

May 7, 2021

Negrete, et al, v. City of Oakland; Oakland Police Commission, et al
Alameda Superior Court - Case No. RG20061608

Petitioners sought a preliminary injunction and a writ of mandate to overturn their terminations from OPD, alleging they were denied an opportunity to have the Discipline Committee's initial meetings conducted in public, in violation of the Brown Act. After briefing and a hearing, the judge denied their request for a preliminary injunction because they had not demonstrated a likelihood of proving a Brown Act violation at the hearing on the writ.

When we last reported, in October 2020, we were still awaiting the Court's decision on the writ itself. We now have that decision and are happy to report that the City prevailed. The court agreed with the City in finding that the Discipline Committee's initial meeting to decide whether to recommend discipline and initiate the *Skelly* process was not subject to the Brown Act's notice requirements. Petitioners have not filed an appeal.

IV. ARBITRATIONS

There have been no new arbitration decisions since our last report.

V. CONCLUSION

OCA respectfully submits this report.

BARBARA J. PARKER,
City Attorney



By: Ryan G. Richardson, Special Counsel

Attachment A: Appellate Decision in *OPOA v. City of Oakland*, Case No. A158662

Attachment A

Appellate Decision in *OPOA v. City of Oakland*, Case No. A158662

Filed 4/26/2021

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

OAKLAND POLICE OFFICERS
ASSOCIATION, et al.,

Plaintiffs and Respondents,

v.

CITY OF OAKLAND,

Defendant and Appellant.

A158662

(Alameda County Super. Ct.
No. RG19002328)

This appeal concerns the meaning of certain requirements described in section 3303, subdivision (g) of the Public Safety Officers Procedural Bill of Rights Act (Gov. Code,¹ § 3300 et seq., POBRA), mandating the disclosure of complaints, reports, and other materials to a peace officer under investigation for misconduct. In December 2017, a citizen filed a complaint against officers from the Oakland Police Department (Department), alleging that the officers violated the citizen’s rights in various ways while conducting a mental health welfare check. Following an internal investigation, the Department cleared the officers of misconduct. The Oakland Community Police Review Agency (CPRA), a civilian oversight agency with independent authority to investigate claims of police misconduct, conducted its own investigation.

¹ All statutory references are to the Government Code unless otherwise specified.

Before the CPRA's formal interrogation of the officers, counsel for the officers demanded copies of all "reports and complaints" prepared or compiled by investigators pursuant to section 3303, subdivision (g). The CPRA refused to disclose these materials. Based on its investigation, the CPRA determined that officers knowingly violated the complainant's civil rights by entering the residence and seizing property without a warrant, and then actively concealed this violation from investigators.

The officers and their police union filed a petition for writ of mandate alleging that the City of Oakland (City) violated their procedural rights by refusing to disclose reports and complaints prior to holding the supplemental interrogations. The Fourth District Court of Appeal previously considered the same issue in *Santa Ana Police Officers' Association v. City of Santa Ana* (2017) 13 Cal.App.5th 317, 328 (*City of Santa Ana*), holding that POBRA requires the disclosure of such materials after an initial interrogation and "prior to any further interrogation." Feeling constrained by *City of Santa Ana*, the trial court below granted the petition and ordered the City to disregard the interrogation testimony in any current or future disciplinary proceedings against the officers.

We conclude that mandatory disclosure of complaints and reports prior to any subsequent interrogation of an officer suspected of misconduct is inconsistent with the plain language of the statute and undermines a core objective under POBRA—maintaining the public's confidence in the effectiveness and integrity of law enforcement agencies by ensuring that internal investigations into officer misconduct are conducted promptly, thoroughly, and fairly. Under our reading of section 3303, subdivision (g), an investigating agency's disclosure obligations should instead be guided by whether the agency designates otherwise discoverable materials as

confidential. While confidential materials may be withheld pending the investigation—and may not be used as the basis for disciplinary proceedings absent disclosure—nonconfidential material should be disclosed upon request. Accordingly, we reverse the judgment and remand the matter for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Investigation

A welfare check conducted by officers in December 2017 resulted in a citizen complaint alleging an unlawful search and seizure, excessive use of force, harassment, discrimination, and property damage. On the date in question, Officer Doe 1 and Officer Doe 2 responded to the citizen's residence after a report was made that the citizen had been drinking, was suicidal, and was armed with a firearm. Smelling alcohol on the citizen, the officers handcuffed and conducted a body search, confiscating a weapon. Officer Doe 2 then asked the citizen for permission to check if anyone was in the residence. The citizen consented, and Doe Officer 2 did a quick protective sweep, finding no one inside. While Officer Doe 1 placed the citizen in a patrol vehicle, Officer Doe 2 re-entered the residence. Officer Doe 2 then exited the residence and asked the citizen about the presence of a weapon. After the citizen refused to disclose the location of a weapon, Officer Doe 2 entered the residence for a third time, locating and confiscating a weapon.

Officer Doe 3, Officer Doe 4, and a fifth officer arrived after the citizen had been placed in the patrol vehicle. A mobile crisis team also arrived and placed the citizen on a psychiatric hold pursuant to Welfare and Institutions Code section 5150. After the citizen was transported, Officer Doe 1 prepared a search warrant and affidavit to search the residence in accordance with

Welfare and Institutions Code section 8102.² The Doe Officers and an additional officer conducted a search of the residence and confiscated a number of items.

As part of the Department's investigation, internal affairs took the citizen's statement and reviewed existing body worn camera footage and relevant documents. The Doe Officers were separately interrogated by the Department in April and May of 2018. The Doe Officers were cleared of any wrongdoing by the Department in June 2018. However, investigators noted two areas of concern. First, Doe Officer 2 should have waited for a third officer to arrive before conducting a protective sweep of the house. Second, a search warrant should have been obtained prior to searching the citizen's residence and seizing a weapon. The Department recommended training for certain of the officers involved.

In September 2018, the CPRA notified each of the Doe Officers that they would be re-interviewed concerning the same December 2017 incident. Prior to these supplemental interrogations, counsel for the Doe Officers sought discovery of relevant reports and complaints under POBRA and the *City of Santa Ana* decision.³ Although the CPRA agreed to provide recordings and transcribed notes from the prior interrogations conducted by the Department, it refused to produce any other materials and insisted that the Doe Officers either sit for further interrogations or face possible punitive action.

² Welfare and Institutions Code section 8102 allows for the confiscation of any firearm or other deadly weapon from a person who has been detained for examination of his or her mental condition.

³ There is no dispute that the Doe Officers were all public safety officers for purposes of POBRA.

All four Doe Officers submitted to further interrogations in November 2018. Based in part on those interrogations, the CPRA found that the Doe Officers had violated the citizen's civil rights and recommended discipline. Specifically, the CPRA concluded that the Doe Officers knowingly violated the citizen's Fourth Amendment rights by re-entering the citizen's residence without a warrant or the existence of exigent circumstances. The CPRA also found that the Doe Officers gave misleading statements to investigators, omitted material details, and worked together in an attempt to conceal their misconduct. The agency sustained multiple findings of misconduct against certain Doe Officers and recommended that the Department implement a number of changes to its policies regarding searches and seizures.

B. Trial Court Proceedings

Oakland Police Officers' Association and the Doe Officers (collectively, petitioners) filed the instant action in January 2019, claiming that the City violated the officers' procedural rights by refusing to disclose all relevant "reports and complaints" prior to subsequent interrogations by the CPRA. Petitioners sought a writ of mandate ordering the City to comply with section 3303, subdivision (g), destroy any recordings of the unlawful interrogations, and cease any disciplinary proceedings against the Doe Officers. They further requested a declaration that the Doe Officers' statutory POBRA rights had been violated and sought civil penalties with respect to those violations.

While these proceedings were pending in the trial court, the parties agreed to the following stipulated facts:

(1) "The interviews of Officer Doe 1, on or about November 14, 2018, Officer Doe 2, on or about November 13, 2018, Officer Doe 3, on or about November 9, 2018, and Officer Doe 4, on or about November 13, 2018, were

‘further interrogation[s]’ under the meaning of Government Code section 330[3](g).”

(2) “Prior to these further interrogations, counsel for Officer Does 1 through 4, Justin Buffington, requested that [City] turn over reports and complaints as discussed within Government Code section 330[3](g) and *Santa Ana Police Officers Association v. City of Santa Ana* (2017) 13 Cal.App.5th 317.”

(3) “Before those further interrogations, and at the time of Justin Buffington’s requests for reports and complaints, the City was in possession of reports and/or complaints as discussed within Government [C]ode section 330[3](g).”

(4) “On November 5, 2018, Anthony Finnell sent an email to Justin Buffington and Joan Saupe, which stated, ‘Upon the advice of counsel, the CPRA denies your requests for “reports and complaints” and will not produce said material. (See *Pasadena Police Officers Association v. City of Pasadena*, 797 P.2d 608 (1990).)’ Mr. Finnell’s email also set a schedule for three officers to be interviewed and stated, ‘Refusal to submit to the interviews may subject your clients to punitive action. (Gov. Code sec. 3303(e).)’ ”

(5) “On November 6, 2018, Mr. Buffington sent an email to Mr. Finnell, which stated, ‘The *Pasadena* case only applies to pre-interrogation discovery, not post-interrogation discovery. In fact, the *Santa Ana* case harmonizes and relies on the *Pasadena* case in determining that officers are entitled to reports and complaints. Furthermore, the California Supreme Court declined to hear an appeal of the *Santa Ana* case, making it settled law. Unfortunately, I will be forced to litigate this matter in Alameda County Superior Court. Please be advised that reliance on the advice of counsel is not a valid defense.’ ”

After hearing, the trial court granted the writ petition, reasoning as follows: “The Court is bound by *Santa Ana*, which plainly holds that ‘reports and complaints also must be produced “prior to any further interrogation.” ’ [Citation.] This holding is not inconsistent with the Supreme Court’s holding in *Pasadena Police Officers’ Association v. City of Pasadena* [hereafter ‘*Pasadena POA*’] (1990) 51 Cal.3d 564, which addressed only whether notes and reports must be produced before the initial interrogation. The Court is bound by the holding in *Santa Ana*, notwithstanding the conflict between that case’s holding and the Supreme Court’s reasoning in *Pasadena POA* that ‘granting discovery before interrogation could frustrate the effectiveness of any investigation, whether criminal or administrative’ (*id.* at p. 578) and would be ‘contrary to sound investigative practices’ (*id.* at p. 579) [citation].” (Italics added.) In the resulting judgment and writ of mandate, the trial court ordered the City to comply with section 3303, subdivision (g), and “disregard, in any current or future proceedings, the interrogation testimony gathered from Doe Officers without prior compliance” with that statute as interpreted by *City of Santa Ana*. The court further ordered that the City could not “hold disciplinary hearings for Doe Officers until final judgment is entered in this matter, following either the expiration of [City’s] time to appeal or issuance of a remittitur by the Court of Appeal.”

This appeal followed. After briefing was completed, we granted a request by the League of California Cities and the Los Angeles County Police Chiefs’ Association to file an amicus brief supporting the City’s position.⁴

⁴ We granted a related request by amici curiae for judicial notice of the legislative history underlying section 3303 on that same date. (Evid. Code, §§ 452, subd. (c) & 459, subd.(a); see, e.g., *Stewart v. Rolling Stone LLC* (2010) 181 Cal.App.4th 664, 676, fn.8.) The judicial notice requests by the parties filed February 6, 2020 and March 17, 2020—which were both deferred

Following oral argument in this matter, we requested supplemental briefing concerning the applicability of the confidentiality provision in section 3303, subdivision (g) to this appeal. With the parties' supplemental letter briefs now received, the matter is resubmitted and before us for decision.

DISCUSSION

This appeal concerns the interpretation of disclosure requirements described in section 3303, subdivision (g), and in particular whether investigative reports or complaints must be disclosed to a peace officer under investigation for misconduct prior to any further interrogation of that officer. On an appeal from an order granting mandamus relief, we are not bound by the trial court's interpretation of statutory or decisional law. We review such questions of law de novo. (*Daugherty v. City and County of San Francisco* (2018) 24 Cal.App.5th 928, 944 (*Daugherty*).

I. Relevant Law

A. *Public Safety Officers Procedural Bill of Rights Act*

Initially enacted in 1976 (Stats. 1976, ch. 465, § 1, p. 1202), POBRA “sets forth a list of basic rights and protections which must be afforded all peace officers [citation] by the public entities which employ them. It is a catalogue of the minimum rights [citation] the Legislature deems necessary to secure stable employer-employee relations.” (*Baggett v. Gates* (1982) 32 Cal.3d 128, 135; *White v. County of Sacramento* (1982) 31 Cal.3d 676, 681 [POBRA “is concerned primarily with affording individual police officers certain procedural rights during the course of proceedings which might lead to the imposition of penalties against them”].) “These procedural protections . . . serve the legislative goal of stable employer-employee

pending consideration of this appeal—are denied as unnecessary to our resolution of the case.

relations, for ‘[e]rroneous action can only foster disharmony, adversely affect discipline and morale in the workplace, and thus ultimately impair employer-employee relations and the effectiveness of law enforcement services.’ ”

(*Pasadena Police Officers Assn. v. City of Pasadena* (1990) 51 Cal.3d 564, 584 (*City of Pasadena*).

Section 3303 “prescribes protections that apply when a peace officer is interrogated in the course of an administrative investigation that might subject the officer to punitive action, such as ‘dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.’ ” (*City of Pasadena, supra*, 51 Cal.3d at p. 574, quoting § 3303; see *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1283 (*Gilbert*) [same].) “To ensure fair treatment of an officer during an internal affairs interrogation, section 3303 requires that the employing agency notify the officer to be interrogated of the identity of the interrogating officers (§ 3303, subd. (b)), and of ‘the nature of the investigation prior to any interrogation’ (§ 3303, subd. (c)). It also prohibits abusive interrogation techniques. (§ 3303, subs. (a) [interrogation to be conducted at a reasonable hour], (b) [no more than two interrogators], (d) [length of the interrogation session not to be unreasonable; subject must be allowed to attend to physical necessities], and (e) [no abusive language, promises or threats].) If the interrogation focuses on matters likely to result in punitive action against the peace officer, section 3303 allows the officer to designate a representative to be present at the interrogation, provided that the representative is not someone subject to the same investigation. (§ 3303, subd. (h) [now subd. (i)].) If criminal charges are contemplated, section 3303 requires immediate advisement of the so-called *Miranda* rights. (§ 3303, subd. (g) [now subd. (h)].)” (*City of Pasadena, supra*, 51 Cal.3d at p. 574.)

Balanced against the need to afford peace officers a fair process, these procedural safeguards also reflect the institutional and public importance of ensuring prompt, thorough, and impartial investigations of police misconduct claims. (*City of Pasadena, supra*, 51 Cal.3d at p. 572; see also *Daugherty, supra*, 24 Cal.App.5th at p. 947 [“ ‘The various procedural protections provided by POBRA “balance the public interest in maintaining the efficiency and integrity of the police force with the police officer’s interest in receiving fair treatment.” ’ ”].) As the Supreme Court explained more than forty years ago when it interpreted the same POBRA provision at issue in this appeal: “To keep the peace and enforce the law, a police department needs the confidence and cooperation of the community it serves. Even if not criminal in nature, acts of a police officer that tend to impair the public’s trust in its police department can be harmful to the department’s efficiency and morale. Thus, when allegations of officer misconduct are raised, it is essential that the department conduct a prompt, thorough, and fair investigation. Nothing can more swiftly destroy the community’s confidence in its police force than its perception that concerns raised about an officer’s honesty or integrity will go unheeded or will lead only to a superficial investigation.” (*City of Pasadena, supra*, 51 Cal.3d at p. 568.)

The Supreme Court has thus recognized that “[l]imitations on the rights of those employed in law enforcement have long been considered ‘a necessary adjunct to the [employing] department’s substantial interest in maintaining discipline, morale and uniformity[,]’ ” especially when “preservation of public confidence in the trustworthiness and integrity of its police force is at stake.” (*City of Pasadena, supra*, 51 Cal.3d at p. 577.) For example, POBRA requires officers to comply with administrative interrogations, and the refusal to sit for an interrogation or to answer

questions may be grounds for punitive action. (*Id.* at p. 574; see § 3303, subd. (e) [“an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action”].) With this background in mind, we review the Supreme Court’s opinion in *City of Pasadena* and subsequent appellate decisions that have construed the POBRA provision at issue in this appeal—section 3303, subdivision (g).

B. Judicial Construction of Section 3303, Subdivision (g)

Subdivision (g) prescribes rules for the discovery of materials related to an interrogation of a peace officer for alleged misconduct. It provides as follows: “The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports that are deemed to be confidential may be entered in the officer’s personnel file. The public safety officer being interrogated shall have the right to bring his or her own recording device and record any and all aspects of the interrogation.”

In *City of Pasadena*, the Supreme Court considered the “narrow issue” of whether subdivision (g) (then subdivision (f)) grants “preinterrogation discovery rights to a peace officer who is the subject of an internal affairs investigation.” (*City of Pasadena, supra*, 51 Cal.3d at pp. 568-569.) An investigator had interviewed Officer Ford during an internal affairs investigation into possible insubordination by Officer Diaz. When Officer

Diaz appeared for a scheduled administrative interrogation, he argued that he was not required to answer any questions until he was given access to the notes from the Ford interview. The investigator refused to disclose the notes. (*Id.* at p. 570.) Following a lawsuit by the officer, the trial court concluded that the statute required preinterrogation disclosure of “reports and complaints” such as the notes of the Ford interview. (*Id.* at p. 571.) The court of appeal affirmed, concluding that a public safety officer who is the subject of an internal affairs investigation is entitled under POBRA to “copies of nonconfidential reports and complaints” prior to being interrogated. (*Ibid.*)

The Supreme Court reversed. It concluded that “in allowing an officer under administrative investigation access to reports and complaints, the Legislature intended the right to such access to arise after, rather than before, the officer’s interrogation.” (*City of Pasadena, supra*, 51 Cal.3d at p. 569.) Looking first to the statutory language, the Court noted that subdivision (f) (now subdivision (g)) does not specify *when* an officer’s entitlement to “reports and complaints” arises. (*Id.* at 575.) It observed, however, that the provision also grants an officer access to any recording of the officer’s interrogation, as well as to transcribed stenographer’s notes memorializing the interrogation, both of which logically could only be provided after an interrogation. (*Id.* at pp. 575-576.) Moreover, since “the Legislature placed the provision regarding disclosure of reports and complaints and the provision specifying entitlement to transcribed notes *in the same sentence* in subdivision [(g)],” the Court determined “that the Legislature must have intended the discovery rights in each instance to be coextensive, entitling the officer to copies of reports and complaints and transcribed stenographer’s notes after the interrogation.” (*Id.* at p. 576.)

The Supreme Court further reasoned that when the Legislature has required that certain acts described in section 3303 be performed before the interrogation, it used the words “‘prior to.’” (*City of Pasadena, supra*, 51 Cal.3d at p. 576; see, e.g., § 3303, subd. (c) “[t]he public safety officer . . . shall be informed of the nature of the interrogation *prior to* any interrogation”].) In contrast, “the words ‘prior to’ do not appear in that part of subdivision [(g)] requiring disclosure of reports and complaints.” (*Ibid.*) “When the Legislature ‘has employed a term or phrase in one place and excluded it in another, it should not be implied where excluded.’” (*Ibid.*) Thus, the omission of the phrase “prior to” in the sentence mandating disclosure of reports and complaints indicated that the Legislature intended for such disclosures to occur *after* an interrogation. (*Ibid.*)

Buttressing the Supreme Court’s textual analysis was its discussion of the legislative purpose underlying POBRA. The Supreme Court emphasized the Legislature’s intent to strike a balance between safeguarding a peace officer’s procedural rights and maintaining “public confidence in the trustworthiness and integrity of its police force” through prompt, thorough, and fair investigations of officer misconduct. (*City of Pasadena, supra*, 51 Cal.3d at pp. 572, 577.) The Court explained that, while some of the rights afforded police officers under POBRA “resemble those available in a criminal investigation,” POBRA also evinces “a recognition by the Legislature that a law enforcement agency should retain greater latitude when it investigates suspected officer misconduct than would be constitutionally permissible in a criminal investigation.” (*Id.* at p. 577; see also *ibid.* [“the Legislature looked to criminal procedure as a model for [POBRA] but then provided somewhat reduced protections”].) The Court concluded that disclosure of investigative reports and other materials before an interrogation was “not essential to the

fundamental fairness of an internal affairs investigation” and, indeed, was “without precedent.” (*Id.* at p. 578.) In a criminal investigation, for example, the right to discovery “does not arise until charges have been filed and the suspect becomes an accused.” (*Ibid.*) Moreover, granting discovery before interrogation “could frustrate the effectiveness of any investigation” (*ibid.*), “might color the recollection of the person to be questioned or lead that person to conform his or her version of an event to that given by witnesses already questioned” (*id.* at p. 579), and “would be contrary to sound investigative practices.” (*Ibid.*)

In sum, “entitlement to *preinterrogation* discovery is neither apparent from the language of subdivision [(g)] nor fundamental to the fairness of an internal affairs investigation.” (*City of Pasadena, supra*, 51 Cal.3d at p. 579.) Further, mandating such discovery “might jeopardize public confidence in the efficiency and integrity of its police force.” (*Ibid.*) The Supreme Court thus held that “the Legislature intended subdivision [(g)] to require law enforcement agencies to disclose reports and complaints to an officer under an internal affairs investigation only *after* the officer’s interrogation.”⁵ (*Ibid.*)

Following the *City of Pasadena* opinion, several appellate courts have addressed the scope of the “reports and complaints” disclosure requirement under section 3303, subdivision (g). In *San Diego Police Officers Assn. v. City of San Diego* (2002) 98 Cal.App.4th 779 (*City of San Diego*), the Fourth District Court of Appeal concluded that reports and complaints subject to disclosure under this provision “include all materials that contain reports of

⁵ Because the high court concluded that preinterrogation disclosure was not required by subdivision (g), it declined to consider the agency’s argument that the materials at issue were confidential because their disclosure prior to the interrogation “would impair the investigator’s ability to evaluate the credibility of [the officer].” (*City of Pasadena, supra*, 51 Cal.3d at p. 580.)

or complaints concerning the misconduct that is the subject of the investigation,” including tape-recorded interviews of witnesses and raw notes of investigators. (*Id.* at pp. 782-784.) The appellate court reasoned that if “an accused officer is entitled to only the written complaints filed by third persons and the final written report prepared by investigators, but not to the underlying materials that might tend to show the complaints or reports were inaccurate, incomplete, or subject to impeachment for bias, the officer’s ability to establish a defense at the administrative hearing could be hampered and the rights protected by [POBRA] undermined.” (*Id.* at p. 784.)

The Sixth District Court of Appeal disagreed with this view in *Gilbert, supra*, 130 Cal.App.4th 1264. According to the *Gilbert* court, both “report” and “complaint” as used in the statute “suggest a more formal presentation than the raw or original source materials from which a report may be drawn.” (*Id.* at p. 1286.) In rejecting an officer’s right to discovery of investigators’ notes, the appellate court explained: “The only ‘notes’ to which such officer is expressly entitled under section 3303, subdivision (g), are the ‘notes made by a stenographer,’ who was implicitly present at the officer’s interrogation. Fair treatment of such officer does not require that all the material amassed in the course of the investigation, such as raw notes, written communications, records obtained, and interviews conducted, be provided to the officer following the officer’s interrogation.” (*Id.* at pp. 1286-1287; see also *Davis v. County of Fresno* (2018) 22 Cal.App.5th 1122, 1135-1138, (*Davis*) [noting but declining to address split of authority on scope of “reports” and “complaints” under section 3303, subdivision (g)].)

Most recently, in *City of Santa Ana, supra*, 13 Cal.App.5th 317, the Fourth District Court of Appeal considered the same question of statutory interpretation presented by this appeal. Two police officers were investigated

for alleged misconduct which occurred during the execution of a search warrant at a marijuana dispensary. (*Id.* at pp. 321-322.) Unbeknownst to the officers, hidden cameras had recorded them during the search. (*Id.* at p. 322.) After certain portions of the recordings were released to the media by the dispensary owners, an investigation was initiated and both officers were interrogated. (*Id.* at pp. 322-323.) Additional portions of the recordings were subsequently obtained, and the officers were notified that they would be re-interrogated concerning the newly acquired recordings. (*Id.* at p. 323.) The officers' request for discovery materials prior to the second interrogations was rejected. (*Ibid.*) The officers then filed suit in superior court, alleging in part that the refusal to produce discovery under section 3303, subdivision (g) was a violation of POBRA.⁶ (*Id.* at pp. 323, 326.) The trial court sustained the city's demurrer without leave to amend with respect to both causes of action. (*Id.* at p. 323.)

The appellate court reversed on the POBRA claim, noting that subdivision (g) of section 3303 "plainly states" with respect to any tape recording of the first interrogation that " 'the public safety officer shall have access to the tape . . . prior to any further interrogation at a subsequent time.' " (*Id.* at p. 327, italics omitted.) Since the police officers had not been provided these tape recordings, their complaint stated a cause of action under POBRA on this basis alone. (*Ibid.*)

As for the disclosure of reports and complaints, the appellate court acknowledged that section 3303, subdivision (g) " 'does not specify when an officer's entitlement to the reports and complaints arises.' " (*City of Santa Ana, supra*, 13 Cal.App.5th at p. 327.) Citing *City of Pasadena*, the court

⁶ The officers also asserted a statutory privacy claim that the appellate court ultimately concluded was not cognizable. (*City of Santa Ana, supra*, 13 Cal.App.5th at pp. 324-326.)

noted that the Supreme Court had found that copies of tape recordings and transcribed notes of the first interrogation must necessarily be provided after the interrogation, the disclosure requirement for reports and complaints was located in the same sentence as the disclosure requirement for stenographer's notes, and the Court had remarked that the discovery rights to " 'copies of reports and complaints and transcribed stenographer's notes after the interrogation' " were " 'coextensive'." (*Id.* at p. 328.) The appellate court thus concluded: "Because discovery rights to reports and complaints are coextensive with discovery rights to tape recordings of interrogations, and tapes recordings must be produced 'prior to any further interrogation,' then it follows that reports and complaints also must be produced 'prior to any further interrogation.'" (*Id.* at p. 328.) We respectfully disagree with this analysis for the reasons set forth below.

II. Timing of Disclosures Mandated by Section 3303, Subdivision (g)

"The fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law.'" (*Upland Police Officers Assn. v. City of Upland* (2003) 111 Cal.App.4th 1294, 1303 (*City of Upland*)). "Because the statutory language is generally the most reliable indicator of legislative intent, we first examine the words themselves, giving them their usual and ordinary meaning and construing them in context." (*Esberg v. Union Oil Co.* (2002) 28 Cal.4th 262, 268, superseded by statute on other grounds as stated in *Bernard v. City of Oakland* (2012) 202 Cal.App.4th 1553, 1561 at fn. 5.) We are required to read a statute's provisions "as a whole" and to "harmoniz[e] 'statutes or statutory sections relating to the same subject . . . both internally and with each other, to the extent possible.'" (*City of Pasadena, supra*, 51 Cal.3d at p. 575.)

“[S]tatutes must be construed so as to give a reasonable and common-sense construction consistent with the apparent purpose and intention of the lawmakers—a construction that is practical rather than technical, and will lead to wise policy rather than mischief or absurdity. [Citation.] In approaching this task, the courts may consider the consequences which might flow from a particular interpretation and must construe the statute with a view to promoting rather than defeating its general purpose and the policy behind it.’” (*City of Upland, supra*, 111 Cal.App.4th at p. 1303.) When “the language permits more than one reasonable interpretation, . . . the court looks “to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part.” ’” (*S.B. Beach Properties v. Berti* (2006) 39 Cal.4th 374, 379.)

A. Disclosure of Reports and Complaints Before a Subsequent Interrogation is Not Required by Plain Meaning of Subdivision (g)

Subdivision (g) of section 3303 permits the “complete interrogation of a public safety officer” to be recorded by the investigating agency as well as by the officer through a personal recording device. The provision then states: “If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential.”

There is only one express timing directive in this statutory language—namely, a police officer whose interrogation has been recorded must be granted access to that recording “if any further proceedings are contemplated

or *prior to* any further interrogation at a subsequent time.” (§ 3033, subd. (g), italics added; see *City of San Diego, supra*, 98 Cal.App.4th at p. 785 [noting that “[t]he express mention in section 3303, subdivision (g) of the tape recording of an officer’s interview covers the distinct mandate that requires a *single category of material* (any tape recording of the first interview of the accused officer) be provided *before* the officer may be re-interviewed,” some italics added].) In contrast, the plain language of the statute “does not specify when an officer’s entitlement to the reports and complaints arises.” (*City of Pasadena, supra*, 51 Cal.3d at p. 575; see also *Gilbert, supra*, 130 Cal.App.4th at pp. 1292-1293 [same].)

The discovery obligation for the other three types of material—stenographer’s notes, reports, and complaints—is contained in the next sentence and does not provide a time frame for disclosure. As the Supreme Court observed, the phrase “prior to” is absent from this sentence, a notable omission given that when the Legislature wanted certain acts described in section 3303 to take place before an interrogation, it used the words “‘prior to.’” (*City of Pasadena, supra*, 51 Cal.3d at p. 576 [“When the Legislature ‘has employed a term or phrase in one place and excluded it in another, it should not be implied where excluded.’”].) Applying this statutory canon, it is apparent that the Legislature did not intend to establish a post-interrogation deadline for the disclosure of “reports or complaints” as it had in the preceding sentence for tape recordings “prior to any further interrogation.” (§ 3303, subd. (g); see *City of San Diego, supra*, 98 Cal.App.4th at p. 785 [opining that the maxim *expressio unius est exclusio alterius* “would support the claim that City need not provide [the other three] categories of materials *before* re-interviewing an officer”].)

City of Santa Ana concluded that because certain discovery materials (tape recordings and stenographer notes) can only be produced following an initial interrogation, all four types of materials should be treated in like manner and disclosed at the same time after the initial interrogation. (*City of Santa Ana, supra*, 13 Cal.App.5th at p. 328.) The appellate court relied in particular on the Supreme Court’s conclusion that discovery rights for these materials were “‘coextensive’.” (*Ibid.*) In our view, however, the Supreme Court’s characterization of these discovery obligations as “coextensive” pertained to the narrow issue before the Court—whether certain discovery materials must be disclosed prior to an initial interrogation when other materials logically cannot be. *City of Pasadena* should not be overread to mean that subdivision (g)’s discovery obligations following an initial interrogation were meant to operate in lockstep. A plain reading of the statute does not support this construction, and it ignores the Supreme Court’s own analysis of the omitted phrase ‘prior to’ in that portion of subdivision (g) discussing the disclosure of “reports and complaints.”

The plain language of subdivision (g) thus establishes only that a police officer is entitled to nonconfidential stenographer’s notes, reports, and complaints “[w]hen [the officer] is under investigation and subjected to interrogation . . . that could lead to punitive action”—that is, at *some point* during the investigation. (See *City of Pasadena, supra*, 51 Cal.3d at p. 575 [noting that subdivision (g) “defines only disclosure requirements incident to an *investigation*; it does not address an officer’s entitlement to discovery in the event he or she is administratively *charged* with misconduct”].)

The question remains, when should such materials be discovered? One appellate court concluded that, since subdivision (g) “does not specify any time frame for disclosure,” . . . “a reasonable, post-interrogation time frame

is implied.” (*Gilbert, supra*, 130 Cal.App.4th at p. 1293.) Another court opined that, while the statute supports the conclusion that only the tape recording of the first interview must be provided before an accused officer is re-interviewed, it does not support a claim that an agency “need *never* provide other types of materials to an accused officer.” (*City of San Diego, supra*, 98 Cal.App.4th at p. 785.) In its appellate briefing, the City contends that “the commencement of [a] formal disciplinary hearing[]” is a reasonable deadline to disclose “reports and complaints” against an officer, *i.e.*, at the end of the agency’s investigation. Amici curiae join in this view.

As we explain next, we conclude the statutory language and legislative history of subdivision (g) offer a different answer, one based on the investigating agency’s statutory right to withhold certain materials it deems confidential from disclosure.⁷

B. Confidentiality as the Touchstone for Disclosure of Subdivision (g) Discovery Materials

Under the statute, an agency’s disclosure obligations extend only to *nonconfidential* stenographer’s notes, reports, and complaints. (§ 3303, subd. (g) [“The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, *except those which are deemed by the investigating agency to be confidential,*” italics added]; see also *Gilbert, supra*,

⁷ We recognize that a blanket rule permitting all notes, reports, and complaints to be held until the end of the investigation would be both predictable and convenient for investigating agencies. However, nothing in the statutory language supports this construction of section 3303, subdivision (g). Given the balance the Legislature was attempting to strike between a fair process for officers entitled to disclosable materials and a robust investigation, we see no basis for allowing an agency to withhold nonconfidential materials for reasons of convenience.

130 Cal.App.4th at p. 1290 [subdivision (g) “empowers the investigating agency to deem reports confidential and excepts items so designated from the agency’s disclosure obligation”].) Moreover, the broad statutory language of subdivision (g) places no express restrictions on an investigating agency’s power to designate stenographer’s notes, reports, and complaints as confidential. (See *ibid.* [noting that nothing in subdivision (g) “limits an investigating agency’s power to designate reports confidential to materials protected by statutory privilege”].) Thus, an investigating agency may deem such materials confidential if it finds that doing so satisfies a statutory basis for confidentiality (e.g., Evid. Code § 1040-1041), or if disclosure would otherwise interfere with an ongoing investigation.⁸ Furthermore, nothing in section 3303 prohibits an agency from de-designating a record previously deemed confidential when the basis for confidentiality no longer exists, such as the end of the investigation or some other circumstance.

Under this construction of subdivision (g), and consistent with *City of Pasadena*, no materials identified in subdivision (g) may be disclosed prior to an initial interrogation of a peace officer. Thereafter, any tape recording made of the interrogation must be disclosed “if any further proceedings are contemplated or prior to any further interrogation at a subsequent time.” (§ 3033, subd. (g).) Stenographer’s notes, reports, and complaints should also be

⁸ Related statutory provisions recognize the need for confidentiality of records to protect an ongoing investigation. (See, e.g., Pen. Code § 832.7, subd. (b)(7)(C) [delaying public disclosure of peace officer personnel records related to discharge of a firearm or use of force incident involving death or great bodily injury “until the investigating agency determines whether the use of force violated a law or agency policy”]; subd. (b)(1)(B) & (C) [limiting public disclosure of records regarding other incidents to those “in which a sustained finding was made by any law enforcement agency or oversight agency”].)

disclosed upon request unless the investigating agency designates any such material as confidential to protect the integrity of an ongoing investigation.

For example, there appears to be no reason why stenographer's notes related to a taped interrogation that was disclosed to the public safety officer would need to remain confidential from that officer. Here, the City disclosed the tapes and transcribed notes of the initial interrogations to each of the Doe Officers in this case upon request but cautioned that the materials could not be shared among the officers. It is thus conceivable that an investigating agency might deem it necessary to withhold the recordings and stenographer's notes of other officer interrogations or witness interviews from an officer under investigation during an active investigation to preserve the confidentiality of those discussions. Reports and complaints might also be withheld if disclosure would reveal confidential sources or other sensitive information. If, however, punitive action is contemplated at the conclusion of an investigation, the agency must decide whether to de-designate and disclose any confidential materials to the officer or decline to bring misconduct charges on the basis of those materials. (See *Gilbert, supra*, 130 Cal.App.4th at pp. 1280, 1290.)

Even if punitive action is not pursued at the end of an investigation, the designation of material as confidential carries other consequences. Under subdivision (g), "No notes or reports that are deemed to be confidential may be entered in the officer's personnel file." This provision suggests that "the employing department may not make adverse personnel decisions concerning the officer based on reports, or the portions thereof, deemed confidential and not made available to the officer." (*Gilbert, supra*, 130 Cal.App.4th at p. 1290.) Other POBRA provisions support this view. (See § 3305 [adverse comment may not be added to peace officer's personnel file without review

and acknowledgement by the officer]; § 3306 [affording officer thirty days to file written response to any adverse comment entered in personnel file].)

We are aware that prior cases have found a police officer's right to view adverse comments under section 3305 broadly applicable, even in the face of an assertion of confidentiality by the investigating agency. (See *County of Riverside v. Superior Court* (2002) 27 Cal.4th 793; *Sacramento Police Officers Assn. v. Venegas* (2002) 101 Cal.App.4th 916; *Seligsohn v. Day* (2004) 121 Cal.App.4th 518.) These cases are distinguishable because they arose in the context of police officers requesting access to investigative records and complaints under sections 3305 and 3306 *after* the investigations had ended and no further action was taken. Animating these court decisions was the unfairness in allowing law enforcement agencies to maintain undisclosed allegations in a separate confidential file with potential consequence for future personnel decisionmaking. (See *Riverside, supra*, 27 Cal.4th at pp. 796-797, 799.)

That is not the situation here. For the confidentiality clause in subsection (g) of section 3303 to apply, an officer must be “under investigation and subjected to interrogation” (§ 3303), and must therefore be informed “of the nature of the investigation prior to any interrogation” (*id.*, subd. (c)). To harmonize these provisions, we conclude that an officer's review and comment rights under sections 3305 and 3306 do not extend to review of materials temporarily deemed confidential by an agency under section 3303 for purposes of an active investigation. Nothing in this opinion is meant to absolve an investigating agency from compliance with those statutes once the investigatory period has ended.

C. Section 3303's Legislative History Supports This Construction

An examination of section 3303, subdivision (g)'s legislative history further confirms that the Legislature intended for the confidentiality provision to serve as a counterpoint to an agency's disclosure obligations. Balanced against the public safety officer's disclosure rights under subdivision (g) is the broad latitude given to an investigating agency to declare otherwise discoverable materials confidential so as to ensure the efficacy and integrity of police misconduct investigations.

As originally introduced on December 19, 1974, then-subdivision (f) of section 3303 provided in relevant part: "The complete interrogation of a public safety officer shall be recorded and there shall be no unrecorded questions or statements. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports made by investigators." (Assem. Bill No. 301 (1975-1976 Reg. Sess.) as introduced Dec. 19, 1974 at p. 3 (A.B. 301).) The bill as initially proposed broadly authorized the disclosure of stenographer's notes and investigator's reports to public safety officers under investigation, but it did not provide any basis for investigating agencies to protect the integrity of their investigations by withholding sensitive information.

Opposition to A.B. 301 focused on the bill's negative impact on internal affairs investigations. (See Rodney J. Blonien, Cal. Peace Officers' Assn. & Cal. District Attorneys' Assn. & Cal. State Sheriff's Assn., letter to Assemblyman Keysor, Apr. 18, 1975 [A.B. 301 "in its present form would significantly hinder law enforcement agencies in conducting internal affairs

investigations and citizen complaints against law enforcement officers. The constraints this bill imposes would be detrimental to the protection of society and to the law enforcement profession as a whole.”]; Sen. Democratic Caucus, 3d. Reading File of Assem. Bill 301 (1975-1976 Reg. Session) as amended on June 4, 1975 [noting as arguments in opposition that the bill “inhibits law enforcement agency in ascertaining criminal violations of peace officers” and “may inhibit confidential sources reporting against police [by] allowing rights to any reports made by investigators”].) As the Assembly’s Third Reading Report summarized: “This bill is opposed by most major law enforcement organizations largely because it imposes what many feel are excessive or unrealistic restrictions on law enforcements’ ability to supervise and, when necessary, discipline its members.” (A.B. 301, Assem. 3d Reading Report of bill as amended June 4, 1975.)

The proposed subdivision was then amended in August 1975 to mandate recording of interrogations only “where practical” and to limit disclosures to public safety officers as follows: “The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports made by investigators, *except those which are deemed by the agency to be confidential. No notes or reports which are deemed to be confidential may be entered in the officer’s personnel file.*” (A.B. 301, as amended Aug. 25, 1975 at p. 18.) A final amendment in August 1976 made recording of interrogations discretionary and expanded the materials subject to disclosure. As adopted, the subdivision read in relevant part: “The complete interrogation of a public safety officer *may* be recorded. . . . The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports *or complaints* made by investigators *or other persons*, except those which are deemed by the *investigating* agency to

be confidential. No notes or reports which are deemed to be confidential may be entered in the officer's personnel file." (A.B. 301, as amended in conference Aug. 12, 1976 at p. 4.; see also Stats 1976, ch. 465, §1.)

As the legislative history demonstrates, by granting investigating agencies the authority to withhold confidential materials, the Legislature intended to strike a balance between a police officer's entitlement to relevant discovery and the agency's ability to supervise its employees effectively and to safeguard the integrity of its internal investigations. Indeed, even as the Legislature amended A.B. 301 to include the confidentiality provision, it added a further protection for peace officers by forbidding confidential materials to be entered into a personnel file. Thus, under our reading of subdivision (g), the timing of post-interrogation disclosure of notes, complaints, and reports against a peace officer is guided by an investigating agency's exercise of its discretion to designate certain materials as confidential in furtherance of its investigative objectives and to release nonconfidential materials upon request of the officer under investigation.⁹

⁹ In supplemental briefing, petitioners contend that the confidentiality clause was added to address a concern raised by opponents of A.B. 301 who argued that the bill "may inhibit confidential sources reporting against police [by] allowing rights to any reports made by investigators." (Sen. Democratic Caucus, 3d Reading File Assem. Bill 301 (1975-1976 Reg. Session) as amended on June 4, 1975.) Petitioners thus argue that confidentiality should be limited to protecting confidential sources. This claim ignores the first sentence of the committee report which discusses more generalized opposition that the legislation as drafted "inhibits [a] law enforcement agency in ascertaining criminal violations of peace officers." (*Ibid.*) Nothing in the broad language of the statute or this legislative history suggests that the confidentiality clause was intended to operate so narrowly.

D. Consistency With POBRA

As stated above, we must construe a statute “‘with a view to promoting rather than defeating its general purpose and the policy behind it.’” (*City of Upland, supra*, 111 Cal.App.4th at p. 1303.) We reject a construction of section 3303, subdivision (g), which would automatically require disclosure of reports and complaints “prior to any further interrogation at a subsequent time.” (§ 3303, subd. (g).) Such an interpretation is not required by the language of subdivision (g), and as we explain now, it undermines a core objective under POBRA of fostering public confidence in our law enforcement agencies. On the other hand, a reading of subdivision (g) which requires disclosure of nonconfidential materials upon request while permitting an investigating agency to withhold confidential materials during an investigation strikes the proper balance between “fundamental fairness for police officers” and “the necessity for internal affairs investigations to maintain the efficiency and integrity of the police force serving the community.” (*City of Pasadena, supra*, 51 Cal.3d at p.572.)

As *City of Pasadena* explained, while many of the protections in POBRA resemble those available in a criminal investigation, the Legislature recognized that investigating agencies must be afforded broad latitude when investigating suspected officer misconduct. (*City of Pasadena, supra*, 51 Cal.3d at p. 577.) The Court concluded that preinterrogation discovery was “not essential to the fundamental fairness of an internal affairs investigation,” and, indeed, was “without precedent.” (*Id.* at p. 578.) In this case, requiring the disclosure of reports and complaints during an active investigation of officer misconduct would similarly represent a significant expansion of police officers’ POBRA rights as compared to the discovery rights afforded criminal defendants. (*Id.* at p. 577.) And, like the Supreme

Court in *City of Pasadena*, we see no reason such a broad reading of subdivision (g) would be “essential to the fundamental fairness of an internal affairs investigation.” (*Id.* at p. 578.)

Indeed, mandating such discovery prior to the subsequent interrogation of an officer could severely hamper the agency’s investigation, and therefore undermine the public’s confidence in the integrity of the law enforcement agency. “Underlying every administrative inquiry into suspected officer misconduct is the obligation of the law enforcement agency to assure public confidence in the integrity of its officers. The purpose of the inquiry is to determine whether there is any truth to the allegations of misconduct made against an officer and, if so, whether to commence disciplinary proceedings.” (*City of Pasadena, supra*, 51 Cal.3d at p. 578.) Granting premature discovery during an investigation could “frustrate the effectiveness” of the investigation, thereby impairing “the reliability of such a determination and the effectiveness of the agency’s efforts to police itself.” (*Id.* at pp. 578-579.)

For example, disclosures made before a subsequent interrogation “might color the recollection of the person to be questioned or lead that person to conform his or her version of an event to that given by witnesses already questioned.” (*Id.* at p. 579; see *Davis, supra*, 22 Cal.App.5th at p. 1134 [noting preinterrogation disclosure “might hamper the investigation by allowing the officer being investigated to craft answers that fit or explained the evidence”].) In addition, “[d]uring an interrogation, investigators might want to use some of the information they have amassed to aid in eliciting truthful statements from the person they are questioning. Mandatory preinterrogation discovery would deprive investigators of this potentially effective tool.” (*City of Pasadena, supra*, 51 Cal.3d at p. 579.) Simply put,

disclosing “crucial information about an ongoing investigation” prior to interrogation “would be contrary to sound investigative practices.” (*Ibid.*)

The Supreme Court’s observations in *City of Pasadena* apply with equal force under the circumstances of this appeal. The CPRA is a civilian oversight agency with independent authority to investigate claims of police misconduct in the City of Oakland. (See generally, Oakland City Charter, §604). As the City points out, “the CPRA’s very existence is consonant with POBRA’s purpose to improve the public’s confidence in Oakland’s police force.” To require an independent investigative agency to disclose notes, reports or complaints in its possession before it can interrogate police officers itself would hamstring investigators by allowing officers to alter their testimony in light of the disclosures, casting doubt on the integrity and seriousness of the investigation.

Such concerns are magnified in situations, such as here, where the CPRA disagreed with the Department’s internal investigation and found significant discrepancies in the testimony of the various Doe officers.¹⁰ These alleged discrepancies may not have materialized, and other avenues of investigation left undeveloped, had the CPRA been required to disclose the requested materials under the rule announced by the *City of Santa Ana* court. The Supreme Court’s admonition in *City of Pasadena* bears repeating: “Nothing can more swiftly destroy the community’s confidence in its police force than its perception that concerns raised about an officer’s honesty or integrity will go unheeded or will lead only to a superficial investigation.” *City of Pasadena, supra*, 51 Cal.3d at p. 568.)

¹⁰ We express no opinion on the allegations made against the Doe Officers, who have not had an opportunity to contest any charges against them.

In sum, we conclude that requiring reports and complaints to be provided to a police officer under subdivision (g) of section 3303 “prior to any further interrogation” is inconsistent with the plain language of section 3303, subdivision (g), and undercuts a core purpose of POBRA of ensuring that investigations into officer misconduct are conducted with the seriousness, diligence, and fairness that is required of these positions of public trust. Instead, we conclude that tying the disclosure of reports and complaints to the confidential nature of these materials will protect the integrity and effectiveness of such investigations while allowing police officers prompt access to all materials to which they are entitled under section 3303, subdivision (g).

Constrained by the *City of Santa Ana* decision, the trial court below determined that the City was required to provide relevant reports and complaints to the Doe Officers “prior to any further interrogation at a subsequent time” (§ 3303, subd. (g)). In light of our disagreement with *City of Santa Ana*, we reverse the judgment below. The record indicates that the materials at issue were withheld “‘on advice of counsel.’” Therefore, it is unclear whether the City might have sought to withhold the requested materials for reasons of confidentiality under section 3303, subdivision (g).

On remand, the trial court shall determine whether the City had a basis for withholding otherwise discoverable reports and complaints due to their confidential nature as that concept is explained herein. Petitioners must demonstrate that the City had a present duty under section 3303, subdivision (g), to disclose the requested materials to establish entitlement to mandamus relief. (See *Gilbert, supra*, 130 Cal.App.4th at p. 1291.) Should disciplinary proceedings be commenced or resumed, the City may not make adverse personnel decisions concerning the Doe Officers based on any

confidential materials, or the portions thereof, that have not been designated and made available to the Doe Officers.

DISPOSITION

The judgment and writ of mandate are vacated, and the matter is remanded to the trial court to fashion new relief consistent with this opinion. City is entitled to its costs on appeal.

SANCHEZ, J.

We concur.

HUMES, P.J.

MARGULIES, J.

(A158662)

**ORIGINAL VERSION ADOPTED 5/24/2018
AMENDED 5/13/2021**

**CITY OF OAKLAND
POLICE COMMISSION**

**Resolution Adopting a Code of Conduct for
the Oakland Police Commission**

**Introduced by Oakland Police Commission Ad Hoc Rules Committee
(Members: Commissioner Henry Gage III, Co-Chair, Commissioner Brenda
Harbin-Forte, Co-Chair, and Commissioner Sergio Garcia)**

WHEREAS, Police Commissioners are public officials and have a responsibility to conduct themselves with the highest integrity and leadership; and

WHEREAS, Police Commissioners are responsible to all of the people of the City of Oakland, and not to any particular segment or group; and

WHEREAS, Police Commissioners must act in the public interest, not their private interests or any special interests; and

WHEREAS, Police Commissioners must strictly adhere to the legal and ethical requirements of office and avoid all situations where prejudice, bias or conflicts of interest could influence their decisions; and

WHEREAS, accountability for and between members of the Police Commission is promoted by the adoption of agreed-upon standards of behavior; and

WHEREAS, Rule 7.1 of the Oakland Police Commission's Rules of Order calls for the adoption of a Code of Conduct to which Commissioners are to be held accountable; now therefore be it

RESOLVED, that the Commission adopts this Code of Conduct in its entirety; and

FURTHER RESOLVED, that in accordance with the Oakland City Charter, the Oakland Municipal Code, and the Oakland Police Commission's Rules of Order, the following is established as the Code of Conduct for the Oakland Police Commission.

OAKLAND POLICE COMMISSION**CODE OF CONDUCT**

A. Responsibilities of All Commissioners. Serving on the Commission is an honor. All Commissioners shall conduct themselves in a manner that demonstrates civility, courtesy, honesty, integrity, decorum, and respect in all discussions, debates, and interactions with the public, fellow Commissioners, and City of Oakland representatives and staff. Commissioners shall observe the letter and the spirit of all state and federal laws, the Charter of the City of Oakland, the Oakland Municipal Code, Commission Rules of Order, and this Code of Conduct. To promote these ideals and to ensure the credibility of the Commission, all Commissioners shall:

1. Prepare in advance for, attend, and fully participate in all Commission meetings, unless excused by the Chair;
2. Actively engage in assigned Commission committees and meet applicable deadlines;
3. Be respectful of time constraints during public meetings by raising only appropriate points that advance the decision-making process;
4. Foster a collaborative working relationship with other Commissioners and engage in discussions with them in a manner that shows respect and appreciation for their varied backgrounds, skills and interests, so that Commission business can be discussed openly and comfortably;
5. Respect differing opinions, and refrain from belligerent comments or personal attacks, shouting, or any other actions that could be construed as threatening or intimidating;
6. Take the time to comprehend, and then actively and diligently support and implement final action taken by the Commission as a whole, even when the Commissioner did not vote with the majority on such action;
7. Maintain the confidentiality of all confidential information disclosed to Commissioners, unless expressly authorized by the Chair, the Commission's legal advisor, or court order to disclose such information;
8. When appearing before or corresponding with another governmental agency, a non-governmental organization, or the public, clearly articulate whether they are acting or speaking on behalf of the Commission, on behalf of a Commission Committee, or in their personal or individual capacity;
9. When speaking as a representative of the Commission, state the Commission's official position on the issue, as reflected by a Commission vote. If a Commissioner who did not vote with the majority on the issue wishes to speak to the reasons for the Commissioner's individual vote, the

- Commissioner should do so in a way that respectfully recognizes the vote of the majority;
10. Avoid any explicit or implicit promises on behalf of the Commission as to a certain outcome related to any Commission action. Commissioners may appropriately give a brief factual overview of Commission policy, but should refer questions to the Chair, Vice Chair, or Commission staff to provide further information.
 11. Treat all staff as professionals and engage in clear, honest communication that respects the abilities, experience and dignity of each individual; and
 12. Participate in the ongoing review and improvement of Commission procedures, such as this Code of Conduct.

B. Responsibilities of the Chair. It is a privilege to serve as the Commission's leader. With that privilege comes the responsibility to treat other Commissioners as equals, and in a manner that demonstrates appreciation and respect for their hard work and commitment. To promote these ideals, the Chair (or other Presiding Officer), in addition to complying with the responsibilities of all Commissioners as stated above shall:

1. Welcome input and suggestions from other Commissioners on how to improve the operations of the Commission;
2. Take the time to comprehend and then diligently comply with all of the Commission's rules of procedure and any other authorities governing the Commission's work;
3. Maintain order and decorum at meetings by applying the Commission's rules and other governing authorities in a consistent fashion to ensure the fair and equal treatment of all speakers;
4. Keep discussion and questions at the meetings focused on the specific agenda item under consideration, and ensure that discussion of related items advances deliberation of that agenda item; and
5. Seek advice from the Commission's Legal Counsel as necessary to ensure compliance with the Commission's rules and other statutes or authorities governing the Commission's work.

C. Social Media. Commissioners are strictly accountable for their conduct at all times, whether in public or private, in person or through social media outlets. Of course Commissioners may engage in activity that is protected by the First Amendment. However, Commissioners who maintain personal social media accounts and publicly disseminate information related to the Commission’s work must understand that their social media posts may discredit, undermine, or otherwise negatively impact the Commission, the City of Oakland, or the Oakland Police Department. For these reasons, Commissioners should exercise good judgment when posting content on social media platforms, and should refrain from using social media to attack, retaliate against, or harass other Commissioners, the Commission itself, the Oakland Police Department, and City staff.

COMMISSIONER’S ACKNOWLEDGMENT:

I hereby acknowledge receipt of this Oakland Police Commission Code of Conduct on the date stated below and agree to abide by all of its terms.

Commissioner Signature

Date

Commissioner Printed Name

~~VERSION THREE (ORIGINAL VERSION 5/24/18)
AUTHORED BY COMMISSIONER EDWIN PRATHER~~

~~CITY OF OAKLAND
POLICE COMMISSION~~

~~CODE OF CONDUCT~~

~~It is of the utmost importance to conduct Police Commission business in a responsible way that reflects the highest ideals of public service. This Code of Conduct reflects the collective view of this Commission about how Commissioners and Commissioner Alternates will conduct themselves as public servants.~~

~~**B. Commissioner Conduct**—Commissioners and Commissioner Alternates should conduct themselves in a manner that demonstrates respect for the public, for fellow Commissioners, Commissioner Alternates and for Commission staff. Commissioners and Commissioner Alternates should remain committed to observing the letter and the spirit of the law, Commission rules and procedures and act in a manner that upholds the credibility of the Commission while practicing civility, integrity and decorum in discussions. To promote these ideals between the Commission and the public, among Commissioners and Commissioner Alternates, between the Commission and staff members of the Citizens' Police Review Agency, the Office of the Inspector General, the City of Oakland and the Oakland Police Department, all Commissioners shall:~~

~~[1] Attend Commission meetings, except for absences excused by the Chair for illness, personal emergency, work emergency, a death in the family, maternity leave or religious observance;~~

~~[2] Fully participate in Commission meetings and other public forums attended by Commissioners or Commissioner Alternates, while demonstrating respect, consideration and courtesy to others;~~

~~[3] Prepare in advance of Commission meetings and familiarize themselves with issues on the agenda;~~

~~[4] Actively engage in Commission committees to which they are assigned and endeavor to meet applicable deadlines;~~

~~[5] Be respectful of the time of others by staying focused and working efficiently during public meetings, while asking well-founded questions or raising appropriate points that advance the dialog and decision-making process;~~

~~[6] Serve as a model of leadership and civility to the public and demonstrate honesty and integrity in every action and statement; and~~

~~[7] Participate in scheduled activities to review and increase the effectiveness of Commission procedures, such as this Code of Conduct.~~

~~C. Responsibilities of the Chair during Commission Meetings – Commission meetings should be opportunities for a full and respectful exchange of ideas and the responsible execution of Commission duties. During meetings, the Chair (or the Vice Chair in the Chair's absence) will be responsible for:~~

- ~~[1] Maintaining order and decorum and ensuring the fair treatment of all speakers;~~
- ~~[2] Keeping discussion and questions focused on the specific agenda item under consideration and ensuring that discussion of related items advance deliberation of the agenda item;~~
- ~~[3] Managing the meetings in a manner that complies with all statutory and policy requirements, and seek advice from the Commission's Legal Advisor as necessary to ensure that compliance; and~~
- ~~[4] Ensuring all agenda items are given the opportunity to be discussed and voted on by Commissioners in a manner that is fair, unbiased and reflects the positions of all of the Commissioners.~~

~~D. Interactions During Meetings – Serving on the Commission is an honor and its members and staff should treat their colleagues with respect for the varied backgrounds, skills and interests that each one brings. In interactions with the public, Commissioners and Commissioner Alternates should:~~

- ~~[1] Practice civility and decorum in discussions and debate. Differences of opinion and debate are to be expected, but Commissioners should refrain from belligerent comments, shouting or actions that could be construed as threatening or intimidating;~~
- ~~[2] Engage other Commissioners in a manner that promotes a respectful dialogue and avoids personal comments;~~
- ~~[3] Demonstrate effective problem-solving approaches; and~~
- ~~[4] Respect the actions of the Commission. Differing viewpoints are healthy in the decision-making process. Once the Commission takes action, Commission members should commit to implement said action in accordance with their responsibilities as public officials.~~

E. Interactions with the Public—In public and private, Commissioners and Commissioner Alternates must:

[1] Be clear about whether they are acting or speaking in their capacity as a Commissioner or Commissioner Alternate or in their individual capacity.

If a Commissioner appears before or corresponds with another governmental agency or organization or the public, the Commissioner should indicate: whether his or her statement reflects personal opinion or is the official stance of the Commission; and whether this is the majority or minority opinion of the Commission. If a Commissioner is representing the Commission, the Commissioner should indicate the official Commission position on an issue, as reflected in a Commission vote on an issue. If a Commissioner who did not vote with the majority on a matter wishes to speak to the reasons for his or her vote, the Commissioner should do so in a way that respectfully recognizes Commissioner deliberation and the vote of the majority;

[2] Members of the media frequently contact Commissioners seeking background information or quotes. It is preferred that any direct contacts be channeled through Commission staff to the Chair or Vice Chair;

[3] Continue respectful behavior in private. The same level of respect and consideration of differing points of view appropriate for public discussions should be maintained in private conversations;

[4] Commissioners must make no promises on behalf of the Commission to parties or members of the public. Commissioners will frequently be asked to explain a Commission action or opine issues as they interact with the public. It is appropriate to give a brief overview of Commission policy and to refer questions to the Chair, Vice Chair, or Commission staff for further information. It is inappropriate to promise a certain outcome from Commission action, overtly, or implicitly; and

[5] Commissioners should treat all staff as professional and engage in clear, honest communication that respects the abilities, experience and dignity of each individual. Commissioners should develop a working relationship with the Chair, Vice Chair, and Secretary so that current issues, concerns, and Commission business can be discussed comfortably and openly.

F. Social Media—Commissioners and Commissioner Alternates are reminded that they are strictly accountable for their conduct at all times, whether in public or private, in person or through social media outlets. Commissioners and Commissioner Alternates who maintain personal social media accounts and disseminate information related to the Commission must understand that their social media posts may discredit and

~~negatively impact the Commission, the City of Oakland or the Oakland Police Department.~~

~~Commissioners and Commissioner Alternates should refrain from attacking, retaliating against, or harassing any other Commissioner or Commissioner Alternate, the Oakland Police Department, or the Commission itself, as such statements, even personal opinion, undermine the efforts of the Commission.~~

~~The Code of Conduct in its entirety shall apply to Commissioners and Commissioner Alternates' use of social media. Commissioners and Commissioner Alternates are prohibited from any personal use of social media that violates any local, state or federal statute or regulation. This statement regarding social media is not intended to prohibit activity by Commissioners and Commissioner Alternates that is protected by the First Amendment.~~

Commissioner Signature

Date

Commissioner Printed Name

DRAFT

OPD Policies for Review

Canine: DGO K-09

Current Policy: [DGO K-9, Department Canine Program](#)

Year Developed: 2006

Status: Review of policy has been requested, but no current drafting status.

Brief Definition: The mission of the Department Canine Program is to train, maintain and deploy Canine Teams to search for and locate criminal suspects and evidence in order to safeguard our community and police officers. The law enforcement industry has recognized that the appropriate deployment of police canines enhances the safety of citizens and officers by increasing an agency’s ability to capture criminals and locate items of evidence. A dog bite is an intermediate use of force that may inflict serious injury. Therefore, this policy only allows Patrol Canine deployments for violent forcible crimes, burglary and weapons related offenses.

CPRA Report Recommendations: 2020 – [April 23](#) - The CPRA recommends that the Department provide training to all OPD members on utilizing interpreters/translators in the field, and that the Canine Program integrate the use of interpreters/translators in regular training scenarios. DGO K-9 and DGO K-4 presumptively categorize canine bites as Level 2 uses of force. Due to the potential for canine bites to cause severe bodily injury, the CPRA recommends eliminating the presumption that a canine bite is automatically a Level 2 use of force. Updating the policy to indicate that a canine bite shall be at least a Level 2 or above, followed by the criteria for both Level 2 and Level 1 cases, would provide clarity to officers in incidents such as these.

[Federal Monitor Report](#) **Task Number:** no defined task number

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Community Engagement

Current Policy: [DGO B-7 Public Appearances](#) and [BFO 11-01 Problem Solving Officer Deployment and Responsibilities](#)

Year Developed: DGO B-7, 2005 and BFO 11-01, 2011

Status: No work at this time on new policy iteration.

Brief Definition: DGO B-7: The purpose of this order is to set forth Departmental policy and procedures for providing and authorizing qualified personnel to make public appearances, to set forth policy on public appearance tracking responsibility and to provide a centralized file for public appearance information.

BFO 11-01: The purpose of this directive is to set forth bureau policy and procedures regarding deployment, responsibilities and standards for Departmental Problem Solving Officers (PSOs). These objectives and standards are designed not only to meet legal mandates but also to improve police community relations, enhance City-wide problem-solving efforts, reduce violent crime, and diminish citizens' perception of crime.

CPRA Report Recommendations: 2020 – [October 22](#) - The CPRA recommends that Field Training Officers receive additional training related to communication with the public and trainees during an incident. The CPRA recommends additional training related to communications with detainees during an incident.

[Federal Monitor Report](#) Task Number: no defined task number

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Community Policing: Bureau of Field Operations (BFO) 15-01

Current Policy: [Training Bulletin III-A.05, Community-Oriented Policing](#) and [SO 9112 Revision of TB III-A.05](#)

Year Developed: 2008

Status: [Draft of 15-01](#) has been submitted to Police Commission

Brief Definition: Community Policing is the affirmed public safety policy and philosophy of the City of Oakland and Oakland Police Department and its purpose is to reduce crime, enhance public safety and to improve quality of life through police and community partnerships. The purpose of this directive is to set forth bureau procedures regarding expectations and responsibilities for Neighborhood Service Coordinators (NSCs), Community Resource Officers (CROs), Foot Patrol Officers, Crime Reduction Team (CRT) Officers, and Community Meetings. This policy is designed to improve police community relations, enhance Citywide problem-solving efforts, reduce serious and violent crime, and address public safety issues through the community policing philosophy.

[Federal Monitor Report](#) Task Number: 47 Community Policing Plan

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Chemical Agents

Current Policy: TB V-F2 (not available for public viewing)

Year Developed: 2006

Status: No drafting has begun on any revisions.

Brief Definition: Chemical agents used by the Oakland Police Department are divided into three classes: duty aerosol to distract and confuse threats (discussed in Part II), chemical agents to disperse crowds (discussed in Part III), and chemical agents to detect and dislodge barricaded subjects (discussed in Part IV). Some chemical agents are used for more than one purpose and fall into more than one category. When used correctly, chemical agents are highly effective, but their effects dissipate quickly when a subject leaves a contaminated area. Members shall report all incidents when a chemical agent is applied to a subject in accordance with Department General Order (DGO) K-4, REPORTING AND INVESTIGATING THE USE OF FORCE

[Federal Monitor Report](#) Task Number: 27

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Crowd Management

Current Policy: [TB III-G](#)

Year Developed: 2013

Status: There has been discussion about revision, but no drafting has begun yet.

Brief Definition: The Oakland Police Department crowd management and crowd control policy is to: apply the appropriate level of direction and control to protect life, property, and vital facilities; maintain public peace and order; and uphold constitutional rights of free speech and assembly while relying on the minimum use of physical force and authority required to address a crowd management or crowd control issue.

[Federal Monitor Report](#) Task Number: no defined task number

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Electronic Control Weapon (Lexipol 304)

Current Policy: [Electronic Control Weapon](#)

Year Developed: This is a Lexipol policy. Policy says printed date is 2017.

Status: On the list to be converted to DGO format, no drafting as of yet.

Brief Definition: The electronic control weapon (ECW) is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such an ECW should result in fewer serious injuries to officers and suspects.

[Federal Monitor Report](#) Task Number: no defined task number

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Handcuffing: (Lexipol 302)

Current Policy: [Handcuffing and Restraints](#)

Year Developed: This is a Lexipol policy. Policy says printed date is 2017.

Status: Request has been made to move this to the current DGO format, but still in the drafting phase.

Brief Definition: The use of handcuffs and other restraints is intrusive and can impact the community’s trust in the police. As courts put it, the use of handcuffs “substantially aggravates the intrusiveness of an otherwise routine investigatory detention and is not part of a typical Terry (investigative) stop.” The application of restraints shall never be considered a part of standard operating procedure. This policy sets forth guidelines for the use of handcuffs and other restraints during arrests and detentions.

CPRA Report Recommendations: [2019 Policy and Training Recommendations](#) page 3, number 13 - The CPRA recommends that the Department provide additional training on when officers can handcuff or pat search detainees; towing procedures and explaining Fourth Amendment justifications for handcuffing and pat searching under Terry.; 2020 – [May 28](#), - The CPRA recommends that OPD consider instituting more specific policies and/or training regarding the handcuffing of pregnant women. In particular, CPRA staff recommend that OPD: consider training officers on the specific risks associated with handcuffing pregnant women, so that officers are better positioned to evaluate the totality of the circumstances when presented with a pregnant detainee/arrestee; consider training officers on modified restraint methods that would alleviate these risks, so that officers are better positioned to determine whether modified restraints would be appropriate in a given situation; and consider developing more specific standards to inform officer discretion when presented with the choice of whether and how to handcuff pregnant detainees/arrestees, along the lines of the more specific instruction officers receive related to using certain types of force on pregnant women. [November 12](#) - The CPRA recommends that officers receive additional training related to the proper positioning of handcuffs.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Hand Held Impact Weapons

Current Policy: TB III-H.2 (not available for public viewing)

Year Developed: 2006

Status: No drafting has begun on any revisions.

Brief Definition: Officers must have a thorough understanding of DGO K-3 in order to know when the use of a hand held impact weapon is appropriate and objectively reasonable. Department General Order K-4, Reporting and Investigating the Use of Force, enumerates the use of a hand held impact weapon as a Level 2 use of force and requires that a supervisor be summoned to the scene to conduct a Level 2 force investigation. An intentional strike to the head with a hand held impact weapon is a Level 1 use of force and requires a Level 1 force investigation. The use of a hand held impact weapon may be warranted prior to any actual physical contact. It is not necessary that an individual actually assault a third party or member prior to using a hand held impact weapon. The imminent threat of violence, whether it is verbal or non-verbal, coupled with the present intent, means, opportunity, and ability to carry out such threats may warrant its use.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

IAD Manual

Current Policy: Draft of a manual has been completed.
Year Developed: 2020
Status: Draft completed. Expected request for Commission ad hoc forthcoming.
Brief Definition: A document that sets forth roles and responsibilities for Internal Affairs Division Personnel.

[Federal Monitor Report](#) **Task Numbers: 1-17, 29, 37**

Task	Name
1	IAD Staffing and Resources
2	Timeliness Standards and Compliance with IAD Investigations
3	IAD Integrity Tests
4	Complaint Control System for IAD and Informal Complaint Resolution Process
5	Complaint Procedures for IAD
6	Refusal to Accept or Refer Citizen Complaints
7	Methods for Receiving Citizen Complaints
8	Classifications of Citizen Complaints
9	Contact of Citizen Complainants
10	Procedure Manual for Investigations of Citizen Complaints
11	Summary of Citizen Complaints Provided to OPD Personnel
12	Disclosure of Possible Investigator Bias
13	Documentation of Pitchess Responses
14	Investigation of Allegations of MoR Violations
15	Reviewing Findings and Disciplinary Recommendations
16	Supporting IAD Process – Supervisor/Managerial Accountability
17	Audit, Review, and Evaluation of Functions
29	IAD Investigation Priority
37	Internal Investigations – Retaliation Against Witness

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Missing Persons: DGO O-06

Current Policy: [DGO-O-06 Missing and Abducted Persons](#)

Year Developed: 2009

Status: Drafting in progress.

Brief Definition: A missing person is any juvenile or adult who is missing voluntarily or involuntarily under circumstances not conforming to his or her ordinary habits or behavior and who may be in need of assistance. Penal Code Section 14295(a) states, all local police and sheriffs’ departments shall accept any report, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports related to crimes involving property.

CPRA Report Recommendations: 2020 – [June 25](#) - The CPRA recommends that OPD work with the proper legal advisers to bring DGO O-6 – Missing Persons up to date as quickly as is practicable, including the following specific edits: a) The DGO references Penal Code section 14213 for the definition of an “at risk” individual; in 2017, the Legislature renumbered that section and the definition is now contained in Penal Code section 14215. b) The DGO references Penal Code section 14205, and talks about steps to take when a missing person is under the age of 16 or “at risk”. That section was renumbered in 2015, and also revised to include persons under the age of 21, not 16. Additionally, the department should independently double-check the DGO against current law and consult with current subject matter experts for recent changes in best practices.

[Federal Monitor Report](#) Task Number: no defined task number

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

OIS Policy: Criminal Investigations Division (CID) 19-01

Current Policy: No current policy, drafting in progress.

Year Developed: N/A

Status: Drafting in progress.

Brief Definition: A policy regarding investigation by the Criminal Investigation Division of officer involved shootings and other serious uses of force.

[Federal Monitor Report](#) Task Number: 31 Officer-Involved Shooting Investigation

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Racial Profiling: DGO M-19

Current Policy: [DGO M-19 Prohibitions Regarding Racial Profiling and Other Bias-Based Policing](#)

Year Developed: 2004

Status: Department recognizes need for revision, no draft as of yet.

Brief Definition: The Department recognizes that there has been a growing national perception that law enforcement action is too often based on racial stereotypes (“racial profiling”) or other bias-based policing – whether it is against African Americans, Latinos, Asians, Middle Easterners, South Asians, or any other race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability. In Oakland, there is concern within our communities that some members may engage in this behavior. Whether individual members agree or not, we, as an organization, must recognize that this concern exists and be responsive to it. The purpose of this policy is to reaffirm the Oakland Police Department’s commitment to providing service and enforcing laws in a fair and equitable manner, and to establish a relationship with the community based on trust and respect. Whenever our practices are, or are perceived to be, biased, unfair, or disrespectful, we lose public trust and support and diminish our effectiveness.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Reporting and Investigating the Use of Force: DGO K-4

Current Policy: [DGO K-4](#)

Year Developed: 2014

Status: This is on the list for revision but have not begun drafting yet.

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

[Federal Monitor Report](#) **Task Number: 24 Use of Force Reporting, 25 Use of Force Investigations and Report Responsibility**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Report Writing Manual

Current Policy: This is a very large set of documents that are updated as technologies change; many in the original report writing manual had information on how to properly fill out paper forms. Large-scale changes are anticipated when the Department changes to a new CAD/RMS system in 2022 (estimated).

Year Developed: N/A

Status: Large-scale changes are anticipated when the Department changes to a new CAD/RMS system in 2022 (estimated).

Brief Definition: Manual for writing reports.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Social Media

Current Policy: No current policy specific to the Department and its members.

Year Developed: N/A

Status: Policy on Department (official) social media is in the drafting phase. Policy on member (personal) use of social media is in the drafting phase.

Brief Definition: A policy on the use of social media Department-wide and as a member of the Department.

CPRA Report Recommendations: 2020 – [June 25](#) - The CPRA recommends that the Department continue to review its social media policy and make recommendations for appropriate revisions. Those should include: a) Comparing OPD policy to that of other jurisdictions for best practices; b) Creating specific guidance in missing persons cases as to when social media should and should not be used, including consultation with family members of the missing person; c) Having a central mid-level member (likely professional, not sworn) designated to monitor the overall use of the Department’s social media platforms with an eye towards ensuring consistent messaging to the community about the Department’s priorities.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

Specialty Impact Munitions

Current Policy: TB III-H (not available for public viewing)

Year Developed: 2017

Status: No drafting has begun on any revisions.

Brief Definition: The purpose of this Training Bulletin is to provide members with guidelines on the use of Specialty Impact Munitions (SIM). This Training Bulletin does not supersede the training and qualification requirements members shall meet to use and deploy SIM. This Training Bulletin is a supplemental to Department General Order K-3, USE OF FORCE, which is the master policy regarding the use of force. In addition to this policy, members shall have a complete and thorough understanding of DGO K-3, USE OF FORCE and TB III-H.2, HAND HELD IMPACT WEAPONS which outline, in part, when the use of an impact weapon is appropriate and objectively reasonable, criteria for consideration, definitions, force options and medical requirements.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

SWAT: Tactical Operations Team DGO K-05

Current Policy: [Tactical Operations Team \(DGO K-05\)](#)

Year Developed: 2000

Status: No work at this time on new policy iteration.

Brief Definition: Recognizing that the use of specially trained and equipped police tactical operations teams during critical incidents has been shown to substantially reduce the risk of injury or loss of life to citizens, law enforcement personnel and suspects; and recognizing that a well-managed team response usually results in the successful resolution of such incidents, the Department will utilize the Tactical Operations Team as a resource for the handling of appropriate critical incidents as described in this order. The purpose of this order is to set forth Departmental policy regarding the Tactical Operations Team, consisting of Tactical Commanders, the Entry Team, Sniper Team and Hostage Negotiation Team, and to establish policy for deployment during high risk operations.

[Federal Monitor Report](#) **Task Number: no defined task number**

Commission Work Plan

Ad Hoc Committee	Deadline for Final Draft	Date to Present at Meeting

CPA Proposal for Police Commission Policy Development

Statement of Principles

Any time the police commission undertakes an initiative to consider a policing issue or policy, Oakland residents should be notified and involved from the very beginning. Whether individual commissioners, an ad-hoc subcommittee, or a standing committee begins to research and analyze an issue or policy, community engagement, informed input, and transparency at every step will be paramount to the success of the initiative.

Although some stakeholders and other interested parties have argued that they are only able to contribute fully and freely to discussions on policing, policy, implementation, and enforcement if they can do so without public knowledge of the positions they take or information or analysis they share, the commission loses more than it gains by receiving advice or information that would suffer from public consumption.

Many Oakland residents do not have confidence in policing in Oakland and meetings which do not enable participation or knowledge of the public entrench that perception. The commission has benefited from the public exchange of information when statements by OPD representatives have been challenged or meaningfully expanded by members of the public.

The advantages of private meetings, if any, to draft important plans or policies without public participation are far outweighed by the absence of a broad range of residents with firsthand experience of encounters with the police and the ideas they offer. Embracing the following practices will enhance the outcome of every policy drafting effort by the Commission:

Process guidelines:

1. Publicize the formation of any ad hoc committee or commission focus on the issue at the outset by announcing at the commission meeting and posting on the commission website as well as through commission social media accounts. Include links to any/all documents related to the scope of the work envisioned.
2. Announce meetings of any research, policy, or outreach subgroups in advance or report subsequently to the public, minimally at the next commission meeting and post on the commission website. To the extent practical, post notices of proposed meetings of the ad hoc on the commission topic webpage so community members can gain a comprehensive understanding of the process and work development.
3. Announce all meetings of research, policy, or outreach subgroups with any non-commissioners in advance and make them accessible to the public.

4. If extenuating circumstances warrant meeting without public access, publish a report of the meeting, including the extraordinary reason necessitating a non-public meeting, participants, date, time, location, recommendations made by non-commissioners, outcomes, and any data or documents from the meeting.
5. Post any draft documents which are created by subgroups, in collaboration with non-commissioners, on the commission website page.
6. Post analysis, research, or review of policy, protocol, or practice by CPRA staff that relates to the issue on the commission website.
7. Solicit public comments on drafts and post comments on the commission website.
8. Share policy drafts at every stage of development with adequate time for community input before the draft is presented to the commission for adoption.
9. Post all documents under review, including attachments, related orders, training documents, policies, or documents referenced in the initial documents on the commission website.
10. Publicize all work undertaken by a subcommittee for public engagement. Possible methods include sending emails to residents who have signed up to receive commission announcements and to the commission outreach list, use of commission and city social media platforms, press releases, councilmember newsletters, leaflets, and any other means.
11. When there are exigent circumstances that require an immediate response, the goals should be transparency at every step and to ensure that the need for quick results does not limit the ability of any interested resident or organization to understand the issue or policy under consideration and offer meaningful input.
12. Once an ad hoc committee has been established, the first task should be to publicly explain the work plan both for policy and outreach to communities, stakeholders, and subject matter experts. The plan should include:
 - A. clear mechanisms for outreach and policy development that must undergird the entire process from the beginning to the end;
 - B. a timeline that provides adequate time for community engagement and input, with dates attached to each stage of development and outreach;
 - C. public lists of what outreach is undertaken, including lists of individuals and organizations receiving solicitations for assistance and individuals and organizations providing outreach advice or doing outreach on behalf of the commission;

- D. multiple mechanisms for community engagement, both in broad discussions of the policy or topic and more detailed discussions of the specific language and proposals.

Examples of broad feedback and addressing key points include:

- I. Town Halls or community forums;
- II. Forums targeted to specific groups, focusing on neighborhoods heavily impacted by policing and groups often unrepresented in local government discussions, including forums in other languages;
- III. Presentations to community groups;
- IV. Surveys or polls
- V. Tabling at community events
- VI. Social media events or interactions
- VII. Zoom / Facebook live events

Examples of well-publicized detailed discussions include:

- I. Open meetings of the commission subgroup as they work on or review language or proposals;
- II. Specific public meetings called to discuss language or proposals with all interested stakeholders;
- III. Specific public meetings called to receive information from subject matter experts.

- 13. Translation of meetings, announcements, policies, and proposals is a key element to ensuring the accessibility of policing issues to the diverse Oakland communities. The commission should seek translation whenever possible and keep the need in mind, especially when planning outreach. Translation of documents must be accurate. Use of software to translate policies creates an illusion of translation, without capturing the essence of issues in an understandable and productive manner or providing an accurate meaning of a policy.
- 14. Any consultants, contractors, organizations, and residents participating in outreach and policy development must adhere to and uphold the values and procedures of transparency and broad engagement to ensure communities have an understanding of the process and trust in the outcome.

Community Engagement, and Outreach

Recommendations for the Oakland Police Commission

Guiding Values and Goals:

The Police Commission and its enabling legislation are manifestations of the public will. Volunteer commissioners are chosen to represent the spectrum of those populations greatest impacted and are meant to ensure that decisions be made through the lens of true equity. Commissioners are specifically chosen for a balance of perspectives, and community representation, but nine individuals cannot encompass the range of community experience and values. Through effective and diligent community engagement efforts, the Commission can ensure that policy be genuinely informed by community disposition. Additionally, the Commission has a responsibility to develop an environment of exceptional transparency in which to operate.

Outreach:

The Commission is consistently driven by the energy of those members of the public who attend meetings demanding accountability, providing their individual or group perspectives, and expressing encouragement. That said, the Commission should not only rely on the voices of those aware and proactive enough to attend meetings. The Commission should seek to elicit the involvement of a great number of Oakland's citizens in order to learn their values and be guided by their lived experiences. The Commission's outreach efforts should include comprehensive methods as well as those more specifically targeted toward impacted populations.

- A robust social media presence should be used to keep the public informed of the Commission's work, and to invite them to weigh in on the decision-making process.
 - There should be dedicated Commission accounts on Twitter, Facebook, Nextdoor etc. As well as utilization of the police department's public information apparatus.
- The Commission website should be designed for ease of access and clarity.
 - Visitors to the site should be able to easily find and access documents current and historical.
 - Maintenance on the site should be consistent and up to-date

- The site's interface should have clear and logical architecture that allows for quick acquisition of information.
- Building or utilizing existing relationships with community stakeholders such as advocacy groups, educators, faith leaders, and neighborhood organizations to proactively outreach to potential target demographic populations.
- Language capacity should be considered as basic component of all outreach and engagement activities.
- Reasonable efforts should be made to include those members of the community with accessibility challenges, including physical disabilities, lack of access to information technology, literacy or language challenges etc.

Engagement:

The Commission has legislatively mandated engagement activities in place, including periodic community forums and off-site meetings, these are not sufficient to meet the Commission's informational needs or its responsibility to the public. The Commission should embrace a codified and multi-modal approach to community engagement in order to gain the breadth and depth of community voice required as a basis for effective decision making. All modes of engagement should be consistent in language, method, and principle in order to maintain consistent data comparison and enable ongoing tracking of trends. An annual report of all Commission of community engagement activities should be produced and available on the Commission website

- Public forums and town halls can be used to access a significant number of community members efficiently and publicly.
 - They can help broadly inform understanding of the public's deposition on general issues of policing and can often frame a recommended approach to decision making or bring to light other elements of the issues at hand.
 - This mode is limited by the brevity of individual input and the inability to further explore the vital details of causal or correlative context, as well as personal, emotional, legal, financial outcomes for the individual involved.

- This broad form of engagement can also be used as a recruitment opportunity for more in-depth modes of engagement that may also provide a more trusting and confidential environment than can be had in public forum.
- Surveys can be utilized in conjunction with other techniques to provide significant quantitative and demographic context.
 - This information can be gained confidentially and used in aggregate across all modes of engagement as basis for broad scale understanding not often provided by anecdotal feedback.
 - Surveys are most effective when made straight forward with accessible language. Overly long or detailed surveys can be burdensome and lead to incompletions.
 - Surveys including overly intrusive or triggering language can lead to false answers and a lack of trust.
 - In order for surveys to be an effective tool they must be used with care and precision.
- Focus Groups can provide a more intimate and discursive environment to explore important details of participants experience and perspective.
 - These groups often work best when targeted by demographic (age, race, gender etc.), or some other commonality (previously incarcerated, unhoused, or simple geography).
 - This can engender greater trust and openness among participants.
 - There is also the opportunity for their expressed experiences to build upon each other, giving us important insight into their commonality viewed from multiple perspectives.
 - Focusing on targeted groups and including a demographic survey allow for a comparison between groups with can identify specific needs and challenges in a way that is provable and evidence-based.
 - Facilitators will need to be well versed on the matters up for discussion to enable them ask effective questions and know when to follow-up on pertinent lines of conversation.
 - Methodology should be concordant with other engagements in effort to preserve a consistent data set.
- Individual interviews with those greatest impacted or significant lived experience can be very useful in gaining a great depth of qualitative input that can be used to highlight or punctuate the results of a larger engagement effort.
 - Verbatim quotes and personal details can persuade in a way that quantitative data rarely can.

- Though this is an incredibly effective tool, it's helpful to be mindful that decision making not be swayed unduly by a single individual's anecdotal information.
- Interview methodology should also be consistent enough across all types of engagement to facilitate an apples-to-apples comparison, but flexible enough to allow interviewers to follow the lead of participants.
- Community inclusion in developing principal, philosophy, and language of policy as part of ad hoc committees should be formalized.
 - Stakeholders with lived experiences, or significant expertise should be prioritized for membership on ad hoc committees.
 - A clear set of standards for conduct, roles, and responsibilities should be provide at the outset of the committee's work.
 - All discussion will be held in good faith and every attempt to find consensus or satisfactory compromise will be made, though the Commission members on the ad hoc committee will be the arbiters of the final language if consensus cannot be reached.
 - Community members on the ad hoc will be given ample time at the presentation of the final document to express their perspectives on the matter at hand.
 - All efforts should be made to utilize the previously mentioned modes of community engagement to include a larger community perspective, in conjunction with members of the outreach committee to ensure cohesive engagement methodology across all commission activities.
 - To ensure transparency, all policy ad hoc meetings should be recorded, those recording and all substantive work product should be made available on the Commission website.



OAKLAND POLICE COMMISSION

MEETING MINUTES - DRAFT

April 22, 2021
6:30 PM

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

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

Chair Regina Jackson

Commissioners Present: José Dorado, Henry Gage, III, Sergio Garcia, Brenda Harbin-Forte, Regina Jackson, David Jordan, and Tyfahra Milele. Quorum was met.

Alternate Commissioners Present: Marsha Peterson

Counsel for this meeting: Conor Kennedy

II. **Open Forum Part 1**

Comments were provided by the following public speakers:

Saleem Bey

Assata Olugbala

III. **Commission Retreat Follow Up**

Dr. Omowale Satterwhite presented a report on follow up items from the retreat on January 30th.

Comments were provided by the following public speakers:

Saleem Bey

No action was taken on this item.

IV. **Memoranda of Understanding with Oakland Police Officers Association and Other Represented Employees and Discussion on Sloan Report**

City of Oakland Human Resources Director Ian Appleyard delivered a training on Memoranda of Understanding with the Oakland Police Officers Association (OPOA) and other represented employees as mandated by City Charter section 604 (c)(9) and Enabling Ordinance section 2.45.190. He also discussed the OPOA contract and how it applied to the Step 3 grievance report in the Sloan/Pawlik situation.

Comments were provided by the following public speakers:

Saleem Bey

Rashidah Grinage

Assata Olugbala
Mary Vail
Mariano Contreras
Ginale Harris

No action was taken on this item.

V. OPD Policies for Review

The Commission discussed the recommendations for policy development and implementation that were discussed at the retreat on January 30, 2021.

Comments were provided by the following public speakers:

Bruce Schmiechen
Michele Lazaneo
Saleem Bey
Assata Olugbala
Anne Janks

No action was taken on this item.

VI. Report on and Review of CPRA Pending Cases, Completed Investigations, Staffing, and Recent Activities and Presentation on Proposal of Moving Certain Internal Affairs Division (IAD) Functions from OPD to CPRA

Executive Director John Alden reported on the Agency's pending cases, completed investigations, staffing, and recent activities. He also discussed his proposal to move certain IAD functions from OPD to CPRA.

Comments were provided by the following public speakers:

Saleem Bey
Ginale Harris
Rashidah Grinage
Assata Olugbala
Mary Vail

No action was taken on this item.

VII. Commission Letters of Support for Police Accountability State Legislation

The Commission presented the letters of support which were approved at the March 25, 2021 meeting and sent shortly thereafter.

Comments were provided by the following public speakers:

Saleem Bey
Assata Olugbala
Ginale Harris

No action was taken on this item.

A motion was made by Brenda Harbin-Forte, seconded by José Dorado, to extend the meeting for one hour to 11:30 pm. The motion carried by the following vote:

Aye: Dorado, Garcia, Gage, Harbin-Forte, Jackson, Jordan, and Milele

No: 0

VIII. Update from Police Chief

OPD Chief Armstrong provided an update on the Department.

Comments were provided by the following public speakers:

Assata Olugbala

Reisa Jaffee

Sister of Tatiana Sunshine Dugger

Saleem Bey

Speaker did not identify themselves

No action was taken on this item.

IX. Meeting Minutes Approval

The Commission voted to approve minutes from April 8, 2021.

No public comments were provided on this item.

A motion was made by Brenda Harbin-Forte, seconded by José Dorado, to approve the April 8, 2021 minutes. The motion carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jackson, Jordan, and Milele

No: 0

Absent: Garcia

X. Committee Reports

Representatives from Standing and Ad Hoc Committees provided updates on their work.

Missing Persons Policy

(Commissioners Harbin-Forte, Jackson, Jordan)

The Committee will meet weekly beginning May 11, 2021. Michele Lazaneo and members of the Bandabaila and Dugger families have been invited to join the Committee.

OBOA Allegations Investigation

(Commissioners Harbin-Forte, Jackson)

The Committee hasn't met since selecting a contractor. CPRA Executive Director John Alden met with representatives from StoneTurn, the selected contractor, on April 21st regarding the contract.

Rules of Procedure

(Commissioners Gage, Garcia, Harbin-Forte)

The Committee will have a final Code of Conduct policy in May. They are working on a process for reviewing OPD policies and a protocol for ad hoc committees.

White Supremacists and Other Extremist Groups

(Commissioners Dorado, Harbin-Forte, Jackson)

The Committee met with Chief Armstrong and his Executive Team recently.

Comments were provided by the following public speakers:

Michele Lazaneo

Nick (no last name given)

Assata Olugbala

Saleem Bey

Rachel Beck

No action was taken on this item.

XI. Open Forum Part 2

Comments were provided by the following public speakers:

Reisa Jaffe

Nick (no last name given)

Saleem Bey

A motion was made by Brenda Harbin-Forte, seconded by Sergio Garcia, to extend the meeting for one hour. The motion carried by the following vote:

Aye: Dorado, Garcia, Gage, Harbin-Forte, Jackson, and Milele

No: 0

Absent: Jordan

XII. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission engaged in a working session to discuss and determine agenda items for upcoming Commission meetings: prioritization of OPD policies to review; CPRA reorganization update; and recommendations for community engagement.

Comments were provided by the following public speakers:

Saleem Bey

Assata Olugbala

Ginale Harris

No action was taken on this item.

XIII. Adjournment

A motion was made by José Dorado, seconded by Marsha Peterson, to adjourn the meeting at 11:38 pm. The motion carried by the following vote:

Aye: Dorado, Gage, Garcia, Harbin-Forte, Jackson, Jordan, and Milele

No: 0



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

Current Committees

Standing Committee	Commissioners
Outreach	Dorado, Jordan
Personnel	Jackson

Ad Hoc Committee	Commissioners
Annual Report	Jackson
Budget	Dorado, Jackson
Community Policing OPD 15-01	Dorado, Harbin-Forte, Jackson
IAD Manual	Gage, Jackson, Jordan
Inspector General Search	Jackson, Milele, Peterson
Mental Health Model	Dorado
Militarized Police Equipment	Gage, Jackson, Jordan
Missing Persons Policy	Jackson, Jordan
OBOA Allegations Investigation	Harbin-Forte, Jackson
Police Chief Goals and Evaluation	Garcia, Milele, Peterson
Rules of Procedure	Gage, Garcia, Harbin-Forte
White Supremacists and Other Extremist Groups	Dorado, Harbin-Forte, Jackson

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) 	High	Ongoing		
3	Confirming the Process to Hire Staff for the Office of Inspector General	5/17/2019	<p>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.</p>	<p>This will require information presented from the City Administrator's Office.</p>	High			

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
4	Finalize Bylaws and Rules	1/24/2019			High			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			Personnel Committee
6	Notification of OPD Chief Regarding Requirements of Annual Report	1/1/2018	Commission must notify the Chief regarding what information will be required in the Chief's annual report	<p>The Chief's report shall include, at a minimum, the following:</p> <ol style="list-style-type: none"> 1. The number of complaints submitted to the Department's Internal Affairs Division (IAD) together with a brief description of the nature of the complaints; 2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated; 3. The number of investigations completed by IAD, and the results of the investigations; 4. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions; 5. Revisions made to Department policies; 6. The number and location of Department sworn employee-involved shootings; 7. The number of Executive Force Review Board or Force Review Board hearings and the results; 8. A summary of the Department's monthly Use of Force Reports; 9. The number of Department sworn employees disciplined and the level of discipline imposed; and 10. The number of closed investigations which did not result in discipline of the Subject Officer. <p>The Chief's annual report shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7</p>	High	June 14, 2018 and June 14 of each subsequent year		Dorado
7	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			

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
8	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		
9	Recommendations for Increasing Communication Between CPRA and IAD	10/6/2018		Review of existing communication practices and information sharing protocols between departments, need recommendations from stakeholders about whether a policy is needed. Ensure prompt forwarding of complaints from IAD to CPRA and prompt data sharing.	High			
10	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		
11	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 First one done 10.22.20 Next one should be April, 2021		Smith
12	Community Policing Task Force/Summit	1/24/2019			Medium			Dorado

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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
13	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			
14	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			
15	Develop Plan for Quarterly Reports in Relation to Annual Report that is Due April 17th of Each Year	12/6/2019		The Commission is required to submit an annual report each year to the Mayor, City Council and the public. Preparing quarterly reports will help with the coordination and preparation of an annual report.	Medium			
16	Free Gun Trace Service	1/27/2020		This service was mentioned at a meeting in 2019.	Medium			Dorado
17	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.	Medium			
18	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, Harris, Jackson
19	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			
20	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	Spring, 2021		
21	Receive a Report from the Ad Hoc Committee on CPRA Appellate Process	6/13/2019	Once the Commission has an outside counsel, work with them on determining an appellate process	When a draft process is determined, bring to the Commission for a vote.	Medium			Brown, Gage, Prather

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22	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			
23	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		
24	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			
25	Review Commission's Outreach Policy	4/25/2019			Medium			Dorado
26	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			
27	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			
28	Annual Report	1/1/2018	Submit an annual report each year to the Mayor, City Council and the public		Low	Spring, 2022		Prather, Smith
29	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			
30	CPRA Report on App Usage	10/10/2018		Report from staff on usage of app.	Low			

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31	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			
32	Discipline: Based on Review of MOU	10/6/2018		How often is Civil Service used v. arbitration? How long does each process take? What are the contributing factors for the length of the process? How often are timelines not met at every level? How often is conflict resolution process used? How long is it taking to get through it? Is there a permanent arbitration list? What is contemplated if there's no permanent list? How often are settlement discussions held at step 5? How many cases settle? Is there a panel for Immediate dispute resolution? How many Caloca appeals? How many are granted? What happened to the recommendations in the Second Swanson report?	Low			

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33	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			
34	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			
35	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			
36	Outreach Committee: Work with Mayor's Office and City Admin to Publicize CPRA App	10/10/2018			Low			
37	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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38	Process to Review Allegations of Misconduct by a Commissioner	10/2/2018		Maureen Benson named concerns/allegations about a sitting Commissioner early in 2018, but no process exists which allows for transparency or a way to have those concerns reviewed. It was suggested to hold a hearing where anyone making allegations presents evidence, the person named has an opportunity to respond and then the Commission decides if there's sanctions or not. *Suggestion from Regina Jackson: we should design a form...check box for the allegation...provide narrative to explain..hearing within 4 weeks?	Low			Jackson
39	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		
40	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
41	Revisit Standing and Ad Hoc Committee Assignments	10/29/2019			Low			
42	Social Media Communication Responsibilities, Coordination, and Policy	7/30/2019		Decide on social media guidelines regarding responsibilities and coordination.	Low			