

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,  
Plaintiffs,  
v.  
CITY OF OAKLAND, et al.,  
Defendants.

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

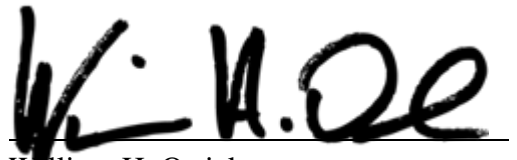
**ORDER RE CONCLUSIONS AND  
RECOMMENDATIONS RE VEHICLE  
COLLISION AND ELEVATOR  
DISCHARGE INCIDENTS**

The City of Oakland retained an independent law firm to investigate incidents involving Oakland Police Department personnel as well as the Oakland Police Departments' investigations of those incidents that implicated OPD's responsibilities under the Negotiated Settlement Agreement (NSA) and Amended Memorandum of Understanding (AMOU). Pursuant to his authority as Compliance Director of the NSA, and the Court's Order of October 21, 2022, Doc. 1549, Chief Robert Warshaw has received a report from the independent law firm, Clarence Dyer & Cohen LLP, regarding its Conclusions and Recommendations Re: Vehicle Collision and Elevator Discharge Incidents.

Having reviewed the report, and having discussed it with the Compliance Director/Monitor, I direct that the Conclusions and Recommendations shall be filed in the docket of this matter and publicly disclosed in full. Disclosure of the Conclusions and Recommendations allows for greater public transparency and accountability for OPD to ensure that the cultural change necessary for compliance with the NSA and AMOU governing this matter is achieved.

**IT IS SO ORDERED.**

Dated: January 18, 2023



William H. Orrick  
United States District Judge

United States District Court  
Northern District of California

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**Conclusions and Recommendations**

**Re: Vehicle Collision and Elevator Discharge Incidents**

**Oakland Police Department**

**January 14, 2023**

**CLARENCE DYER & COHEN LLP**

In May 2022, the City of Oakland retained an independent law firm to investigate two separate incidents that involved the same Oakland Police Department officer. As will be explained below, the investigation of these incidents – and a third follow-on investigation involving the Criminal Investigation Division – revealed not only individual acts of misconduct by officers, but also exposed systemic deficiencies in the Department’s ability to investigate misconduct of its members.

In the first incident, which took place in March 2021, the officer – a sergeant of police – was the driver in a motor vehicle collision in which he left the scene of the incident and failed to report the collision. The Oakland Police Department’s Internal Affairs Division conducted an investigation and concluded that the officer had not violated a departmental rule requiring obedience to laws for what amounted to a hit and run. About a year later, in April 2022, the same officer discharged his service weapon inside an elevator at the Police Administration Building in Oakland, removed evidence of the discharge, and then failed to report the discharge for over a week. After it became clear that the officer who had failed to report the weapon discharge was the same officer who had earlier failed to report the vehicle collision, the outside law firm was asked to review the original investigation conducted by the Internal Affairs Division into the vehicle collision and to conduct a separate Internal Affairs Division investigation into the elevator discharge incident. This investigation revealed additional potential misconduct involving the Criminal Investigation Division, which investigators were asked to probe in a third, separate investigation. This report sets forth certain public conclusions of the investigations, along with investigators’ recommendations which are hereby submitted to the Independent Monitor and Compliance Director.

I. The Incidents and Investigations

a. *The Vehicle Collision*

On March 25, 2021, a sworn member and sergeant of the Oakland Police Department, was driving an OPD vehicle in the parking garage of his residence in San Francisco. Also present in the vehicle was another sworn OPD member, an officer and the dating partner of the sergeant who was driving the vehicle. As the sergeant drove the OPD-issued Chevrolet Tahoe out of a parking stall in the parking garage, the vehicle collided with the vehicle in the adjacent

parking stall, ripping the front bumper off the parked car. Video recovered from surveillance cameras in the parking garage show the impact and damage to the adjacent car. The surveillance video also showed that, immediately after the collision, the sergeant stopped the vehicle for 4-5 seconds. Neither the sergeant nor the officer exited the car. Instead, the video showed the vehicle driving away from the scene of the collision.

Neither the sergeant nor the officer reported the collision to their supervising officers on the day of the collision or at any other time afterwards. OPD only became aware of the collision because the City of Oakland received an insurance claim for the damage caused to the vehicle whose bumper had been ripped off during the collision. The City of Oakland received notice of the insurance claim on 25 May 2021.

OPD first became aware of the collision on 14 July 2021, when an OPD lieutenant was asked to identify the driver of the vehicle.<sup>1</sup> That lieutenant was provided with the insurance claim, including photographs and a video of the collision, which he reviewed and shared with the sergeant who was involved in the collision. After showing him the video, the lieutenant instructed the sergeant to make a report of the collision to the San Francisco Police Department because the incident took place in San Francisco. Only then did the lieutenant complete the referral paperwork for the vehicle collision and refer the matter to the Internal Affairs Division. IA initiated IAD Case 21-0862 on 28 July 2021.

*b. The Subsequent IAD Investigation*

An IAD investigator was assigned IAD Case 21-0862 on October 12, 2021. The IAD investigator was able to locate a longer video of the incident from the security personnel at the subject officer's residence. The longer video shows two individuals, one male and one female, pulling rollaboard suitcases while walking through a parking garage. The individuals put the luggage into the vehicle and then enter the vehicle, with the male individual entering the driver side and the female entering the passenger side. The vehicle had been parked by backing into the stall, such that the vehicle did not have to reverse in order to leave the stall. The vehicle then turns on and pulls forward out of the parking stall and makes a right turn. As the vehicle

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<sup>1</sup> The process of identifying the driver on the date of the collision was not a straightforward process because the Lieutenant had not kept a log of which OPD member had that vehicle on any given day.

passes the car parked in the stall immediately adjacent, the right side of the Tahoe makes contact with the front left bumper of the parked car and the bumper is ripped completely off the body of the parked car and falls to the ground.

Immediately after impact, the Tahoe comes to a complete stop, two to three feet from where the collision had just occurred. The Tahoe remains stopped for four to five seconds. No one exits the vehicle. The vehicle then continues driving forward, turns right toward the garage exit, at which point the video ends.

The IAD investigator next interviewed an estimator at a local Oakland auto repair shop to determine whether it would be possible for the driver of the OPD vehicle to have been unaware of the collision. The estimator expressed his belief that the collision would have made a loud sound that should have been heard inside a vehicle, even with the windows closed.

The IAD investigator then attempted to identify the passenger who appeared in the video, first by asking around the department to see if anyone recognized her. The investigator learned, via this informal canvass, that the sergeant in the video was in a dating relationship with an OPD officer. Still, the IAD investigator could not conclude that the person in the video was that officer and therefore was unable to conclusively identify the passenger until he interviewed the sergeant. Notably, the investigator reached out to OPD's HR department to inquire about whether the relationship between the sergeant (a superior officer) and the officer (a subordinate officer) had been reported. He learned that it had not.

The IAD investigator next interviewed the subject sergeant, who was represented by an attorney from a local law firm. During the interview, the sergeant maintained that he had no recollection of the vehicle collision and was not aware it had happened at the time it occurred. The sergeant gave statements that were inconsistent with his prior statements regarding when he viewed the video that showed the collision. The investigator asked the sergeant why the vehicle stopped immediately after the collision, but the sergeant's attorney would not allow the sergeant to answer the question and the investigator did not insist on an answer. Also, during the interview, the sergeant reluctantly identified the passenger in the video as an OPD officer and admitted to being in a dating relationship with her. The investigator did not ask the

sergeant whether he reported the relationship to his superiors and did not notice him for an MOR violation for failure to report the relationship.

The IAD investigator next interviewed the passenger-officer, who was represented by the same attorney from the same law firm as the sergeant. She maintained that she was unaware of the vehicle collision and had no recollection of the day in question. The investigator did not ask the officer about her relationship with the sergeant or whether it had been reported to OPD supervisors.

*c. The Report of Investigation*

The IAD investigator drafted the Report of Investigation (ROI) for 21-0862, concluding that a preponderance of the evidence showed that the sergeant should be sustained for violating the Manual of Rules (“MOR”) for Obedience to Laws for the hit and run and for preventable collision. The investigator also concluded that the officer should not be sustained for the performance of duty MOR. The investigator’s draft report called into question the credibility of both the sergeant and the officer. It also included a discussion of their dating relationship and their failure to report that relationship to OPD superior officers or command staff. Finally, it included a discussion and finding of “not sustained” for the Truthfulness MOR against the sergeant, which the IAD investigator conducted as part of his investigation. The investigator then reviewed the draft ROI with his superior officer, who was the IAD Commander – a Captain. The Captain requested revisions to the ROI with which the investigator disagreed and to which the investigator objected. Nevertheless, the Captain directed the investigator to revise the ROI and the investigator did so at the Captain’s direction. The investigator stated that he had to obey the “direct orders” of a superior officer and alter the report in a manner that, he believed, minimized the severity of the misconduct and allowed the sergeant to avoid the appropriate consequences for his actions. At the behest of the Captain, the final ROI contained the following revisions: (1) it sustained the sergeant only for the preventable collision but not for the hit and run; (2) it changed the passenger-officer’s designation from subject officer to witness; (3) it concluded that both the sergeant and officer were credible; (4) it removed the discussion of the relationship issue; and (5) it deleted any mention of the Truthfulness MOR or investigation into that issue.

*d. The Chief's Friday Meeting*

The investigator presented his findings and recommendations at a weekly meeting of the Executive Command Staff, known informally in the department as the "Chief's Friday Meeting" on 23 December 2021, eight months after the vehicle collision. At the meeting, the investigator described the facts of the case, however he did not mention that the two OPD members in the vehicle at the time of the collision were involved in an unreported dating relationship. His presentation recommended only one sustained finding – for the preventable vehicle collision – per the Captain of IAD's direct orders. The Chief of Police did not permit extensive discussion of the case and did not request that the video be shown, instead quickly approving the recommended sustained finding and signing the final ROI without reading it.

*e. Subsequent Discipline*

As a result of the sustained finding on the preventable collision, the sergeant received counselling and training.

II. The Independent Investigation into IAD's Investigation of the Vehicle Collision

Several months later, after it was revealed that the sergeant who had been involved in the unreported vehicle collision was the same officer who failed to report the discharge of his service weapon in an elevator inside the Police Administration Building, the City of Oakland retained an independent law firm to lead: (1) an inquiry into IAD's original investigation of the vehicle collision incident; (2) an inquiry into the elevator discharge incident; and (3) any ancillary misconduct uncovered over the course of the above investigations. Over the course of four months, investigators reviewed email correspondence, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Nineteen subjects and witnesses were interviewed. Notably, nearly every OPD subject interviewed was represented by the same attorney from the same law firm, which was also the same firm that represented both the sergeant and officer in IAD's investigation into the vehicle collision.

At the conclusion of the investigation into the vehicle collision, investigators recommended that the Department sustain multiple Manual of Rules violations against the Captain of the Internal Affairs Division for inappropriately directing a subordinate officer to

downgrade the findings of the investigation such that the subject officer was not held accountable for serious misconduct and thereby avoided serious discipline. Investigators also recommended the Department sustain Manual of Rules violations against the lieutenant who showed the sergeant photographs and video of the incident before referring the matter to internal affairs, thereby interfering with the investigation. Finally, investigators recommended that the Department sustain Manual of Rules violations against the Chief of Police for failing to hold his subordinate officers to account, for failing to engage effectively in the review of the incident and for allowing the subject officer to escape responsibility for serious misconduct. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

### III. The Service Weapon Discharge

#### *a. The Incident*

On the night of Saturday, April 16th or the early morning of Sunday, April 17th, while working a shift inside the Police Administration Building, an OPD officer discharged a service weapon inside the freight elevator. The discharge created a strike mark on the wall of the elevator, which strike mark was first noticed by other OPD members the following day. When it was discovered that no one had reported an accidental firearm discharge, an investigation was undertaken to determine who was responsible for the discharge.

A preliminary investigation was commenced when members of the department began collecting video footage from cameras inside the Police Administration building that showed people entering and exiting the freight elevator during the weekend of April 16th and 17th. The investigating officer also reviewed proxy card data showing who had used a proxy card to access the elevators on those days. The matter became a subject of department-wide chatter and speculation about who was responsible for the discharge as the investigator narrowed the list of potential suspects.

On Monday April 25th, 2022, more than a week after the discharge, a sergeant of police approached the preliminary investigator in his office at the Police Administration Building to confess that he was the officer who had discharged his firearm in the elevator. He also



admitted to collecting and discarding evidence from the discharge, including the shell casing by throwing it in the San Francisco Bay while driving his service vehicle over the Bay Bridge. The sergeant was immediately placed on administrative leave. The Criminal Investigation Division of the Oakland Police Department conducted a parallel criminal investigation into the incident.

*b. The Independent Investigation into the Weapon Discharge*

When it became apparent that the officer who discharged his service weapon inside the elevator and failed to report it was the same officer who had previously been involved in the similarly unreported vehicle collision, independent investigators were tasked with conducting an investigation into the weapon discharge. Investigators began reviewing the incident in September 2022. Over the course of four months, investigators reviewed email correspondence, cell phone records, video and photographic evidence, criminal investigation reports, transcripts and recordings of witness and subject interviews, meeting notes and other data. Two subjects and fourteen witnesses were interviewed. Notably, the two subjects in this investigation were the same two subjects in the vehicle collision investigation, i.e. the sergeant and his officer girlfriend, and both subjects were again represented by the same lawyer from the same law firm as the prior investigation.

At the conclusion of the investigation, outside investigators recommended that the Department sustain multiple Manual of Rules violations against the subject officer based on the discharge itself, the disruption of the scene of the incident and destruction of evidence after the fact, the failure to immediately report the incident, and additional violations. The recommended findings are contained in a separate, confidential Internal Affairs Division report.

IV. The Criminal and Administrative Investigations into the Discharge

Over the course of conducting the Internal Affairs Division investigation into the facts surrounding the discharge of a service weapon in the Police Administration Building, outside investigators identified certain procedural irregularities and possible violations of OPD policy committed by OPD members who conducted the initial criminal and administrative investigations. These issues resulted in the initiation of a separate follow-on investigation into the way the Internal Affairs Division and the Criminal Investigation Division undertook their parallel investigations of the underlying facts of the elevator discharge. This follow-on

investigation has identified MOR violations that will be addressed in a separate confidential IAD report.

During the course of the three confidential Internal Affairs Division investigations referred to above – one for the vehicle collision incident, the second for the elevator discharge incident, and the third for the investigation into the Department’s handling of the elevator discharge – outside investigators encountered multiple deficiencies in process and policy that undermined the full and complete discovery of the facts. While some of these deficiencies stem from gaps in Department policies, other deficiencies flowed from the Department’s failure to follow or implement existing Department policies. Most disturbingly, some of the deficits appear to stem from a failure of leadership and a lack of commitment to hold members of the Oakland Police Department accountable for violations of its own rules.

As these deficiencies were uncovered by the three above-described independent investigations, the following recommendations are offered for the purpose of strengthening OPD’s ability to hold its members accountable to the public it serves by implementing improved processes for the Internal Affairs and Criminal Investigation Divisions, and clearer rules and policies. These recommendations are set forth below.

#### **V. RECOMMENDATIONS**

As discussed above, certain members of the Oakland Police Department committed MOR violations by failing to effectively investigate and discipline a sergeant of police who broke the law and failed to report his own misconduct. This failure on the part of these OPD members permitted that sergeant to evade serious discipline and allowed him to commit far more serious misconduct when, several months later, he discharged his service weapon inside a building full of people. These investigations revealed issues and shortcomings that go beyond the conduct of individual officers to the very question of whether the Oakland Police Department is capable of policing itself and effectively holding its own officers accountable for misconduct.

Every sworn officer of the Oakland Police Department, including the Chief of Police, has an obligation to abide by the Department’s high standards for its officers. This includes the obligation to abide by the Manual of Rules, to self-report violations of rules, and to cooperate

fully with investigations into those violations. The Internal Affairs Division is a uniquely situated component within OPD, tasked with investigating misconduct and, at times, criminal conduct – together with the Criminal Investigations Division – committed by OPD members. It is absolutely critical, if the Department wishes to enjoy the confidence and trust of the communities it serves, for the IAD to function independently of internal politics or favoritism and to bring uncompromising rigor to its work. The inquiry into IAD’s investigation of the vehicle collision incident revealed that the IAD fell well short of that mark. The IAD’s shortcomings in this case call into question whether they are truly up to the task.

It is equally critical to the functioning of any law enforcement agency that sworn police officers, both in their day-to-day police work and in their interactions with IAD and CID, are honest and always conduct themselves with integrity. The investigations underlying these recommendations were dogged by a lack of forthrightness by multiple members, both subjects and witnesses, that betrayed a lack of commitment to the pursuit of truth by the Internal Affairs process. If OPD is to fulfill its duties to the community it serves it must create and maintain a commitment to uncovering the truth and holding OPD members accountable for misconduct rather than thwarting the investigative process for the purpose of protecting fellow OPD members.

Effectively addressing these issues will require the Department to review and reassess the very structure of IAD and its internal investigatory functions. There must be a shift in the very culture of the Department, to ensure that IAD and CID can bring unflinching rigor to their work investigating misconduct committed by sworn members – the very same rigor other investigatory bodies within the Department bring to investigating crimes committed by members of the community.

- a. ***OPD should require all personnel involved in the investigation, review, supervision, and approval of IAD and CID cases to conform to the recusal standards of applicable policies***

Pursuant to Training Bulletin V-T.1(C) governing internal investigations procedures for the Oakland Police Department, investigators are required to recuse themselves from conducting an internal investigation if they were directly involved in the incident or if certain enumerated relationships exist between any of the involved parties “which might lead to a

perception of bias.” CID has a similar policy memorialized in CID Policy and Procedure 15-01 that applies to the Homicide section. The laudable goal of these policies is to ensure that personal relationships maintained by investigators do not lead to bias or the perception of bias in these critical investigatory functions. It is recommended that the OPD extend this policy to include not only investigators themselves, but supervisors, commanders and senior executives overseeing IAD investigations and discipline and CID investigations.

**b. *OPD should adopt a policy that requires approval and documentation of all changes to draft Reports of IAD Investigations***

IAD’s current policies require IAD investigators to get authorization from the IAD Commander before they can remove an MOR from an investigation or before they can downgrade a subject officer to a witness. IAD policy, however, vests authority for such changes with the IAD commander and does not protect against situations in which the IAD Commander is compromised and seeks to alter findings and conclusions for personal or improper reasons. It is recommended that IAD update its policy so that no member has the authority to remove an MOR violation or downgrade an officer from subject to witness without notice and accountability. If the IAD Commander believes such changes are necessary over the objection of the lead investigator, it is recommended that the IAD Commander should have to seek authorization from the Deputy Chief for the Bureau of Risk Management or from the Chief of Police.

It is further recommended that IAD develop a policy that explicitly requires investigators to include in final reports all MOR violations that were considered and investigated as part of any investigation. If an MOR violation is identified and later deemed to have been identified in error, a clear notation should appear in the ROI but the MOR violation should not be deleted in its entirety.

To ensure transparency, it is further recommended that all substantive changes to ROIs made after a report has been submitted to IAD command staff for approval be documented in a central repository, with appropriate documentation explaining why such changes were required.

- c. ***OPD should adopt a policy that requires all briefings regarding ongoing IAD investigations to be documented.***

In order to ensure greater transparency and accountability in the IAD process it is recommended that all substantive briefings on the merits of the case that occur between any member of IAD staff and Executive Staff (to include the Chief of Police, Assistant Chief and Deputy Chiefs) be documented in a central repository, including the date of such briefings and a summary of the content of the briefing. This will ensure that future reviews of IAD investigations are not frustrated by witnesses' claimed inability to recall conversations and details of briefings.

- d. ***OPD should adopt a policy that requires the Chief of Police to read reports of IAD investigations before signing them.***

It is axiomatic that the Chief of Police is ultimately responsible for the outcome of internal affairs investigations and for the imposition of discipline. The imposition of discipline must be made only after a full and complete review of the facts uncovered by the Internal Affairs Division investigation as set forth in the Report of Investigation. It is recommended that the OPD adopt a policy explicitly requiring the Chief of Police to read Reports of Investigation before signing them.

- e. ***OPD should adopt a Department-specific policy regarding acceptable personal relationships between sworn members and when and how those relationships must be reported***

Multiple witnesses reported a lack of clarity around when personal relationships between sworn members must be reported and how those relationships should be reported. Undisclosed personal relationships pose issues for fact-finding and investigations, both in the normal course of official police work as well as during Internal Affairs Division investigations when officers involved in personal relationships may be called upon to give testimony that could be adverse to the other. These issues are not limited to circumstances where one officer involved in a personal relationship may be a superior officer or supervisor. It is recommended that OPD adopt a clear policy regarding acceptable personal relationships between sworn members and when those relationships must be reported to the Department. Upon adoption of such a policy, it is recommended that OPD members are given clear guidance, via formal training, of the policy.

- f. ***OPD should review its implementation and training regarding the policies governing use by OPD members of OPD-issued cellular telephones and personal cellular telephones for all Department-business and to prohibit the use of personal cellular telephones for work-related communication.***

It became abundantly clear during the investigation into the elevator discharge incident that OPD members regularly use their personal cell phones for work-related purposes, both while on active duty and while off-duty. In fact, multiple OPD members stated that they use their personal cell phones for “everything” work-related. Some members do not carry their OPD-issued cell phones with them while on duty, and many do not know their OPD-issued cell phone numbers or the OPD phone numbers for officers with whom they actively work. OPD-issued cell phones appear to be used, by multiple OPD members, exclusively as cameras used to take photographs of evidence at crime scenes. Nearly every OPD member who was asked about cell phone usage admitted to using their personal cell phones for communication (by voice or text) with other OPD members for work-related purposes. Additionally, multiple OPD members admitted that their personal cell phones, with which they communicate via text message with other OPD members on work-related topics, are set to auto-delete text messages after as little as 30 days. This haphazard use of personal and work telephones raises serious concerns about the deletion of evidence, and there appears to be little regard for the need to preserve evidence that may be critical in regular police work as well as Internal Affairs investigations that arise. In fact, the two investigations described here were negatively impacted by auto-deleted text message conversations that may have been fruitful in the fact-finding mission in these investigations. Moreover, the investigations were hampered by a complete lack of clarity about whether current Internal Affairs Division rules permit investigators to compel production of text or telephone messages maintained on personal telephones even when important evidence is known to exist on those personal telephones used in connection with OPD duties.

It is recommended that OPD recommit to its policy requiring members to use OPD-issued cell phones for all Department-related purposes and prohibiting the use of personal cell phones.<sup>2</sup> It is recommended that OPD issue additional training on this topic.

**g. OPD should revise its rule regarding physical fitness for duty to explicitly include mental health.**

Manual of Rules section 328.56-2b – Physical Fitness for Duty states that “all members and employees shall maintain the necessary level of physical fitness to perform their duties.” This means that an officer who is not physically fit for duty can be found in violation of this rule. The rule does not, however, explicitly require that officers be mentally fit for duty. Officers who are under extreme stress or who are experiencing severe mental health distress or crisis may not be fit for duty and those officers should know, unequivocally, that reporting for duty in the midst of a mental health crisis is not permitted. Clear guidance about how officers experiencing mental health crises should interface with their commanders is needed. OPD should also provide support and training to members so that they are equipped to handle reports of mental health crises from their fellow officers.

**h. OPD, through its Office of Internal Accountability, should review and improve its policies, practices, and training regarding investigations of members accused of criminal misconduct to ensure rigor and accountability.**

OPD’s Internal Affairs Division is tasked with investigating misconduct on the part of OPD members to determine whether that misconduct violates Department rules. At times, this misconduct comprises criminal acts, which requires the Department’s Criminal Investigations Division (“CID”) to undertake a *criminal* investigation of OPD members. Any investigation into an OPD member’s potential criminal conduct should be given the same attention, resources and rigor as any other investigation undertaken by CID. In investigating the potential criminal conduct of their fellow officers, CID investigators must ensure that the various rights afforded law enforcement officers under the California Police Officer’s Bill of Rights are considered and

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<sup>2</sup> Notably, the OPD issued General Order I-19: ELECTRONIC COMMUNICATION DEVICES regarding use of personal devices and telephones in the aftermath of a public report issued in the “Instagram” investigation in connection with *Allen, et al. v. City of Oakland, et al.*, Case No. 3:00-cv-04599-WHO. Despite issuing this policy, there appears to be scant compliance with the policy, and members readily admitted to not knowing about the policy or disregarding it.

protected. This is especially true when misconduct is being investigated both criminally and administratively. The investigations described above revealed a lack of clarity regarding how to effectively conduct a criminal investigation of a fellow police officer who is also under administrative investigation. This hindered the criminal investigation referenced above.

The Department should review its policies and practices surrounding General Order M-04.1 investigations and its practices with respect to parallel CID and IAD investigations to ensure that all members responsible for investigating fellow officers are equipped to conduct those investigations thoroughly and in a manner that ensures accountability. The Department should provide members with appropriate training, if necessary, to achieve this standard.

## **VI. CONCLUSION**

The actions of one officer who twice violated the simple rule to self-report one's misconduct launched independent investigations which revealed systemic failures far larger and more serious than the actions of one police officer. The actions of OPD's Internal Affairs Division, which sought to recast, deflect, and minimize the severity of the officer's misconduct created an environment that allowed that officer to go on to commit far more egregious and dangerous misconduct, to wit: discharging a weapon in a building full of people. The multiple failures, at every level, to hold this sergeant responsible, belie OPD's stated position that it can police itself and hold its members accountable for misconduct. Instead, investigators were left with the impression that the system is designed not to uncover the truth and hold those who commit misconduct to account, but instead to find ways to minimize misconduct such that OPD members are able to avoid serious discipline. For the sake of public confidence in the Oakland Police Department and its relationship both with its members and the community it serves, OPD must take the necessary steps to review the failures of its internal affairs processes and to commit to more rigorously investigating misconduct to prevent the recurrence of similar, or more serious, events in the future.