

ATTACHMENT 2 – POLICE CHIEF’S MEMORANDUM



**POLICE
DEPARTMENT**



DATE: July 14, 2020

TO: Justin Hess, City Manager

FROM: Scott LaChasse, Chief of Police
BY: Michael Albanese, Deputy Chief
Josephine Wilson, Police Administrator

SUBJECT: Response to the Office of Independent Review Group Report – Monitoring of the Burbank Police Department

Pursuant to the Independent Monitor agreement with the City of Burbank, the Office of Independent Review (OIR) Group conducted an audit of the internal investigations and administrative reviews conducted by the Burbank Police Department in 2019. The OIR’s annual review and analysis of the Police Department’s work product is welcomed to ensure that the Police Department is on a path to ongoing improvement and professionalism in the delivery of all police services. Below is the Police Department’s response to the OIR Group’s findings:

Recommendation 1

BPD should develop written protocols to ensure appropriate and continued calculation of the one-year statutory deadline for “course of conduct” allegations. Page 15

The Department agrees with this recommendation and it is an organizational priority moving forward. The organization conducts over 50 internal investigations each year. A “statute of limitation” (SOL) date is established at the onset of the investigation for all internal investigations (IA) that are conducted/investigated by the Department. The one (1) investigation in question was an anomaly due to the involvement of a “third party” investigator who conducted the investigation with the required oversight by the City’s established disciplinary process. It was during the Skelly hearing/process that the City and Officer’s representatives agreed to modify the SOL date due to additional information discovered during the hearing. Subsequently, Department Policy 1020 – *Personnel Complaint Procedures*, was revised on June 18, 2020, to address and incorporate this recommendation (see below).

Policy change/revision:

1020.10.1 FILE STATUS TRACKING

IAB is responsible for tracking the timely completion of all complaint investigations and reports. IAB and/or the supervisor who is conducting the investigation shall identify and take note of the statute of limitation. The investigator shall ensure the investigation is completed within the time allowed by statute. If during the investigation, the investigator learns of any information which would affect or change the time frame of the statute of limitation, then the investigator shall take note of the date and ensure the investigation is completed by the time allowed by statute.

Recommendation 2

BPD should work with its City partners to ensure that protocols are devised so that a complainant is accurately advised of any initial disposition and any disposition modified as a result of post-disposition proceedings. Page 16

The Department agrees with this recommendation. The Department will work with other City departments to ensure that the appropriate protocols are devised to accurately communicate with any complainant regarding the disposition of their complaint; to include any post-disposition proceedings that may have changed the investigative outcome.

Recommendation 3

BPD should prioritize training, counseling, and accountability measures that will help promote cohesive and effective supervision throughout its management team. Page 17

The Department agrees with this recommendation. Prior to this recommendation, the Department had already optimized on outside resources such as the Employee Assistance Program to assist with supervisory development and behavior modification. The outcome has been favorable and the Department will continue to utilize outside-of-the-box resources and team-building opportunities for organizational unity and harmony within all ranks.

Recommendation 4

BPD should continue to train supervisors on the intake process for interviews of complainants and/or subjects of force, with an emphasis on the importance of objectivity and thoroughness at this phase of review. Page 18

The Department agrees with this recommendation. With several new members in the supervisory ranks, the Department has implemented training that is specific to the Internal Affairs intake process with an emphasis on objectivity and thoroughness during the initial interview/intake process. The Department's Internal Affairs Bureau provided the training to all Department supervisors on June 24, 25, 26, 30, and July 1, 2020.

Recommendation 5

BPD should prioritize the training on and reinforcement of policy requirements for all recording devices, and should develop accountability measures that minimize the likelihood of repeated failures to record. Page 19

The Department agrees with this recommendation. With the onboarding of the new technology of Body Worn Cameras/In-Cameras (BWC/ICC) systems, the automated activation feature of these devices will eliminate the lapse of activation issues associated with the PUMA recording devices. Preliminarily, the data specific to the BWC/ICC activations shows significant activation compliance; Department-wide average of 97.4% compliance rate absent any equipment defects and/or responding to an emergency when the BWC was in a docking mode. It should be noted that the Department conducts rolling bi-monthly audits of the BWC/ICC system. The audits are managed by the Department's BWC/ICC Administrative Analyst who codifies the categorizations and labeling of all digital video/evidence. Any deficiencies in activation are addressed with the officer immediately. Moreover, the Department's Professional Standard/Audit's Bureau conducts two separate audits of the BWC/ICC system for organizational and CALEA compliance; the most recent BWC/ICC Audit was conducted and completed on June 8, 2020.

Recommendation 6

BPD should look for ways to reinforce the importance of professional language with its personnel, particularly in the context of recorded encounters, and should develop a clear set of expectations and accountability measures for those who struggle to meet expectations in this regard. Page 20

The Department agrees with this recommendation. As part of the Critical Incident Review Board and PUMA audit processes, the Department had recognized that some officers had expanded their definition of "tactical language" which does not comport to Department standards. The appropriate levels of counselling and/or discipline for the officers identified had been imposed. Prior to this OIR Report and subsequent recommendation, the Department sought out training specific to the use of language and officer comportment. The Department had been working with law enforcement trainers at California State University, Long Beach (CSULB - Criminal Justice Department) to create a syllabus specific to language/communication skills involving difficult subjects. During the discussions with the Director of CSULB it was clear that they did not have a training syllabus that was with specific to officer comportment and language. However, CSULB does have a class that entitled "tactical language" which did not meet the Department's training criteria and emphasis for this training need. Members of the Department's COPS Bureau have since created a viable training syllabus that is specific to officer comportment and the use of language during high risk/stress incidents. This training is scheduled to be provided Department-wide for both sworn and non-sworn personnel in the fall of 2020. Also, additional internal audits by the Professional Standards Bureau will continue to focus on language comportment.

Recommendation 7

As it moves forward with plans to meet new data collection and reporting requirements, BPD should continue exploring interim methods to assess officer compliance with expectations for non-discriminatory enforcement. Page 21

The Department agrees with this recommendation. In October 2019, the Department began discussions with Tiburon, the Computer Aid Dispatch system vendor to discuss implementation of system updates in compliance with the Racial and Identity Profiling Act (RIPA) mandated by the California's State Attorney General's Office. The Department completed implementation of the Electronic Daily Field Activity (eDFAR) software in June 2018 and is completing system modifications this summer. The newly designed eDFAR contains more than 56 individual fields that capture critical information through which supervisors and managers can measure performance at the officer level, the shift level, and even at the divisional level. Specifically, random audits of officers' Field Interview contacts in the eDFAR system will assist in determining if there is a pattern of discriminatory enforcement. The Department is also exploring other resources implemented by other law enforcement agencies such as Long Beach Police Department to assess officer compliance for non-discriminatory enforcement.

Recommendation 8

The Department should update its CIRB Disposition forms to reflect the actual outcomes of its deliberations with more accuracy and precision. Page 26

The Department agrees with this recommendation. The Department has modified the Critical Incident Review Board Worksheet to reflect the category "No Policy Violations – Training/Counseling Opportunity Noted" – The modification was completed on February 18, 2020.

Recommendation 9

The Department should assess its policies and protocols for the detention of individuals who have been arrested on charges related to intoxication, and work with jail personnel to ensure understanding of and compliance with expectations. Page 27

The Department agrees with this recommendation. All jailers are trained on the housing requirements for subjects arrested for intoxicated related charges, and the importance of thoroughly completing booking paperwork. However, there were four instances where errors were made during the booking process and this issue is being addressed directly with the jail staff during their annual and in-service training. Additionally, the Department's Jail Manager will continue to monitor the Department's jail staff to ensure compliance with this recommendation moving forward.

Recommendation 10

BPD should seek constructive resolution of pending questions about the [pursuit] policy and its proposed revisions. Page 33

The Department has taken heed to this recommendation and will endeavor to find a balance between a restrictive policy compared to a pursuit policy that provides more latitude for officers in critical decision making in apprehending high-risk drivers.

Recommendation 11

BPD should clarify the identified ambiguities in responding to “failure to yield” scenarios. Page 33

Recommendation 12

BPD should connect the “initiation” of a pursuit under policy to match officers’ substantive actions and decision-making, rather than the start of relevant radio broadcasts. Page 33

The Department is in the midst of revising/amending the Pursuit Policy that is specific to Recommendations 11 and 12. The Department has a working draft that addresses ambiguity in the “failure to yield” section of the policy that should provide clarity to officers in understanding the difference between a “failure to yield” and an actual pursuit. Additionally, the policy revision proffers an “assessment period” to evaluate the circumstances during the initial attempt to conduct a traffic stop. Furthermore, the revision will remove the “stolen vehicle” criteria for initiating a pursuit. The working draft is pending review and/or approval by the Chief of Police, the Command Staff, the City Attorney’s Office and the Burbank Police Officers Association.