

MEMORANDUM



POLICE DEPARTMENT

DATE: October 1, 2024

TO: Justin Hess, City Manager

FROM: Michael Albanese, Chief of Police
BY: Adam Cornils, Captain – Patrol
Viviana Garzon, Police Administrator

SUBJECT: Response to the Office of Independent Review Group Recommendations
in the 2023 Annual Report of the Independent Police Monitor

BACKGROUND

Pursuant to the Independent Police Monitor agreement with the City of Burbank, the Office of Independent Review (OIR) Group conducted its annual review and analysis of Burbank Police Department (Department) operations. The review covered areas such as internal investigations, applications of use of force, vehicle pursuits, and the Department's compliance with the state's Racial Identity Profiling Act. The Department welcomes OIR's thorough evaluation as a valuable tool for ensuring continuous improvement and the delivery of high-quality public safety services to the Burbank community.

DISCUSSION

The 2023 annual report provided 14 recommendations. Below is the Department's response to each of the OIR Group's recommendations:

Recommendation 1:

BPD should look for ways to enhance internal communication about misconduct investigations and their status, while remaining mindful of employee privacy rights. Page 15

The Department is committed to maintaining open internal communications regarding issues that impact its employees and their work environment. However, communications regarding misconduct investigations are strictly governed by state law, which generally prohibits sharing investigative findings with anyone other than the involved personnel.

The Department prides itself on issuing complete and timely notification letters to complainants and takes the same stance on communicating with its own personnel. The Internal Affairs Bureau ensures that all involved personnel are informed of the investigation's findings as soon as possible upon completion.

Recommendation 2:

BPD should incline toward formal documentation and investigation of misconduct allegations directed at executive staff members. Page 15

The Department agrees with this recommendation and will continue to conduct thorough investigations and formally document misconduct allegations involving executive staff members. Notably, depending on the nature of the allegations and overall circumstances, some of these investigations may be referred to investigators outside of the Department.

Recommendation 3:

BPD should ensure that all allegations of bias are appropriately lodged and investigated. Page 24

The Department concurs with this recommendation. Moving forward, the Department will ensure that all allegations of bias are documented and investigated, and that all such allegations are effectively identified and addressed throughout the investigative process.

Recommendation 4:

BPD should continue its practice of seeking independent corroboration of officer-decision making in cases where possible bias is at issue. Page 24

The Department agrees with this recommendation and will continue to conduct thorough investigations, ensuring that all relevant information is gathered in cases where possible bias is a concern.

Recommendation 5:

BPD should consider teaching officers basic law enforcement commands, including use of force warnings, in the languages spoken in their communities, and practice these in daily briefings. Page 31

The Department recognizes the potential value for officers to be able to issue basic commands and directions in the languages spoken in the community. The Department will incorporate roll call training from Department personnel certified as fluent in these languages. While simple commands, such as, "Stop," "Come here," "Hands up" are relatively straightforward, even simple Use of Force warnings are substantially more complex. The Department will take a phased approach to this instruction, initially focusing

on achieving success with simple commands in Spanish and Armenian before incorporating Use of Force warnings.

Recommendation 6:

At all future trainings on defensive tactics, BPD should reinforce the importance of issuing clear and concise warnings that force may be used and of giving subjects time to comply.

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The Department agrees with this recommendation and will incorporate it into the curriculum in Department-wide Defensive Tactics Training.

Recommendation 7:

BPD should continue to hold officers accountable when use of force warnings are not issued, including more formal discipline for repeated performance failures. *Page 32*

The Department will continue to hold officers accountable for their performance and will critically assess instances where use of force warnings are not issued. The Department recognizes that every incident is unique. Officers must address the safety of all individuals involved while recognizing that circumstances can change abruptly and require immediate intervention. In most incidents, the failure to issue a warning has been an oversight as officers managed dynamic situations with individuals displaying problematic behavior. The Department has found that counseling and training are appropriate responses in such instances. However, if personnel repeatedly fail to meet expectations, the Department will evaluate if more formal discipline is warranted.

Recommendation 8:

In evaluating uses of the Taser, BPD should focus on the subject's actual actions and officers' perceptions as captured in their own reports and/or interviews in the moments preceding its use and limit its reliance on speculative justifications. *Page 36*

The Department agrees with this recommendation. The Department conducts thorough Use of Force reviews via the Critical Incident Review Board (CIRB). The CIRB assesses and discusses the actions of those involved, as well as the officers' perceptions during the incident. In addition, the CIRB recognizes the challenges of fully replicating "being in the moment" during the review process and takes this into account during its evaluation.

Recommendation 9:

BPD should carefully evaluate the use of closed-fist head strikes in training, policy, and practice, to determine when this physical use of force is appropriate. *Page 38*

The Department recognizes that delivering a closed-fist strike to the head presents risk of injury and is often a decision made in split-seconds during violent close-quarters

encounters. The Department will address safety concerns regarding closed-fist head strikes in future Department-wide use of force training sessions, including exploring alternative force options such as palm heel strikes or OC spray to the face and head. Additionally, the Department will assess whether further guidance on the use of closed-fist strikes to the head needs to be addressed in Department policy.

Recommendation 10:

In assessment of vehicle pursuits, BPD should fully consider all factors that contribute to the risks of vehicle pursuits as listed in the pursuit policy's Balance Test. *Page 46*

The Department agrees with this recommendation.

Recommendation 11:

BPD should evaluate any additional tools and related training that may contribute to safe resolution of or reduction in instances of vehicle pursuits. *Page 46*

The Department agrees with this recommendation and is continually seeking ways to leverage technology and other tools to mitigate the risks of vehicle pursuits. Historically, the Department has effectively used the Air Support Unit to reduce risks associated with vehicle pursuits. The Department is also examining the deployment of spike strips or sticks in static situations to puncture a parked vehicle's tires if the driver attempts to move, as well as assessing the feasibility of a launchable GPS tracker system as part of these continuous efforts.

Recommendation 12:

BPD should use its RIPA data as a jumping off point for discovering areas of enforcement that may require closer evaluation, such as its use of pretext stops, potentially problematic "hot spots" with higher disproportionality, and stop outcomes. *Page 60*

The Department will continue to evaluate its RIPA data and assess its enforcement practices, while maintaining a commitment to fair and objective enforcement of existing laws.

Recommendation 13:

BPD should add custom data fields to the RIPA collection form, including but not limited to the address/zip code of the stopped person and when an officer first identified the race/ethnicity of the stopped person. *Page 62*

The Department's RIPA collection program is provided by Veritone, an established software vendor used by law enforcement agencies throughout California. Veritone's product captures the core data fields required by state law. The Department will explore the addition of a custom data field to capture the location where a stopped person resides.

The Department's current RIPA collection form includes a field regarding whether the officer's perception of the stopped person's race or ethnicity was formed prior to initiating the stop.

Recommendation 14:

BPD should create a data dashboard of RIPA data to ensure its commitment to transparency and accountability. Page 63

The Department will create a dashboard for its collected RIPA data and publish it on the Department website at www.burbankpd.org.

CONCLUSION

The OIR group's annual review provides significant value to the Burbank community by ensuing accountability, transparency, and continuous improvement within the Department. By evaluating critical areas, the review enhances public safety, promotes equity, and reinforces the trust between the Department and the community.

ATTACHMENT:

None