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**Report on Status of Investigations into Occupy
Oakland-Related Demonstrations Released**
***Chief Jordan upholds high level of accountability for
misconduct***

Oakland, CA — The Oakland Police Department's Internal Affairs Division (IAD) today released a report on the status of investigations into Occupy Oakland-related demonstrations. Occupy Oakland has given rise to the largest influx of complaints the Police Department has ever had on one event or series of events. As of October 4, 2012, IAD has received 1,127 complaints, 90% of which came from three specific dates: October 25, 2011 (the first decampment), November 2, 2011 (General Strike) and January 28, 2012 (Move-in Day).

"Immediately following confrontations between protesters and officers on October 25, I promised a full investigation and vowed to hold personnel accountable for their actions where they violated policy," said Oakland Police Chief Howard A. Jordan. "Today demonstrates that I am keeping that promise. It is my responsibility as Chief of Police to make sure that my officers practice Constitutional policing."

"The findings of these investigations are not a reflection of the entire department," he continued. "The vast majority of officers did what they were asked to do, and conducted themselves appropriately. But those officers who did not adhere to policy are being held accountable for their actions. By holding police officers accountable, and by disciplining those who do not meet OPD's high standards of conduct, we honor those officers who maintain their commitment to Constitutional policing and faithfully adhere to the policies which keep both officers and the public safe."

The Chief went on to say that during the past year, the Oakland Police Department has facilitated demonstrations involving more than 50,000 people. "We are managing a delicate balance," he said, "between protecting the first amendment rights of protesters, and protecting life and property when small groups of protesters engage in vandalism and violence. We are a better department that we were a year ago, and we will continue to learn from our mistakes."

Mayor Quan agreed that the Oakland Police Department has made significant progress in the last year. "Following the October 25 protest, I apologized to the community, because it was clear that we made mistakes. We commissioned an independent review of OPD's policies and practices, and we have implemented 75% of the recommendations. The positive results of these changes can be seen in fewer complaints with successive demonstrations."

The Chief noted that the City hired the Frazier Group to conduct a high-level, third-party assessment of the police planning and response to this event, and that his commanders have been implementing the recommendations that came from that analysis. These include significant changes to policies and procedures, as well as providing crowd management training, which has contributed to positive change within the organization.

The report is attached here and can also be found on [OPD's home page](#).

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City of Oakland

Summary of Findings on Investigations of Occupy Oakland-Related Demonstrations

INTRODUCTION

This report provides an overview of the actions taken to date by the Internal Affairs Division (IAD) of the Oakland Police Department in response to Occupy Oakland-related protests. Occupy Oakland has given rise to the largest influx of complaints the Police Department has ever had on one event or series of events.

As of October 4, 2012, IAD has received 1,127 complaints broken into 150 different cases, all attributed to some Occupy-related event. The majority of complaints came from three specific dates: October 25, 2011 (the first decampment), November 2, 2011 (General Strike) and January 28, 2012 (Move-in Day). These three dates account for 90% of the total complaints received. The remaining complaints arose from other Occupy-related events, including weekly anti-police marches, May Day 2012, and other recurring protests. In total, OPD has facilitated demonstrations involving more than 50,000 people during the past year.

Immediately following the clearing of the first Occupy Oakland encampment on October 25, 2011, which led to confrontations between protesters and the police, Oakland Police Chief Howard Jordan promised a full investigation of the incident and vowed to hold personnel accountable for their actions where they violated policy. The City hired the Frazier Group to conduct a high-level, third-party assessment of the police planning and response to this event.

In addition, the City hired five contract investigators to assist with the significant influx of cases. The Police Department temporarily assigned five additional investigators to IAD. The additional investigators augmented two Internal Affairs staff already assigned full time to Occupy investigations. The investigative methodology was the result of a federal court order.

BACKGROUND

The Oakland Police Department accepts complaints from citizens made in person, over the phone, by correspondence or even anonymously. Each allegation that, if true, would rise to a violation of policy is fully investigated.

State law requires all police agencies to have a method of accepting citizen complaints. The Negotiated Settlement Agreement and OPD policy have very specific requirements for handling complaints. As outlined above, OPD policy requires complaints of potential rule violations to be fully investigated and brought to one of four findings: sustained, not sustained, exonerated or unfounded. Some allegations that do not rise to the level of a policy violation may be closed. For example, complaints about response time or disagreements with a particular policy would fall into this category.

The Peace Officer Bill of Rights puts requirements on how investigations must be conducted. Officers must be notified of the allegations prior to an interview and they are entitled to legal representation at those interviews. By law, the City is not authorized to release specific information about employee discipline or personnel matters.

When Internal Affairs conducts an administrative investigation, it is determining if the alleged conduct violated an OPD policy. The penalty for violating a policy would be a disciplinary action ranging from a reprimand, to suspension, to termination of employment.

For criminal allegations, the Department also has a parallel criminal investigation process. The focus of that investigation would be to determine if the employee broke a law. This investigation could result in criminal prosecution from the District Attorney's Office if the officer is found to have committed a crime.

The Department can compel employees to cooperate with the Internal Affairs investigation, but not the criminal investigation. Police officers who are subjects of criminal investigations maintain the same rights as ordinary citizens in that they cannot be compelled to testify against themselves.

INVESTIGATION FINDINGS

As of October 4, 2012, IAD has received 1,127 complaints attributed to Occupy Oakland-related events. These complaints were organized into 150 different cases. To date, the Police Department has completed more than half of the investigations. One third of those have resulted in some type of a sustained finding for misconduct; this means that the investigation determined the act occurred and did violate a policy. Investigations into the remainder of the cases are underway and will be completed within the timelines required under State law and the requirements of the Negotiated Settlement Agreement.

The majority of complaints came from three specific events which account for 90% of the total complaints received: October 25, 2011 (the first decampment), November 2, 2011 (General Strike) and January 28, 2012 (Move-in Day).

There are four possible findings for each allegation: exonerated, unfounded, sustained or not sustained, defined as follows:

- **Exonerated** means the investigation determined the act occurred but was within policy.
- **Unfounded** means it was determined the act did not occur.
- **Sustained** means it was determined the act occurred and did violate a policy.
- **Not-sustained** means the investigation was unable to prove or disprove the allegation based on a preponderance of evidence, which is the standard of proof for administrative investigations.

The most common sustained finding is that officers did not properly activate their video recorder, as required. Others include excessive force, improper supervision or command, failure to accept a complaint, refusing to provide names when required, and false reporting. Cases that resulted in a sustained finding for excessive force were also referred to the Criminal Investigation Division for possible criminal prosecution.

The table below provides a summary of the status and outcome of IAD investigations as of October 4. While Occupy events have occurred on many dates, this chart covers only the information from the three biggest Occupy events.

Table 1. Summary of IA Cases, Allegations, and Findings for 3 Largest Occupy Events. 10-12-12

DATE	NUMBER OF CASES			FINDINGS			
	Total	Closed	Open	Sustained	Not Sustained	Unfounded	Exonerated
10/25	34	25	9	15	24	22	61
11/2	15	7	8	2	3	4	5
1/28	44	35	9	26	55	6	36

Sustained Allegations and Discipline for Three Largest Occupy Events

For these three incidents, which generated the largest volume of complaints, the following allegations were sustained for each incident:

October 25 (Removal of First Encampment)

- Failure to activate officer’s video recorder
- General conduct—inappropriate comment
- Commander’s authority and responsibilities
- Excessive use of force (bean bag or baton use)
- Redeployment of munitions
- Truthfulness

The discipline for these policy violations included counseling and training, written reprimand, suspension (ranging between 5 and 30 days) and termination.

November 2 (General Strike)

- Refusal to provide name or serial number
- Failure to report misconduct

The discipline for these policy violations included 30-day suspension and demotion.

January 28, 2012 (Move-in Day)

- Failure to activate officer’s video recorder
- Profanity
- Care of property
- False arrest
- Inappropriate comment
- Improper handcuffing
- Failure to supervise
- Use of force (baton use)

The discipline for these policy violations included counseling and training, written reprimand and suspension (ranging between 1 and 15 days).

Despite the number of sustained findings, many of the investigations have shown that officers did act appropriately. The May 1 Occupy event only resulted in 9 complaints, and none of them has yet to result

in a sustained finding. This is partly due to tactics the Police Department changed in response to recommendations from the Frazier Group.

The biggest asset in these investigations has been the use of the video recorders by officers. Hundreds of hours of video were reviewed and catalogued so that video evidence could be located for cases. In many cases, video evidence has been able to conclusively prove whether or not misconduct occurred. In addition to the officer's video, investigators scoured the Internet for available video, and that has also been a great investigative resource.

RECOMMENDED DISCIPLINE

The Police Department has begun the discipline process in all of the cases that have resulted in a sustained finding. That process includes recommending a level of discipline according to a matrix established in OPD policy, with a final determination made by the Chief of Police. For discipline involving suspensions, demotions or terminations, a Skelly hearing can result in a change to the recommended discipline.

So far, more than 40 officers have been sustained for some level of misconduct. The majority of sustained findings occurred on January 28, 2012 ("Move-in Day"). To date, discipline has included:

- 15 suspensions
- 23 written reprimands
- 3 counseling and trainings
- 1 demotion
- 2 terminations

NEXT STEPS

The Police Department is in the process of issuing final discipline, which includes a Skelly hearing, and where discipline exceeds a five-day suspension, final approval by the City Administrator. Officers do have a right to appeal as provided in the Memorandum of Understanding with the OPOA

CONCLUSION

Oakland has a long, proud history of social movements involving active and vocal protests. The City of Oakland's goal is to facilitate everyone's First Amendment rights while protecting life and property. We remain committed to facilitating the free speech, and we will attempt to arrest those who take the opportunity to engage in vandalism or violent crime. Policing a crowd is a difficult assignment, and during the past year the Police Department has provided extensive training to its staff to accomplish this task in a professional and fair manner. In cases where our officers fall short, the Police Department will investigate and hold officers accountable for their actions.

Accountability is a value that the City of Oakland upholds for every employee in every department; yet we recognize that an even higher standard is demanded of police officers, who must serve as guardians of the public trust. It is by holding police officers accountable, and by disciplining those who do not meet OPD's high standards of conduct, that we honor those officers who maintain their commitment to Constitutional policing and faithfully adhere to the rules which keep both officers and the public safe.