



Oakland Police Department

March 21, 2009 Incident

Frequently Asked Questions

Why was a Board of Inquiry convened following the March 21, 2009 Incident?

Following the March 21st incident in which Oakland Police Sergeant Mark Dunakin, Sergeant Ervin Romans, Sergeant Daniel Sakai, and Officer John Hege were shot and killed, the Oakland Police Department convened an Executive Force Review Board (EFRB). The EFRB was charged with the responsibility to review the overall circumstances surrounding the events of March 21st, as well as the use of lethal force by members of the Department's SWAT team against Lovelle Mixon, who was responsible for the murders of the four officers. The Board was asked to determine whether or not the use of force was consistent with existing law and departmental policy and what changes could be made in policy and procedures to ensure that an incident like this never occurs again.

Departmental policy requires an EFRB to be convened following the use of lethal force by a member of the Department. The EFRB plays an important role in identifying policy and training needs as well as identifying any policy violations.

How did this investigation differ from the Department's regular practices?

An EFRB is normally comprised of upper command-level officers within the Oakland Police Department. In the case of the March 21st incident, high ranking members of the Department were involved in the incident and consequently unable to participate due to possible conflicts of interest. When inviting members from outside agencies to participate in the EFRB, special attention was given to selecting experts in the fields of use of force, SWAT/tactical concepts, and major incident review.

What was the mission of the Board?

Considering the significance of the events surrounding March 21st, the Department recognized the importance of an independent and transparent process to ensure an open and honest critique. The Board was tasked with comprehensively reviewing the actions taken by the Department in responding to the events of March 21st and with making recommendations to the Chief of Police as to whether or not the use of lethal force by members was in compliance with existing law and departmental policy. The distinguished panel was asked to provide recommendations related to training and policy needs, as well as any violations of departmental policy.

Who participated in the Board?

Voting Members

Director Bernard Melekian, UDOJ Community Oriented Policing Services
Deputy Chief Richard Roupoli, Los Angeles Police Department
Commander Richard Webb, Los Angeles Police Department
Commander Brett Keteles, Alameda County Sheriff's Office
Lieutenant Phil Hansen, Los Angeles Sheriff's Department

Non-Voting Members

Captain Benson H. Fairow, Oakland Police Department
James "Chips" Stewart, CNA

What is involved in the investigation of use of lethal force?

Shortly after a member of the Department has been involved in the use of lethal force, investigative teams from both the Homicide Section and the Internal Affairs Division are called to the scene to begin parallel investigations. Due to their nature, these investigations are often very complex and involve an extensive examination and review of the evidence. The Homicide investigation is a criminal investigation and focuses on any possible criminal conduct. The Internal Affairs investigation is administrative in nature and focuses on whether or not the use of force was compliant with departmental policy. Both investigative units provide presentations, outlining the results of their investigations, at an EFRB.

What did the investigation determine as related to the use of force by officers on March 21, 2009?

The investigation determined the use of lethal force by members of the Department on March 21, 2009 was necessary to prevent any further loss of life by Lovelle Mixon and was within departmental policy. However, the investigation also revealed there was a lack of command and control at the scene which led to a hasty decision to enter the apartment where the suspect had fled. The report also found deficiencies in planning and training.

Did the investigation determine there were any violations of rules or policies?

Yes, however, the California Police Officer Bill of Rights and due process rights of the involved members prevent any discussion of details. In addition to the general Constitutional protections of the privacy of personnel or employment records and information, the California Penal Code provides specifically that personnel records of peace officers, and the information contained in them are confidential and cannot be disclosed except through a specific procedure that requires a court order. This includes

information regarding investigations into police misconduct. Additional information related to the California Police Officer Bill of Rights is available online at:

<http://www.porac.org/POBOR.html>

Did the actions by some members of the Department cause additional loss of life?

This is something that no one will ever know. When faced with an individual bent on destroying the lives of others and armed with the type of weapon Lovelle Mixon possessed on March 21st, lives may have been lost even if everything had been done textbook perfect. Only one thing is certain; Lovelle Mixon had to be stopped.

What recommendations did the Board make?

The board made 37 recommendations related to command and control, management of critical incidents, and SWAT team operations. The specific recommendations are detailed in the public report under Board of Inquiry, March 21, 2009 Officer Involved Shooting, which is available online at:

<http://www.oaklandpolice.com>

Were there any other reviews of this incident?

California Inspector General David R. Shaw investigated the incident to determine if the Department of Correction and Rehabilitation Division of Adult Parole followed departmental policies and procedures in their supervision of Mixon, following his release from custody. A copy of his letter, detailing his findings, is available online at:

http://www.cdcr.ca.gov/News/2009_Press_Releases/docs/EXEC_SCANNER_20090324_172224.pdf

Will the Department accept and implement the recommendations made by the Board of Inquiry?

The Department is already in the process of implementing many of the recommendations made by the Board. In some cases the Department has already self-identified issues and made adjustments. For example, the Department has engaged in a series of command-level training exercises related to tactical decision making and has increased search and seizure training to the general membership. The Department anticipates a large number of the recommendations contained in the report will be addressed by a SWAT team evaluation to be conducted by the California Tactical Officers Association.

What are the next steps?

The release of the public report begins the process of getting important details of what occurred on March 21, 2009 out to the public and other law enforcement agencies in

order to honor the memories of the fallen officers and help to prevent any future such incidents. It is the Department's hope that this transparency will not only prevent future loss of lives, but will help the men, women and families of the Oakland Police Department, as well as and the citizens of Oakland, to continue with the healing process.

The Executive Force Review Board report closes one chapter of what will be a long and difficult road for families, police, and citizens in Oakland. We must continue to focus on remembering Sergeant Mark Dunakin, Sergeant Ervin Romans, Sergeant Daniel Sakai and Officer John Hege, continuing to take care of their families, and make the necessary changes in our Department so that a tragedy like this never occurs again.