

Date: June 24, 2022
To: Research Subcommittee
From: Debbie Aiona

Oakland, CA
Community Police Review Agency and Oakland Police Commission

Oakland Police Commission

- Seven regular and two alternate members – serve in a volunteer capacity and are Oakland city residents. They are led by a chair and vice-chair.
- Alternates may serve on ad hoc and standing committees
- Mayor appoints three members + one alternate. One must have legal experience -- (retired judge/lawyer) with trial experience in criminal law or police misconduct.
- City Council accepts or rejects nominees.
- A nine-member selection committee selects the others; City Council accepts or rejects the slate.
- Three-year terms – may serve up to two consecutive terms.
- One paid position – chief of staff

Meetings

- The commission meets twice a month and has Ad Hoc and standing committees
- Meetings open to the public with public participation encouraged. Public may comment on specific agenda items and/or during open comment periods at the beginning and end of each meeting.
- Names of commissioners and alternates are listed on the agenda.

The commission oversees:

- Oakland Police Department – ensures policies, practices, and customs conform to national standards for constitutional policing
- Civilian Office of Inspector General
- Community Police Review Agency – investigates police misconduct and recommends discipline

Powers and Duties of Commission

https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIADOR

- Conduct public hearings at least once a year on department policies
- Issue subpoenas to compel production of documents and take testimony
- Propose policy changes to city council for approval, modification, or rejection.
- Approve or reject police department proposed policies. City council has final say.
- Review police department proposed budget – hold public hearing. Make recommendations.
- Separately or along with the mayor and by a vote of five commission members, remove the chief of police.

- Recommend four chief of police candidates to the mayor to fill vacancy
- Hire or fire Community Police Review Agency director and Inspector General. Remaining staff are civil service employees.
- Hire independent counsel
- Training -- recent examples: Public Safety Officers' Bill of Rights, Memorandum of Understanding with Police Officers' Association (union), refresher training on Robert's Rules of Order
- Annual Report – information on commission and staffing, standing and ad hoc committees, public forums, presentations at commission meetings, review of police department policies and orders, summary of other activities. (2021 report 18 pages)
- Performance and financial audits of the commission to be performed at least once every three years.

Community Police Review Agency

- Receives, reviews, and prioritizes all public complaints of police (sworn and non-sworn) misconduct. CPRA is not required to investigate all complaints beyond initial intake. It shall investigate cases involving use of force, in-custody deaths, profiling protected classes, untruthfulness, and First Amendment assemblies.
- CPRA and Inspector General have same access to files as Oakland Police Department internal affairs.
- Agency should aim to complete investigations within 180 days. May go beyond that if necessary.
- Within 30 days after completed investigation, Agency director should make written findings and propose discipline and submit them to the Commission chair and chief of police. If they agree, findings and proposed discipline in serious cases must be issued within 48 hours. City administrator may not reject or modify findings or proposed discipline.
- CPRA and/or police chief make findings and propose discipline. If they do not agree, the Commission forms a Discipline Committee of three members that reviews the case. If time, they can request additional investigation. The Discipline Committee makes a final determination and informs the Chief. The city administrator may not reject or modify the outcome.
- In serious cases, the Commission must approve the Agency's decision on findings and discipline by a majority vote.
- CPRA 2020 Annual Report states 10 staff members – investigators, intake technicians, and policy analyst. In addition to investigations, staff also support Police Commission's policy work.
- Police Commission is in the process of hiring a consultant to research how to transfer internal affairs functions over to the CPRA.
- Office located at 250 Frank Ogawa Plaza – also home to city permit center, Finance Dept., Housing Resource Center.
- No mediation program
- No independent review of shootings

- Annual Report – staffing, investigative process, accomplishments and challenges, working with the Police Commission, statistics and policy recommendations (2020 report – 51 pages)

Office of Inspector General

- Responsible for auditing compliance with requirements of federal settlement agreement, even after the agreement expires.
- OIG ensures that all allegations of police officer misconduct are thoroughly investigated, and identifies any systemic issues regarding Department and Agency practices and policies.
- OIG has access to files and other materials in order to complete the audits.
- Provide reports to the commission and city council and make public presentations upon request.

Community Complaints

Community members may file complaints of police misconduct with CPRA or with the Oakland Police Department – internal affairs.

Portal on website where complainants can check on case status.

Oakland Police Department Internal Affairs

Misconduct complaints/investigations

<https://www.oaklandca.gov/resources/internal-affairs-division-investigative-procedures-manual-policy-ad-hoc>

Note: This section is based on a 2021 draft update to the Internal Affairs Policies and Procedures Manual. The current manual effective date was 2010.

- Internal affairs conducts a parallel investigation with CPRA of alleged misconduct. Not all cases are subject to two investigations.
- Determine policies, practices and training relevant to the case.
- Complaints processed through police dept. intake section.
- Conduct interviews with witnesses and subjects.
- IA investigators complete a Report of Investigation. It is based on information gathered during the investigation, draw conclusions and arrive at findings based on the preponderance of evidence. Possible findings: Sustained, Unfounded, Exonerated, or Not Sustained.
- Possible disposition of complaints: administrative closure or open with investigation. Investigations of serious cases forwarded to Investigations Section commander. Others sent to Division Level Investigation.
- Review should be completed within 45 days.
- Eighty-five percent of investigations should be completed within 180 days.
- Discipline Conference – Internal investigations that result in a sustained finding are submitted to the Discipline Officer for a disciplinary recommendation. The Discipline Officer convenes a meeting with the deputy chief or designee in the affected chain-of-command for a confidential discussion of the misconduct, including the mitigating and aggravating factors and the employee's overall performance

- Officers are entitled to a Skelly hearing when there is a sustained finding and recommended discipline is dismissal, demotion, fine, or suspension.

Force Investigation Section

- Responsible for Level 1 force incidents, Level 1 vehicle pursuit incidents, and other incidents as directed by the IAD commander or chief of police.
- FIS personnel on standby so they can respond to call outs.
- Investigations Section commander responsible for coordination among Criminal Investigation Division, CPRA, and Patrol.
- FIS conducts investigations. CPRA requests for investigative materials and information must be fulfilled within 10 days.
- Use of force, in custody death investigative report due within 60 days of incident, unless extended by IAD commander and city attorney.
- FIS commander reviews file for completeness within 15 days of completion of investigation.
- Investigative file submitted to city attorney at least 30 days before presentation to chief or Force Review Board or Executive Force Review Board.

(Information on internal affairs came primarily from this draft manual: <https://cao-94612.s3.us-west-2.amazonaws.com/resources/IAD-P-P-Manual-DRAFT-9Nov20-Final.pdf>)

Miscellaneous

Both Police Commission and CPRA report insufficient budgets as barriers to their work. For example, CPRA could increase the number of cases in which it is involved and engage in community outreach if its budget were larger. Police Commission will have one full-time chief of staff for the first time. Up until recently they had a part-time/on-call administrative assistant.

Unanswered Questions

- Is there a final version of the Internal Affairs Policies and Procedures Manual or is there information with details on how internal affairs conducts investigations?
- Budget for Police Commission and CPRA?
- Time limits on submitting complaints?
- What is included in Police Commission training?

Additional Information

Advocacy organization instrumental in voter approval of new oversight system

Coalition for Police Accountability (Oakland)

<https://www.coalitionforpoliceaccountability.com/>

News articles

From scandal to scrutiny: How intense citizen oversight reshaped Oakland police

April 6, 2022

<https://calmatters.org/justice/2022/04/oakland-police-citizen-oversight/>

Oakland's last police chief will probably have her day in court March 31, 2022

<https://oaklandside.org/2022/03/31/oaklands-last-police-chief-will-probably-have-her-day-in-court/>

Oakland Police Commission Fires Lead Investigator March 28, 2022

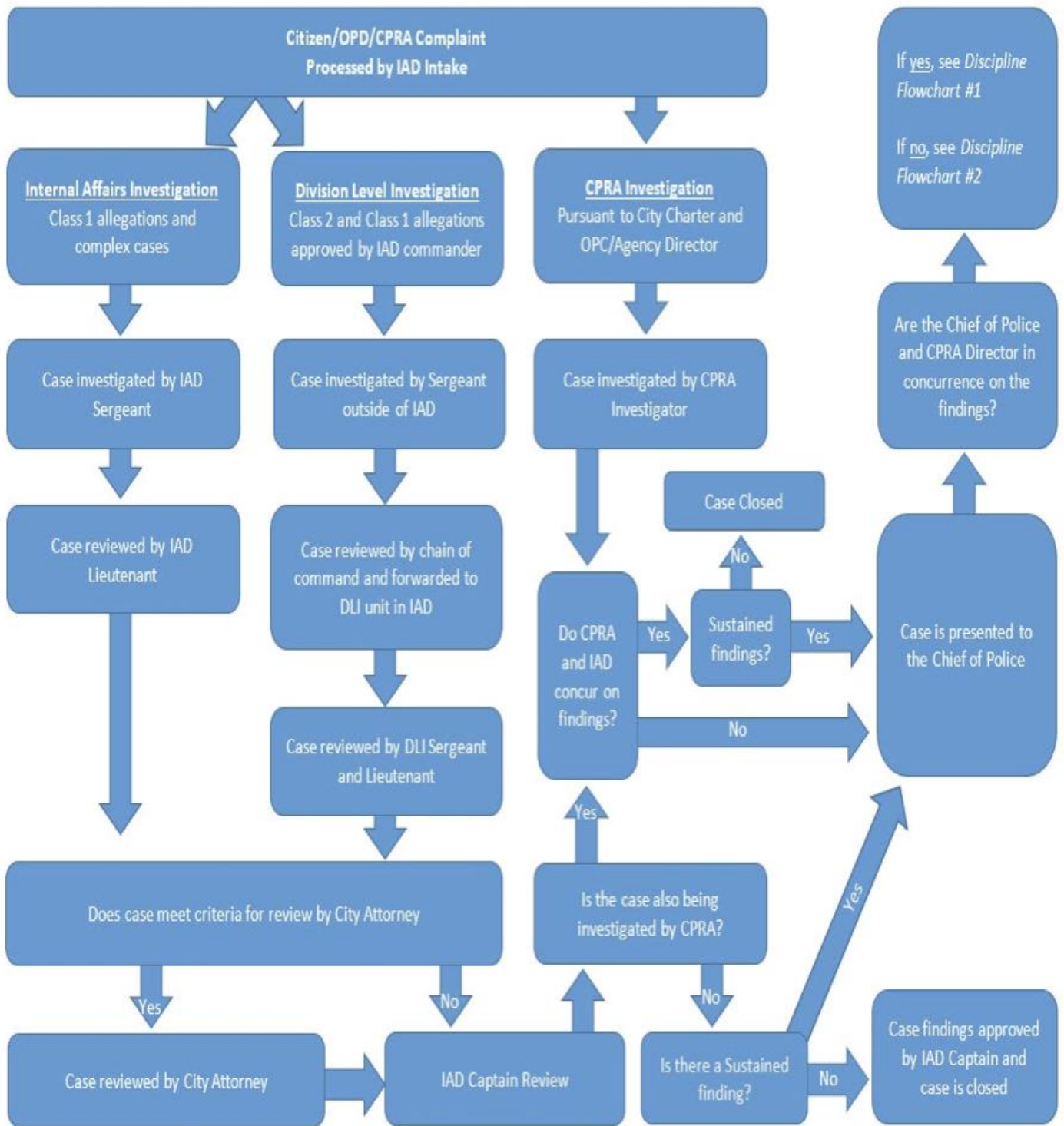
<https://oaklandside.org/2022/03/28/oakland-police-commission-fires-lead-investigator/>

Oakland Police Commission Abruptly Fires Executive Director Nov. 9, 2018

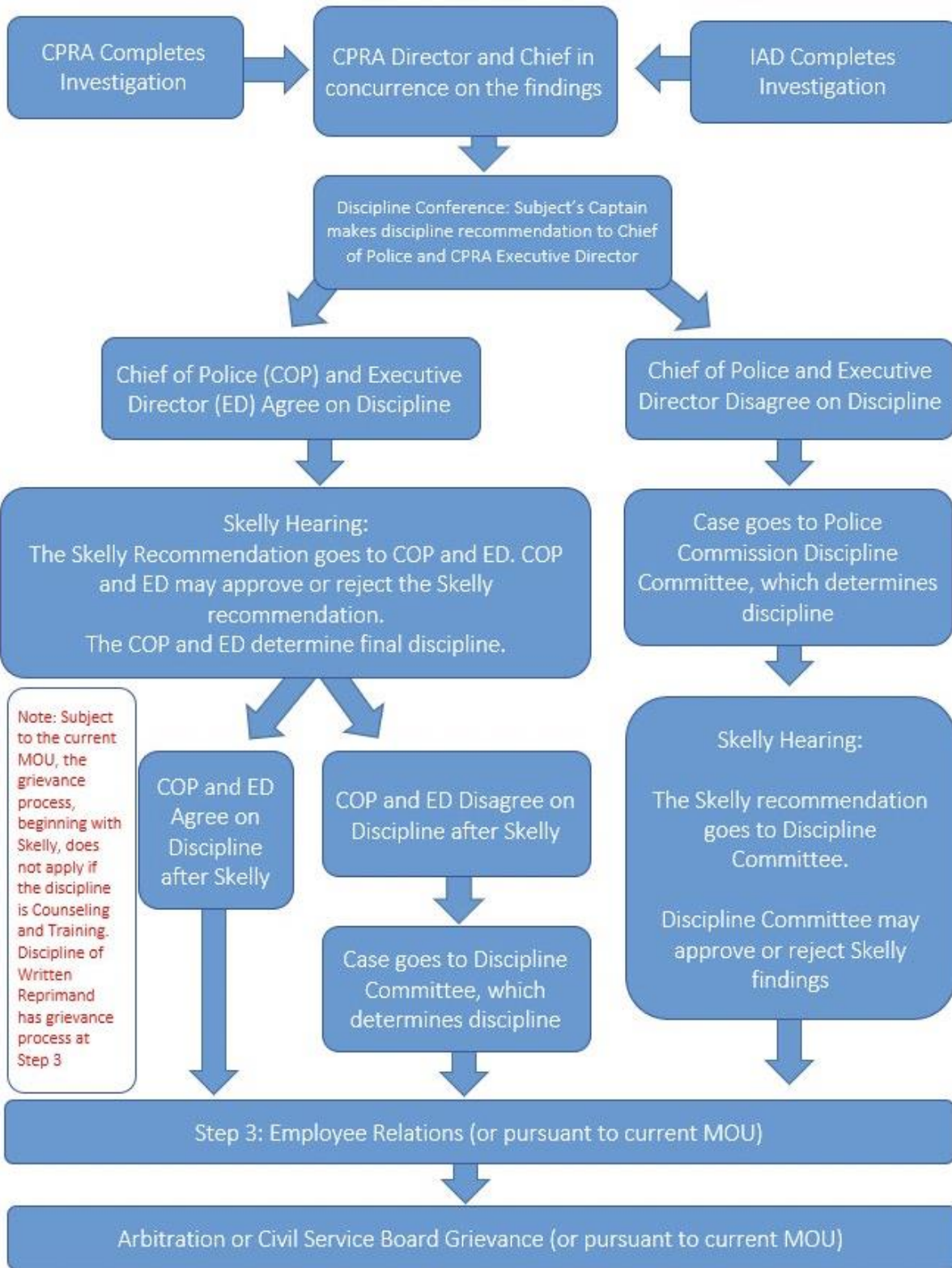
<https://eastbayexpress.com/oakland-police-commission-abruptly-fires-executive-director-of-its-investigative-agency-2-1/>

Flowchart on next three pages comes from the draft IA manual.

IAD INVESTIGATIONS WORKFLOW



Discipline Flowchart #1 – OPD and CPRA Agree on Findings



Discipline Flowchart #2 – OPD and CPRA Disagree on Findings

