



REGULAR MEETING AGENDA
PUBLIC SAFETY REFORM AND OVERSIGHT COMMISSION
VIRTUAL MEETING
Thursday, October 14, 2021
5:30 P.M.

Join the meeting at: <https://bluejeans.com/540059081/0079>

Call to Order

Roll Call

NOTICE IS HEREBY GIVEN that a regular meeting of the PUBLIC SAFETY REFORM AND OVERSIGHT COMMISSION will be held at 5:30 p.m., on THURSDAY, AUGUST 12, 2021, VIA TELECONFERENCE PURSUANT TO EXECUTIVE ORDER N-29-20 ISSUED BY, GOVERNOR GAVIN NEWSOM at <https://bluejeans.com/540059081/0079> for the purpose of only conducting the following business.

Please note that Agenda Items may be reordered during the meeting at the discretion of the body.

1. Special Agenda Items

2. Consent Calendar

a. Approval of Minutes of the following meetings:

1. May []
2. June []
3. July []
4. August []
5. September 9, 2021

3. Study Session – no items

4. Continued Items -no items

5. Administrative Proceedings – none

6. Staff Administrative Items

- a. Receive and file status update or staff report on the status of information requested by Commission re complaints, discipline and related matters (pending since June 16, 2021).
- b. Receive and file report on Commission's August 12 Request to City Manager or City Attorney to provide information on status of hiring Inspector General to support and work at the direction of the Commission, including selection process, conflicts of interest process and key contractual terms.
- c. Receive and file report on Commission's August 12 Request to City Manager to provide the Commission with regular status updates on the search for a new Police Chief.
- d. Receive and file status update or staff report on the status of recommendations from the Public Safety Reform Advisory Committee and provide direction to staff on next steps.
- e. Receive and file status update or staff proposal on structuring community engagement and community input into the Commission's work and provide direction to staff on next steps.
- f. Receive and file status update or staff report on proposed process for the Commission to evaluate issues relating to SMPD interaction with the unhoused population and provide direction to staff on next steps.
- g. Receive and file status update or staff report on identifying additional training opportunities for understanding racial equity and provide direction to staff on next steps.
- h. Receive and file status update or staff report identifying additional training opportunities for oversight of law enforcement and provide direction to staff on next steps.

7. Public Hearing – none

8. Resolutions – none

9. Written Communications

10. Public Safety Reform and Oversight Commission Member Discussion Items

- a. Review, edit and approval of draft written report and recommendations to City

Council regarding OIR Group Report, SMPD Response, and Commission's intended work plan. Discussion of [SMPD July 29, 2021 Information](#) Item and SMPD Response to [OIR Group report](#) on May 31, 2020 events See attached Chair Report for Draft PSROC Report.

b. Committee Reports: Accountability Systems

11. Public Input: The Commission will provide time for additional public input on matters within its purview on items that were not on the agenda. State law prohibits the Commission from taking any action on items not listed on the agenda, including issues raised under this agenda item.

Adjournment

STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS:

- Treat everyone courteously
 - Listen to others respectfully
 - Give open-minded consideration to all viewpoints
 - Focus on the issues and avoid personalizing debate
1. Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions

This agenda is available in alternate formats upon request. If you require any special disability related accommodations (i.e. sign language interpreting, language interpretation, etc.), please contact the City Manager's Office via Lisa.Parson@smgov.net at least 1 day prior to the scheduled meeting.

This agenda is subject to change up to 72 hours prior to a regular meeting. Please check the agenda for prior to the meeting for changes.

Transportation Information: This meeting is being held virtually. No in person access is available.

Public Safety Reform and Oversight Commission

APPENDIX B TO REPORT TO CITY COUNCIL
Review of SMPD Response to OIR Report

Summary of OIR Group Key Findings

- Several leadership and planning deficiencies that contributed to mishandling the response to May 31, 2020 events
- The standoff with protesters on Ocean Avenue was not handled well and negatively impacted deployment to other areas
- The large-scale arrests, mostly for curfew violations, were problematic
- Post May 31 public communications were flawed
- Internal trust and cohesion issues persisted

Intersections of OIR Group Report and PSROC Goals

- Protests and Crowd Management Systems (Recommendations # 11, 17, 20, 22, 23, 24, 30, 32, and 33);
- Accountability Systems (Recommendations # 9, 10, 36, 38, 39, and 40);
- Use of Force Systems (Recommendations # 8, 10, 11, 12, 14, 15, 30, 34 and 35);
- Specific Incidents of potential serious violations of SMPD policies (examples at pp. 102-103, and BWC violations)
- Officer Safety and Wellness (Recommendation #42)

Protests/Crowd Management Systems

- Rec. #20: SMPD and the City should engage with the community as it considers the circumstances required for a public protest to be declared an unlawful assembly. The resulting guidelines should be publicized in a way that provide[s] City residents and stakeholders a clear understanding of under what circumstances the SMPD will declare and unlawful assembly.
- SMPD Response: SMPD agrees with this recommendation. SMPD, along with the CAO, will work with PSROC to solicit community input for and draft guidelines on the circumstances required for a public protest to be declared an unlawful assembly and the process for disseminating this information for public education.

Protests/Crowd Management Systems

Rec. # 32. The City should engage with its community in developing guidelines on whether and how curfews should be deployed, particularly when adjacent to First Amendment protected activity

SMPD Response: SMPD agrees with this recommendation. The CAO has agreed to solicit community views on appropriate guidelines for implementing curfews. CAO will conduct outreach with the seven recognized neighborhood groups, Downtown business owners and operators, and the Chamber of Commerce. CAO will also work with the City's Communications team to identify additional outreach efforts.

What PRSOC Should Do

- The Protests/Crowd Management Systems Standing Committee should engage in activities to ensure there is public dialogue with SMPD on the issues raised by the OIR group report concerning how protests are handled.
- The Committee should have dialogue with SMPD and community stakeholders to help ensure that appropriate systems, policies and trainings exist to promote the safety and wellbeing of the public, SMPD personnel, business entities, and other stakeholders, including protesters, when First Amendment activity occurs in our City.

Accountability Systems

- Rec. # 39: SMPD should identify and consider appropriate remediation for those officers who failed to comply with the Department's body-worn camera policy on May 31, 2020.

Accountability Systems

- SMPD Response to Rec. # 39: SMPD agrees with this recommendation. [General explanation of circumstances omitted here] In those instances where officers did not have their body-worn cameras or did not activate the cameras, the actions are in contravention to Department policy governing body-worn camera activation and accordingly do not reflect best and most promising practices. Although SMPD has been actively reviewing protocols and practices associated with body-worn cameras, the use of these cameras will be a focus of upcoming Advanced Officer Training in September 2021.

What PRSOC Should Do

- The Accountability Systems Standing Committee should engage in activities to ensure there is public dialogue with SMPD on the issues raised by the OIR group report concerning how body-worn cameras are used.
- The Committee should have dialogue with SMPD and community stakeholders to help ensure that appropriate systems, policies and trainings exist to concerning the use of body-worn cameras to promote transparency and trust to the public, SMPD personnel, business entities, and other stakeholders.
- The Committee should also follow up on the specific remedial actions, if any, taken by SMPD leadership concerning the May 31 violations

Use of Force Systems

- OIR Group recommends an examination of several aspects of SMPD's Use of Force policies, practices, training and reporting, including activities involving "Less lethal munitions" (Rec #8, 12, 13); Flashbang devices (Rec #9); Pepperball deployments (Rec #10); policy language (Rec #11), and use of tear gas (Rec. # 14, 15)
- SMPD generally agrees with each recommendation

What PRSOC Should Do

- The Use of Force Systems Standing Committee should engage in activities to ensure there is public dialogue with SMPD on the issues raised by the OIR group report concerning Use of Force, including use of less lethal munitions and tear gas during First Amendment Activities.
- The Committee should have dialogue with SMPD and community stakeholders to help ensure that appropriate systems, policies and trainings exist concerning the use of force to promote public safety for the public, SMPD personnel, business entities, and other stakeholders in our City.

Officer Safety and Wellbeing

Rec. #42: SMPD should review its systems for supporting officer wellness, including the availability of counselors and other professionals, and should consider ways to encourage officers to take advantage of those programs who may be struggling with the trauma of the events of May 31 and other events of the past year.

SMPD agrees with this recommendation.

What PSROC Should Do

Officer safety and wellbeing is a critical aspect to having a well functioning, healthy and safe police force;

Wellbeing of officers is fundamental to creating a safe environment for our community as officers engage in their day- to-day activities;

PSROC should find ways to engage in dialogue with SMPD and help support policies, practices, and trainings that help promote and ensure the safety and wellbeing of officers across all of its dimensions.

End of Presentation

City of Santa Monica
Public Safety Reform and Oversight Commission
Report to City Council regarding:
OIR Group Findings and SMPD Response Concerning May 31,
2020 Events
[Draft of October 8, 2021]

Dear Mayor Himmelrich, Mayor Pro tem McCowan, and Councilmembers:

Introduction

Earlier this year, City Council received and reviewed the OIR Group Report and discussed its implications. The OIR Group Report contained sharp criticism of SMPD on numerous topics, including critiques of SMPD's leadership, communications, policy flaws, and violations of policy and other potential misconduct by officers during the May 31, 2020 protests, opportunistic looting, and related events. The City Council asked the SMPD to provide a detailed response to the OIR Group Report within sixty days, and asked the Public Safety Reform and Oversight Commission (PSROC) to provide a report back to City Council reflecting our assessment and how the PSROC plans to incorporate the OIR Group's recommendations into the Commission's overall work plan. That report was scheduled to be completed by late September, but has been delayed as a result of the litigation brought by the SM Police Officer's Association to block the PSROC from operating.

Our overall goals include developing a sound, professional and independent relationship between the SMPD and the Commission, so that we may work together productively on important issues. The Commission will pursue transparency, objectivity and community engagement as core principles as we pursue our work.

The culmination of numerous events of the past few years, along with our review of the OIR Group Report places the Commission in a crucial position to help our city pursue several key questions. How do we make sure that the challenges that arose on May 31, 2020 do not happen again? How can we establish a culture of accountability in public safety? How do we build stronger relationships between the Commission and the SMPD as well as between the SMPD and our community, and promote transparency and trust?

The Commission appreciates the City Council's continued support for independent civilian oversight and our shared goals of making Santa Monica a leader in maintaining an environment where everyone feels safe, welcome, and has the opportunity to thrive.

Summary of Commission 2021-2022 Workplan Incorporating Findings re OIR Group Report

Our workplan incorporates the Commission's goals for follow up and attention to the issues arising from May 31, 2020 events, including those identified in the OIR Group Report and information the commission has learned through its public sessions.

We have formed six committees. Each committee will address one or more substantive issues, in collaboration with SMPD, to pursue our overall goals of promoting the best practices in community oriented policing, ensuring that SMPD practices reflect community values, and striving to continue improving safety and wellbeing for all of our city's residents and visitors.

Each committee will consider issues arising out of the May 31, 2020 events that the Commission believes merits review and follow up:

Accountability Systems: Complaints, Investigations and Discipline.

The committee will review instances of misconduct raised by the OIR report and in public testimony and evaluate the overall system of complaints, investigations and discipline. The committee will make recommendations to the full Commission to consider.

Protests and Crowd Management Systems.

This committee will review the SMPD practices and policies for managing protests, with a view to the flaws in those practices flagged by the OIR report and broadly discussed in the public discourse. We will work with SMPD to co-host a series of public and transparent dialogues for those civilians and officers who were personally involved with, or caught up in, the protests and/or the defense of businesses on May 31, 2020. We will also work with SMPD to co-host additional dialogues about how future events should be handled to ensure that a proper balance is in place to protect the safety of all people while respecting our constitutional rights to free expression and peaceful protest.

Reimagining Public Safety.

The Reimagining Public Safety Committee will assist the Commission in understanding new and innovative approaches to public safety. The committee will follow up on the recommendations adopted by the City Council on September 8, 2020 in response to an advisory committee formed after the May 31, 2020 protests and related events. This committee will take into account the circumstances that led to large scale protests on May 31, and the handling of those protests by SMPD, as reflected in the OIR report and public testimony.

Use of Force Systems.

This committee will work with SMPD to evaluate its overall Use of Force systems, including policies, training, reporting, transparency and accountability. The committee will take into account the numerous instances identified by the OIR report of conduct that is inconsistent with the best practices in community oriented, safe, and equitable policing and make recommendations to the Commission concerning how to address the misconduct as well as how to reform the relevant policies, training, reporting, transparency and accountability.

Community Engagement.

This committee will work with SMPD to promote deeper engagement between the Santa Monica community and the police who serve us, including a) co-hosting a series of public and transparent dialogues for those civilians and officers who were personally involved with, or caught up in, the protests and/or the defense of businesses on May 31,2020 to promote healing and understanding; and b) exploration of innovative ways to address lingering mistrust from past incidents that have yet to be resolved.

Operations, Staffing and Budget.

This committee will work to help the Commission understand the details of how SMPD works to keep us safe. It will incorporate into its work many issues raised by the OIR report reflecting systemic leadership challenges in SMPD, and coordinate with other committees on overlapping issues.

Further details of the Commission's review of the OIR report are below. We have also attached the Commission's Annual Work Plan as Appendix A, and additional details on the intersection of the OIR report with the work of the Commission as Appendix B.

Summary of Findings:

Over the months since its inception, the Commission has been reviewing and discussing the OIR Group report and its implications for our work on oversight and reform of policing in Santa Monica and reimagining public safety. The Commission received an ad hoc committee report with that committee's initial review and recommendations on major themes and priorities they observed. We have had discussions at our regular Commission meetings to solicit individual Commissioner input and public input. In addition, the Commission's standing committee on Operations, Staffing and Budget held weekly special meetings for the purpose of ensuring each Commissioner opportunities to provide input and opinions about the OIR Group Report and to help shape our conclusions and work plan going forward. We have also received substantial public comment on the events of May 31, 2020 and their implications.

The following is a summary of our assessment:

- The events of May 31, 2020 put the SMPD under stressful conditions that revealed structural and planning and operational weaknesses in the department.
- Leadership of SMPD failed our community on May 31, 2020 and perpetuated false and misleading information about the status and operations of SMPD in the immediate aftermath of the events and continuing through to the present. Notably, the OIR Group Report observed that "it is only fair to put SMPD's shortcomings in context," noting that law enforcement agencies all over the country were overmatched by the size, scale and complexity of the unrest that followed George Floyd's death. OIR Group also noted that SMPD cooperated fully in its investigation.
- The SMPD's policies, training, and tactics, along with deficient planning and execution of a well-defined action plan, caused injury to peaceful protesters while failing to anticipate and prevent systematic and well-organized looting of businesses by criminals.
- SMPD used "less lethal munitions" on peaceful demonstrators who found themselves trapped between Police and violent criminal acts of assaults of rocks and bottles toward police. Public testimony in a recent Commission meeting further revealed an incident in which an SMPD officer pointed his rifle at the back of an elderly African-American female passerby who was crossing an intersection and another incident in which kinetic projectiles were shot indiscriminately into a crowd of protesters and a rubber bullet was shot and hit a young African-American woman who had her back to the officer who fired it.
- Numerous instances of potential officer misconduct occurred, including misuse of tear gas, pepper spray and flash grenades, along with widespread officer failure to use body worn cameras. Officers appeared to have engaged in potential misconduct against defenseless and peaceful residents of Santa Monica and have not been held accountable.
- The SMPD leadership failed to appropriately investigate and hold officers accountable for potential misconduct on May 31, 2020. The Commission is concerned about

whether SMPD does not have an adequate system of holding officers accountable for misconduct.

- SMPD and its leadership have failed to adequately engage in community dialogue in its attempt to remedy the numerous flaws revealed on May 31, 2020 and in the OIR Group Report. The core reason is that there has not been a robust dialogue with the Commission or the community about each of the major systemic challenges revealed and a lack of effort to co-produce the solutions with the community. For example, SMPD accepts all of the OIR Group's recommendations and claims that they have essentially "fixed" all of their problems, yet they did not involve the community in developing so-called fixes. Instead, they have continued to act in complete disregard of the PSROC on both routine and important policy matters in recent months.
- SMPD's Use of Force system is flawed. Its policies are not reflective of best practices, and it does not have an adequate system of reporting and accountability. SMPD has indicated that it is working on modifications to its Use of Force system. SMPD needs to work with the PSROC and the community to co-produce the improvements and changes to ensure they reflect community values.
- SMPD's Protests and Crowd Management system is flawed. It's policies have not been updated to reflect community values and are not transparent. It does not have an appropriate system to train officers and hold them accountable for compliance. SMPD acknowledges these challenges and needs to work with PSROC and the community to co-produce the solutions to ensure they reflect community values.
- The Commission is concerned about whether SMPD does not have appropriate systems for intake, tracking and transparency of complaints. SMPD has provided training to the Commissioners to educate us on current approaches and practices on this topic. The Commission has also received public comment on the ways in which these systems have failed to satisfy the needs of the community.

As noted, we intend to incorporate each of the above issues into our work plan going forward. Our intent is to work with the new leadership of SMPD to promote more cooperation and dialogue between the Commission and SMPD and to develop a functioning working relationship. We also expect to work with the SMPD and provide our input on each important policy and the related training approaches and accountability mechanisms.

PSROC will delegate the initial work on each theme to the standing committees it has created and ask those committees to do the detailed work and make preliminary recommendations on key issues. Each standing committee will be encouraged to incorporate volunteers from the Santa Monica community to assist with the work, consistent with Commission rules. We anticipate the full Commission making regular suggestions, recommendations and proposals to the appropriate persons or groups within the City, including to the new Police Chief, City Manager, and City Council.

Key Findings and Recommended Follow Up.

Leadership

The OIR Group Report flagged substantial weaknesses in the overall leadership of SMPD that were manifest because of the urgent and emergency situations that unfolded on May 31, 2020. We are concerned that these leadership challenges may persist within the department and further work needs to be done. We look forward to the opportunity to engage with the newly appointed Police Chief on these issues.

We would also like to understand how the SMPD leadership will organize its response to future incidents similar to the events of May 31, 2020. The Commission recognizes that not all tactical plans can or should be revealed to the public. Nevertheless, there is a role for transparent discussion with the public about what to expect during critical situations.

PSROC Leadership recommendations:

We will ask our Operations, Staffing and Budget standing committee to evaluate the following suggestions:

- PSROC should engage in regular and meaningful dialogue with the new Police Chief;
- PSROC should discuss with the new Police Chief the qualities and skills required in other SMPD leaders that would be helpful for promoting trust and transparency with the Commission and the community;
- City Manager should require Police Chief to develop a plan for positively interacting with the Commission and collaborating on policy and other matters of public safety;
- City Council should insist that contract with new Police Chief contains goals for accountability of the department and its officers;
- City Manager should design performance goals for the new Police Chief that include measures for community engagement and cooperation with the Commission.

False Narrative.

The Commission is concerned that the SMPD and other City officials have used evasive and untrue language when communicating to the public about matters of concern. That conduct has not been limited to the former leadership of SMPD and we are concerned that the practice has continued to the present.

The OIR Group report strongly criticizes the former Police Chief and other City leadership for attempting “to put a positive spin on the events [of May 31, 2020] rather than candidly acknowledging the significant shortcomings in SMPD’s response.” [OIR report at p. 96] In short, the Chief and other City leadership did not tell the public the truth about what happened on May

31, 2020.

We believe the false narrative promoted by SMPD during 2020 included the following:

- Statements denying that credible evidence existed forecasting possible demonstrations and looting in Santa Monica on 5/31;
- The former Police Chief and Interim City Manager both asserted that SMPD deserved a “Strong A” for its performance on 5/31. Neither chose to publicly modify their statement, despite overwhelming evidence of its inaccuracy; they also touted the techniques and training of SMPD and expressed gratitude for having kept the City safe on May 31. [OIR report at p. 96]
- The volume of footage captured by SMPD officer’s body-worn cameras was regularly cited by top city officials as a primary reason for explaining why a meaningful report on the events of 5/31 was not made available to the public for 13 months. These officials neglected to inform the public that approximately half of the officers did not activate their body-worn cameras, resulting in far less footage than would have been expected;
- SMPD leadership and other city leaders made conflicting and inaccurate statements to the public about the progress and value of the internal SMPD After-Action Report. Ultimately, that work product was roundly criticized by, and proved to be of little use to, the OIR investigators;
- The public was given false assurances on multiple occasions that the completion of an authoritative After-Action report was imminent when it was not; this led to delays in hiring OIR Group and further fueled community skepticism and mistrust.

The OIR Group reported that the “dissonance between the Department’s message and the public’s experience (either in person or watching on television) caused a serious rift in trust that increased the unease of many Santa Monicans in relation to what had transpired on May 31.” [p.97]

PSROC False narrative recommendations:

The Commission will seek to understand whether the false narrative promoted to the public in the wake of the May 31 events was reflective of a systemic problem within the department.

In addition, we will want to understand what steps have been taken to date to ensure that the public receives accurate and truthful information from the SMPD.

If a critical incident occurs in the future, the Commission will want clarity from SMPD regarding what actions should the public expect from SMPD concerning a report on what happened.

City Council and City Manager should insist that SMPD become more transparent about all aspects of SMPD activities;

Commission should evaluate the operation and structure of public communications within the SMPD and consider ideas for improvement.

Body Worn Camera Compliance Issues.

The Commission believes that there has been insufficient detail provided about the lack of compliance with the Body Worn Camera (BWC) policy by SMPD officers on May 31, 2020. For example:

- When questioned at a PSROC meeting, Interim Chief Seabrooks could not answer questions about exactly how many officers were investigated for being non-compliant with SMPD BWC policy on May 31, 2020.
- Additionally, at that meeting, the Interim Chief was unable to state how many officers were disciplined for non-compliance, how many were found to have not violated BWC policy after being investigated, or what discipline, if any, was administered for those found to be non-compliant.
- Upon further questioning by Commissioners, Interim Chief Seabrooks was advised not to answer whether a finding of intentional non-compliance, to hide events that should be video recorded under the BWC policy, would constitute an act of dishonesty under California Penal Code § 832.7. Interim Chief Seabrooks only answered the most pointed questions directly and did not offer information beyond the strict confines of each question.

The Commission still does not know the details about the officers disciplined, such as the specific conduct, and what the discipline was. We don't have sufficient information about the conduct of the officers who did not comply and were not disciplined. We don't have information on the policy or how it is enforced, or what changes have been made to the policy or procedures in response to the OIR Group report.

PSROC Body worn camera recommendations:

We will ask our Accountability standing committee to evaluate the following suggestions:

- Commission should seek assistance of the Inspector General to follow up on details of noncompliance with BWC rules;;
- Commission should obtain camera footage and audio from outside agencies who participated in May 31, 2020 activity in Santa Monica;
- Commission should demand immediate receipt and publication of SMPD's body worn camera policy;
- Commission should insist that training and policy on use of cameras be evaluated with a goal of adopting the latest best practices for use of such cameras to enhance their legitimacy and trust within the community.

Accountability And Discipline.

The Commission wants to determine whether the systems of accountability and discipline need to be strengthened. The interim Chief was not able to provide complete answers to PSROC Commissioner's questions about non-compliance with body-worn camera requirements, and the public was not informed about the existence of any disciplinary investigations or the outcome of such investigations until PSROC made inquiries. In addition, the OIR Group Report identifies numerous incidents they observed on camera footage that should have resulted in misconduct referrals and investigative follow up. SMPD has given no indication that they have taken those matters seriously or have done any follow up. If so, the process and results have not been transparent.

As noted above, when questioned at a PSROC meeting, Interim Chief Seabrooks could not provide satisfactory details about the issues raised.

The system of intake for complaints is obtuse and not user friendly. In addition, supervising officers have a great deal of discretion to treat complaints informally. Such informal treatment results in a lack of transparency to the public about the nature of complaints and how they are handled.

In addition, the SMPD has been resistant to routine inquiries that involve public records about discipline. In response to our initial inquiries, the SMPD and City officials failed to provide any response for almost 90 days, despite the fact that the requested records are not protected or confidential and are required to be released to the public upon request.

PSROC Accountability recommendations:

We will ask our Accountability standing committee to evaluate the following suggestions:

- consider modifications to the Commission ordinance to provide further accountability mechanisms and enhance the involvement of the Commission in the accountability process.
- evaluate whether the Commission should have subpoena power.
- evaluate revisions to the discipline procedures for the SMPD.
- continue to invite the Police Chief and SMPD leadership to respond to Commission questions and provide specific answers.
- In addition, while the commission understands the Department's requirement to maintain confidentiality of police personnel records, we ask Police Administration to provide the following as a result of May 31, 2020
 - Number of Personnel complaints initiated.
 - Number of Personnel complaints investigated

- Number of complaints unfounded, exonerated, not-sustained, sustained.
- Of Sustained investigations, what was the disciplinary or remedial/corrective action taken.
- If disciplinary action cannot be taken due to Gov. Code 3304 statutory limitations, those need to be identified. Full transparency.

Involvement Of Outside Law Enforcement Agencies On May 31, 2020.

There is interest in learning more about the role of outside law enforcement agencies during the events on May 31. There is insufficient information about efforts to obtain BWC footage from those agencies or what efforts were made to evaluate the conduct of those outside agencies during the protests.

Our recommendation is that the Commission discuss with the new Inspector General and new Police Chief what additional steps can be taken to obtain the missing footage.

PSROC Lawful Assembly Best Practices.

SMPD mishandled the peaceful protests on May 31, while allowing systematic burglary and looting of small businesses by opportunistic criminals. It is important to understand what are the best practices for lawful assembly and First Amendment related activities and what steps will be taken to prevent reoccurrence in the future.

The OIR Group report also identifies flawed language in the written policies as well as flawed implementation of appropriate handling of protests on May 31, 2020. This reveals overall flaws in the system for handling protests, which include policies, training, and a system for transparency and accountability.

SMPD claims to have remedied any such flaws, but their refusal to appropriately engage in a detailed conversation with the Commission or interested community members reveals one of its key flaws.

Lawful assembly best practices recommendations

Our recommendation is that the Commission's standing committee on Protest and Crowd Management Systems should work with SMPD and have a transparent and public dialogue to address the issues set forth above and to insure that SMPD policies, practices, training, and reporting systems reflect the best practices as well as the community values for Santa Monica.

Use Of Force During Protests.

The Commission has concerns about the various uses of force that occurred during the May 31, 2020 events. SMPD shot tear gas into crowds under inappropriate conditions and without appropriate exit routes. The Commission received public testimony recently that the SMPD shot pepper spray at Santa Monica residents, including at least one African American woman who was a former PAL participant and was known to them. Public testimony also asserted that SMPD pointed a rifle at the back of a Black woman Santa Monica resident, standing afraid in the middle of protest activity. She explained that she remains traumatized to this day. The OIR Group also identified numerous examples of additional potential misconduct that should have been investigated by SMPD.

In addition, the OIR Group Report reveals significant issues regarding the policies and training on Use of Force by SMPD. Again, SMPD claims to have remedied any such flaws, but their refusal to appropriately engage in a detailed conversation with the Commission or interested community members reveals one of its key flaw.

PSROC Use of force recommendations

Our recommendation is that the Commission's standing committee on Use of Force Systems should work with SMPD and have a transparent and public dialogue to address the issues set forth above and to insure that SMPD policies, practices, training, and reporting systems reflect the best practices for Use of Force including reflecting the values of the community of Santa Monica.

Transparency.

The Commission believes improvement is necessary in transparency between SMPD, the City Attorney's Office and the community. The Commission has not had working communications channels with SMPD leadership and has had difficulty getting responses to routine information requests. There has been no attempt to establish mechanisms for regular engagement with the Commission and SMPD leadership or with the sworn officers and POA leadership.

Outside of public record requests, SMPD has been resistant to undertaking reformatory efficiency measures regarding notification and production of "Brady evidence" to prosecutors and defense attorneys. For this report, "Brady Evidence" is evidence that would reflect on an officer's credibility, and such evidence would be findings of excessive force, actions of dishonesty, or even arrests or convictions for crimes by an officer.

"Brady Evidence" arises out of a United States Supreme Court Case *Brady v. Maryland*, 373 U.S. 83 (1963). The court found that the notification and production of this type of evidence were constitutionally required. While no one disagrees that the Constitution of the United States mandates the production of Brady evidence, the failure to notify and produce this evidence remains an issue today. In his dissent (4 other Judges joined), Former 9th Circuit Chief Judge Kozinski

wrote, "There is an epidemic of Brady violations abroad in the land." United States v. Olson 737 F.3d 625 (9th Cir. 2013)

To correct this problem, many have suggested that police departments and prosecutorial offices keep an internal "Brady List." A "Brady List" is an internal list of officers who have committed "Brady Violations" (misconduct arising to the point of mandating disclosure). A Brady List allows Police Departments to quickly and efficiently notify prosecutors and defendants that an officer in their case has "Brady Hit.." With a Brady List, Brady Evidence does not get disclosed late or missed at all due to a disorganized structure of searching once a criminal case is well underway. In response to creating a Brady List by San Francisco Police Department, the California Supreme Court wrote, "...[i]n this case, the police department has laudably established procedures to streamline the Pitchess/Brady process" People v. Superior Court 61 Cal.4th 696 (2015) The courts look favorably upon Brady Lists.

Interim Chief Seabrooks informed the Commission that her department does not keep a Brady List. The Los Angeles County District Attorney's Office (LADA) has asked to be notified of officers involved in a case with Brady Hits when a police report and evidence are submitted with a recommendation of charges to be filed. The Commission was informed that Santa Monica Police Department has failed to comply with this request. As a result, LADA and the Santa Monica City Attorney's Office are informed of Brady violations well after a criminal court case has been initiated. Unfortunately, this results in some defendants pleading to crimes without knowing that potentially exonerating evidence lay just out of their reach. SMPD's creation and maintenance of a Brady List would ensure all parties are informed of Brady hits as soon as charges are followed.

PSROC Transparency recommendations

Transparency in all aspects of policing and public safety is a core value of the Commission. The Commission will pursue the improvement of transparency across all of our activities. In addition, our recommendation is that each of the Commission's six committees include a focus on transparency as they go about the work of their respective committees.

Conclusion

The Commission is dedicated to working with SMPD leadership, the SM POA, rank and file officers, and the broader community to help Santa Monica consistently use the best practices in promoting safety and wellbeing for everyone.

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APPENDIX A
Public Safety Reform and Oversight Commission
Work Plan for Fiscal Year ending June 30, 2022
(Adopted July 8, 2021)

During a regular meeting of the Public Safety Reform and Oversight Commission on July 8, 2021 the Commission adopted a work plan to create the following committees, with the indicated goals and assignments:

Operations, Staffing and Budget (Standing Committee)

The goal/charter of this standing committee is to:

- develop a deep, fact-based understanding of the operations of the SMPD. The committee should learn about the basic operating structure of the department, how many sworn and non-sworn officers are employed and how they are used, how the leadership thinks about staffing strategy and challenges, and other aspects of how the department operates.
- This committee should also collect data on stops, citations, arrests and other matters of interest to the Commission and the public concerning public safety and wellbeing.
- In addition, this committee should collect sufficient data about the financial and economic aspects of the department so that it can have an informed dialogue with SMPD leadership about the department's budget and be in a position to make recommendations to the City Manager and City Council on budget issues as they arise, including on the fiscal year 2022-2023 budget.

Community Engagement (Ad hoc Committee)

The goal/charter of this ad hoc committee is to:

- help identify a variety of engagement opportunities for community discussions on matters relevant to public safety and wellbeing and to help the Commission plan and coordinate those opportunities.

Community engagement events may include:

- Conversations to learn about issues;
- Dialogue with SMPD leadership and sworn officers;
- Hearing from people with expertise on issues;
- Listening sessions on issues or involving specific groups
- Focus group sessions to learn the perspectives of various stakeholders
- Community healing conversations using restorative justice approaches

The community engagement work of this committee will overlap with issues and initiatives of other Commission committees and coordination will be necessary.

Use of Force Systems (Standing Committee)

The goal/charter of this standing committee is to:

- evaluate SMPD's overall Use of Force systems; and,
- in collaboration with SMPD, consider policy and system changes that would ensure

SMPD is a leader in using best practices for the fair, safe and equitable use of force.

- The committee should also evaluate the extent to which the PSRAC recommendations on Use of Force policy changes and the corresponding City Council direction have been implemented.
- The committee should also evaluate the use of Lexipol as a vendor for Santa Monica's policing policies, in light of ongoing public critique of the nature of those policies.

Reimagining Public Safety (Standing Committee)

The goal/charter of this standing committee is to:

- assist the Commission in understanding new and innovative approaches to public safety and wellbeing.
- This work should include PSROC's initiative on understanding the challenges of our unhoused population in Santa Monica and the role of SMPD in managing those challenges;
- follow up on the recommendations of the PSRAC committee from September 2020.
- The committee should also learn about other innovations in policing and identify any that may be a good fit for our City.

Accountability Systems: Complaints, Investigations and Discipline (Standing Committee)

The goal/charter of this standing committee is to:

- continue the work of the Ad Hoc committee on complaints, investigation and discipline to develop recommended improvements;
- evaluate the overall systems of accountability of SMPD and the City concerning public safety and wellbeing.
- The work committee should prepare a set of preliminary PSROC recommendations in time to comply with the 150 day timeline set by the City Council when it adopted the PSROC Ordinance.

Note: The deadline for the initial report to the City Council is approximately October 25, 2021, which is 150 days after May 26, 2021 (the date of our first official meeting).

Protests/Crowd Management Systems - OIR Group Report Follow Up (Standing Committee)

The goal/charter of this standing committee is to:

- continue the work of the Ad Hoc committee to prioritize themes from the OIR Group Report and propose next steps for the Commission;
- evaluate the anticipated July 13, 2021 SMPD informational report that will respond to the OIR Group recommendations.
- Assist PSROC to develop an updated work plan within 60 days of receipt of SMPD's response to the OIR report, as previously directed by the City Council; this additional/modified work plan should be prepared by mid-September 2021.