



City of Eureka

Independent Police Auditor
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OIR

GROUP



Teresa Magula | Julie Ruhlin | Michael Gennaco

323-821-0586

6510 Spring Street #613 | Long Beach, CA 90815

OIRGroup.com

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Introduction

In its role as the City of Eureka's Independent Police Auditor, OIR Group reviews internal investigations conducted by the Eureka Police Department (EPD) to ensure they are complete, objective, thorough, and fair and that findings and actions taken in response to the investigations were appropriate. We publicly report these findings on a quarterly basis at the Community Oversight Police Practices (COPP) Board meeting.

We appreciate EPD's real-time engagement with our team and its commitment to timely and thorough investigations, especially when resources and personnel are limited.

Since the start of our engagement, we have observed marked growth in the command staff's commitment to formal accountability.¹ This was most evident in the Department's handling of a particularly troublesome case involving two officers and a supervisor mimicking an Asian driver's accent while watching body-worn camera footage of her traffic stop. Department leadership opened a formal investigation of the incident when it was reported, notified the involved employees, and conducted a thorough investigation. We discuss this case, #23-07, and the unfortunate legal challenges faced by the Department, in more detail below.

EPD's desire to hold supervisors accountable goes beyond this case; we have reviewed several cases, including another in this period, involving allegations of misconduct against supervisory personnel. EPD took these cases seriously, conducted formal investigations, and issued swift and appropriate corrective action. EPD's actions in these cases, which include discipline where warranted, will hopefully serve to support and continue to develop its supervisors.

¹ We specify "formal" accountability because EPD had internal processes in place for informal corrective actions such as counseling or debriefs long before our arrival, but these were not always consistent or tracked.

Correcting, coaching and counseling supervisors is essential, especially for smaller departments like EPD, because supervisors play a critical role in ensuring the effectiveness and professionalism of their teams and, ultimately, of the entire organization. Effective supervisors foster a positive work environment, provide mentorship, and uphold departmental policies and legal standards; EPD recognized this in late-2022, when then-Chief Jarvis restructured the Department to include more “middle-management” type ranks, including promoting patrol officers to sergeants and creating the role of Commander.

We have also seen growth in EPD’s willingness to hold officers formally accountable for internal administrative issues – for example, issues around the body-worn camera policy, the Peer Support Program, and misuse of leave time. We even reviewed a case regarding an officer’s alleged failure to use a turn signal. While these issues may appear insignificant on their face, addressing the “small things” promotes a culture of integrity and professionalism in the long term. In these investigations, we saw EPD successfully balance accountability with flexibility, and support officer well-being while maintaining operational effectiveness. Here again, EPD took steps to correct these deficiencies when they were discovered, even when they were not the main subject of the complaint.

Many of these cases also served to highlight areas of confusion over policy or procedures that have since been trained or clarified. One of these continues to be the body-worn camera policy, which the Department is still in the process of updating and finalizing. We again recommend that EPD finalize this important policy, though we are mindful of the need to balance the increased investigation caseload and other operational priorities.

As to operations: in the last period, the Department has made progress in staffing and recruitment: it has three new Cadets in “Phase 1” of their training program and a possible four Academy graduates in the summer. And, after the recent earthquake, it is also developing a comprehensive disaster preparedness plan to address future potential natural emergencies.

We also use this report to encourage COPP Board members to attend the Department's Critical Incident Review Board to be held in the near future so as to provide a community voice and perspective.

Complaint Case Summaries & Recommendations

In the following cases, EPD provided the investigative file for our review when it determined that the investigation was sufficiently complete. After constructive dialogue, we provided feedback and recommendations, which EPD considered and often adopted before the case was sent to the Chief for final disposition and closure.

The cases reported here are now officially closed.

Case #23-07

Summary: Department initiated investigation of use of body-worn camera, discrimination, and harassment. During the investigation, the Department noted additional concerns regarding the confidentiality of Internal Affairs investigations. EPD sustained some of the allegations but found that many of the allegations could not be proven or disproven. While the IPA found the investigation itself to be thorough, this case faced unfortunate legal challenges that impacted the Department's ability to issue formal discipline.

After an officer made a traffic stop of a driver with an accent,² that officer showed his body-worn camera recording to another officer and a supervisor; they mimicked the driver's statements. Another officer reported this conduct to a supervisor. The Department immediately issued these involved employees a "Notification of Administrative Investigation," which, among other things, explicitly advises employees not to discuss the ongoing investigation with any other employees.³ The

² During the traffic stop itself, the officer was polite and professional: he apologized for having scared the driver, gave her a warning about speeding and advised her to stay safe on the roads.

³ Specifically, the notice advises:

Department also removed access to the body-worn video footage in question to prevent it from being further shared.⁴

On the same day that they received their notices, the three employees received a text from a Peer Support Program leader advising that they should each schedule a Peer Support session for their well-being. This text thread later showed an invitation to a bar.⁵ While at the bar, the employees allegedly discussed the open administrative investigation. When asked about this meeting, the employees reported that they believed that they were attending a Peer Support Program session, which they believed was confidential and protected.

EPD initiated a formal investigation. The investigation was divided into two key pieces: (1) the issue of harassment, discrimination, and watching body-worn video camera without specific need, all stemming from the traffic stop video footage; and (2) the issue of discussing an open investigation under the mistaken belief that it was a confidential and protected Peer Support Program session.

To the greatest degree possible, confidentiality will be maintained during this investigation. You are not to speak to anyone about the fact that an investigation is being conducted, including asking questions to determine what is being investigated and/or who is being questioned. If it is found that you have done so, you will be subject to disciplinary action. This restriction does not apply to conversations you may have with your chosen representative.

⁴ Since this incident, the Department limited access to view body-worn camera footage on WatchGuard, the body-worn camera system. Only officers who recorded the footage, their supervisors and/or Field Training Officers, and command staff can access footage unless otherwise authorized by a supervisor for a law-enforcement-related purpose. In short, officers cannot share footage with other officers unless they have an approved reason to do so.

⁵ The Peer Support Program leader advised that the texts were distinct: one was his standard invitation to a Peer Support session, which would have been held individually with each employee, and the other, which was sent nearly 12 hours later, was an invitation to an informal get-together at a local bar where the employees met. This employee advised that the bar meet-up was not intended to be a confidential Peer Support session, but that he could understand the employees' confusion.

As to the first part – stemming from the traffic stop video footage -- the Department framed allegations that the two officers and supervisors violated several Department policies regarding the discrimination and harassment sections of the Code of Conduct and body-worn camera usage. The Department ultimately determined that there was insufficient evidence to prove or disprove the specific harassment and discrimination allegation and sustained the allegations for the improper use of body-worn camera footage. Additionally, the Department framed and sustained an allegation for the supervisor’s failure to meet his responsibilities as a supervisor on that day.⁶

The second part – discussing an open investigation in direct violation of the Notification – became more complicated.⁷ The employees’ representative argued that the Department could not hold the employees accountable for the Notification; that is, that the Department could not prevent officers from talking about an open administrative investigation. EPD command sought guidance from various parties, including the City Attorney, and concluded that the employees could, in fact, be held responsible for the Notification.⁸

The Department framed allegations against the involved officers and the supervisor for discussing the open investigation. The Department found the allegations to be “Not Sustained.” In their interviews, the officers expressed confusion: they believed that they were attending a Peer

⁶ The Department also framed allegations against a second employee who was in the room when the body-worn camera footage was initially viewed. The investigation found that this employee had not engaged with the situation but could not definitively determine if the employee was aware of the conduct (and therefore responsible for reporting it). The Department found the allegations against that employee to be Not Sustained.

⁷ This is an ongoing challenge statewide as current state law remains unclear about the legality of ordering an officer not to discuss an internal investigation against him/her.

⁸ This back-and-forth took an unfortunate length of time and contributed to the case falling out of statute, an issue that we discuss further later in this section. As we detail later, EPD is working with the City Attorney and counsel to clarify the notification to avoid this confusion in the future.

Support Session based on the initial message in the text thread and the presence of the Peer Support leader at the bar. The Department did not have sufficient evidence to prove or disprove their assertions.

This case highlighted a need to clarify the purpose of the Peer Support Program and Administrative Notifications. In short order, EPD issued much-needed policy updates and Department-wide training on both topics. The Department also is in the process of revising its formal policy for peer support with the assistance of their contract Wellness Coordinator; the Department briefed all employees on “lessons learned” from the incident; and the Peer Support Program leadership received specific training on what is permitted (and not) during sessions. We find all these updates to be responsive and appropriate.

The Department planned to issue corrective action to the involved employees and considered directing them to specific training.

However, before the Chief could issue discipline, this case encountered further scrutiny regarding the statute of limitations. The Peace Officers Bill of Rights (POBR) in California establishes a statute of limitations for issuing discipline to officers following an investigation of misconduct. Agencies generally have one year from the date that a supervisor becomes aware of an alleged incident to complete the investigation and notify the officer of proposed discipline (Government Code Section 3304(d)). In this case, attorneys argued that the involved supervisor was “made aware” of the misconduct on the day that he and the officers watched the body-worn camera footage, essentially triggering the one-year statute date. By the time the investigation was completed, legal challenges we addressed, and officers were notified of discipline, the one-year limitation had been exceeded by a handful of days; the employees’ attorneys argued that no disciplinary actions, even directed training, could be issued.

The Department argued – and we concurred – that the one-year period should begin on the date the incident was reported by another officer to an *uninvolved* supervisor (in this case, to a member of command staff). Further, additional allegations were framed regarding the Administrative Notification and use of the Peer Support functions, also potentially altering the statute date.

Ultimately, under the advisement of legal counsel and balancing the cost to fight the challenge, EPD command staff chose to issue non-disciplinary corrective action to the involved employees and close this matter.

As a result of this case, EPD requested a dedicated legal advisor experienced in California law enforcement-related matters such as this. Several agencies that we work with have a contracted legal advisor who can advise on legal matters facing a department in a way that is distinct from our role as IPA.

Case #24-01

Summary: EPD initiated an investigation regarding conduct unbecoming while on duty. EPD framed allegations related to safety, reporting, and efficiency, and conducted a formal investigation. EPD sustained four of the allegations and found one to be not sustained. EPD issued discipline and counseling. IPA found this investigation and the findings to be thorough, fair and complete.

A supervisor received notice of minor damage to a patrol vehicle and requested that the fleet mechanic inspect the vehicle. The mechanic responded that the vehicle had actually sustained significant damage that required costly repairs.

Upon learning of this, EPD command initiated an investigation to determine how the vehicle had sustained the damage. They learned that, during an early-morning shift, a different supervisor had directed officers to engage in what he stated was “slow-speed vehicle pursuit training.” Body-worn video camera footage showed the supervisor and officers engaged in several moving violations, including speeding. While participating in this “training,” one officer struck a curb, causing what he and the supervisor believed to be minimal damage to the patrol vehicle. The supervisor advised the officer to report the damage, but left the vehicle in service and did not complete an accident report as required by policy.

EPD initiated a formal investigation. It framed five allegations against the supervisor for failure to adhere to the Department’s Standards of Conduct (Policy 339) related to safety, reporting, and efficiency, and interviewed the supervisor and all involved officers. Based on the evidence, the

Department sustained four of the allegations. The Department determined that there was insufficient evidence to either prove or disprove a fifth allegation and found that allegation to be Not Sustained. The Department issued discipline and counseling.

In addition, the Department also informed all supervisors that they must provide a written training plan that must be reviewed by the chain of command and receive formal approval from the Chief before conducting any on-duty training.

We found the investigation to be complete and thorough and the outcomes to be appropriate.

Case #24-04

Summary: A public complainant alleged that officers stole his personal property during the execution of a search warrant. EPD initiated a preliminary investigation, and framed allegations related to the code of conduct and criminal behavior. EPD found these allegations to be unfounded but noted concerns with body-worn camera activation. IPA found the investigation and outcomes to be appropriate and complete.

Officers responded to a call from a reporting party that a neighbor – the eventual complainant – made criminal threats to shoot her and owned firearms. EPD supervisors and officers responded to the complainant's residence to arrest him and execute a search warrant for the firearms. In the related police report, the supervisor noted that he located keys, which he returned to the complainant. No property was seized.

Later, the complaint contacted EPD to report that officers had stolen various personal documents and prescribed medications and damaged his floor.

EPD opened a preliminary investigation. The assigned investigator attempted to contact the complainant several times but was unable to conduct a formal interview. The investigator then reviewed all available evidence, including photographs taken during the execution of the search warrant, police reports, and available body-worn camera footage.

The investigation discovered that all officers except one de-activated their body-worn cameras once they had cleared the residence of all people and

began their search; technically, this set of circumstances did not fit the requirements for activation per the current policy. Officers did take copious photos of the search, and detailed the evidence collected. This evidence, plus the body-worn camera footage of the officer who kept the camera activated, was used to conclude that nothing had been damaged or taken.

As we noted in our introduction, the Department is in the process of updating its body-worn camera policy and procedures. One key update will be to leave the body-worn cameras active for the duration of all incidents, including searches, even when members of the public are not present.

Case #24-06

Summary: Department initiated investigation of potential violation of sick leave and light duty policy. EPD framed allegations related to various City and Department sick leave / light duty and notification policies and conducted a full investigation including interviewing the subject and witness officers. EPD found most of the allegations to be unfounded, but several to be not sustained. The IPA found the investigation and findings to be appropriate and complete.

An officer had a medical procedure. In a medical note, his medical provider advised that he should be off sick for several days, was cleared for light duty for a week, and could return to unrestricted full duty a week after that. But the officer did not report for light duty. When directed to report to work by supervisors, the officer advised his supervisors that he would use sick leave for the light duty recovery period.

Supervisors and the City's HR department advised him to obtain a new note removing the option for light duty and indicating a return to unrestricted work after full recovery. There were delays and errors in doing so, and confusion about what type of leave the officer should use to remain on leave. Eventually, the officer provided accurate documentation from his medical provider.

EPD framed allegations related to various City and Department sick leave/ light duty and notification policies. The investigator completed a formal

investigation to determine if the officer had intentionally violated any of these policies, which included interviews with the subject officer and his supervisors, and a full accounting of the officer's use of sick leave and other leave types.

EPD found the allegations to be unfounded or not sustained because the officer had provided advanced notification of his intended leave time, communicated with his supervisors and HR throughout the process, and had not intentionally attempted to mislead his supervisors or ignore a direct order. The delay in obtaining an accurate doctor's note was also found to be unintentional.

The IPA reviewed this very thorough investigation and found it to be complete.

Case #24-16

Summary: Public complainant alleged that officers were unprofessional and that they stole his private property. EPD conducted a preliminary investigation and framed allegations regarding the code of conduct for discourtesy, theft, and unbecoming conduct. After reviewing all related evidence, EPD determined that these allegations were unfounded. During the investigation, EPD noted that an officer delayed activation of his body-worn camera and took remedial actions. IPA found the investigation and outcomes to be appropriate and complete.

EPD officers responded to a noise complaint in a residential apartment complex; officers had responded to similar complaints several times over the prior two weeks. Officers met a man, the complainant, who was playing loud music on a Bluetooth speaker and revving a chainsaw. When asked to turn down the music, the man became agitated, cursed, argued that it was his private property and alleged that officers were harassing him. The man increased the volume on his speaker and walked away.

The officers obtained statements from neighbors and, after consulting with supervisors, decided to arrest the man for disturbing the peace. He refused to comply and went into his residence with two large dogs. Concerned for their safety and considering his continued defiance, the officers decided to cite the man instead and take the speaker as evidence. He refused the citations and the Field Property Receipt for his speaker;

the officer left these in his mailbox. The officer booked the speaker into evidence.

Later, the man complained that officers were unprofessional and disrespectful and alleged that officers stole his personal property, the Bluetooth speaker.

EPD reviewed all body-worn camera footage, radio communication, and police reports. EPD determined that officers had responded to a recurring noise complaint over two weeks, offered the complainant opportunities to voluntarily comply, conducted a thorough investigation, issued the proper citations, and were professional. While reviewing evidence, EPD discovered that one responding officer did not activate his body-worn camera until five minutes into the encounter. EPD framed this as an “ancillary issue” and took the appropriate remedial actions.

We found the investigation to be complete and thorough and the outcome to be fair. We recommended that, in the close-out letter, EPD provide information on retrieving his property from evidence. EPD did so.

In reviewing the related body-worn camera footage, we also observed effective uses of de-escalation and tactical disengagement.⁹ The officers remained calm and collected despite the man’s increasing agitation and attempts to agitate them. When the man refused to cooperate with their commands and entered his apartment with two large dogs, officers stepped away and did not seek to forcibly arrest him. Further, when one officer positioned himself by the apartment’s open window, his fellow officers called him to a safer position. These actions are commendable from an officer safety perspective.

⁹ “Tactical disengagement,” also referred to as “strategic disengagement,” is a tactical decision to leave, delay contact, delay custody or plan to make contact at a different time and under different circumstances. It involves leaving the presence of the aggressor without engaging in a physical confrontation.

Case #24-17

Summary: Public complainant alleged that officers did not properly investigate his allegations that his vehicle was stolen, that officers were intoxicated and/or mentally ill, and that officers acted unprofessionally. EPD opened an investigation and framed allegations related to report-writing, code of conduct, and intoxicants, all of which it unfounded. During the investigation, EPD noted that an officer failed to activate body-worn camera and took remedial actions. IPA found the investigation and outcomes to be appropriate and complete.

A public complainant visited EPD headquarters alleging that his truck had been stolen. EPD officers, who were familiar with this complainant from past encounters, noted that the complainant was heavily intoxicated and requested an ambulance for medical care. Two days later, EPD located the allegedly stolen truck and contacted the complainant. But after investigation on scene, EPD officers determined that the complainant had actually sold his truck and verified that the new owner had the appropriate paperwork to prove her purchase.

Several months later, the complainant filed this complaint, alleging that officers had not properly investigated his case and were unprofessional. EPD reviewed all related police reports, dispatch notes, and body-worn camera footage for all calls related to this complainant. EPD determined that all officers who had responded were professional and investigated the stolen vehicle claim properly, resulting in the finding that the complainant had sold his vehicle.

In reviewing all of the available evidence, EPD noted that one officer who responded to one of the complainant's past calls for service had not activated his body-worn camera. EPD noted this as an "ancillary issue" and issued the appropriate remedial action.

The IPA reviewed the case and found the investigation to be thorough and complete. Here again, we noted that EPD framed the body-worn camera "ancillary issue" – especially commendable in this case because it was discovered in a call for service that was not directly related to the complaint in question.

Case #24-20

Summary: Public complainant alleged that a police report regarding his call for service was biased and lacked sufficient detail. EPD reviewed the report, body-worn camera, and radio communication of the call for service and determined that the allegations were Unfounded. IPA found this investigation and the findings to be thorough, fair and complete.

An officer and supervisor responded to a call for service regarding a possible fight and assault. They contacted three men and took their statements. Two of the men admitted to having engaged in first a verbal confrontation and later a physical fight involving a shovel and an axe (the third was not involved). One man – the complainant – also alleged that the other man struck his vehicle with a shovel, causing significant damage; the second man admitted to doing so. The supervisor eventually cited the second man for felony vandalism for the damage he caused to the vehicle. They explained that he could not make a determination on the “mutual” assault, and that EPD would submit the case to the District Attorney for charging. They then asked the men to leave the area to avoid further altercations. One did.

The complainant did not and continued to talk with the supervisor. The supervisor noted behaviors indicating that the complainant may be intoxicated; he asked the complainant if he had been drinking, concerned that it would be unsafe for him to drive away from the area. The man admitted to drinking, and the supervisor and officer offered options for him to leave safely. The man decided to leave on foot and return for his van later. The officer promised that they would not tow the complainant’s van while he sobered up.

Several days later, the complainant filed a complaint stating that the officer’s report was biased against him in favor of the second man and that it omitted details. EPD opened a preliminary investigation and framed two allegations of failure to follow the report-writing policy.

After reviewing the body-worn camera footage and the related reports, EPD determined that the report accurately reflected what had occurred based on each man’s statements and was not biased. EPD found the allegations to be unfounded and closed the investigation.

The IPA reviewed the case and found the investigation to be thorough and complete. We found the supervisor and officer's problem-solving on scene, especially the way they dealt with the complainant being too intoxicated to drive, to be creative and compassionate.

Case #24-21

Summary: A member of the public contacted EPD to report that he observed an officer turn without using a turn signal. EPD discussed the matter with the officer and advised of the importance of always using a turn signal. The IPA found the investigation and outcome to be sufficient and fair.

A member of the public reported that he observed an EPD officer driving a marked patrol vehicle make a turn without using a turn signal. An EPD supervisor contacted the complainant and identified the officer based on the patrol vehicle number provided by the complainant.

The supervisor spoke with the officer, who did not recall the specific incident in question. The officer reported making a concerted effort to follow all traffic rules while on duty. Even still, the officer willingly accepted coaching from her supervisor regarding use of the turn signal and following traffic laws.

EPD then determined that the officer had no history of driving infractions or traffic collisions in the officer's personnel file. Given this, and the officer's willing acceptance of coaching, EPD closed the matter. We concurred and found the outcome to be fair.

Conclusion

The Department's actions, particularly in addressing complex cases involving supervisory misconduct, harassment, and administrative compliance, underscore a zero-tolerance approach to unprofessional conduct. EPD's implementation of policy updates, targeted training, and lessons-learned briefings reflects a strong commitment to improving its operations and culture. Cases this quarter also showed the Department's ability to balance accountability with officer well-being, fostering a supportive work environment.

EPD's increasing volume of formally documented complaints, coupled with thorough formal investigations when warranted, highlights its progress toward greater accountability. EPD's sustained focus on addressing challenges and promoting a culture of accountability, coupled with its ongoing efforts to refine policy, serve to overall enhance operations. We will, of course, continue to engage with EPD to ensure that it continues this forward momentum.