


MEMORANDUM-City of Pasadena
Police Department

April 17, 2023

TO: Honorable Mayor and City Council Members

From: Gene Harris, Police Chief 

Re: **OIR Review of PPD OIS
Involving Anthony McClain, Dated April 2023**

Cc: Miguel Marquez, City Manager

On April 12, 2023, I received the final report regarding the “Independent Review of Officer-Involved Shooting of Anthony McClain.” It was provided by the Office of Independent Review (OIR) and completed by Michael Gennaco and Teresa Magula. This report came after the OIR’s exhaustive review of the incident, including the overall investigation, relevant reports, policies, procedures, practices, internal and external reviews, as well as audio, video, and other related evidence.

I wish to thank the City Council and the other stakeholders for their patience and insight during this process. I would also like to thank OIR, Mr. Gennaco, and Ms. Magula for their effort and attention in producing this report. Though the process and the resulting work product are the outcomes of OIR’s independent review and recommendations, they should be commended for the inclusiveness of the Police Department and other City personnel in ensuring the accuracy and completeness of all the information and inputs included and considered for review. The process was thorough, professional, and transparent by all who participated.

The review culminated with twenty-seven individual recommendations, which PD command staff, I, and various department Subject Matter Experts thoroughly reviewed. After thoughtful analysis, there is Department agreement, either in whole or in part, with nearly all the recommendations. We have determined that the recommendations have been implemented either pre-incident, post-incident, post-initial review, or will be implemented moving forward. There are two recommendations upon which agreement does not exist, and one recommendation that is directed to the Community Police Oversight Commission (CPOC). A matrix of the OIR recommendations and Department responses is attached, including status updates for your review and information.

On behalf of the Police Department, I applaud the process and believe it will assist significantly in applying lessons learned moving forward as we provide enhanced policing services in the safest, most comprehensive, and most professional manner possible. All, while meeting or exceeding the needs and expectations of our community.

Attachment

PD Response Matrix

PASADENA POLICE DEPARTMENT RESPONSE

To

OIR GROUP – INDEPENDENT REVIEW OF THE ANTHONY MCCLAIN OFFICER INVOLVED SHOOTING

No.	OIR Recommendation	Response	Comments
#1	PPD should revise its investigative protocols to ensure that its Administrative Investigation of a deadly force incident is not delayed because of either prosecutive review or civil proceedings.	Agree in concept	Agree. Consideration will be on a case-by-case analysis, determined by the Police Chief, based on the circumstances and factors related to the incident
#2	PPD should align Policy 310 with its current practice of conducting criminal investigations of critical incidents/officer-involved shootings in-house and remove the expectation that the Los Angeles Sheriff's Department conduct these investigations.	Completed	The PPD resumed control of OIS investigations during this incident – on 8/15/2020. PPD subsequently amended Policy 310 to reflect the change in criminal investigative protocols
#3	PPD should ensure that any after-action plan relating to supervisory performance issues include a briefing of supervisors on decisions that went well and decisions that could have been improved.	Agree	PPD employs this recommendation as a standard practice
#4	PPD should revise its critical incident protocols to ensure that once an officer-involved shooting scene is secure, PPD should direct any available officer to immediately sequester involved officers and prevent those officers from self-assigned roles in actual evidence collection.	Agree	PPD will sequester officers as soon as practical once the scene is secure per Procedure (310.2.1(c)4)
#5	PPD should revise current policy to explicitly require that all involved officers, to the extent possible without compromising public safety, shall be observed and sequestered until they are able to provide a Public Safety Statement to a supervisor, and then removed from the immediate scene of an officer-involved shooting, unless there is a special need to assist with evidence location.	Agree In Concept	The current PPD Procedure (310) <i>Officer Involved Shootings</i> already includes obtaining a public safety statement as soon as practical (310.2.1(b)) and that supervisors sequester involved officers as soon as practical for other investigative interviews (310.2.1 (c)(2)(3))

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No.	OIR Recommendation	Response	Comments
#6	PPD should continue to sequester and monitor involved officers until they provide an interview prior to being released from duty on the date of the incident.	Agree In Concept	Agree, with case-by-case analysis depending on reasonableness - time of the incident during the involved officer(s) shift, and POBR compliance
#7	PPD should amend its critical incident investigation policy to require prior to “end of shift” interviews of involved and witness officers, except in extraordinary circumstances, such as when an officer is significantly injured.	Agree In Concept	Agree, with case-by-case analysis depending on reasonableness - time of the incident during the involved officer(s) shift, and POBR compliance
#8	The city should revisit its agreement with the PPOA requiring the Department to preview recorded evidence with officers prior to being interviewed about officer-involved shootings.	Agree In Concept	Agree, this will be revisited in the next PPOA contract negotiations. The current Labor MOU runs through June 30, 2026
#9	PPD should direct officers to follow PPD investigative protocols when conducting any investigation. When deficiencies are identified, PPD should conduct refresher training on these investigative protocols immediately.	Agree	Completed training in December of 2022. Applicable as soon as practical after each critical incident
#10	PPD should consider developing policy setting out expectations for interviews, including the prohibition on interviewing witnesses together.	Agree	Current Practice and will be added to Policy
#11	PPD should make every effort to contact potential witnesses to critical incidents and gather all available evidence, including using technology to allow witnesses to report or submit information anonymously and conducting a search for publicly available video content.	Agree	Current Policy (600.3.1(b)(4)) and Procedure (310.5)

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#12	In the recommended training, PPD should make clear that witnesses are not suspects. Officers should not run a witness' identity or vehicle plates unless officers can articulate a rationale for doing so.	Disagree	This recommendation conflicts with #11. Thorough investigations sometimes include running witnesses and vehicle license plates through dispatch or other investigative applications. In some investigations, witnesses can become suspects after investigators gather evidence. Either way, officers and investigators treat witnesses and suspects with professionalism, dignity, and respect
#13	When witness statements are paraphrased or otherwise referenced in an officer-involved shooting investigation, press release, or other media, PPD should ensure that they are a complete representation of the witness' statement.	Agree	Will be incorporated into practices and procedures moving forward
#14	PPD should ensure that critical incident administrative investigations conduct thorough interviews of all involved and witness personnel to obtain a full and complete account of all salient aspects of the incident.	Agree	Current Policy (310.7) and Procedure (310.2.4)
#15	PPD should reference and include all documentation used in Administrative Investigations in reports and case files.	Agree	Current Policy (1020.6(d)(e)(f)) and Practice
#16	PPD should ensure that critical incident Administrative Investigations address all potential violations of policy identified.	Agree	Current Policy (302.2.1) and Practice
#17	When evaluating uses of deadly force, the Use of Force Review Board's analysis should consider the relevant factors to be considered under the Department's deadly force policy and all available evidence to thoroughly assess the decision to use force.	Agree	Current Policy (302, 302.2, 302.4) and Practice

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#18	PPD should revise its force review policies to require formal evaluation of any attendant foot pursuits and evaluating whether or not officers' actions align with the Department's Foot Pursuit Policy.	Agree	Current Policy (302.2.1(a)) and Practice
#19	PPD should conduct frequent and regular training on the Foot Pursuit Policy, including the preference for surveillance and containment over engagement in foot pursuits.	Agree In Concept	Agree with training. Surveillance and containment are considered on a case-by-case basis based on the facts known to the involved officer at the time of the incident
#20	The Community Police Oversight Commission should convene community conversations to formally discuss and consider the pros and cons of PPD's use of pretext stops, especially with regard to minor equipment violations.	Defer to CPOC	Defer to the Community Police Oversight Commission
#21	PPD should write policy that clearly defines the role of a PPOA representative at critical incident crime scenes.	Disagree	Circumstances and on-duty personnel will dictate who is at the crime scene during a critical incident. The department will comply with the Police Officers Bill of Rights (POBR)
#22	PPD should prioritize community outreach, including timely implementation of the recommendations in the Board memorandum relating to improving community relations.	Agree	The PD Administrative Review Board recognized that the Post-Incident Community Outreach was in place at the time of the incident. However, the PD could have and should have done a better job identifying and reaching out to stakeholders
#23	PPD Critical Incident Briefing videos should only include information known to be accurate and omit information of limited relevance such as the criminal history of the individuals.	Agree In Concept	Agree on a case-by-case basis, as sometimes the criminal history of an offender is relevant to the incident (e.g., known registered sex offender, parolee, probationer)

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#24	PPD should evaluate the necessity of handcuffing severely injured subjects and consider developing training on this topic.	Agree	PPD will evaluate current Policy (306)
#25	PPD Should conduct a routine inventory of all first aid equipment issued to officers to ensure that first aid kits are complete and include chest seals.	Agree	PPD began conducting an inventory of first aid kits and intends to have the recommendation completed by the end of the 2023 Calendar Year
#26	PPD should create a workplan to implement the recommendations that have come from this incident to include task owners and a timeline.	Agree	In progress – work plan will be completed by early Fiscal Year 2023-24
#27	PPD should establish a mechanism to track progress and ensure completion of tasks, including providing regular public status updates on the workplan for transparency and accountability.	Agree	In progress – tracking mechanism will be established by the beginning of Fiscal Year 2023-24