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Going to be sitting in on the NSA Case Management Conference: there's a lot here, the IAB's investigation deadline failures, OPD admitting it can't police itself after Tran investigation; pursuit policy; OPC's first attempt at suggesting paired oversight with Monitor.

I'm not on the level of some of the heads who've been following NSA for all two and a half decades, but I'll do my best to hit the major issues

It's a full house, Ricardo Garcia Acosta, Chair of OPC, I see Lee's Chief of Staff, Mia Saika Chen, Jenkins, Richardson, probably more, cameras are not placed well

Orrick has convened the CMC...

Mayor Lee and Mitchell are both here; OIG and CPRA directors Malouf and Lawson are also in attendance. Lee's first appearance here:

Orrick: "I want to welcome you to this courtroom and admired your courage and your leadership for at least the last 25 years. I'm hopeful that your commitment to constitutional policing in Oakland will mean end of oversight of OPD to an end the order"

Orrick: "for several years, I've been thinking about a final status conference, that would celebrate city/OPD success in achieving full compliance. But we're not there yet...progress is stalled seems to have solved. Not because goalposts have shifted, they were there in 2003"

Orrick basically saying the goals are modest, and OPD just can't meet them. And: "not sure if a police department should be bragging that its sustaining fewer cases"

Orrick: "I agree with the previous concerns regarding OPD's, quote, staggering number of excuses for not being in compliance with the requirement that investigations be completed within 180 days is consistent with national practices. The 85% compliance standard is generous"

Orrick, importantly: high speed pursuit is important..."but doesn't mean that court has a role

in them, unless it's mandated by the NSA, and for that reason, issues regarding high speed pursuits as important as they are, are not part of the NSA. And I'm not looking into them."

Orrick asked Mitchell up. "what are you doing to address problems plaintiffs have identified, particularly task 2, investigative timeliness"

Orrick's comments were expansive and I didn't capture all of it...some of it was vague, like his mention of OPC's intention of wanting to take over for monitor, but didn't weigh in on it.

Mitchell starts out with the six week system outage after ransomware, noting the impact on Vision system and delayed cases.

Mitchell says ransomware had impact on NSA's 180 day deadline and the 3304 statutory deadline. Says at least two cases missed the 3304 deadline, meaning by law they could not be adjudicated.

Mitchell basically saying that despite the ransomware impact, the delays were also systemic. He's going through the list of IAB mitigation measures...still there were a lot of 180 day failures...which is a metric that indicates IAB is in danger of blowing 3304 too

Mitchell says that they've cleared the ransomware backlog...he also says that poor communication, inadequate timelines oversight, and better communication with CPRA are getting them to 85% compliance [this is all read from prepared statement]

Mitchell says that from his pov they are in compliance with Task 45, although the court finds them out of it...he seeks clarity from court. Orrick basically tells him to take it back to command staff and ask them what the issues are.

Orrick asks Mitchell if a sustained rate of 5% is typical in a PD. Mitchell responds it doesn't mean that investigations are getting weaker, necessarily, he says that a change in culture may have taken hold instead with less opportunities to sustain because they aren't occurring

Mitchell says its hard to say whether 5% is a good mark...pretty noncommittal response

Orrick asks about his order to make Chief at the top of IAB, basically making him the head of IAB...Mitchell says "it's working due to regular meetings" with command staff...

Mitchell: "we're slowly catching up with cases...at some point in time I won't have to spend as much time reading cases as we catch up with backlog"

Orrick mentions the letter from CPA, that's in the docket...he says its critical of OPD and Mitchell, "that OPD and CPRA are agreeing more infrequently, OPD not agreeing with discipline in the matrix" asks him how he responds

The letter also said there's an inherent disrespect for NSA. Mitchell says that much of that comment is about the pursuit policy [doesn't seem to be the only issue]

Orrick draws him back to critique of CPRA interaction, discipline matrix. Mitchell seems to be saying he metes discipline according to how it affects department ops. CPA's critique is that there are more and more discipline committees because OPD doesn't agree with CPRA disciplin

Mitchell is saying that CPRA has wanted heavier discipline that he thinks are not warranted or effective..."they will see it through one lens and I will see it from another"

Mitchell: "the system is meant that we're not supposed to be a rubber stamp for each other". But CPRA directors in the past have said that coinciding findings and discipline are more likely to survive Skelly hearings.

DC Hubbard is called up to comment on the more direct conversations with Mitchell as Chief. Hubbard is asked what the big issues are...Hubbard says its timelines.

Hubbard says they now meet with CPRA twice weekly, he says that he makes it a point to talk about task 2 and 5 "I go over each, top to bottom, and there's an accountability loop..."

Orrick asked Hubbard if he feels that they have the processes to be in compliance with task 2 and 5 in near future, Hubbard said yes.

Now on to clients, Chanin opens, critiques the ransomware excuse, "which was two years ago, and I had never heard that ransomware was responsible for missing deadlines...it's never been mentioned"

Chanin says that if it was true, then he would have taken every case with the 3304 and 180 day deadline and have written it down by hand if necessary and made sure not to miss. He

says it was curable, "sorry, it just was"

Chanin: "Your order of 9/6/24 was violated by chief and city attorney and by city....you asked for compliance with tasks 2, it didn't happen. You asked for compliance with five. It didn't happen. Your entire order was about task two and five, and we're here today" cuz it wasn't

Chanin did say he thought Hubbard had been doing a good job...Orrick basically was like, you're not saying they didn't try to initiate processes, "you're just saying, why didn't it work?" Chanin said yes, which is business as usual apparently, per Orrick

Now Burris: says that the disparity in discipline is still alarming, but it's better than it's been...

Burris: "I'm not impressed at all about this notion that the monitor has to tell them what to do...these are professionals...chief has been chief for a long time...should be able to see, assess..." analyze problems "it's not a response to say monitor has to tell us what to do"

Burris also said he thought the investigation sustain rate was lower than is typical

Burris: "the shade is on the chief and his team for not getting it done..."

Burris says that he doesn't know if the CPA's statements are founded in truth, but if they are: "quite disturbing...should be dealt with, statements made that the reforms are hindering effective police work...it's tired statement, and it can't be true"

Burris says that the excuses that police can't do their job because of oversight is a cheap cop out [my pun]

Burris on pursuits, talks about the number of people killed "if you look at the national data...high speed chases is not a positive event for any community...sometimes they take place over minor offense, and not justified for risk to community"

Burris says there are times when pursuits should take place, but it should not "be on the judgement of a 25 year old, old officer making a decision" by themselves

Burris says he's also disturbed if the statements are made that oversight is hampering

pursuits..."rationalization and scapegoating are not the way to go"

Rockne Lucia the OPOA's age-old lawyer said he has nothing to add.

Orrick invited the Police Commission's rep, Chair Garcia-Acosta to comment.

The OPC's proposal is a lot more controversial among all stakeholders than I would have imagined. It doesn't have support of CPA, Judge seems mid on it...

RGA: "i want to use my time to day to propose more formally integrating the OPC's process into oversight process"

RGA says that the OPC is often under-valued, and an important resource that's not used well..."directing the city to form and embrace the work of OPC would complement the current director, compliance directors efforts"

RGA: "We have changed the culture, and overall ability engagement of our commissioners...our proposal to the court, represents a significant step in that direction. OPC through the IG and CIPA offices, see the day to day functions of OPD, and we know the trends and the practices"

RGA says that the OPC, with CPRA and OIG can bridge the gaps in oversight by being able to oversee OPD on a more regular basis, helping OPD to finally get out of NSA.

RGA: "at this point we cannot expect compliance without changes in the interventions themselves" RGA says they're also open to working the stakeholders to hone the proposal

Now city rep Morgan: "the city and OPD are not sitting by waiting for time to pass hoping that there's not another investigatory failure [like the ones that triggered IAD to IAB order]...the city/OPD actions prove that NSA compliance is a priority"

Morgan went through the various big scandals, Chung, etc, that triggered the most recent collapse of compliance, including. But no one has mentioned the Tran mess.

Morgan is going thru Mitchell's accomplishments. She says that Mitchell directed IAB to research all tasks, not just those that are not in compliance, supported the IAB to CPRA transition report, [Lee] bringing back former OIG to work in City Admin on policing issues

Morgan: "led an analysis of lessons learned from the Tran investigation so that everyone can understand what went wrong and it won't happen again" First mention of Tran. She said it was made public, but that feels like an exaggeration

It's only public here in the docket. The city did not agendize publicizing it.

Not surprisingly, the city argues it is ready to get out of court oversight.

Now Mayor Lee, notes that she's only been in office 51 days: "a large portion of my work has been in supporting NSA compliance"

Lee is going down through the list of stakeholders, thanking..."I am very grateful that you understand hopefully that a lot has been accomplished under the NSA...but I look forward to accomplishing full compliance"

Lee also praised individual police officers, but "after more than 20 years and I remember clearly when this started...there's urgency to get the remaining tasks completed, we deserve results. We are aware that the community wants a functioning and fair OPD..."

Lee: "I understand that court oversight can't end until there's full compliance and I am committed to getting there...has to be communicated from top, mayor, city admin, and chief...this is about true cultural change with OPD as an org"

Lee: "Your Honor, I recognize that what is keeping the city from obtaining full compliance on the remaining NSA tasks is a fundamental cultural issue in pertaining to internal investigations and discipline"

Lee says IAB's work is pivotal toward the work of OPD, and that she's rehired Michelle Phillips [former, first OIG] as ACA "her most important assignment will be to work on special project of NSA compliance and culture change...crucial part will be to engage with NSA"

Interestingly, I don't believe that Phillips hire was portrayed this way in the original press release from CAO. I will check again. But Lee is basically saying Phillips will be an NSA czar

Orrick to Lee: "I share your goal more than you know, it's time for the NSA to end and for

OPD to go forward with every element of constitutional policing...i want to move rapidly and see city move rapidly to full compliance..."

Orrick asks Lee to call on the monitor team in any way that they can "get this done". Sets the next CSM on December 9 at 3:30. Will ask for status reports in August and October.

Phillips got mentioned a lot here. Will be interesting to watch, Phillips appears to be the key in Lee's plan to get out of oversight.

It's an ironic return for Phillips, since she was the first OIG, got the department up and running, and after she left, the City has completely defunded the OIG to the complaints of OPC, CPRA and OIG

That's it for the CMC. Interestingly, there was not a lot of discourse on the pursuit policy, Orrick seemed to say it's not actually an NSA issue [great minds think alike], not much mention of the catastrophic failure of the Tran investigation and aftermath.

One correction, I believe that Morgan actually noted Tran in the beginning of her comments as an instigator of corrective activity.

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