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DATE: AUGUST 28, 2024

TO: Public Safety Advisory Committee

FROM: Brian Miller, Police Chief  
Jordan Green, Assistant City Attorney  
Jeff Schlanger, Independent Police Auditor

SUBJECT: Review and Discuss of the 2023 Independent Police Auditor Annual Report, the Addendum to the 2023 Independent Police Auditor Annual Report, and Police Personnel Records Governed by Section 832.7 of the California Penal Code

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### **RECOMMENDATION**

It is recommended that the Public Safety Advisory Committee review and discuss the 2023 Independent Police Auditor Annual Report, the Addendum to the 2023 Independent Police Auditor Annual Report and Police Personnel Records Governed by Section 832.7 of the California Penal Code.

### **BACKGROUND**

The 2023 Independent Police Auditor (IPA) Annual Report, covering April 19, 2023 – December 31, 2023, provides an in-depth analysis of police practices and incidents within the Petaluma Police Department (PPD). The report aims to ensure transparency and accountability in the department's operations. IntegrAssure LLC, led by Jeff Schlanger, serves as the IPA, and this report marked the IPA's first annual review.

You may notice that the Annual Report does not include specific personal and/or personnel information, such as personal information of people who have been arrested for crimes and/or a specific officer's personnel file. This is because certain information and records are confidential under California's laws.

In California, government records are considered public records unless an exemption applies. Most law enforcement records, such as police reports, are exempted from disclosure pursuant to California Government Code sections 7923.600 – 7923.755. However, general information about crimes are public, depending on the nature of the crime. Historically, peace officer

personnel records were exempt from disclosure pursuant to Section 832.7 of the California Penal Code. Recent legislative amendments to this section, particularly through Senate Bill 2, Senate Bill 1421, and Assembly Bill 748 have increased transparency of peace officer personnel records by mandating the release of certain records under specific circumstances. These amendments require the disclosure of records related to incidents involving the discharge of a firearm; use of force resulting in death or great bodily injury; sustained findings of sexual assault involving a member of the public; and sustained findings of dishonesty related to the reporting, investigation, or prosecution of a crime.

Understanding these regulations is crucial for City Staff, Elected Officials, Oversight Bodies, and the community as they navigate the intersection of public safety, privacy, and community trust.

## **DISCUSSION**

The IPA report outlines several key areas of focus, including stakeholder engagement, complaint receipt, review of critical incidents, complaint and discipline audits, and policy and training audits. In addition to reviewing the annual report, the discussion will include a presentation on the California Public Records Act and the confidentiality of law enforcement records and peace officer personnel records.

### **1. Stakeholder Engagement:**

- The IPA team established strong collaborative relationships with city officials, department leadership, and community stakeholders. Regular meetings and on-site visits were conducted to ensure open communication and real-time feedback.

### **2. Receipt of Complaints:**

- The IPA received no direct complaints from the community and reviewed two complaints forwarded by the City Manager's Office. Both complaints were investigated by the department and reviewed by the IPA, who agreed with the outcomes.

### **3. Review of Critical Incidents:**

- No critical incidents occurred during the reporting period. The IPA and the department established a mechanism for timely notification and review of any future critical incidents.

### **4. Uses and Displays of Force:**

- The IPA reviewed the department's use-of-force incidents in 2023. Recommendations were made for coaching and mentoring officers on tactics, response protocols, documentation, body-worn camera compliance, handcuffing procedures, communication, de-escalation, and stops and searches.

### **5. Pursuits:**

- The IPA reviewed the department's vehicular pursuits, identifying areas for improvement in tactics, training, body-worn camera activation, and policy adherence. Two pursuits were found to be out of policy, and the department proactively updated its pursuit policy to align with best practices.
- 6. Audits of Complaints and Discipline:**
  - The IPA reviewed the department's internal affairs investigations and Employee Conduct Tracking (EMCOT) complaints, agreeing with the outcomes and recommending improvements in investigative processes and policy modifications.
- 7. Audit of Policies and Training:**
  - The IPA reviewed policies and training on body-worn cameras, pursuits, handcuffing, use of profanity, and internal investigations. Recommendations were made for policy updates, many of which were quickly accepted and implemented by the department.
- 8. Confidential Personnel Records (Section 832.7 of the California Penal Code):**
  - The CA Legislature, mindful of the right of individuals to privacy, found and declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. Gov. Code, § 7921.000
  - Law enforcement records are exempt from disclosure. However, the legislature provides for the disclosure of certain general information relating to an arrest and/or arrestee under certain circumstances. Gov. Code, §§ 7923.600 – 7923.755.
  - Section 832.7 of the California Penal Code governs the confidentiality of peace officer personnel records and specifies the circumstances under which these records can be disclosed.
  - The IPA examined the department's processes for maintaining, accessing, and disclosing personnel records to ensure they align with legal requirements. The IPA also evaluated how the department balances transparency with officers' privacy rights.
  - The Department worked closely with the City Attorney's Office and the IPA to ensure strict compliance with the California Public Records Act and Penal Code § 832.7, while maintaining transparency with the community.

## **CASE STUDIES**

Not applicable.

## **ENVIRONMENTAL REVIEW**

Not applicable.

## **CITYWIDE GOALS & PRIORITIES**

This effort aligns with and achieves the City Council’s goal of “A Safe Community that Thrives.”

### **FURTHER RECOMMENDATION**

The 2023 Independent Police Auditor Annual Report provides valuable insights and recommendations for improving police practices and policies within the Petaluma Police Department. The Public Safety Advisory Committee's review and discussion of this report will enhance accountability, transparency, and community trust in the department.

### **ATTACHMENTS**

Attachment A - 2023 Independent Police Auditor’s Annual Report

Attachment B - Addendum to the 2023 Independent Police Auditor’s Annual Report