

# **OAKLAND POLICE DEPARTMENT**

## **Office of Inspector General**



### AUDIT OF TASK 18

## **ARREST APPROVAL AND REPORT REVIEW**

December 5, 2012

**CITY OF OAKLAND**

Memorandum

**To:** Chief Howard Jordan

**From:** Captain Tull, Inspector General

**Date:** December 5, 2012

**Subject:** Arrest Approval and Report Review

On July 16, 2012, the Audit and Inspections Unit of the Office of Inspector General initiated an audit of Task 18, *Arrest Approval and Report Review* of the Negotiated Settlement Agreement. The purpose of the audit was to assess whether Departmental policy, which incorporates the mandates outlined in Task 18, is adhered to.

To conduct this audit, the audit team reviewed a sample of adult arrest documents for felony, drug, and Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests occurring between May 1, 2012 and May 31, 2012.

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## EXECUTIVE SUMMARY

The Office of Inspector General (OIG) initiated an audit of Task 18, *Arrest Approval and Report Review*, in July 2012. For this audit, a review of adult felony, drug and Penal Code §§69, 148(a)(1) and 243(b)(c) arrests was conducted. Although arrest approval is also required for juvenile arrests in the same categories and arrests in which there was an investigated use of force, only adult arrests were reviewed for this audit. There were a total of 650 arrests during the audit period, of which a sample of 77 arrests was compiled. For each arrest, the Audit team reviewed Consolidated Arrest Reports (CAR), crime reports, supplemental reports, and witness statements.

Task 18 has five subtasks and the compliance requirement for all subtasks is 90%. The audit found the Department in compliance with all subtasks. However, for Subtask 18.1, the Department fell short on complying with policy that requires supervisors to document their presence on scene by checking the “supervisor on scene” checkbox.

Two arrests were missing CARs, so the audit team was unable to determine if compliance requirements were met for these two arrests. As of the time the audit was published, the CARs were unable to be located at OPD, but had to have been completed and submitted to the County, therefore the requirements may have been met.

- Ninety-five percent of the arrest documents included documentation that the supervisor was on scene to approve the arrest (Task 18.1). However, of the 77 arrests reviewed, only 62 (81%) marked the “supervisor on scene” checkbox on the CAR which is required by policy. Of the 15 reports missing the properly marked “supervisor on scene” checkbox, 11 documented that the supervisor was on scene in the crime report, CAD or elsewhere on the CAR.
- Ninety-five percent of the arrest documents reviewed contained articulation of probable cause or reasonable suspicion for the stop/detention (Task 18.2.1).
- Ninety percent of the arrest documents reviewed included the proper documentation of witnesses (Task 18.2.2).
- Ninety-five percent of the arrest documents reviewed indicated that supervisors approve and/or disprove arrests in the field (Task 18.2.3) and log supervisory contact times (Task 18.2.4).

## **PURPOSE**

On July 16, 2012, the Audit Unit of the Office of Inspector General (OIG) initiated a review of Task 18, *Arrest Approval and Report Review*. The purpose of this audit was to determine if Department General Order M-18, which incorporates the requirements of Task 18, is properly adhered to. In addition, the audit was conducted in order to identify deficiencies and propose solutions for any deficiencies discovered.

## **BACKGROUND**

Task 18, *Arrest Approval and Report Review*, has five requirements (subtasks). The prior monitoring team found all subtasks in compliance, with the exception of 18.2.2 (witness identification) in their July 2007 audit. Task 18.2.2 was incorporated into the MOU, as compliance had not yet been achieved. The remaining subtasks of Task 18 were made inactive.

The current Monitor is only actively monitoring one provision of Task 18 (18.2.2). He found the Department in compliance with 18.2.2 during his first quarterly report. The Department has maintained compliance since the First Quarterly Report, and in his most recent report (Eleventh Quarterly Report) dated October 15, 2012, he found 100% compliance with 18.2.2. The OIG also conducted a review of 18.2.2 in August 2010 and found compliance with witness identification.

# NEGOTIATED SETTLEMENT AGREEMENT REQUIREMENTS

## Task 18.1

Supervisors respond to the scene of, at least, the following categories of arrests, unless community unrest or other conditions at the scene make this impractical: all felonies; all drug offenses (a marijuana arrest requires supervisory approval only where the subject is taken into custody for that offense); where there is an investigated use of force; and Penal Code §§69, 148(a)(1), 243(b)(c).

## Task 18.2.1

Supervisors review arrest documentation to verify that probable cause for arrest or reasonable suspicion for stop/detention is articulated.

## Task 18.2.2

Supervisors review arrest documentation to verify that available witnesses are identified.

## Task 18.2.3

Supervisors approve or disapprove arrest in the field.

## Task 18.2.4

Supervisors log time of supervisory contact.

## COMPLIANCE OVERVIEW

**18.1** Supervisors respond to the scene of, at least, the following categories of arrests, unless community unrest or other conditions at the scene make this impractical: all felonies; all drug offenses (a marijuana arrest requires supervisory approval only where the subject is taken into custody for that offense); where there is an investigated use of force; and Penal Code §§69, 148(a)(1), 243(b)(c).

<b>In Compliance</b>	<b>95%</b>
<b>Compliance Requirement</b>	<b>90%</b>

**18.2.1** Supervisors review arrest documentation to verify that probable cause for arrest or reasonable suspicion for stop/detention is articulated.

<b>In Compliance</b>	<b>95%</b>
<b>Compliance Requirement</b>	<b>90%</b>

**18.2.2** Supervisors review arrest documentation to verify that available witnesses are identified.

<b>In Compliance</b>	<b>90%</b>
<b>Compliance Requirement</b>	<b>90%</b>

**18.2.3** Supervisors approve or disapprove arrest in the field.

<b>In Compliance</b>	<b>95%</b>
<b>Compliance Requirement</b>	<b>90%</b>

**18.2.4** Supervisors log time of supervisory contact.

<b>In Compliance</b>	<b>95%</b>
<b>Compliance Requirement</b>	<b>90%</b>

## **AUDIT SCOPE AND POPULATION**

The audit team reviewed adult felony and drug arrests and Penal Code §§ 69, 148(a)(1), and 243(b)(c) arrests. Arrests reviewed occurred between May 1, 2012 and May 31, 2012. Although arrest approval is also required for juvenile arrests in the same categories and arrests in which there was an investigated use of force, only adult arrests were reviewed for this audit.

The audit team requested all adult arrest information for the review period (May 1, 2012 – May 31, 2012) from the Criminal Investigation Division (CID). After receipt of the CRIMS (Consolidated Records Information Management System) Daily Logs, the individual files were combined and then sorted by violation/charge. A spreadsheet was created including only the applicable arrests - felonies, drugs and Penal Code §§ 69, 148(a)(1), 243(b)(c).

There were a total of 650 arrests during the audit period: 396 felony arrests, 199 drug arrests and 55 Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests. A sample size for these arrests was determined by taking the total number of felony, drug and Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests and conducting a one-tail test with a 95% confidence level and an error rate of +/-4. The resulting sample size was 84 arrests.

Actual arrests to be reviewed were selected by using the “Sample Randomizer” program and applying the results to the arrests spreadsheet created. An additional 86 arrests were included in the randomization to allow for any arrests deemed invalid (no arrest approval required) resulting in a total of 170 cases randomized and reviewed.

Due to the number of arrests that had to be eliminated from the sample because they were misdemeanors, warrants, or parole/probation violations (not requiring arrest approval), the final sample was reduced to 77; 53 Felony and Drug arrests and 24 Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests. Although Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests was only a small portion of the population, the Audit team wanted a more comprehensive review of these specific arrests, therefore the number of Penal Code §§ 69, 148(a)(1), 243(b)(c) arrests reviewed were increased and the number of felony and drug arrests reviewed were decreased.

## **METHODOLOGY**

Compliance for each arrest category was based on the five requirements outlined in the NSA. To determine compliance with Task 18, the audit team reviewed documentation for each arrest including Consolidated Arrest Reports, crime reports, supplemental reports, and witness statements.

## **PRACTICES AND FINDINGS**

### **Task 18.1**

*Supervisors respond to the scene of, at least, the following categories of arrests, unless community unrest or other conditions at the scene make this impractical: all felonies; all drug offenses (a marijuana arrest requires supervisory approval only where the subject is taken into custody for that offense); where there is an investigated use of force; and Penal Code §§69, 148(a)(1), 243(b)(c).*

### **Audit Steps**

The audit team reviewed arrest documentation to ensure that supervisors responded to the scene.

### **Findings**

The Department was found in compliance with Task 18.1. Of the 77 arrest documents reviewed, 73 arrests (95%) documented that a supervisor was on scene by checking the appropriate box on the CAR, noting in the CAD and/or noting in the narrative of the CAR, Crime Reports or supplemental reports.

However, the Department is not complying with Department policy regarding the proper documentation of “supervisor on scene.” Department General Order M-18 requires supervisors to document they were on scene to approve the arrest, or document the location of the arrest if different than the location where the arrest was made. Report Writing Manual K-1 requires supervisors to document they were on scene by marking the “supervisor on scene” checkbox on the CAR. Only 62 arrests (81%) had the “supervisor on scene” checkbox properly marked on the CAR. In eleven of the remaining 15 arrests, there was documentation noted elsewhere in the reports that the supervisor was on scene to approve the arrest.

There was no supervisor on scene documentation in four arrests. In two arrests, the supervisor did not sign the CAR, so the audit team was unable to give the Department credit for a supervisor being on scene. In the other two arrests, the audit team was unable to locate the CAR or Crime Report and therefore was unable to determine compliance.

There were 10 arrests in the sample that were made during a May 1<sup>st</sup> Occupy Oakland event. In some cases, the arrests were directed by a supervisor or commander on scene. Two of these arrests did not document that a supervisor was on scene to approve the arrest. However, the audit team gave the Department credit for a supervisor being on scene, since there were multiple levels of supervision on the scene during the event and the supervisors had signed the CAR.

### **Recommendation**

Although there are multiple ways to document that a supervisor is on scene to approve the arrest, Department policy requires the approving supervisor to mark the “supervisor on scene” checkbox unless the arrest was approved at an alternate location, which is to be documented. Commanders should conduct more thorough reviews of CARs to ensure that their subordinate supervisors are properly completing the supervisory approval portion of the form.

### **Task 18.2.1**

*Supervisors review arrest documentation to verify that probable cause for arrest or reasonable suspicion for stop/detention is articulated.*

### **Audit Steps**

The audit team reviewed arrest documentation to determine if there was articulation of probable cause for arrest or reasonable suspicion for stop/detention.

### **Findings**

The Department was found in compliance with Task 18.2.1. Of the 77 arrests reviewed, 73 arrests (95%) included articulation of probable cause or reasonable suspicion for the stop/detention, along with a supervisor’s signature indicating approval. In two arrests, the supervisor did not sign the CAR, so the audit team was unable to give the Department credit for a supervisor reviewing documentation for probable cause/reasonable suspicion. In the other two arrests, the audit team was unable to locate the CAR or Crime Report and therefore was unable to determine compliance.

### **Task 18.2.2**

*Supervisors review arrest documentation to verify that available witnesses are identified.*

### **Audit Steps**

The audit team reviewed arrest documentation to verify whether witnesses to the crime were identified.

### **Findings**

The Department was found in compliance with Task 18.2.2. Of the 77 arrest documents

reviewed, 69 arrests (90%) included the proper documentation of witnesses; witness information was documented or the report documented that there were no known witnesses. Four arrests deemed out of compliance because the CAR and/or Crime Report did not include any documentation of witnesses. Two arrests, although they had documentation of witnesses, were missing a supervisor's signature. In the two remaining arrests, the audit team was unable to locate the CAR or Crime Report and therefore was unable to determine compliance.

### **Task 18.2.3**

*Supervisors approve or disapprove arrest in the field.*

#### **Audit Steps**

The audit team reviewed arrest documentation to verify that supervisors approved or disapproved the arrest in the field.

#### **Findings**

The Department was found in compliance with Task 18.2.3. Of the 77 arrest documents reviewed, 73 arrests (95%) documented that the supervisors approved or disapproved the arrest in the field. In two arrests, the supervisor did not sign the CAR, so the audit team was unable to give the Department credit for approving or disapproving the arrest. In the other two arrests, the audit team was unable to locate the CAR or Crime Report and therefore was unable to determine compliance.

### **Task 18.2.4**

*Supervisors log time of supervisory contact.*

#### **Audit Steps**

The audit team reviewed arrest documentation to verify that supervisors logged the time of supervisory contact.

#### **Findings**

The Department was found in compliance with Task 18.2.4. Of the 77 arrest documents reviewed, 73 arrests (95%) documented the time of supervisory contact. Two arrests were deemed out of compliance because the CAR and/or Crime Reports did not document the time of supervisory contact. In one arrest, the supervisory approval section on the CAR was blank, and in the other arrest, the supervisor did not sign in the arrest approval box. The audit team was unable to locate the CAR or Crime Report for the two remaining arrests and therefore was unable to determine compliance.

# APPENDIX A

## Negotiated Settlement Agreement Requirements

### Task 18.1

Supervisors respond to the scene of, at least, the following categories of arrests, unless community unrest or other conditions at the scene make this impractical: all felonies; all drug offenses (a marijuana arrest requires supervisory approval only where the subject is taken into custody for that offense); where there is an investigated use of force; and Penal Code §§69, 148(a)(1), 243(b)(c).

### Task 18.2.1

Supervisors review arrest documentation to verify that probable cause for arrest or reasonable suspicion for stop/detention is articulated.

### Task 18.2.2

Supervisors review arrest documentation to verify that available witnesses are identified.

### Task 18.2.3

Supervisors approve or disapprove arrest in the field.

### Task 18.2.4

Supervisors log time of supervisory contact.

## Detailed Findings Table

Case No.	18.1 Y/N	18.1 (Checkbox marked) Y/N	18.2.1 Y/N	18.2.2 Y/N	18.2.3 Y/N	18.2.4 Y/N	Comments
12-021016	Y	Y	Y	Y	Y	Y	
12-021027	Y	Y	Y	N	Y	Y	Crime Report / CAR does not indicate any witness information
12-021026	Y	Y	Y	Y	Y	Y	
12-021026	Y	Y	Y	Y	Y	Y	
12-021026	Y	Y	Y	Y	Y	Y	
12-021026	N	N	N	N	N	N	Occupy Oakland (May Day operation) / Supervisor did not sign CAR
12-021029	Y	Y	Y	Y	Y	Y	
12-021026	Y	N	Y	Y	Y	Y	Occupy Oakland (May Day operation) / Supervisor on Scene not documented on CAR, <b>however supervisors were in the field</b>
12-021026	Y	Y	Y	N	Y	Y	Occupy Oakland (May Day operation) / No witness info documented on CAR or in Crime Report.
12-021026	UTD	UTD	UTD	UTD	UTD	UTD	Occupy Oakland (May Day operation) / Unable to locate CAR

12-021026	N	N	N	N	N	N	Occupy Oakland (May Day operation) / Supervisor did not sign CAR
12-021664	Y	Y	Y	Y	Y	Y	
12-021663	Y	Y	Y	Y	Y	Y	
12-023370	Y	Y	Y	Y	Y	Y	
12-023926	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report indicates supervisor responded to NCJ.
12-024900	Y	Y	Y	Y	Y	Y	
12-024889	Y	Y	Y	Y	Y	Y	
12-025074	Y	N	Y	N	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does. No witness info documented on CAR or in Crime Report
12-025037	Y	Y	Y	Y	Y	Y	
12-026317	Y	Y	Y	Y	Y	Y	
12-021314	Y	Y	Y	Y	Y	Y	
12-024089	Y	Y	Y	Y	Y	Y	
12-025764	Y	Y	Y	Y	Y	Y	
12-021877	Y	Y	Y	Y	Y	Y	
12-021026	Y	N	Y	Y	Y	Y	Occupy Oakland (May Day operation) / Supervisor on Scene not documented on CAR, <b>however Crime Report does and supervisors were in the field</b>
12-019974	Y	N	Y	Y	Y	Y	No documentation on CAR or Crime Report that supervisor was on scene, however the CAD purge does indicate SAA (Supervisor Approved Arrest)
12-022546	Y	Y	Y	N	Y	Y	No witness information documented on CAR or in Crime Report
12-016975	Y	Y	Y	Y	Y	Y	
12-021382	Y	Y	Y	Y	Y	Y	
12-021701	Y	Y	Y	Y	Y	Y	
12-021814	Y	Y	Y	Y	Y	Y	
12-021837	Y	Y	Y	Y	Y	Y	
12-021884	Y	Y	Y	Y	Y	Y	
12 022254	Y	Y	Y	Y	Y	Y	
12-022369	Y	Y	Y	Y	Y	Y	
12-022511	Y	Y	Y	Y	Y	Y	
12-022539	Y	Y	Y	Y	Y	Y	
12-022601	Y	Y	Y	Y	Y	Y	
12-022648	Y	Y	Y	Y	Y	Y	
12-022612	Y	N	Y	Y	Y	Y	Supervisor on Scene box not checked, however it is handwritten on the bottom of the CAR and documented in Crime Report

12-022809	Y	Y	Y	Y	Y	Y	
12-023024	Y	Y	Y	Y	Y	Y	
12-023126	Y	Y	Y	Y	Y	Y	
12023218	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does.
12-022844	Y	Y	Y	Y	Y	Y	
12-023539	Y	Y	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does.
12-020903	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Field Interview Report does.
12-023918	Y	Y	Y	Y	Y	Y	
12-024280	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does.
12-024455	Y	Y	Y	Y	Y	Y	
12-024531	Y	Y	Y	Y	Y	Y	
12-024837	Y	Y	Y	Y	Y	Y	
12-024883	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does.
12-024995	Y	Y	Y	Y	Y	Y	
12-025398	Y	Y	Y	Y	Y	Y	
12-025715	Y	Y	Y	Y	Y	Y	
12-025807	Y	Y	Y	Y	Y	Y	
12-025857	Y	Y	Y	Y	Y	Y	
12-025944	Y	Y	Y	Y	Y	Y	
12-026088	Y	Y	Y	Y	Y	Y	
12-025733	Y	Y	Y	Y	Y	Y	
12-026194	Y	Y	Y	Y	Y	Y	
12-026275	Y	Y	Y	Y	Y	Y	
12-026307	Y	Y	Y	Y	Y	Y	
12-026396	UTD	UTD	UTD	UTD	UTD	UTD	Unable to locate CAR
12-021967	Y	Y	Y	Y	Y	Y	
12-025772	Y	Y	Y	Y	Y	Y	
12-021354	Y	Y	Y	Y	Y	Y	
12-021664	Y	N	Y	Y	Y	Y	No documentation on CAR that supervisor was on scene, however Crime Report does.
12-022074	Y	Y	Y	Y	Y	Y	
12-022683	Y	Y	Y	Y	Y	Y	
12-022917	Y	Y	Y	Y	Y	Y	

12-024638	Y	Y	Y	Y	Y	Y	
12-024638	Y	Y	Y	Y	Y	Y	
12-024677	Y	Y	Y	Y	Y	Y	
12-025937	Y	Y	Y	Y	Y	Y	
12-026088	Y	Y	Y	Y	Y	Y	
<b>Total In Compliance</b>	<b>73</b>	<b>62</b>	<b>73</b>	<b>69</b>	<b>73</b>	<b>73</b>	
<b>Total Not In Compliance</b>	<b>4</b>	<b>15</b>	<b>4</b>	<b>8</b>	<b>4</b>	<b>4</b>	
<b>Total Cases Reviewed</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	
<b>Compliance %</b>	<b>95%</b>	<b>81%</b>	<b>95%</b>	<b>90%</b>	<b>95%</b>	<b>95%</b>	