

OAKLAND POLICE DEPARTMENT

Office of Inspector General



REVIEW OF CONTROL AND MANAGEMENT OF ACTIVE INFORMANT FILES

May 5, 2015

OFFICE OF INSPECTOR GENERAL
Audit and Inspections Unit



LEAD AUDITOR
Officer Ann Pierce

CONTRIBUTORS
Ms. Kristin Burgess

Table of Contents

PURPOSE	4
BACKGROUND.....	4
SCOPE AND POPULATION	5
PRACTICES, FINDINGS, AND RECOMMENDATIONS	6
RECOMMENDATIONS	11

PURPOSE

Department General Order O-4 requires the OIG to conduct a review of informant files twice annually. On April 9, 2015, the Audit and Inspections Unit of the Office of Inspector General (OIG) initiated an audit of the Department's active informant files. The purpose of the audit was to determine if the Oakland Police Department's (OPD) practices and procedures regarding the control and management of informants are in accordance with the established guidelines in Departmental General Order (DGO) O-4, *Informants*. Additionally, the intent of the audit was to identify policy and/or practice deficiencies and to propose solutions that will aid in the Department's ability to comply with DGO O-4 directives.

BACKGROUND

DGO O-4 was recently revised and republished on June 6, 2014, and OIG conducted its most recent review of informant files three months following this revision to policy. The September 8, 2014 audit recommended policy changes to provide clarification and improve practices; although some of the recommendations in OIG's prior audit have been implemented, DGO O-4 has not yet been updated to incorporate all recommendations. Past recommendations are excerpted or summarized below.

- Per the current policy, the managing officer "shall prepare the file to include the Temporary Confidential Informant Record." This form only pertains to Temporary Confidential Informants who provide assistance in a single investigation; therefore, this form is not required in all files. Adding "when applicable" behind "Temporary Confidential Informant Record" would eliminate this redundancy.
- Supervisor documentation of the date on which they forwarded the file to the Informant Program Coordinator (IPC) would show evidence of being in compliance with the policy regarding review and forwarding to the IPC within five calendar days.
- Supervisors should document their meetings with officers on the quarterly Informant Chronological Activity Record (ICAR) to document compliance with Departmental policy.
- Eliminate the unit commander's responsibility of submitting a semi-annual review. This review is redundant as the IPC already conducts monthly inspections.
- The Department should implement the IPC's recommendations for improvements to the new policy. The current policy has an evaluation due date of December 6, 2014.

SCOPE AND POPULATION

Audit Scope

The audit focused on the active informant files and the Intelligence Supervisor's Semi-Annual Report. The auditor also interviewed managing officers, supervisors and commanders regarding their practice in maintaining the files. In addition to the control files, the IPC maintains a comprehensive spreadsheet documenting steps taken with each file, due dates for checks, and receipt of required forms and logs. The auditor reviewed this spreadsheet for ancillary information.

The audit team conducted an entrance interview with the Intelligence Unit Sergeant, who serves as the IPC within the position, on April 9, 2015 to discuss the audit and gain access to informant files.

Audit Population

Department General Order O-4, *Informants*, requires that the IPC maintain informant files containing all original documents. The policy states that the control file "serves as the Department's informant file source for audits and inspections." OIG reviewed all 38 active informant control files. There were 15 new informant files created between September 2014 and February 2015; the audit focused on informant evaluations and process activity for files created within this time span since prior OIG audits covered files created within preceding periods.

Reference Materials

- Departmental General Order O-4
- TeleStaff Roster
- Confidential Informant List
- Semi Annual Reports

PRACTICES, FINDINGS, AND RECOMMENDATIONS

Objective 1

Review the Department's active informant files to ensure that all required forms were present.

Audit Steps

The auditor reviewed each of the Department's active informant files to determine if the following forms were appropriately completed and signed by the respective supervisor, officer, and/or citizen informant as needed:

- Informant Chronological Activity Record Log (ICAR) (TF-3278)
- Informants Regulations Record (TF-3110)
- Informant Agreement Record (TF-3276)
- Informant Personal Record (TF-3111)
- Prospective Informant Review Record (TF-3338)
- Informant Payment Record (TF-3361)
- Informant Accomplishment Record (TF-3362)
- Unreliable /Undesirable Informant Notification Record (TF-3339)
- Temporary Confidential Informant Record (TF-3363)

Findings

There were 38 active informant files reviewed. With the exception of Temporary Confidential Informant Record (TF-3363), Unreliable /Undesirable Informant Notification Record (TF-3339), Informant Accomplishment Record (TF-3362), and Informant Payment Record (TF-3361), all forms were included in all files. Although DGO O-4 requires the inclusion of all forms, some files did not contain these forms because they were not applicable or were not required by the old version of the policy when the file was created (see Recommendations).

All included forms were complete and signed by the respective supervisor, officer, and/or citizen informant as required.

There were 20 files created prior to the policy change and therefore did not require Temporary Confidential Informant Record (TF-3363) forms. This form was not included in these 20 files.

There were also several files which did not include the Informant Payment Record, Informant Accomplishment Record, or Unreliable /Undesirable Informant Notification Record form due to the fact that there were no files that met the need for this form. If no payments were made to a CI, the payment record was not included. If there were no accomplishments to be noted, there was no Informant Accomplishment Record. If the CI was not deemed unreliable or undesirable, this form was not included.

Objective 2

Review the Department's active informant files to ensure new informants were properly assessed: the managers evaluated the benefit and value of utilizing the person as an informant by considering risk to the public and the informant's reliability and dependability.

Audit Steps

The auditor reviewed 15 active informant files created between September 2014 and February 2015 to determine if the following information and documents were present:

- Identity verification and criminal history records (CDL, CRIMS, CII)
- Current photograph

The auditor also reviewed these same files to determine if:

- the informants met the age requirement
- had an informant file number assigned
- had a Western States Information Network (WISN) check performed

Findings

The audit indicated that all of the 15 most recent informant files contained identity verification, criminal history records, and a photograph of the informant. The audit also found that all of the recent informants met the age requirements and had an informant file number assigned.

Although this objective focused on the 15 most recently created informant files, a check of all 38 active files confirmed that each contained identity verification, criminal history records and a photograph of the informant.

Objective 3

Review the Department's control files (originals) to ensure that the immediate supervisor forwarded the control file to the IPC within five calendar days for final review or approval.

Audit Steps

The auditor reviewed the 15 active informant files created between September 6, 2014 and February 28, 2015 for documentation validating that active control files (originals) were submitted by the immediate supervisor to the IPC within five calendar days for final review or approval.

Findings

The audit indicated that all of the 15 most recent informant files had documentation validating that active control files (originals) were submitted by the immediate supervisor to the IPC within five calendar days for final review or approval.

Objective 4

Review the Department's active informant files to determine if the informant is being contacted at least once every 90 days to maintain "active" status.

Audit Steps

The auditor reviewed all 38 active control files to determine if the informant is being contacted at least once every 90 days to maintain “active” status.

Findings

The audit indicated that all 38 active informants were contacted at least once every 90 days to maintain “active” status. However, in some of the newer files, 90 days had not yet passed and will be reviewed in future audits.

Objective 5

Review the Department’s active informant files to determine if the managing officer’s supervisors are reviewing monthly ICAR’s with associated supporting documents, signing the ICAR, and forwarding the ICAR and all supporting documents to the IPC for inclusion into the file.

Audit Steps

The auditor reviewed all active informant files to ensure that the managing officer’s supervisor is conducting monthly checks and documenting it on the ICAR Log.

Findings

All of the 38 files reviewed contained documentation on the ICAR log that monthly checks were conducted for each month in the review period (six months).

Objective 6

All informants shall be approved by a supervisor before use.

Audit Steps

The auditor reviewed all active informant files to validate that the supervisor approved the informants before use.

Findings

All 38 active informants were approved by a supervisor before use.

Objective 7

The managing officer shall ensure that at least one other law enforcement officer is present during payment of an informant, shall document payments to an informant, and document the names of persons present who witnessed the payment in the ICAR Log or the Informant Payment Record.

Audit Steps

The auditor reviewed all 38 active informant files to determine if at least one other law enforcement officer was present during payment of an informant and that the names of persons present who witnessed the payment were documented on the ICAR log or the Informant Payment Record.

Findings

Not all informants receive payment, nor do all informants cooperate for payment. Some informants cooperate in return for leniency for previously committed, lesser offenses.

During this audit period, four informants received payment. Of the four files reviewed all four contained documentation of informant payment and the presence of at least one other law enforcement officer during payment, including the names of all persons present who witnessed payment.

Objective 8

The managing officer's supervisor shall meet with the managing officer quarterly to review the required print outs. The meetings shall be documented in the March, June, September and December ICAR logs.

Audit Steps

The auditor reviewed all 38 files to determine if the quarterly meetings were conducted and documented. The quarterly meeting within the scope of the audit was September and December 2015.

Findings

All files contained required quarterly meeting documentation. Some of the more recent files did not require a September or December quarterly meeting as they were created after December 2015.

Objective 9

When information is discovered that impacts an informant's status, the managing officer shall confer with his/her supervisor to consider the eligibility of the informant and document the conference in the ICAR log. In the event an informant is determined to be unreliable/undesirable, the managing officer shall complete Form TF-3339 and hand deliver to the IPC immediately.

Audit Steps

The auditor reviewed all 38 files to determine if, when information is discovered that impacts an informant's status, the managing officer met with his/her supervisor to consider the eligibility of the informant and document the conference in the ICAP log.

The auditor reviewed files for the existence of Form Unreliable /Undesirable Informant Notification Record (TF-3339), documentation regarding quarterly meetings between supervisors and managing officers, and file documentation pertaining to updated informant criminal history records (Wanted Persons System, Department of Motor Vehicles, Consolidated Records Information Management System and Criminal Identification and Information systems reports).

Finding

No cases were discovered to contain information that impacted an informant's status.

Objective 10

If the Managing Officer provides information from a Managed Confidential Informant (MCI) to an OPD officer or other law enforcement officer to act upon, the Managing officer shall document in the ICAR a summary of the information provided by the MCI establishing the Probable Cause for the detention and/or arrest and complete a police report. The police report should include a summary of the information provided by the informant, informant file number, incident and RD number, any corroborating

information to support the informants information and the officer making the arrest/detention a copy of the completed Departmental report.

Audit Steps

The auditor reviewed all 38 informant files to determine if, when the Managing Officer provides information from a Managed Confidential Informant (MCI) to an OPD officer or other law enforcement officer to act upon, the Managing Officer documents in the ICAR a summary of the information provided by the MCI establishing the Probable Cause for the detention and/or arrest and complete a police report. The police report should include a summary of the information provided by the informant, informant file number, incident and RD number, any corroborating information to support the informants information and the officer making the arrest/detention a copy of the completed Departmental report.

Findings

Eleven Managing Officers provided information from a Managed Confidential Informant (MCI) to an OPD officer or other law enforcement officer to act upon. Of the eleven files reviewed, all eleven contained the appropriate documentation of the incident.

Objective 11

The Managing Officer's Unit Commanders shall conduct a semi-annual review and inspection of the applicable informant files before 31 Jun and 31 Dec of each year. The Unit Commander shall complete a Semi-Annual report documenting this review and inspection and forward to the IPC.

Audit Steps

The auditor reviewed all Unit Commander Reports for the December 31, 2014 reporting period.

Findings

There were ten commanders who were responsible for completing semi-annual reports. All ten of the commanders submitted their reports to the IPC. Of the 38 files reviewed, 37 files were documented on the Semi-Annual reports as being reviewed and inspected by the unit commanders.

The auditor followed-up with the IPC who believes the missing file number was reviewed but inadvertently excluded from a semi-annual report; however, the auditor was unable to definitively determine whether this file was reviewed as required.

Objective 12

The Intelligence Supervisor shall review informant files semi-annually before 30 Jun and 31 Dec of each year to ensure that files are complete and current. The Intelligence Supervisor shall then prepare and forward a Semi-Annual report to the Office of Inspector General.

Audit Steps

The auditor reviewed the Semi-Annual Report submitted by the Intelligence Supervisor for the December 31, 2014 reporting period.

Findings

The Intelligence Supervisor completed a semi-annual report and made several recommendations on how to improve the current policy.

RECOMMENDATIONS

1. Not all forms are applicable for all CI files. The Department should consider revising the language in Section III.C. (Processing Informants), so that all forms are not required to be included in the file, unless they are applicable.
2. A previous recommendation was to remove the policy requirements of commander bi-annual reviews as they were found to be redundant and unnecessary due to monthly IPC review. If bi-annual reviews and reports remain as policy requirements, and in order to ensure all informant files are reviewed and considered by unit commanders on a bi-annual basis, the IPC should reconcile file numbers received from unit commanders in bi-annual reports against the IPC master informant file list; discrepancies should be rectified prior to report approval.
3. Although some of the recommendations in OIG's prior CI audit have been implemented, DGO O-4 has not yet been assessed or updated to incorporate all past recommendations. The Department should finalize the policy revisions and publish as soon as possible.