

Monthly Progress Report

Of the Office of Inspector General



Office of the Inspector General
Oakland Police Department

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INTRODUCTION

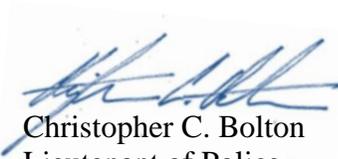
The Office of Inspector General (OIG), in conjunction with external audit consultants, focused its December compliance reviews on critical administrative processes related to police accountability and departmental transparency. Specifically, OIG assessed how well the Oakland Police Department (Department) ensures the completion of accurate, thorough, and timely use of force investigations, whether supervisors routinely evaluate officer performance through use of body camera video footage, and lastly, how well the Department informs the public of service achievements in its annual management and department reports.

The *Review of Use of Force Investigations* was performed by Elite Performance Assessment Consultants, LLC (EPAC), audit consultants specializing in law enforcement compliance. By utilizing the extensive experience and expertise of an independent external auditor, the OIG was able to gain greater objectivity in comparing Department policies and procedures against best practices and industry standards, thereby affording a higher degree of public accountability. The OIG agrees with and accepts all EPAC's findings and recommendations. EPAC's full report is made available [here](#), however this OIG report contains a summarized version.

OIG's *Review of Annual Management and Department Reports* was well received by the Department, which promptly sought to implement the recommendations made by OIG prior to the official publishing of this report. On November 30th, 2015 the Department's Research and Planning Unit issued revised directives to Departmental leadership. These improved instructions require more uniform reporting from all departments and better defines the quality and quantity of information relevant to the community's interest.

Accountability and transparency are two vital components of 21st century policing and are equally important in ensuring sustained improvement towards building community trust and legitimacy. To that end, the Office of Inspector General, by the endowed authority of the Oakland Police Department will continue to reflect those ideals through continuous review of Department operations against sound policy, laws and regulations.

Sincerely,



Christopher C. Bolton
Lieutenant of Police
Office of Inspector General

AUDITS, REVIEWS, and/or INSPECTIONS

Review of Use of Force Investigations (Levels 2, 3 and 4)

Auditor: Elite Performance Assessment Consultants, LLC (EPAC)

Objectives:

1. Assess the level of supervisory oversight provided
2. Determine the completeness of use of force reporting
3. Assess whether tactical issues/concerns were addressed by the investigating supervisor
4. Determine the adequacy of the investigation
5. Determine if medical treatment was provided, if applicable
6. Determine if all allegations of misconduct were properly reported
7. Assess the timeliness of use of force investigations

Policy Referenced: Department General Order (DGO) K-04, *Reporting and Investigating Use of Force*.

Significant Findings:

Overall, the Department remains compliant with the requirements of DGO K-04, *Reporting and Investigating Use of Force*. However, recommendations for continued improvement are proposed regarding the adequacy and timeliness of reports as well as supervisory oversight.

Recommendations:

1. *Adequacy* – Department General Order K-04 does not require supervisors investigating a Level 3 use of force to canvass for witnesses, however, it is recommended that OPD revise the policy requiring that supervisors conduct a reasonable canvas in an effort to identify and obtain statements from witnesses in the proximity of the use of force incident. Canvassing for witnesses is a best practice and an excellent investigative tool.
2. *Timeliness* - Current policy requires a Divisional Commander approve Level 2 and Level 3 use of force reports within 15 days of the incident. It is recommended that OPD consider changing the policy to 30 to 45 days of the incident.
3. *Supervisor oversight* – It is recommended that OPD establish a requirement whereby supervisors who downgrade a Level 3 incident to a Level 4 incident, must document the justification in addition to signing the approval box.

OVERVIEW

The audit focused on compliance with policies and procedures in conducting use of force investigations as outlined in DGO K-04, *Reporting and Investigating Use of Force*. The audit included a review of a sample of all Level 2, 3, and 4 use of force investigations completed from January 2015 to June 2015. There were 278 completed investigations for this time period.

METHODOLOGY

EPAC auditors reviewed 96 use of force investigations for documentation of supervisory oversight including whether supervisors:

- Ensured a subject was transported to a medical facility for medical evaluation when applicable;
- Ensured all involved personnel and witnesses were separated and advised that communication regarding the incident was prohibited;
- Ensured photos were taken;
- Ensured the appropriate offense of the supplemental report contains the minimum information regarding the use of force incident;
- If not notified of an allegation of unreasonable force, the supervisor performed a preliminary investigation;
- Upon approval, signed the appropriate level 4 review box on the use of force report and;
- Conducted a thorough review of all documents to ensure completeness, accuracy and quality.

EPAC auditors also reviewed the 96 use of force investigations for adequacy, completeness and timeliness of investigation. Adequacy of investigation included whether:

- Canvassing the scene to locate witnesses was performed;
- Proper classification of the use of force was made;
- Identification of non-department witnesses was performed;
- Reports were free of boilerplate language and;
- Documentation and analysis of evidence and consideration of documented training and tactical issues were appropriately performed by a supervisor/Division Commander.

Reviewing investigations for completeness required determining whether every use of force was reported by all members/employees at the scene of an incident and documented on the appropriate form. Timely investigation was determined by reconciling the dates a supervisor/Division Commander reviewed an investigation against DGO stated deadlines (15 days for Level 2 and 3 and by the end of the reviewing supervisor's next scheduled workday for Level 4 investigations).

Further reviews included determining whether supervisors addressed all tactical issues/concerns during the use of force investigation.

Lastly, EPAC auditors determined whether allegations of misconduct were reported by supervisors during investigations and whether medical treatment was rendered during a use of force incident.

FINDING #1

Ninety-five of the 96 (or 99%) of the use of force investigations reviewed contained the required supervisory oversight as required by DGO K-4. However, DGO K-4 allows for an on-scene supervisor/commander to downgrade a Level 3 incident to a Level 4 incident when there is no injury to the subject requiring emergency treatment or hospital admittance, no allegation of misconduct, and no indication of use of force being out of policy. There were 3 instances in the

sample reviewed in which this downgrade occurred, and while the on-scene supervisor marked the approval box as required, the supervisor(s) did not provide a justification for the downgrade.

All tactical issues/concerns were addressed by the supervisor in the use of force investigations.

FINDING #2

All 96 use of force investigations included the proper investigative protocols as set forth by DGO K-4. However, while not required by DGO K-4, the majority of Level 3 use of force investigations reviewed noted supervisors canvassed for witnesses. In these instances, the supervisor wrote, "This is a Level 3 incident and no canvass is required to be conducted. However, I did make an attempt to locate witness."

FINDING #3

The Oakland Police Department (Department) also met the standard in timely review and approval of use of force investigations by a supervisor/Division Commander within the required time period (15 days for Level 2 and 3 and by the end of the reviewing supervisor's next scheduled workday for Level 4 investigations). However, of the 28 Level 2 and Level 3 use of force investigations reviewed, twenty-four received approved deadline extensions in order to complete.

CONCLUSION

Overall, the Department remains compliant with the requirements of DGO K-04, *Reporting and Investigating Use of Force*. However, recommendations for continued improvement are proposed.

Review of Annual Management and Departmental Reports

Auditor: Charlotte Hines, Office of Inspector General

Objectives:

1. Verify all required functional units prepared and submitted annual management reports as required.
2. Verify each report included all required sections as outlined in policy.
3. Confirm that Division/Section Commanders, Managers or Supervisors met with the Chief of Police and Deputy Chief/Director.

Policy Referenced: Department General Order (DGO) A-7, *Annual Management and Departmental Reports*

Significant Findings:

The report "content" section of DGO A-7 has some requirements that are vague and lack structure. For example, in the area of "Training" the policy simply asks for training received and provided by personnel. There is no indication of what types of training is required (i.e. routine policy updates, POST mandated, self-initiated, continuing education, etc.), resulting in inconsistent information being submitted based on the interpretation of the Commanders and Managers. Another area that is left to the interpretation of the Commanders and Managers is

“Staffing”. Although this review showed that overall functional units were adhering to DGO A-7, the DGO has not been re-evaluated or updated since November 2006 (inception date).

Recommendations:

1. The Annual Report policy and process should be re-evaluated in its entirety.
2. The Research and Planning Manager should meet with the Chief of Police in order to understand and include data that are relevant to his vision and direction for the Police Department.
3. The Department should consider the suggestion of the Research and Planning Manager to create a template for the purposes of collecting the required data for the Annual Report in a standardized format.

METHODOLOGY

All fifteen reports submitted by functional units for 2014 were reviewed. Three of the reports (Bureau of Field Operations (BFO), Criminal Investigations (CID) and Training Division) covered multiple units, for a total of 31 units department-wide. There were nine requirements that were evaluated (one meeting requirement and eight report content requirements – seven mandatory and one optional); however, only eight of the requirements are applicable to every unit.

All financial (Budget) information was based on Fiscal Year 2013-2014 (July 1, 2013 to June 30, 2014). All non-financial information was based on the 2014 calendar year (January 2014 to December 2014). All annual reports submitted and the record of the meetings held between the Chief of Police, Deputy Chiefs/Director and the Division or Section Commanders, Managers or Supervisor for review of their respective reports were obtained. All reports were evaluated for the requirements of DGO A-7:

- Mandatory Information
 - Staffing
 - Fiscal Management (Budget)
 - Training Received and/or Provided by Unit Personnel
 - Significant Accomplishments
 - Productivity Performance Data
 - Other Performance Data
 - Plans, Expectations and Goals
- Optional Information
 - Photographs of unit personnel engaged in their operational duties
 - Copies of letters received from the public/other agencies recognizing the work of staff

A spreadsheet was created including all pertinent information regarding the content of each report as well as the required meeting, and then each area was tallied.

FINDING #1

Based on the organizational structure in place during 2014, there were 33 functional units. Thirty-one units submitted Annual reports. The two units that did not submit an Annual report

were the Research and Planning Unit and the Public Information Unit. The Public Information Unit was not properly notified of the Report requirements and the Research and Planning Unit was a newly established unit.

FINDING #2

While DGO A-7 includes eight areas in the “report content” section, not all are applicable to every unit or section. Of the eight areas, there are three areas for which some functional units may have no data, depending on the type of unit and how they interpret the policy.

- 1) *Optional Information*, which may contain material such as photographs of personnel in their operational duties, copies of letters received from the public or other agencies in recognizing the staff for their work.
- 2) *Other Performance Data*, “other” data which may indicate a need for corrective action (i.e. uses of force, discharging of firearms, personnel complaints, vehicle pursuits, preventable vehicle collisions).
- 3) *Training Provided by Personnel*, including subject of the training, number of persons trained and the length of the training (in hours).

Of the seven “Mandatory” areas of content that are applicable to all reporting units, the review of DGO A-7 indicates that the policy as it is currently written is being adhered to appropriately. However, there are some areas that are inconsistently interpreted and reported. For example, the training requirement does not specify what types of training should be submitted, which results in varying information being submitted based on the interpretation of the Commanders and/or Managers (i.e. some submit only policy updates and POST mandates, while others include self-initiated training and other combinations of training received and or provided). The staffing requirement is another area that is very general and left to the interpretation of the Commanders and/or Managers (i.e. some submit each movement of every employee; others submit only the authorized employees vs. actual employees).

There were a few areas of content that were not submitted by some of the units. Three of the reporting units did not include fiscal (budget) information. Of these three units, it was noted that the Neighborhood Services 1 and Neighborhood Services 2 budgets were still assigned to the City Administrator’s Office even though the staff were physically assigned to OPD during Fiscal Year 2013-14. The other unit (Intelligence Unit) did not provide any financial information for the report.

In the “Other Performance” area there were five units that did not report any data for the report and five units that stated there were “No Issues” to report. The remaining 21 units included at least one item in this area. In the “Productivity Performance” area there were two units that did not report any data. Although not a mandatory area, nine units included “Optional Information.”

FINDING #3

All 31 reporting units attended the mandatory meeting with the Chief of Police and Deputy Chief/Director.

CONCLUSION

Overall, the Department is adhering to DGO A-7 as it is currently written. The stated requirements are being met and the Annual Report is being produced as required. An evaluation of the policy, including input from the Chief of Police and clarification of the type of data to include, would add value to the Department's Annual Report.

Personal Digital Recording Device (PDRD) Inspection

Lead Auditor: Lieutenant Chris Bolton

Contributors: Sergeant John Haney, Officer Ann Pierce

Policy Referenced: Department General Order I-15.1, *Portable Video Management System*

Significant Findings: Ninety-four of 102 officers' videos were reviewed by their supervisors as required (92%).

Recommendations: None required

OVERVIEW

Department General Order I-15.1, *Portable Video Management System*, requires officers equipped with PDRD (AKA "Body camera") to record during certain citizen contacts: all detentions and arrests; during vehicle pursuits; when serving search warrants; and when conducting other searches. In order to provide ongoing evaluation of PDRD policy compliance and performance, supervisors are required to conduct random reviews of PDRD recordings for each of their subordinates on a monthly basis.

On July 28, 2015, the OIG assigned compliance reviews to commanders throughout the Bureau of Field Operations. The intent of the review was to ensure supervisors were reviewing personal digital recording device recordings as required. The review was published in the September *Monthly Report of the Office of Inspector General*. A follow-up inspection was scheduled for November 2015 in order to gauge continued compliance and progress.

METHODOLOGY

To conduct this follow-up inspection, OIG randomly selected two patrol squads and one special resource squad from each of the five patrol areas for the month of October 2015. The total population consisted of 119 officers. Officers were then removed from the population if they were on medical leave or had been loaned to non-patrol and/or non-field based assignments. The resulting population was 102 officers.

FINDINGS

Ninety-four of 102 (92%) officers had their video reviewed by their supervisors as required. The inspection determined that supervisors are reviewing PDRD footage and are documenting

monthly audits within the PDRD system. Officers were also noticeably and consistently uploading videos with supplemental and corresponding comments, incident numbers, and offense report numbers. This supplemental information will soon be used to link PDRD footage directly to offense reports, incident reports, and Stop Data documentation within a centralized document review platform; the presence of documentation at this point is promising for the potential of its future use and capability.

CONCLUSION

PDRD technology enhances the Department's ability to conduct criminal investigations, administrative investigations, and provides mechanisms to review police procedures, conduct, performance and tactics. The presence or absence of PDRD video during critical incidents has proven to be an important factor of actual and perceived police trust and legitimacy. To ensure appropriate PDRD use and supervisory oversight is maintained, the OIG has scheduled a follow-up review of this policy requirement and practice in January to gauge continued progress.

NEXT MONTH'S PLANNED REVIEWS

January 2015

1. Field Training Program
2. Arrest Approval