

Monthly Progress Report

Of the Office of Inspector General



April 2016

Office of the Inspector General

Oakland Police Department

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INTRODUCTION

The Office of Inspector General strives to deliver timely and relevant reviews reflective of the Department's policies, procedures and efforts to maintain or improve compliance with essential policing obligations. This month's report largely focuses on key administrative and legal requirements which ensure that allegations of serious and/or criminal misconduct against Oakland Police Department personnel are handled in timely, ethical, and lawful manners. Although occurrences of such allegations are rare, the Department's ability to meet or exceed its obligations to document, investigate and report such incidents is paramount to its organizational accountability and community trust.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Christopher C. Bolton", is positioned above the printed name.

Christopher C. Bolton
Lieutenant of Police
Office of Inspector General

AUDITS, REVIEWS, and/or INSPECTIONS

Review of Pitchess Discovery Motions

Lead Auditor: Charlotte Hines, Office of Inspector General

Objective(s)

1. Determine if all relevant cases are being identified and presented in response to "Pitchess" Discovery Motion subpoenas
2. Determine if the Departments' current policy on Pitchess motions is sufficient

Policy Referenced: Internal Affairs Division Policy & Procedures 07-02, "*Pitchess Motion Process Manual*"

Significant Finding(s)

1. The Pitchess Officer and City Attorney's Office (CAO) representative have established an efficient process that complements both Departments. Judge Yolanda Northridge of Alameda County Superior Court expressed her high regard for the performance of both Departments. Judge Northridge complemented the responsible manner in which the appropriate information was presented, the timeliness of the responses, as well as the manner in which the information was presented to the Court.
2. There are several practices that have been implemented by the current Pitchess Officer that have improved the Pitchess process; however, these practices are not included in the Pitchess Motion Process Manual.

Recommendations

1. The Pitchess Motions Process Manual should be revised and updated to include current processes and practices which are critical to the continued successful and efficient processing of "Pitchess" motions, and ensure the high quality of work presented to the courts is maintained.
2. The Department should establish a defined succession plan for the Pitchess Officer position. Since this position requires a high degree of knowledge and capability coupled with a high degree of risk, it is imperative that there is always someone available to assume assigned duties in case of absence or transfer.

Overview

The Office of Inspector General conducted a review of the Department's Pitchess Motion Process. A Pitchess motion is a request made by a defendant in a criminal action for access to information in the personnel file of an arresting officer. The name "Pitchess" comes from a 1974 California Supreme Court case, *Pitchess v. Superior Court*, 11 Cal. 3d 531. The Pitchess process is now codified in California Evidence Code Section 1043-47.

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The theory underlying a Pitchess motion is that a defendant should be entitled to any information that is relevant to his/her defense. If the arresting officer's personnel file contains information that might bear on the defendant's claim that the officer has engaged in misconduct or dishonesty, as a matter of fairness the defendant should have access to that information. However both the legislature and the courts recognize that the police officer whose records are sought has an equally compelling interest in maintaining the privacy of his/her personnel file. Therefore the Pitchess hearing process prescribed by law tries to ensure an appropriate balance of these two competing interests.¹

While Pitchess motions are initiated by the defense attorney, motions initiated by the prosecution side are:

- "Brady list" – a list that is kept by District Attorney's Offices and police agencies of police officers and deputy sheriffs' who have been found to have acted in a dishonest manner. Peace officers also may be on the "Brady List" because of complaints of prior acts of brutality or false arrests by them regardless if the complaint was sustained or exonerated.
- "Giglio material" – refers to material tending to impeach the character or testimony of the prosecution witness in a criminal trial. In *Giglio v. United States*, 405 U.S. 150, 153, the Supreme Court extended the prosecution's obligations under Brady to disclosure of impeachment evidence. *Giglio* mandated that the prosecution should disclose any and all information that may be used to impeach the credibility of prosecution witnesses including law enforcement officers.

The Department has a designated Pitchess Officer, assigned to IAD, who handles all Pitchess motions, as well as Brady and Giglio material requests. The Pitchess Officer collaborates with representatives in the City Attorney's Office on all Pitchess requests. In an effort to minimize errors or missed requests, the Pitchess officer and the City Attorney's Office meet regularly to ensure that all requests are accounted for.

Methodology

In discussions with the Departments' Pitchess officer and the CAO representative, the process for preparing and responding to each Pitchess subpoena was explained. An electronic copy of all subpoenas received by the Department and the CAO in 2015 was provided by the Pitchess officer. The OIG reviewer compiled a spreadsheet of all subpoenas and sorted them by motion type (i.e. Pitchess, Giglio, Brady).

Of the 35 Pitchess motions, 6 Giglio material requests, and 5 Brady list requests received in 2015, 12 Pitchess motions, 2 Giglio and 2 Brady requests were randomly selected for further review. For each selected case, the reviewer read the Pitchess motion, the officers' Complaint Investigation Report (CIR) log and the Pitchess Officer's "Discovery Review Form," which states,

¹ <http://definitions.uslegal.com/p/pitchess-motion/>

“The following Internal Affairs Division case investigation files were provided for in-camera review on the aforementioned date” and identifies which files were granted and/or denied by the courts.

Finding #1

The OIG reviewer determined that the Department is providing all relevant files to the Court for review. The Pitchess process is a request (subpoena) made to the Department by the Prosecution and/or the Defense Attorney for information pertaining to specific types of conduct or behavior of an employee/member. The Department’s Pitchess officer reviews the complaint history of the employee/member to determine which complaints, if any, are applicable to the request. All applicable complaints as well as all complaints which are in the Departments’ opinion not applicable to the request are provided to the Judge for an in camera hearing (*a process or procedure where a judge privately looks at confidential, sensitive, or private information to determine what, if any, information may be used by a party or made public*) for review. The Judge reviews and determines which complaints will be granted. The Pitchess officer then prepares the granted files for submission to the appropriate attorney along with a Protective Order pursuant to section 1043 of the California Evidence Code, which states that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law. The time period for information requested by a Pitchess Motion is five years prior to the incident date through the motion hearing date; however, there is no time restriction for the Brady list or Giglio material information.

The results of the review are listed in the table below.

Table 1: 2015 Discovery Motions (Pitchess, Brady, and Giglio)

Motion Type	Total # of Officers	Complaints Presented	Complaints Not Presented	Complaints Granted
Pitchess Motions	20	58	166	54
Brady Lists	3	1	35	1
Giglio Material	4	0	78	0

There were a total of five cases in which the Pitchess process resulted in no complaints being presented to the courts for the following reasons:

- Opposition Declaration filed
- Case vacated, suspect pleaded out
- Pitchess Motion denied by the Judge
- No Complaints Declaration filed

The OIG reviewer determined that the Department is providing all relevant files to the Court for review. In 2015, the Department presented four more complaint files than the Judge granted, indicating that the Pitchess Officer and the CAO are doing thorough reviews and making conservative decisions about which complaint files are relevant. This determination was corroborated by Judge Yolanda Northridge of Alameda County Superior Court. Although she is no longer the Judge handling Pitchess motions, she was one of the main Judges working with the Department on Pitchess motions until recently. During an interview with her, she praised the Department for the thoroughness, timeliness, and efficiency of their Pitchess motion responses. She specifically mentioned the practice of presenting electronic files (i.e. flash drive, hard drive etc.) for review, which she felt was more desirable than hard copy files.

Finding #2

There are several processes/practices in place that are not included in the current Pitchess Motion Process Manual. The current policy does not:

- address motions requesting Brady list or Giglio material information;
- require a tracking system in reference to the requests received and processed;
- address the capability or more efficient means to provide requested information electronically when appropriate; or
- mention a succession or cross training plan for the Pitchess officer.

The Pitchess Motion Process Manual has not been updated since May 3, 2007 and should be revised to reflect current practices.

Audit of Required Continuing Professional Training for Dispatcher Personnel

Lead Auditor: Rebecca Johnson, Office of Inspector General

Contributor(s): Kristin Burgess-Medeiros

Objective(s)

1. Determine whether Oakland Police Department's (OPD) dispatcher personnel receive a minimum of 24 or more hours of Continued Professional Training (CPT) within a two-year cycle, as required by the Commission on Peace Officer Standards and Training (POST).
2. Determine whether the OPD articulates the required CPT dispatcher personnel training in policy.

Policies Referenced: POST's Administrative Manual (PAM), Section B, Regulation 1005, *Minimum Standards for Training*, and OPD's Departmental General Order (DGO) B-20, *Departmental Training Program*

Significant Finding(s)

1. The audit indicated that 92 percent of the Department's dispatcher personnel do receive a minimum of 24 or more hours of job-related CPT within a two-year cycle.
2. When an employee is assigned to light duty (modified job assignments to accommodate injury or illness), the Department does not determine on a cases by case basis whether he/she can attend CPT.
3. The Department's policy does not articulate the training requirements for its dispatcher personnel.

Recommendation(s)

1. The Department should determine on a case-by-case basis whether an employee assigned to light duty is still able to meet his/her CPT requirements.
2. The Department should update its policy to explicitly state the CPT requirements for its dispatcher personnel.

Overview

The Oakland Police Department is a POST-participating department, meaning it abides by minimum selection and training standards established by POST for California law enforcement. By abiding by the minimum selection and training standards, the OPD is eligible to receive from the POST "job-related assessment tools; research into improved officer selection standards; management counseling services; the development of new training courses; reimbursement for training; and quality leadership training programs."² As a POST-participating department, one of the requirements is that the OPD's police communications dispatchers and supervisors receive a minimum of 24 or more hours of job-related Continued Professional Training (CPT) every two years. On February 29, 2016, an audit was initiated to determine whether the OPD provided its dispatcher personnel with the required training in the two-year cycle beginning January 1, 2013 to December 31, 2014.

Methodology

POST's Administrative Manual (PAM), Section B, Regulation 1005, *Minimum Standards for Training*, requires that OPD's police communications dispatchers and supervisors receive a minimum of 24 or more hours of CPT every two year cycle. To conduct the audit, the auditor reviewed the OPD's DGO B-20, *Departmental Training Program*, to determine whether the documented policy included a requirement that dispatcher personnel receive 24 or more hours of CPT. In addition, the auditor reviewed the police communications dispatchers' and supervisors' training records from January 1, 2013 to December 31, 2014 to determine the Department's actual practice.

Population

The auditor requested and received from the OPD's Personnel Section a roster of all current dispatcher personnel. The population for determining whether the OPD's dispatcher personnel

² *Post.ca.gov*. About Us, n. d. Web 25 Mar 2016

receive a minimum of 24 or more hours of Continued Professional Training (CPT) within a two-year cycle consisted of dispatcher personnel hired on or before December 31, 2012. The resulting population was comprised of the training records of 49 police communications dispatchers and 4 police communications supervisors, and the entire population was audited.

Finding #1

The audit indicated that 92 percent of the Oakland Police Department’s dispatcher personnel received a minimum of 24 or more hours of CPT within the two-year cycle beginning January 1, 2013 and ending December 31, 2014.

POST’s Administrative Manual (PAM), Section B, Regulation 1005, *Minimum Standards for Training*, states, in part:

“Subsection 1005 (d) (1), Continuing Professional Training (CPT) Required
 ...[E]very Public Safety Dispatcher and every Public Safety Dispatch Supervisor shall satisfactorily complete the CPT requirement of 24 or more hours of POST qualifying training during every two-year CPT cycle based on the statewide CPT Anniversary Date as specified in subsection 1005 (d) (2)...

Subsection 1005(d) (2), Determination of Two-Year Cycle
 The beginning date for the two-year CPT cycle for all POST participating agencies will be January 1, 2009.”

An audit of the training records of the 53 dispatcher personnel indicated that 49 (92%) of them received 24 or more hours of CPT in a two year cycle beginning January 1, 2013 and ending December 31, 2014. There were four dispatchers who, according to their documented training records, did not receive the required training.

Subsequently, the auditor made inquiry as to the reason(s) the four dispatchers’ records indicated they did not receive the required minimum 24 or more hours of CPT. The inquiry indicated that all the dispatchers did receive some of the required CPT, but there were various reasons for them not receiving the remaining training. The table below provides a summary of the inquiry results:

Dispatcher	CPT Hours Received	Reason Unable to Meet Minimum Requirement
1	16	Family Medical Leave
2	16	Light Duty Assignment
3	23	Light Duty Assignment
4	20	Family Medical Leave

The auditor spoke with the Communications Division’s Training Coordinator about the training shortage of the two dispatchers on light duty. The coordinator advised that once the

dispatchers are assigned to light duty and transfer out of the Communications Division, the employees are not required to attend training. Because a light duty assignment does not disqualify a dispatcher from returning to his/her position, it is important that when an employee is assigned to light duty, the Department determines, on a case by case basis, whether he/she can attend CPT. This can be achieved by calling a staff member in the OPD's Medical Unit or by calling the City of Oakland's Disability Coordinator to research the precise restriction(s) on the employee's return to work doctor's note. Remedial training is very important for a dispatcher to continue to handle calls in a quick, efficient manner.

While reviewing the dispatcher personnel's training records, the auditor examined the types of training they received. To ensure the training that was received met POST's requirements, the auditor spoke with POST's Regional Manager in its Training Delivery and Compliance Bureau. The auditor was advised that the courses taken to meet the minimum of 24 hours or more of CPT "must be POST-certified courses and have a nexus to the job."³

POST's Administrative Manual (PAM), Section D, Commission Procedure states, in part:

"Subsection 2-2, Recommended CPT Topics...

The Commission recommends the following topics be considered for CPT...

- New laws
- Recent court decisions and/or search and seizure refresher
- Officer survival techniques
- New concepts, procedures, technology
- Discretionary decision making (practical field problems)
- Civil liability-causing subjects
- Ethics"

The audit indicated that all (100%) courses taken by the OPD's dispatcher personnel were POST-certified and job-related, ranging from 2 hours to 40 hours per course. The types of courses taken by dispatchers and supervisors to meet the 24 or more hours of CPT are listed below:

Dispatchers

Course Name	Hours
Autism Recognition and Response	2
Child Abuse Issues	2
Communications Training Officer (responsibilities and roles in training new dispatchers)	40
Critical Thinking As An Instructional Model	24
Dispatch, Tactical Incident Concepts	8
Dispatcher Crisis Intervention	16
Dispatcher Role: Protect law Enforcement Responders	8

³ Lane, Don. Personal Interview. 17 March 2016.

Dispatcher Tactical Operations	40
Dispatcher Update Public Safety (a variety of contemporary subject areas)	8
Dispatchers Wellness (managing daily stressors and coping and resiliency skills)	8
Domestic Violence: A Matter of Culture	2
Domestic Violence: It's Your Call (Volume 1)	4
Domestic Violence: It's Your Call (Volume 2)	6
First Aid/CPR Refresher	4
Interpersonal Communications	2
Missing Persons Investigations	2
Preventing Law Enforcement Officer Suicide	2
Response to Human Trafficking	2
Sexual Assault Investigation: Adults & Adolescents	2
Sexual Assault: The Patrol Response	6
Suicide Prevention	2
Training Conference (working with agencies and surviving families of line-of-duty death; effects of stress and trauma on law enforcement; suicide in law enforcement; surviving traumatic incidents, disabilities...)	26

Supervisors

Course Name	Hours
Academy Instructor	40
Critical Thinking As An Instructional Model	24
Dispatcher, Public Safety Update (a variety of contemporary subject areas)	24
First Aid/CPR Refresher	4
Interpersonal Communications	2
Leadership Effectiveness	40
Leadership and Mentoring for Instructors	24
Public Records ACT	16

Finding #2

The audit indicated that the OPD does not articulate the POST requirement of 24 or more hours of CPT for dispatcher personnel in its policy. DGO B-20, Section VII, page 12 of 16, reads, in part, as follows:

“Specialized Training

Unit commanders/Managers are responsible for assessing the need for specialized training for their assigned personnel. Departmental units may elect

to develop training to meet their specialized needs or request training for their personnel through existing Departmental or non-Departmental training courses.

Specialized non-Departmental...in-service...and unit level training may be required for specified primary...assignments. Department publications and/or the POST Administrative Manual...specify these training requirements and courses...

A review of the above policy indicates that it lacks specificity. OPD's Communications Division dispatcher personnel require specialized training. However, the reader is unable to determine which unit, division, department and/or position the section is referencing. Since the OPD is a POST-participating department, it should be explicit in the Department's policy that dispatcher personnel are required by POST to receive a minimum of 24 or more hours of CPT every two year cycle. The Negotiated Settlement Agreement's (NSA) Task 43 states that "OPD shall develop and implement a plan to enhance its Academy and in-service training so that OPD members, *dispatchers*, and civilian evidence technicians are adequately trained for their positions and aware and able to implement the most contemporary developments in police training." The NSA requirement reinforces the need for the Department's policy to be transparent regarding the CPT requirement for dispatcher personnel.

Additional Observation

During the audit, in an interview with the Communications Division In-Service Training Coordinator, it was determined that, occasionally, she requests training to be conducted by an OPD subject matter expert at the same time the Training Section's In-Service Coordinator requests training by said expert. To ensure there are no scheduling conflicts for subject matter experts and to ensure all dispatcher and sworn personnel receive required training in a timely manner, the Training Section Commander now invites the Communications Division's In-Service Training Coordinator to quarterly meetings.

Conclusion

Police communications dispatchers and supervisors are a very integral part of police operations. A police communications dispatcher is responsible for answering incoming calls from customers, analyzing each customer's emergency and/or nonemergency situation, and responding to the customer's respective need(s) in a quick, efficient manner. The dispatcher's response can range from coordinating emergency operations with police, fire, and medical personnel; to answering questions or complaints from the public; to making referrals to appropriate sources for service or information. Therefore, the Department should demonstrate the importance of CPT for its dispatcher personnel by codifying the requirement in policy.

Review of Criminal Investigations Involving Department Personnel

Auditor: Rose Sutton, MPP, CGAP, Office of Inspector General

Objectives

1. Determine whether prompt notification to the Alameda County District Attorney's (DA) office is appropriately performed.
2. Determine whether Miranda advisements were performed for criminal investigations involving OPD personnel.
3. Determine whether Lybarger advisements were performed for administrative investigations involving OPD personnel.

Policy Referenced

- Departmental General Order (DGO) M-4.1, *Criminal investigation involving active law enforcement or member or employee of the department*
- Departmental General Order (DGO) M-3.1, *Complaints against departmental personnel or procedures*

Significant Findings

OIG found the Criminal Investigations Division (CID) and Internal Affairs Division (IAD) to be compliant with administering Miranda and Lybarger statements. OIG further determined OPD is effectively notifying and coordinating with the District Attorney's Office, but should duly document such actions. OIG also offers other notable recommendations for improvement, chiefly the need for IAD to better manage version control over the Lybarger and other related forms.

Recommendations

1. IAD needs to better manage version control over Lybarger and other related forms.
2. The Department should codify the practice of CID documenting on the Investigative Action Report who, when and by what means notification was made to the Alameda County District Attorney's Office.
3. The Department should institutionalize the already existing practice of CID tracking all allegations of misconduct that are eventually deemed non-criminal/non-jurisdictional.

Overview

The purpose of this review is to determine whether the Department is adhering to its policy pertaining to criminal misconduct investigations involving OPD personnel as set out by the Negotiated Settlement Agreement (NSA), which states:

OPD reports to the Alameda County District Attorney's Office, as soon as possible, all uses of force; citizen complaints; and other member/employee involved actions in which it appears there may be criminal misconduct by a member/employee (Task 28).

OPD coordinates its administrative investigations of members/employees with the Alameda County District Attorney's Office if a criminal proceeding is potentially viable (Task 29.1).

When OPD initiates an interview or interrogation of OPD personnel and it appears that the subject may be charged with a crime, or the subject asserts his or her Fifth Amendment rights on grounds that the answers to questions posed may be incriminating, such interrogations are preceded by a Lybarger warning (Task 29.2).

This report marks the fourth review in which the Department has sustained progress in maintaining compliance with the specified language found in NSA Tasks 28, 29.1 and 29.2.

Table 1 Previous reviews of NSA Tasks 28 and 29

Reviewer	Year	Compliance status
Independent Monitoring Team	2007	Out of compliance with Task 28, 29.1 and 29.2
Independent Monitoring Team	2009	In conditional compliance with Task 28 In compliance with Task 29.1 and 29.2
Office of Inspector General	2011	In compliance with Task 28, 29.1 and 29.2
Office of Inspector General	2016	In compliance with Task 28, 29.1 and 29.2

Background

In the event that OPD personnel are involved in an incident that may signal criminal misconduct, measures are taken by the Department in performing two investigative reviews each with its own singular objective and due procedural process. A *criminal* investigation is carried out by the Department's Criminal Investigation Division to assess whether OPD personnel acted unlawfully (if within the Department's jurisdictional authority). In addition, the Department's Internal Affairs Division performs an *administrative* misconduct investigation for all allegations to determine whether City or Department policy was violated.^{4, 5}

For investigations in which there is reasonable suspicion of criminal misconduct involving a felony or serious misdemeanor, DGO M-4.1 requires CID to notify the Chief of Inspectors of the District Attorney's Office within 24 hours of conferring with the Department's Deputy Chief of Bureau of Investigations, thereby further ensuring coordination between the two agencies.

When a subject officer is interviewed by CID in which they directly inquire regarding the crime under investigation, a Miranda warning is administered. Officers are made aware of their right to remain silent, that what they say can and will be used against them in a court of law and their right to representation. Miranda statements are signed, dated and include the time of signing by the interviewee.

⁴ An administrative investigation may be held in a state of suspension (legally known as *tolled*). In which case, tolled administrative cases are approved by the Chief of Police or designee and are forwarded to the City Attorney for review. Further detail can be found in OPD's DGO M-3 policy, *Complaints against Department Personnel or Procedures*.

⁵ The Citizen's Police Review Board also performs an administrative investigation on select cases.

Table 2 Distinguishing differences between criminal and administrative investigations

	Criminal Investigation	Administrative Investigation
Investigative body	Criminal Investigation Division	Internal Affairs Division
Determine whether	Law was violated	City or Department policy was violated
Advisements	Miranda	Lybarger
Dissemination of information	Yes; Information collected during a criminal investigation may be used in an administrative inquiry	No; Personnel information is confidential for all City employees, including sworn and nonsworn personnel. Information collected during an administrative investigation cannot be shared with CID
Possible outcome	Criminal or civil proceeding	Punitive action (e.g., dismissal, demotion, suspension, reduction in salary, etc.)
Days to investigate	--	180 days per Department policy DGO M-3 but 365 days per GOV code sect. 3300

While criminal and administrative investigations are distinct and largely independent from one another, as reflected in the table above, it’s important to understand that the signaling of criminal misconduct generates the necessity to administer a Lybarger statement during an administrative investigation. This is due in part because a subject officer has a right to be made aware that what they say during an administrative interview cannot be used against them in a criminal case.

Therefore, for administrative investigations, DGO M-4.1 also requires IAD provide a Lybarger advisement prior to the questioning of a subject officer when reasonable suspicion of a crime has occurred and a statement is compelled.⁶ Lybarger statements are signed, dated and include the time of signing by the interviewee.

Methodology

OIG narrowed its sample selection of all criminal misconduct allegations where an arrest was made of OPD personnel in 2015. OIG excluded DUIs (as these incidents oftentimes directly reveal criminal misconduct, thereby not requiring an exhaustive investigation) and incidents that occurred outside the Department’s legal jurisdiction.⁷ All relevant off-duty arrests of OPD sworn personnel were located. For resulting arrest cases, OIG requested documentary evidence of Miranda and Lybarger advisements from CID and IAD respectively.

⁶ In the event that CID interviews OPD personnel IAD may decline to perform an additional interview.

⁷ Officer involved shootings and in-custody deaths are subject to force review as explained in DGO K-4, *Force Review and Executive Force Review Boards*.

Finding # 1

Miranda and Lybarger are appropriately administered

In all arrest cases, a Miranda advisement was provided to subject officers prior to CID questioning. IAD elected to perform additional interviews, and obtained Lybarger statements in all cases as well. OIG found CID and IAD to be compliant with administering Miranda and Lybarger statements respectively.

Finding # 2

IAD needs to better manage version control over Lybarger and other related forms

There are two significantly different Lybarger forms used by IAD. One version explains the stipulations of the investigation and the subject officer's rights in great detail. Conversely, the other form makes partial mention of these rights and partial mention of those involved in the questioning of the subject officer.

The Lybarger form should make clear:

- The nature of this investigation
- The officer's right to representation
- That a statement from the subject officer is compelled
- Discloses the identification of the officer(s) in charge of the investigation
- Explains failure to provide a statement may lead to disciplinary action
- The officer's right to use her/his own recording device during questioning
- Identifies the interviewing officer and any other persons present during the interview

It's the concern of OIG that such varying language may greatly alter the understanding and legitimacy of the advisement not only for the subject officer but also for the interviewer. It is important that IAD retain and use just one version that contains all pertinent information, for consistency and clarity.

Moreover, during the course of OIG's review, it was observed that the Acknowledgement of Rights and Obligations form used by IAD varies slightly in its formatting. The form is similar to the Lybarger statement, but is used when criminal misconduct is not suspected or a statement is not being compelled. One version requires the interviewee to print their name, thereby making it clear who the interviewee is while the other version does not. Those forms lacking the 'print name' portion have caused confusion in one instance for IAD when attempting to identify who in fact signed the form.

This occurrence is especially likely when multiple OPD personnel are interviewed for the same administrative investigation. While the likelihood of supplying the wrong documentary evidence due to mistaking the identity of one interviewee for another is perhaps moderate, the impact could have potentially far reaching consequences. OIG suggests IAD work to ensure the same form (i.e., the one with the 'print name' section) is always used.

Finding # 3

While notification and coordination with the DA's office is promptly performed, the Department can improve its documentation

It was determined throughout the course of primary interviews with commanding officers of CID and IAD that notification and coordination with the Alameda County District Attorney's Office is made in a prompt manner pursuant to the requirements of policy. However, it was shared during discussions with CID that no record of such notification is documented in CID's Investigative Action Report. Presently, documenting notification is not a policy requirement, although it would greatly serve to mitigate the risk of possible allegations of administrative mismanagement. As a result of conversations with OIG, CID has agreed to document who, when and by what means notification was made to the Alameda County District Attorney's Office. The OIG supports this practice and recommends it be codified in written policy M-4.1.

Finding # 4

While outside the scope of OIG's review, the Department should institutionalize the already existing practice of CID tracking all allegations of misconduct that are eventually deemed non-criminal/non-jurisdictional

In addition to tracking all allegations that result in established criminal misconduct, the Commanding Officer of the CID also tracks those allegations that are eventually deemed noncriminal or occurred outside the Department's jurisdictional authority to investigate. While not required, the practice of logging non-criminal/non-jurisdictional allegations serves to better inform the Chief of Police of all pertinent events involving OPD personnel. Tracking information includes details like the primary investigator assigned, victim's name (if any), suspect's name, location, date and case status/notes. OIG finds value in this practice and recommends formalizing it in written policy M-4.1 so that it may transcend beyond the habit of current staff to all future Commanding Officers of CID.

NEXT MONTH'S PLANNED REVIEWS

The reviews scheduled for May 2016 are:

1. Citizen Statements
2. IAD Staffing