

# Monthly Progress Report

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Of the Office of Inspector General



**August 2016**

**Office of the Inspector General**

**Oakland Police Department**

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## INTRODUCTION

This Monthly Progress Report addresses two core questions: is the Department appropriately handling situations in which a community member may wish to make a complaint, and how well is the Department assessing the consistency of its training provided to newly hired officers. Each of these questions necessitated a review of topics and material that directly reflect the Department's levels of accountability and proficiency when serving our community.

As supplements to the information and recommendations within this Report, the Department's [complaint procedure](#) and policy on our [Field Training Program](#) are openly available to our community on the Department's [Public Reports website](#) page.

Respectfully submitted,



Christopher C. Bolton  
Lieutenant of Police  
Office of Inspector General

## AUDITS, REVIEWS, and/or INSPECTIONS

### Refusal to Accept or Refer a Complaint

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

**Objective(s):**

1. Review the investigative handling of all possible violations related to accepting complaints (made between Jan. 1, 2016 and June 30, 2016). Specifically, allegations of:
  - Department personnel who intentionally or unintentionally refused to accept a citizen complaint, failed to refer a citizen to IAD (when the citizen can be reasonably understood to want to make a citizen's complaint) and;
  - Department personnel who appeared to have discouraged a person from filing a complaint, and/or knowingly provided a false, inaccurate, or incomplete information to IAD
2. Review video footage against the written summary of events recorded on the Daily Complaint Referral Log to determine whether the summary accurately and completely portrayed the citizen's possible complaint.

**Policy Referenced:**

- Complaints against Department Personnel or Procedures, DGO M-3
- Receiving and Logging Complaints against Personnel - Use of Force Incidents, Communications Division Policy and Procedure C-2

**Significant Finding(s):**

Some officers took the opportunity to build legitimacy when faced with a possible complaint and the Daily Complaint Referral Log was used as intended. In one instance misinformation was given to a citizen regarding the complaint process. Additionally, investigators appropriately labeled violations and their subsequent findings were judicious; however, work performed on one investigation seemed incomplete.

**Recommendations:**

1. For training purposes, OIG recommends incorporating video footage of officers displaying procedural justice techniques as real world 'better practice' examples. This recommendation would also serve to showcase and perpetuate the desired and expected quality of work performed to Department personnel.
2. The Department should consider the value of having sergeants review video footage pulled from the Daily Complaint Referral Log instead of or in addition to the randomly selected officer video as currently required by policy. This is because videos pulled from

the Daily Complaint Referral Log would likely better lend themselves to corrective training opportunities.

**Background:**

Any member of the community (here after referred to as a 'citizen') has a legal right to make a complaint against *any* Department personnel and have it accepted by the Oakland Police Department.<sup>1,2</sup> There is no time limit for submitting a complaint and complaints are accepted at multiple locations across the City, by mail, fax and over the phone thru the Department's 24-hour Complaint Hotline. All Department personnel, sworn and nonsworn, are authorized to accept complaints. And while complaints are received through various channels, the majority are often taken 'in the field' where citizens experience the most interaction with sworn personnel. These 'in the field' complaints represent the bulk which could possibly be improperly accepted or referred.

To lessen this risk, the Department has implemented internal controls to provide greater assurance that all complaints, even *possible* complaints, are documented and followed-up with. A simplified version of the complaint process for 'in the field' complaints is outlined in Figure 1 and detailed procedures are documented in DGO M-3 and DGO C-2.

Between January 1, 2016 and June 30, 2016, there were 10 allegations made related to refusing to accept a complaint - 9 complaints were considered unintentional and 1 was considered an intentional failure. These 10 allegations involved 23 sworn Department personnel, 12 of which (or 51%) received a sustained finding while the remainder received either an administratively closed, unfounded, exonerated or not sustained finding.<sup>3</sup> OIG performed a high-level review into the investigative handling of these 10 cases that were performed by Internal Affairs or via a Division Level Investigation.

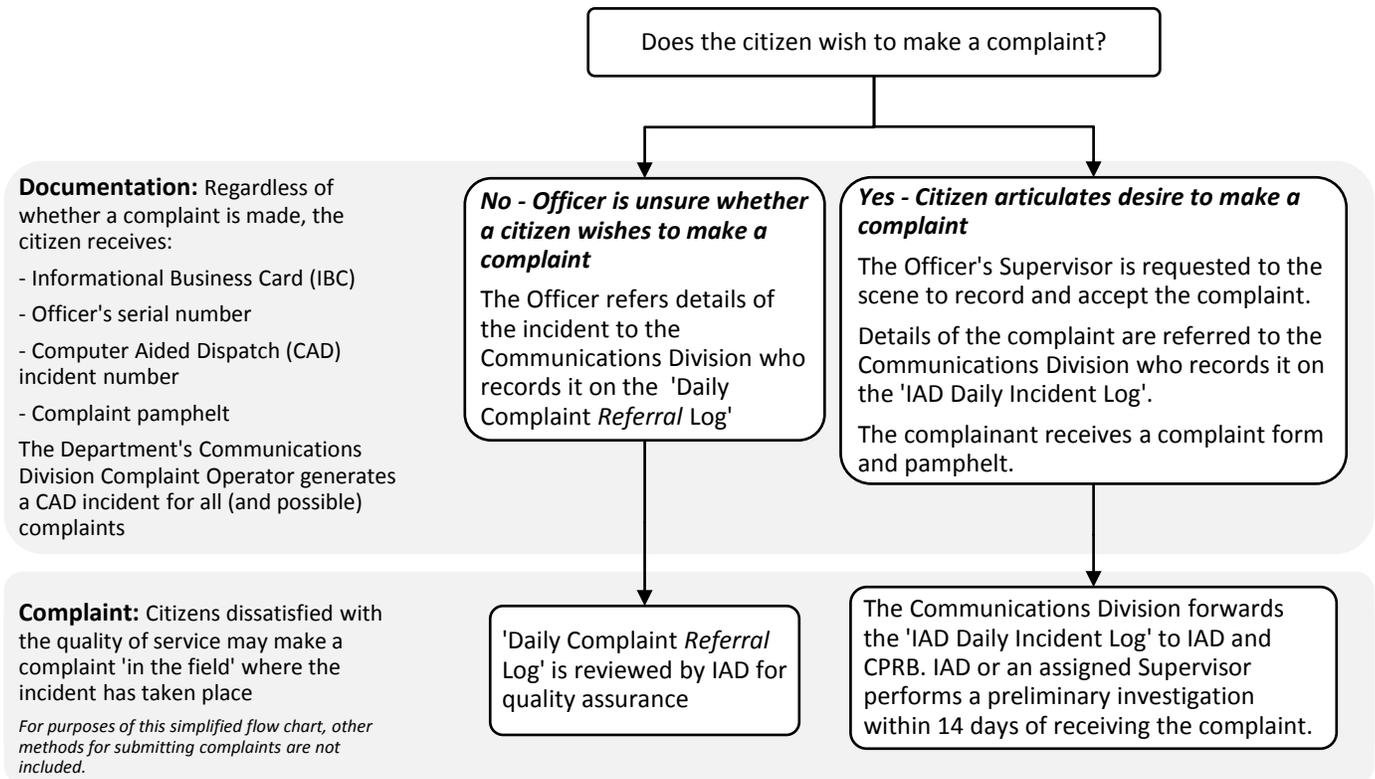
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<sup>1</sup> The City's Citizens' Police Review Board (CPRB) also accepts citizen complaints. The CPRB is an independent civilian oversight body that performs its own administrative investigations of Department personnel for allegations of possible misconduct.

<sup>2</sup> Complaints are defined as "an allegation from any source regarding a specific act or omission by a member or employee which would amount to misconduct; or an allegation from any source regarding an improper policy or procedure, practice, service level or legal standard of the Department".

<sup>3</sup> 'Sustained' means the investigation disclosed sufficient evidence to determine that the alleged conduct did occur and was in violation of law and/or Department policy. 'Administratively closed' means complainant could not articulate an act or omission by known OPD personnel which, if sustained, rises to the level of a Manual of Rules violation and/or complaint lacks specificity. 'Not sustained' means the investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred. 'Unfounded' means the investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. 'Exonerated' means the preponderance of evidence proves that the alleged conduct occurred but that the conduct was justified, lawful or proper.

**Figure 1** Simplified 'in the field' complaint acceptance and review process



**Methodology:**

OIG reviewed case files that included violations labeled '398.76-1 Refusal to Accept Complaints' or '398.76-2 Failure to Accept or Refer a Complaint' recorded between January 1, 2016 and June 30, 2016. Each case was specifically reviewed to determine where violations were properly classified and that all involved parties were investigated as directed by written policy.

OIG also picked a limited random sample of possible complaints documented on the Daily Complaint Referral Log and watched the related video footage to assess whether the involved citizen indeed appeared to not want to file a complaint but was provided an IBC as directed by written policy.

**Finding # 1**

**Some officers took the opportunity to build police legitimacy when faced with a possible complaint.**

OIG observed some officers apply their procedural justice training when responding to calls where the citizen appears visibly frustrated or verbally combative.<sup>4</sup> This was especially true during investigative detentions where the citizen falsely assumed that they are being arrested.<sup>5</sup> Investigative detentions can appear similar in procedure as being arrested as both may involve handcuffing and being placed in the backseat of a patrol vehicle, and in the sample reviewed some citizens were handcuffed and/or placed in the patrol vehicle during an investigative detention. Handcuffing during detentions is permitted if there is reason to believe that physical restraint was warranted, the period of restraint is relatively brief, and the officer's actions were reasonably necessary under the circumstances to minimize risk of harm to both officers and detainees.<sup>6</sup>

Without clear articulation and placidity on the part of the officer, any possible miscommunication can easily increase the risk of receiving a complaint (despite the officer acting lawfully). Ultimately, the community's perception of police legitimacy is especially jeopardized during these types of encounters. Officers should, as always, be cognizant of their actions and behavior and how they may be perceived.

Utilizing procedural justice techniques during investigative detentions appeared especially beneficial as most citizens initially appeared indignant because of their misunderstanding of the officer's intent, which increased the frustration felt for being presumably arrested without cause. Yet attitudes and behavior noticeably changed when citizens were given opportunities to express their concerns and officers maintained neutrality. Moreover, some officers made exceptional effort to patiently communicate the facts of the situation while being outwardly respectful throughout the encounter. Officers also displayed a sense of fairness and rational consideration for the citizen's needs, for example, acknowledging the inconvenience of the investigative detention and committing to resolving the incident as timely as possible and with minimal disruption.

As originally recommended in a recent report called [Strategies for Change; Research Initiatives and Recommendations to Improve Police-Community Relations in Oakland, Calif.](#),<sup>7</sup> OIG echoes the tremendous value in incorporating video footage of officers' display of procedural justice techniques as real world 'best practice' examples for internal training purposes.<sup>7</sup> This

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<sup>4</sup> Procedural justice is defined as, "the procedures used by police officers where citizens are treated fairly and with proper respect" and serves to further police legitimacy, which is described as "the public view of the police as entitled to exercise authority in order to maintain social order, manage conflicts and solve problems". Definitions for 'procedural justice' and 'police legitimacy' were derived from OPD's POST certified Procedural Justice Training material.

<sup>5</sup> An investigative detention is a temporary seizure of a person for the purpose of determining: whether there is probable cause to arrest him or her, or further investigation is necessary. The individual is not under arrest. Definition derived from California Criminal Investigation; a publication produced by the Alameda County District Attorney's Office.

<sup>6</sup> See Carlos M. (1990) 220 Cal.App.3d 372, 385; People v. Osborne (2009) 175 Cal.App.4th 1052, 1062

<sup>7</sup> The report, edited by Jennifer L. Eberhardt, Ph.D. of Stanford University, specifically states, "Although media coverage of BWC footage tends to highlight problematic police-community interactions, the vast number of

recommendation would also serve to showcase and perpetuate the desired and expected quality of work performed by Department personnel.

Additionally, the Department should consider the value of having sergeants review video footage pulled from the Daily Complaint Referral Log instead of or in addition to the randomly selected officer video as currently required by policy. This is because videos pulled from the Daily Complaint Referral Log would likely better lend themselves to corrective training opportunities.

### **Finding # 2**

**Officers used the Daily Complaint Referral Log as intended and proper procedure was followed, though in one instance misinformation was given to a citizen regarding the complaint process.**

OIG selected a limited random sample of possible complaints from the Daily Complaint Referral Log and watched the related video footage to determine (1) if the citizen truly appeared ambiguous in wanting to submit a complaint and (2) whether officers followed Department policy in their handling of these possible complaints. As directed by policy, only those instances in which Department personnel are unsure whether a citizen wishes to make a complaint will be included on the Daily Complaint Referral Log. Refer back to Figure 1 for a simplified 'in the field' complaint acceptance and review process.

From the sample reviewed, officers correctly logged possible complaints and followed procedure although with one exception where misinformation was given to a citizen regarding the complaint process. Specifically, the citizen insisted that they wished to make a complaint at the Department and an officer responded that a complaint would have to be made right there 'in the field.' This is incorrect information and goes against Department policy, as anyone may decide to submit a complaint at any time and at multiple locations across the City. Although this incorrect information was provided, the citizen received an IBC listing the various methods and resources available to make a complaint at any time.

### **Finding # 3**

**Investigators appropriately labeled violations and their subsequent findings were judicious. However, work performed on one investigation appeared incomplete.**

An investigator did not identify a clear instance of rudeness towards a citizen during his examination of allegations. Based on video footage, which the investigator reviewed, a citizen requested a supervisor to the scene where her residence was being searched. The officer laughed back in response and then walked away. The officer did in fact request the sergeant to the scene and during this encounter another officer nearby can be heard saying that a sergeant would be called. Additional steps were followed as directed by policy.

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interactions that go well receive little attention. The department should identify footage of exemplary interactions (such as those involving de-escalation), and then use that footage to teach officers best practices."

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OIG agrees that the incident was appropriately labeled and that the alleged failure to take a complaint did not occur as all procedural steps were met; however, the officer's initial demeanor should have been identified and addressed either through providing additional training to the officer or including the rude demeanor as an additional violation to the investigation. Internal Affairs agrees with OIG's conclusion and affirms that the current process of review should have addressed the behavior.

### **Audit of Consistency of Training for Police Officer Trainees**

**Auditor:** Rebecca Johnson, Office of Inspector General

**Objective:**

Determine whether the Oakland Police Department (OPD) seeks to identify and resolve any substantial inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program.

**Policy Referenced:** Departmental General Order B-8, *Field Training Program*, effective June 2, 2014

**Significant Findings:**

1. The audit indicated that upon review of 73 *Trainee Officer Questionnaire* forms, there were three (4%) police officer trainees who documented issues they deemed as inconsistencies on their respective forms, but there was no documentation on the forms indicating the explicit discrepancies had been acknowledged and resolved as an actual inconsistency in training or confusion about a procedure.
2. The auditor reviewed the Field Training Unit's Quarterly Panel Review documentation and found that the Bureau of Services Deputy Chief was not in attendance and a copy of the memorandum documenting the results of the review was not forwarded to her.

**Recommendations:**

1. If a trainee notes what he/she deems an inconsistency in training on his/her *Trainee Officer Questionnaire*, a member of the Field Training Unit and a member of the Training Section should document their acknowledgement of the explicit discrepancy, whether the issue is an actual inconsistency in training or confusion about a procedure, and how the matter was resolved.

2. The Department should follow its policy by ensuring the Bureau of Services Deputy Chief attends each Quarterly Panel Review and receives a copy of the memorandum documenting the results of the review.

## **Overview**

The road to becoming an Oakland Police Department sworn police officer is rugged. A police officer trainee attends an academy, a six month classroom setting environment in which he/she must pass many tests on various policies, procedures, and practices. If the trainee is successful in this first stage, he/she enters into the field training program, an environment in which he/she will demonstrate his/her knowledge of the policies, procedures, and practices taught in the academy via his/her performance. Hence, it is very important that the teachings in the OPD's Basic Academy and the teachings in its Field Training Program are consistent. Because of the importance of consistency in training, the Office of Inspector General launched an audit to determine whether the OPD seeks to identify and resolve any substantial inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program.

## **Methodology**

To conduct the audit, the auditor reviewed the OPD's policy, procedures, and practice related to identifying and resolving substantial inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program. The auditor determined whether OPD adheres to its policy by comparing its policy and procedures stipulations to its documented practice. For this audit, the auditor reviewed documentation from June 2015 to June 2016.

### Population and Random Sample

The population for this audit consisted of documented feedback from graduates of OPD's 171<sup>st</sup>, 172<sup>nd</sup> and 173<sup>rd</sup> Basic Academy.

## **Finding**

The established stipulations for identifying and following-up on substantial inconsistencies between the teachings in the OPD's Basic Academy and the teachings in its Field Training Program are found in Departmental General Order (DGO) B-8, *Field Training Program*, effective as of June 2, 2014. Based on the general order, the auditor used three measures to determine whether the OPD seeks to identify and resolve substantial inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program: (1) focus group sessions; (2) Quarterly Panel Reviews; and (3) *Personal Questionnaire Interview* forms. Following is a summary of the findings for each method:

### Focus Group Sessions

DGO B-8, Section VII, Subsection D, states, in part, the following:

“The Field Training Program Coordinator (FTPC) or designee and a member of the Training Section shall conduct focus group sessions with graduates [police officer trainees] of each Basic Academy...The sessions shall be used to determine consistency between what is taught in the Basic Academy...with that taught in the Field Training Program. There are three focus group sessions held for each academy. The first session shall be conducted at the mid-point of field training; the second session following the completion of field training; and the final session within six (6) months of the completion of field training. The FTPC shall prepare a memorandum to document the feedback of each session and forward to the following members: (a) the Chief of Police; (b) the Bureau of Field Operations Deputy Chief; (c) the Training Section Commander; and (d) the Academy Training Coordinator. If a substantial discrepancy is identified, the FTPC shall consult the Department’s subject matter expert (SME) for that particular training area to obtain a recommendation for correcting the discrepancy.

Upon review of the documentation for the 171<sup>st</sup>, 172<sup>nd</sup>, and 173<sup>rd</sup> Academy, the audit indicated that the OPD is adhering to its policy and procedures by conducting focus groups, seeking to identify and resolve *all* inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program. There were a total of seven focus group sessions conducted by the FTPC or designee and a member of the Training Section, and each session included randomly selected trainees of the aforementioned academies. The table below shows all focus groups sessions were held and/or scheduled according to policy. It also shows that the average number of randomly selected trainees for each focus group session is 10.

<b>Academy</b>	<b>171<sup>st</sup></b>	<b>172<sup>nd</sup></b>	<b>173<sup>rd</sup></b>
Date 16-week Field Training Began	04APR15	31OCT15	23JAN16
Date 16-week Field Training Ended	24JUL15	20FEB16	14MAY16
Date of 1 <sup>st</sup> Focus Group (midpoint)	03JUN15	23DEC15	16MAR16
Number of Police Officer Trainees	11	12	9
Date of 2 <sup>nd</sup> Focus Group (completion of field training)	29JUL15	17FEB16	18MAY16
Number of Police Officer Trainees	11	10	11
Date of 3 <sup>rd</sup> Focus Group (within 6 months of completion field training)	26JAN16	Upcoming 20AUG16	Upcoming 16NOV16
Number of Police Officer Trainees	9	TBD	TBD

As directed by policy, at the conclusion of each focus group session held, the FTPC prepared a memorandum, written to the Chief of Police, which included the date of the focus group session; the names of the attending Field Training Unit and Training Section designees; the names and serial numbers of the attending trainees; and the attending trainees’ feedback regarding any inconsistencies between the teachings in OPD’s Basic Academy and the teachings in its Field Training Program. Subsequently, via email, the FTPC forwarded the memorandum to the following members: (a) the Chief of Police; (b) the Bureau of Field Operations Deputy Chief; (c) the Training Section Commander; and (d) the Academy Training Coordinator. Upon reading the memorandums, the auditor noted that each memorandum included language that stated,

in part, "According to the questionnaires completed by the...police officer trainees, there were no discrepancies between what is taught in the OPD Recruit Academy, by the Academy staff/instructors, in the Field Training Program, and that of the Field Training Officers."

In addition to reviewing the memorandums prepared by the FTPC at the conclusion of each focus group session, the auditor reviewed the aforementioned *Trainee Officer Questionnaire* forms, which were given to and completed by each randomly selected police officer trainee in the focus group sessions to ensure "there were no discrepancies between what is taught in the OPD Recruit Academy, by the Academy staff/instructors, in the Field Training Program, and that of the Field Training Officers." The audit indicated that upon review of the 73 *Trainee Officer Questionnaire* forms, there were three (4%) police officer trainees who documented issues they deemed as inconsistencies, but there was no documentation on the respective forms indicating the explicit discrepancies had been acknowledged and resolved as an actual inconsistency in training or confusion about a procedure. Subsequently, the Audit Team met with the supervisor of the Field Training Unit to discuss the trainees' documented inconsistencies. During the meeting, the Audit Team was informed that "focus group sessions are open forums, in which everything is cleared up." He also stated that "many times what a trainee may call an inconsistency in training is not." Additionally, he acknowledged that it is not the practice of the Field Training Unit staff to document how they resolved matters police officer trainees deemed inconsistencies in training.

### **Quarterly Panel Reviews**

Departmental General Order B-8, *Field Training Program*, Section VII, Subsection E, states the following:

"The Field Training Unit (FTU) shall arrange a Quarterly Panel Review to discuss the feedback from focus group sessions held within 30 days of the end of each calendar quarter. The following members shall attend: (a) Bureau of Field Operations Deputy Chief; (b) Bureau of Services Deputy Chief; (c) Training Section Commander; and (d) Field Training Program Coordinator. The panel shall discuss all discrepancies identified during the focus group sessions and determine a course of action for each. The panel shall consider Subject Matter Expert recommendations for substantial discrepancies prior to making a determination as to the course of action to ensure the Academy and Field Training Program practices are consistent. If changes in practice or policy are needed, the panel shall ensure those changes are implemented as soon as practical. If the panel determines a discrepancy is due to a Field Training Officer (FTO) or a group of FTOs, rather than the program as a whole, the panel shall determine whether the discrepancy is serious enough to warrant a FTO's removal from the program. The FTPC shall prepare a memorandum documenting the results of the Quarterly Panel Review and forward to all involved parties and the Chief of Police."

From June 2015 to June 2016, there were five Quarterly Panel Reviews held on the following dates:

- June 30, 2015
- September 23, 2015
- December 16, 2015
- March 23, 2016
- June 28, 2016

In all instances, the FTPC prepared a memorandum documenting the results of the Quarterly Panel Review and forwarded it to all involved parties and the Chief of Police. However, upon review of the attendance, the auditor found that the Bureau of Services (BOS) Deputy Chief was not in attendance and a copy of the memorandum was not forwarded to her. Subsequently, the auditor met with a member of the Field Training Unit to determine a reason for the absence of the aforementioned Deputy Chief and why a copy of the memorandum was not forwarded to her. The auditor was advised that the oversight may have been caused by a policy change in 2014 which imposed the new requirement to include the BOS Deputy Chief, however, standing practice was not altered to comply with the policy. The Field Training Unit member agreed to ensure the Bureau of Services Deputy Chief is invited to all future quarterly meetings and ensure a copy of the memorandum documenting the results of the Quarterly Panel Review is forwarded to her.

#### *Additional Observation*

The main purpose for Quarterly Panel Reviews is to discuss all discrepancies identified during the focus group sessions and to determine a course of action. Since there were no discrepancies identified during the focus group sessions, the reviews were used to discuss any training difficulties (i.e., navigation; listening and understanding radio transmission; time management, etc.) articulated by the trainees.

#### **Personal Questionnaire Interviews**

Departmental General Order B-8, *Field Training Program*, Section X, Subsection E, states, in part, the following:

“Prior to a trainee officer rotating from one Field Training Officer to another, the Field Training Unit shall complete a *Personal Interview Questionnaire* to provide the trainee officer with an opportunity to raise any questions or concerns he/she may have about the quality of the training received.”

As an additional check to ensure the OPD seeks to identify and resolve substantial inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program, the auditor randomly selected and reviewed the *Personal Interview Questionnaires* of 38 trainees in the 172<sup>nd</sup> and 173<sup>rd</sup> Academy. The audit indicated that the trainees did not document on the forms any inconsistencies in their training.

#### **Conclusion**

The OPD does seek to identify and resolve *all* inconsistencies between the teachings in its Basic Academy and the teachings in its Field Training Program, and it has three measures to do so: (1) focus group sessions; (2) Quarterly Panel Reviews; and (3) Personal Questionnaire Interviews.

## NEXT MONTH'S PLANNED REVIEWS

The reviews scheduled for September 2016 are:

1. Tracking of Policy and Training Issues For Administrative Investigation
2. Handcuffing Review