

# Monthly Progress Report

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Of the Office of Inspector General



**June 2017**

**Office of the Inspector General**

**Oakland Police Department**

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## AUDITS, REVIEWS, and INSPECTIONS

### Audit of Mandated Training for Commanders

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

**Contributor:** Lieutenant Christopher Bolton

#### Objectives:

1. Determine whether the OPD's commanders receive, within a two-year cycle, 40 hours of in service training that includes instruction in professionalism and ethics utilizing curricula that employ realistic scenario-based training exercises and case studies.
2. Determine whether the commanders receive a minimum of 24 hours of POST-qualifying Continued Professional Training (CPT) within a two-year cycle.
3. Determine whether lieutenants complete refresher training or appropriate testing in first aid and cardiopulmonary resuscitation (CPR) and/or Automated External Defibrillator (AED) every other year.
4. Determine whether commanders complete periodic training on vehicle pursuits.
5. Determine whether commanders complete, a refresher course, at minimum, every five years in racial and cultural diversity and/or racial profiling.
6. Determine whether commanders annually attend mandatory 4-hour and 10-hour firearms training and qualification sessions.
7. Determine whether newly promoted lieutenants attend/complete required courses:
  - a) POST 104-hour mandated *Management Course*; and
  - b) Federal Emergency Management Agency's Emergency Management Institute *Incident Command System Courses 300 and 400*.

#### Policies Referenced:

1. Departmental General Order B-20, *Departmental Training Program*, effective April 6, 2005;
2. Information Bulletin, *Mandated Training Requirements*, dated January 5, 2009;
3. Departmental General Order J-4, *Pursuit Driving*, effective August 25, 2014;
4. Departmental General Order M-19, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing*, effective November 15, 2004; and
5. Departmental General Order B-12, *Firearms Range Program*, effective May 30, 2007
6. Commission on Peace Officer Standards and Training Administrative Manual, Section B, Regulation 1005, *Minimum Standards Training* ([www.post.ca.gov/regulation-1005-minimum-standards-for-training.aspx](http://www.post.ca.gov/regulation-1005-minimum-standards-for-training.aspx). Accessed 11 May 2017).

#### OVERVIEW

The Oakland Police Department requires its commanders (assistant chief, deputy chiefs, captains, and lieutenants) to attend mandated POST<sup>1</sup> and departmental training. POST sets minimum selection and training standards for California law enforcement agencies. As a

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<sup>1</sup> POST is an acronym for the Commission on Peace Officer Standards and Training.

voluntary member of the POST program, the Department agrees to abide by the standards established by POST and is eligible to receive numerous services and benefits, including 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.<sup>2</sup> Consequently, POST requires agencies to complete required training. Specifically, the Department's commanders are required to complete updated and refresher training in several areas:

- To maintain, update, expand, and/or enhance an individual's knowledge and/or skills, complete 24 hours or more of Continued Professional Training of POST-qualifying training during every two-year CPT cycle. The beginning date for the two-year CPT cycle for all POST participating agencies is January 1, 2009.<sup>3</sup>
- If duties are not primarily clerical or administrative, biennially, complete refresher training or appropriate testing in cardiopulmonary resuscitation (CPR) and/or Automated External Defibrillator (AED).<sup>4</sup>
- If authorized to conduct vehicular pursuits, attend periodic training on high speed vehicle pursuits.<sup>5</sup>
- Complete, at minimum, every five years, a refresher course in racial and cultural diversity and/or racial profiling.<sup>6</sup>

In addition to the update/refresher training, POST requires newly promoted lieutenants to complete a 104-hour Management course within 12 months of promoting.<sup>7</sup> Moreover, the OPD also mandates its commanders attend two firearms training and qualification sessions each year: one 4-hour qualification session and one 10-hour skill enhancement, force option, and scenario-based session. Except for the CPR/AED refresher training and the 10-hour firearms session, the OPD has incorporated the training requirements in its policies.

### **Background**

The OPD's Training Section is responsible for planning, developing and administering mandatory courses and programs in accordance with requirements established by POST and the Department. The auditor spoke with the Training Section's commander and/or In-Service Training Coordinator to determine how the Department achieves the six objectives above, and the auditor was informed of the following information:

- The Training Section provides in-service training biennially to the Department's commanders. The training is delivered via *Command Retreats*, which is held, at

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<sup>2</sup> "About Us." *Commission on Peace Officer Standards and Training*. [www.post.ca.gov/about-us.aspx](http://www.post.ca.gov/about-us.aspx). Accessed 27 Mar. 2017.

<sup>3</sup> "Minimum Standards for Training." *Commission on Peace Officer Standards and Training*. [www.post.ca.gov/regulation-1005-minimum-standards-for-training.aspx](http://www.post.ca.gov/regulation-1005-minimum-standards-for-training.aspx). Accessed 27 Mar. 2017

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> "Required Updated or Refresher Training Requirements

<sup>7</sup> "Management Course." *Commission on Peace Officer Standards and Training*. [www.post.ca.gov/management-course.aspx](http://www.post.ca.gov/management-course.aspx).

minimum, two times a year, with a total of 24 hours of instruction each year, totaling 48 hours biennially. The last complete cycle of training was 2015 to 2016.

- The Training Section does not provide CPR/AED training to the Department's lieutenants.
- Annually, the Training Section administers *High Speed Vehicle Pursuits* training to all sworn officers by forwarding a link to the Policy and Publication Development Unit for placement on the Department's online training site, PowerDMS<sup>8</sup>. When an officer logs-on to PowerDMS, the course appears in his/her queue and he/she is expected to complete the course by reading the information and passing a test.
- In 2016, the Training Section partnered with the City of Oakland's Training Coordinator to facilitate OPD employees' attendance at a City of Oakland-mandated course entitled *Diversity in Action*. The purpose of the course is to create dialogue for diversity and inclusion in the workplace by examining how self-awareness, diversity awareness, privilege and micro-aggressions impact the workplace and relationships.
- Every December a memo is forwarded to all sworn officers, via email, stating "all sworn members need to complete a 4-hour and 10-hour range qualification session" in the upcoming year. The memo informs officers to sign-up early to have the best chance of acquiring the dates of their choice for each session. The 4-hour qualification session sign-ups are handled by each of the Department's two Bureaus of Field Operations, and the 10-hour skill enhancement, force option, and scenario-based session sign-ups are handled via the Training Section's In-Service Training Coordinator.
- The Training Section's In-Service Training Coordinator is responsible for ensuring newly promoted lieutenants attend/complete the POST 104-hour mandated *Management Course* and the Federal Emergency Management Agency's Emergency Management Institute *Incident Command Courses 300 and 400*. All newly promoted lieutenants have taken the required courses. However, the coordinator is unaware of there being a requirement for the lieutenants to take an *ICS 800.b* course.

On March 30, 2017, the Office of Inspector General initiated an audit to determine whether the Department's commanders receive the aforementioned mandated training.

## **METHODOLOGY**

The auditor set review time periods for the various training to have been completed and the commanders' respective training records were retrieved from POST's Electronic Data Integrated System and the Department's Training Management System (TMS) and reviewed for compliance. The review time period parameters for the various training are as follows:

### 40 Hour In-Service, 24 Hour POST-Qualifying CPT, and CPR/AED Training

The review time period was January 1, 2015 to December 31, 2016, which is the most current POST two-year CPT cycle completed beginning with January 1, 2009.

### High Speed Vehicle Pursuit, 4 Hour Firearms, and 10 Hour Firearms Training

The training in each category is to be completed annually. The review time period was January 1, 2015 to December 31, 2016, covering two consecutive years for compliance.

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<sup>8</sup> PowerDMS is software used to manage the OPD's policies, procedures, and training.

### Racial and Cultural Diversity and/or Racial Profiling

Although POST requires commanders to complete a refresher course in racial and cultural diversity and/or racial profiling, at minimum, every five years, the review time period for this training is 2016 to present day since last year the City of Oakland mandated that all employees attend a course entitled *Diversity in Action*.

### POST 104-Hour Management Course, and ICS 300 and 400 Courses

The review period for the Management Course is within six<sup>9</sup> months of promotion, but the auditor considered the Department in compliance as long as the 3-part course was started within 7 months (30 day grace period) of promotion. In addition, the review period for the ICS 300 and 400 Courses is December 2014 to December 2016 since promotions were from December 2014 to July 2016.

### **POPULATION**

The auditor received a roster of all commanders, 35 in total, from the Personnel Section: 1 Assistant Chief, 3 Deputy Chiefs, 7 Captains, and 24 Lieutenants.<sup>10</sup> The populations vary based upon required training categorized by rank.

<b>Mandated Training</b>	<b># of Commanders</b>	<b>Comment(s)</b>
40 Hours In-Service Training (including a minimum of 24 hours of POST-qualifying CPT)	35	All are required to attend.
CPR/AED	24	Only field based lieutenants are required to attend since commanders primarily assigned to administrative positions are exempt.
High Speed Vehicle Pursuits	35	All are required to attend.
Racial Diversity and/or Profiling	35	All are required to attend.
4 and 10 Hour Firearms Training and Qualification Sessions	35	All are required to attend.
POST 104-hour Management Course and ICS 300, 400, and 800.b Courses	9	There were 9 newly promoted lieutenants from December 2014 to December 2016.

<sup>9</sup> Although POST's mandates 12 months within promotion, the OPD's policy, Information Bulletin, *Mandated Training Requirements*, states lieutenants shall complete the course within six months of promotion.

<sup>10</sup> The list of commanders only includes the names of officers who had permanently assigned positions as a commander. Therefore, it does not include the names of sergeants who may have been acting as lieutenants.

**FINDINGS**

**Finding #1**

Upon reviewing the 35 commanders’ training records, the audit indicated there was documentation to support the following compliance levels in each of the following categories:

40 HRS In-Service	POST 24 HR CPT	Vehicle Pursuits 2015	Vehicle Pursuits 2016	Racial Diversity and/or Profiling	Firearms 4 HR 2015	Firearms 10 HR 2015	Firearms 4 HR 2016	Firearms 10 HR 2016
94%	49%	74%	57%	91%	94%	94%	91%	71%

***Training Section Commander Not Receiving Lesson Plans from Instructors As Required By Policy***

The auditor requested the curricula and lesson plans for each Command Retreat held from January 1, 2015 to December 31, 2016; however, the Training Section was unable to provide the information. Therefore, the auditor was unable to determine whether Command Retreat courses included instruction in professionalism and ethics utilizing curricula that employ realistic scenario-based training exercises and case studies. The Department is reminded that Departmental General Order B-20, *Departmental Training Program*, Section IV.B, states, in part, “Instructors conducting Departmental training shall submit a lesson plan to the Training Section Commander prior to presentation of the course.”

**Finding #2**

Penal Code 13518 states that the only officers who are exempt from completing periodic refresher cardiopulmonary resuscitation (CPR) and/or Automated External Defibrillator (AED) training are officers with duties that are primarily clerical or administrative. In addition, the penal code states that “primarily clerical or administrative” means the performance of clerical or administrative duties for a minimum of 90 percent of the time worked within a pay period. During a meeting with the Training Section’s Commander and In-Service Training Coordinator, the auditor was advised that the Training Section does not provide CPR/AED training to the Department’s lieutenants. In addition, the auditor was advised that there are some lieutenant positions (i.e., watch commanders and Tactical Team Commanders) that may not be exempt according to the penal code; the OIG concurs. The Training Section advised that CPR/AED courses can be added to one of the Command Retreats to ensure all lieutenants receive the mandated training.

**Finding #3**

The Department promoted nine new lieutenants from December 2014 to December 2016, and the audit indicated there was documented evidence that they all had taken the required courses below:

104 HR POST Management Course	ICS 300	ICS 400
100%	100%	100%

### ***ICS 800.b Course***

Information Bulletin, Mandated Training Requirements, dated January 5, 2009, states that “Commanders/Managers shall complete the ICS 800.b course online.” In speaking with the Training Section’s In-Service Training Coordinator, the auditor was informed that he was not aware of this directive and therefore was not directing newly promoted lieutenants to complete the course. A review of the newly promoted lieutenants’ training records indicated that there was no documented evidence to substantiate they took the required course.

### **Additional Observation(s)**

#### ***40 Hour In-Service Training Directive Does Not Incorporate POST’s 24 Hour CPT***

Information Bulletin, Mandated Training Requirements, dated January 5, 2009 states “Commanders shall receive 40 hours of command training every 24 months. It is incumbent upon the member to ensure he/she completes all 40 hours of training.” This policy fails to include the necessity for commanders to ensure, at minimum, 24 hours of their in-service training is POST-qualifying CPT hours as mandated by POST’s policy (Administrative Manual, Section B, Regulation 1005, *Minimum Standards Training*).

#### ***No Due Dates Established for Online Training Because of the Software’s Limitation***

During the audit, it was determined that although the High Speed Vehicle Pursuits training was administered via the Department’s online training site, there was not a due date set to signal to an officer when he/she logs-on to PowerDMS that the course was overdue. The Office of Inspector General Commander spoke with the Manager of the Policy and Publication Development Unit about establishing due dates for training courses, and was advised that it is not recommended because the program, PowerDMS, prohibits an officer’s ability to take the course even if he/she is only one day late.

#### ***Diversity in Action Course***

Although the course was documented in the Department TMS system for the commanders who took the course, the auditor noted that there was no entry on the respective commanders’ POST training records.

#### ***Perishable Skills Alert***

During a conversation with a POST Regional Training Consultant, the auditor was advised it is not in policy that commanders are required to have biennially 12 hours of perishable skills training (i.e., Arrest and Control; Driver Training/Awareness or Driving Simulator; and Tactical Firearms or Force Options Simulator). However, there is a risk to the Department if a commander is involved in a high speed chase, discharges his/her firearm, and or uses force and has not received update/refresher training.

### **RECOMMENDATIONS**

1. The Department should ensure its commanders complete all required training.
2. As a voluntary member of the POST program, the Department should ensure its Training Section incorporates a minimum of 24 hours of POST-qualifying CPT into its Command Retreats, diminishing the possibility of commanders not meeting the CPT requirement.
3. The Department’s instructors should submit their lesson plans as directed by policy.



4. The Department's Training Section should proceed with incorporating CPR/AED training into the Command Retreat curricula, diminishing any risk to the Department.
5. The Training Section should conduct an audit to ensure all its commanders have taken the required ICS 800.b course and begin tracking compliance.
6. The Department should consider obtaining POST certification for the *Diversity in Action* course if it meets the mandates in Penal Code 13519.4, which are the guidelines POST considers for certification.
7. The Department's Chief, command staff, and/or attorneys should conduct a risk assessment to determine any potential risks in not providing perishable skills training to commanders.

## IAD Staffing and Timeliness of Investigations

### IAD Staffing and Timeliness of Investigations

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

#### Objectives

1. Assess the training and experience of Internal Affairs Division (IAD) investigators against the requirements outlined in the Internal Affairs Policy and Procedure Manual 10-01.
2. Review the timeliness of complaint investigations against the Department's prescribed 180-day deadline and compare it to last year's average rate of investigation.
3. Benchmark IAD's operational features against suggested practices detailed in *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*<sup>11</sup>

#### Policy Referenced

- Internal Affairs Policy and Procedure Manual 10-01
- DGO M-3, Complaints against Departmental Personnel or Procedures (Rev. 25 June 13)

#### Significant Findings

- The IAD has doubled the number of full-time Intake Technicians since OIG's last review in May of 2016. After filling its last vacancy<sup>12</sup> the total number of Intake Technicians serving IAD is four. As previously noted, staffing too few intake staff may significantly bottleneck the complaint process and jeopardize meeting the 180-day investigatory deadline required by Department policy. The recent increase in Intake Technician staff should minimize this risk while improving the volume and workflow of investigations going forward.
- IAD Investigators continue to maintain an acceptable level of training and experience, but two investigators have yet to attend the required POST certified IAD training.

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<sup>11</sup> US Department of Justice, Office of Community Oriented Policing Services. (2008). *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*. Retrieved from: <https://ric-zai-inc.com/Publications/cops-p164-pub.pdf>

<sup>12</sup> The Intake Technician position is on hold for American with Disabilities/California's Fair Employment and Housing Act accommodation.

## **Recommendations**

1. IAD must ensure that those investigators who have not yet received the required POST certified training receive training as *soon as possible*.
2. The Department should consider exploring alternatives to traditional discipline (i.e., mediation and the conditions of its use).

## **Overview**

OIG sought to determine whether IAD investigators are given relevant and quality training, and to assess the level of aggregate and collective internal investigative experience among IAD Investigators.

## **Background**

The IAD is charged with investigating allegations of misconduct involving Department personnel. Reported allegations require Intake Technicians to perform preliminary investigations followed by assignment to either an IAD Investigator or another Division to be investigated by a supervisor. Generally, the more serious and complex investigations are investigated by IAD Investigators. Depending on the specifics of each case, some allegations may be administratively closed or informally resolved. All investigated allegations are required to come to a finding and all findings are reviewed and approved by the Commanding Officer of IAD.

IAD has 180 days, per Department policy, to complete an investigation. The deadline is meant to be timely and responsive to complainants, fair and impartial to subject officers, and cognizant that evidence and witness statements tend to dissipate as more time passes. One investigation may have multiple allegations and involve more than one employee. Consequently, the complexity of each case varies as do investigative timelines. By law, the Department has up to one year to complete a case and provide notice of discipline; an investigation may take longer than 180 days without necessarily impacting a successful resolution.

Additionally, misconduct allegations are categorized into two offense groups; Class I and II. Class I offenses are the most serious allegations of misconduct and, if sustained, could result in serious disciplinary action. Examples of Class I offenses include unnecessary use of force, untruthfulness and knowingly filing a false report. Class II offenses include less serious incidences of misconduct.

## **Methodology**

OIG accessed and reviewed training and assignment history for all currently assigned IAD Investigations Section Investigators. OIG also analyzed IAD's case tracking data to determine the average duration it took for a case to be processed by the Intake Unit.

## **Finding 1**

**IAD must ensure transferred investigative staff receives required training as soon as possible**

### ***Training***

The Department requires all IAD investigators attend, “as soon as possible” a state accredited 24 hour training course on internal affairs investigations. The course typically covers legal issues, case law, interviewing techniques and report writing, with the overall intent being to develop the skills for an investigator to perform effective, thorough and defensible investigations.

OIG verified that all but two investigators currently assigned to the IAD Investigations Section (coded below as Sgt. 6 and Sgt. 7) received the required IAD training. Since their assignment start dates, there have been four training opportunities for Sgt. 6 and one training opportunity for Sgt. 7 offered within 25 miles of Department.<sup>13</sup> These two investigators have been assigned to IAD for approximately 9 and 5 months respectively, neither have previously been assigned to IAD, and are the newest assigned to the IAD Investigations Unit. According to the IAD commanding officer, these two investigators are presently scheduled to attend training in the near future. There are three trainings left this year within 25 miles of the Department.<sup>14</sup>

Mitigating factors that may lessen the risk that investigations performed by Sgt. 6 and Sgt. 7 are not being performed adequately include Sgt. 6’s previously related training on reporting and investigating use of force, criminal investigations, preliminary investigations, 4<sup>th</sup> and 5<sup>th</sup> amendment issues, and legal updates. Similarly, Sgt. 7 has received training on basic investigative report writing, investigations and reporting, division level investigations, preliminary investigations, and reporting and investigating use of force. These specialized training topics have an indirect, yet relevant impact on the breadth of expertise held by investigators. IAD acknowledges and supports this belief citing a strong nexus with an investigator’s overall proficiency. Additionally, all investigations must be reviewed and approved by the Commanding Officer of IAD, which serves an added control over the quality of work performed.

### ***Experience***

Collectively, the IAD Investigation Section has about twenty years of experience in performing IAD investigations. Individually, the most experienced Investigator has about 5 years of IAD experience.<sup>15</sup> The least experienced investigators has less than a year of experience.

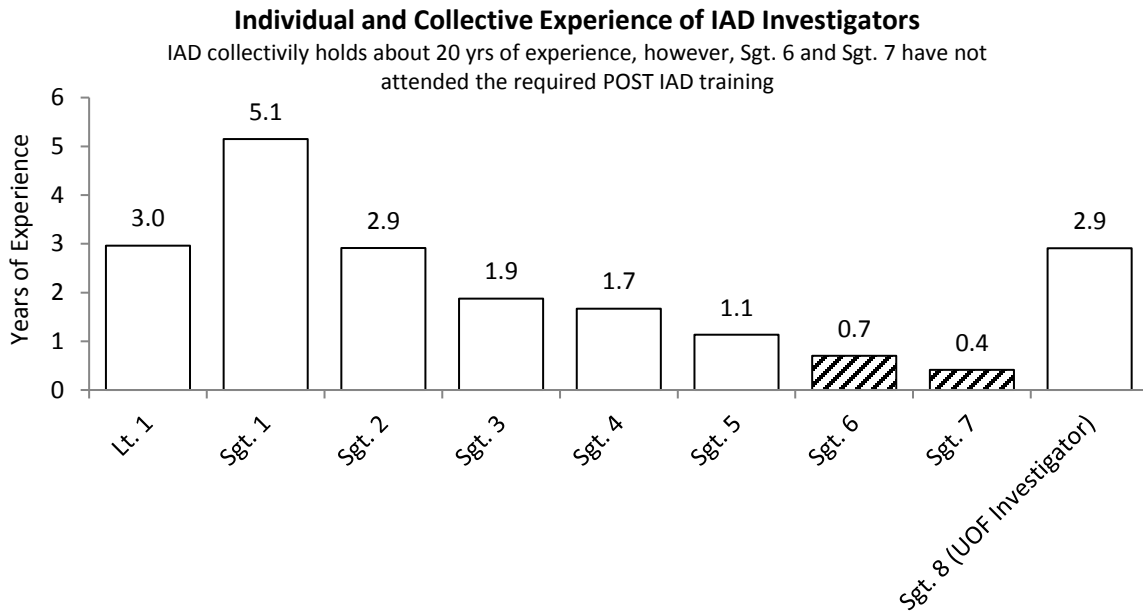
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<sup>13</sup> POST Internal Affairs Investigation training was held on: 11/1/2016 in San Pablo, CA; 11/7/2016 in Dublin, CA; 1/3/2017 in San Rafael, CA; and on 5/8/2017 in Dublin, CA.

<sup>14</sup> POST Internal Affairs Investigation training will be held on: 6/26/2017 in Redwood City, CA; 7/26/2017 and 12/4/2017 in Dublin, CA.

<sup>15</sup> In efforts to promote greater professional development opportunities, there is typically a 5 year assignment cap for officers and sergeants assigned to certain divisions and units throughout the Department. However, given the nature of the work performed, IAD assignments are exempt and instead personnel are selected at the discretion of the Chief of Police.

**Figure 1** Individual and Collective IAD experience



**Finding 2**

**Given known constraints, IAD processes cases within the 180-day deadline**

Of IAD cases occurring in 2016, it took on average 134 days for the IAD Investigations Section to complete their investigations which is well within the 180-day deadline. This is 6 days slower than last year’s average duration of 128 days, making the difference marginal.

**Table 2** Comparative duration of IAD processing times

Investigatory Process Timeline <i>Based on IAD Assigned Cases Completed in 2016</i>	Average Duration of Days	
	2016	2015
• Department is made aware of a complaint and reports it to IAD’s Intake Unit	4	1
• IAD’s Intake Unit receives the complaint alleging misconduct and completes its preliminary investigation. Cases are forwarded from the Intake Unit and assigned to an IAD Investigator	48	29
• IAD Investigator begins an investigation of the allegation(s) - reaches a determination which is sent to IAD management for review and approval	82	98
<b>Average total days</b>	<b>134</b>	<b>128</b>

**Finding 3**

**Most of IAD’s key operational features fully comply with recommended industry practices and procedure. However, value can be added through consideration and implementation of voluntary mediation and alternatives to traditional discipline.**

The [\*Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice\*](#) is published by the US Department of Justice’s Office of Community Oriented Policing Services and was created in conjunction with the National Internal Affairs Community of

Practice group, the Los Angeles Police Department and eleven other agencies.<sup>16</sup> The purpose of the report was to bring together practitioners in highlighting the most successful methods and to provide greater collective uniformity within the practice of internal affairs investigations. The Department’s IAD fully complies with 36 of the 38 recommended best practices covering intake, classification of complaints, investigations, mediation, adjudication and disposition. However, greater value can be added by considering and implementing mediation and alternatives to traditional discipline. Specifically, the report suggests the opportunity for, “voluntary mediation conducted by a neutral facilitator, in lieu of investigation and adjudication, permits resolution of minor complaints that are usually not easily resolved through investigation. Mediation should be encouraged except where an officer has a pattern of similar misconduct or where a broader review of the employee’s performance suggests a need to analyze the results of the investigation in the current case.” Additional advising points to consider include:

- Mediation is best used as a means of allowing an officer and a citizen to better understand each other’s perspectives. Mediation should not take place unless the complainant and the subject officer each voluntarily agreed to mediate.
- Complainants best resolved through mediation are complaints of officer discourtesy or rudeness and others that involve minor “one-on-one” interactions between officers and members of the community

Additionally, exploring alternatives to traditional forms of discipline include strategic models that “in cases where core facts are not at issue in a sustained complaint, a particular interactive process helps determine the error in thinking that led to the employee to commit the problem act.” Additional advising points to consider include:

- All agencies should establish written policies to ensure that an officer cannot elect to mediate multiple complaints where there is the possibility of a pattern or practice of misconduct or a motive to circumvent discipline or otherwise bypass an agency’s early intervention system.

Table 3 provides a more comparable detail.<sup>17</sup>

**Table 3** Comparative policy and practice

US Department of Justice Office of Community Oriented Policing Services <i>Standards and Guidelines for Internal Affairs</i>	Oakland Police Department Internal Affairs Division <i>Policy and Procedures</i>
<p><b>1. Time Limits for Performing Investigations</b> Completion of Internal Affairs investigations should occur as rapidly as is reasonably necessary to fulfill the investigative mission. In all instances, however, an internal investigation should be completed within a reasonable time before any applicable statute of limitations or other bar to</p>	<p><i>Due Dates and Timelines</i></p> <ul style="list-style-type: none"> <li>• IAD investigations shall be completed, reviewed and approved within 180 days unless approved by the IAD Commander</li> <li>• Division level investigations shall be completed, reviewed through the appropriate chain-of-review, and approved by the IAD Commander</li> </ul>

<sup>16</sup> The Oakland Police Department did not participate in the making of *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*.

<sup>17</sup> This is not an exhaustive list of all the possible similarities held between industry best practice and Department procedure

**Table 3** Comparative policy and practice

<b>US Department of Justice Office of Community Oriented Policing Services Standards and Guidelines for Internal Affairs</b>	<b>Oakland Police Department Internal Affairs Division Policy and Procedures</b>
officer discipline has run out. It is preferable to conclude investigations within 180 days.	within 180 days of the IAD Intake Date (except when an extension has been requested and approved)...
<p><b>2. Four Basic Resolution Categories</b></p> <p>The findings in completed investigations should result in one of four resolutions:</p> <ol style="list-style-type: none"> <li>1. Sustained or founded</li> <li>2. Not sustained or not resolved or unresolved</li> <li>3. Exonerated</li> <li>4. Unfounded</li> </ol> <p>Some unique state or local laws may require the addition of further categorical distinctions for some limited special circumstances.</p>	<p>Types of Investigatory Findings used by IAD include:</p> <ol style="list-style-type: none"> <li>1. Exonerated</li> <li>2. Not sustained</li> <li>3. Sustained</li> <li>4. Unfounded</li> </ol>
<p><b>3. Penalty Assessment and the Use of a Penalty Matrix</b></p> <p>Agencies should have some system or mechanism to ensure that discipline is fair and consistent. A penalty matrix or similar schedule has proven helpful to some agencies whose disciplinary systems are based on a “progressive discipline” theory or collective bargaining agreement. In such systems a matrix can help ensure consistency, objectivity, and predictable penalties for misconduct. A matrix best involves recommended ranges of discipline, allowing for the decision-maker to consider the totality of the circumstances, including aggravating and mitigating factors, in determining appropriate discipline.</p>	<p>According to Training Bulletin V-T Discipline Policy Appendix, “The objective of the Discipline Matrix is to ensure fair and consistent implementation of discipline within the Oakland Police Department. In addition, the Discipline Matrix, associated policies and resulting disciplinary decisions shall reflect contemporary industry standards for progressive discipline.”</p>
<p><b>4. Reporting Relationship of the Head of Internal Affairs to the Agency Head</b></p> <p>The head of Internal Affairs should preferably report directly to the agency head. If a direct reporting relationship is not feasible, the Internal Affairs commanding officer should nonetheless have prompt, unrestricted, and confidential access to all agency executives, including the agency head.</p>	<p>IAD is organizational structured to report directly to the Chief of Police.</p>
<p><b>5. The Use of Chronology</b></p> <p>Internal Affairs should track and maintain a chronological log of all internal investigations. A</p>	<p>According to <i>DGO M-3, Complaints Against Departmental Personnel or Procedures</i>, it states for</p>

**Table 3** Comparative policy and practice

<p align="center"><b>US Department of Justice</b>  <b>Office of Community Oriented Policing Services</b>  <i>Standards and Guidelines for Internal Affairs</i></p>	<p align="center"><b>Oakland Police Department</b>  <b>Internal Affairs Division</b>  <i>Policy and Procedures</i></p>
<p>log of the investigation serves to preserve and maintain a history of the investigation and a means to keep track of the various parts of the investigation.</p>	<p>Division-level Investigations, “Upon completion of a division-level investigation, the investigator shall document in the Chronicle Activity Log (CAL) that he/she has Hand-delivered the investigative file to his/her immediate superior (first-level commander/manager) for administrative review.” And “An IAD Commander shall approve Administrative Dispositions, except for tolled cases, ensure documentation in the Chronological Activity Log, and ensure that the data is properly entered in the IAD Complaint Database.”</p> <p><i>Policy 1010 Personnel Complaints – Case Records Procedure</i> states, “IAD Personnel shall compliance this record in accordance with the provisions of DGO M-3, Complaints Against Departmental Personnel or Procedures...” and further explains the procedural steps taken to enter chronological information into the entry field that pops up on the PRIME system.</p>
<p><b>6. Holding Administrative Complaints in Abeyance During Criminal Investigations</b>  Each agency should create a protocol for determining how to proceed with an administrative complaint while a criminal case based on the same facts is pending.</p>	<p><b>Tolled Cases</b>  An administrative investigation which has held in abeyance in accordance with the following provisions of Government Code Section 3304: a) The allegation of misconduct is also the subject of a criminal investigation or criminal prosecution.</p>

## Review of the Oakland Police Department's Initial Response Time to Complaints

**Auditor:** Vera Edwards, Office of Inspector General

**Contributor:** Rebecca Johnson, Police Performance Auditor

**Objective:** Determine whether the Oakland Police Department's initial response time to citizen complaints received via an employee working in field operations or the Communications Division is less than three hours.

### **Policies Referenced:**

7. Departmental General Order M-3, Complaints against Department Personnel *OR Procedure*, effective August 24, 2013
8. Communications Division Policy C-2, Receiving and Logging Complaints against Personnel

### **OVERVIEW**

On May 24, 2017, the Office of Inspector General initiated a review of the Oakland Police Department's initial response time to citizen complaints received via a police officer or via the Communications Division. The purpose of the review was to assess whether the Department responds to citizen complaints within three hours or less from the time the police officer or Service or Complaint Operator receives the complaint.

### **BACKGROUND**

Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, governs how citizen complaints should be handled. Section III.A.6, states, in part, if a [police officer] or an employee [working in field operations] receives a complaint, he/she shall request a supervisor to respond to the scene to take the complaint. If the complainant refuses or is unable to wait for a supervisor, the police officer or the employee shall do the following:

- Make a reasonable attempt to obtain the complainant's name and contact information; the nature of the complaint; and the identity of the personnel involved...;
- Notify and provide his/her supervisor with all the information obtained from the complainant as soon as practical; and
- In the absence of an immediate supervisor, the employee shall contact another supervisor or command officer within his/her division or the Internal Affairs Division's [Complaint] Intake Unit as soon as possible.

Section III.A.11-12, states upon notification of a complaint, the Communications Division shall have the [police officer's] or employee's supervisor contact the complainant. If the police officer's assigned supervisor is not on duty and no other supervisor from the police officer's unit is on duty, a Patrol supervisor will be assigned to contact the complainant. In addition, complaints received by the Communications Division shall be processed and documented on the IAD Daily Incident Log (DIL), which is a form that includes the following information:

- An incident number;



- The time received;
- The name of the Communications Division supervisor who received the complaint;
- Complainant's name, address, and phone number;
- The date, time, and location of the incident;
- OPD personnel involved;
- Name and contact information of any known witnesses;
- Time Assigned to supervisor taking complaint;
- Time complainant contacted by supervisor taking complaint; and
- Name of supervisor taking complaint.<sup>18</sup>

Once a supervisor receives notice that a citizen wishes to lodge a complaint, Section III.13 states, in part, that the supervisor shall:

- Conduct a Preliminary Inquiry (PI)...
- Prepare a Complaint Memorandum detailing the steps taken and additional information obtained during the PI and ensure all complaint-related documentation is forwarded to the Internal Affairs Division (IAD)...
- After contacting or attempting to contact the complainant, advise the Communications Division Supervisor of the time of contact (or the attempt to contact) with the complainant, the complainant's first and last name, and the disposition of the complaint: (1) Initiated Preliminary Inquiry; (2) Unable to Contact (UTC); or Other (the Communication Division Supervisor shall detail the action taken in the DIL.
- In the event the supervisor is not immediately available, he/she shall contact the complainant as soon as possible and advise the Communications Division Supervisor of the reason for any delay greater than three hours from the time the complaint was received on the DIL. The reason shall be documented on the DIL.<sup>19</sup>

## **METHODOLOGY**

The auditor reviewed DILs beginning January 24, 2017 through April 23, 2017, which were obtained from IAD. There was a total of 181 DILs reviewed to determine whether the response time from the point in time OPD received the complaint via an employee working in field operations or the Communications Division to the time field contact was made by a supervisor was within three hours. The following questions were used to determine compliance:

1. What time was the complaint received via an employee working in field operations or the Communications Division?
2. What time did the supervisor contact the complainant?
3. How much time elapsed between the time the complaint was received and the time the complainant was contacted by a supervisor?
4. If the amount of time to respond to a complaint was more than three hours, was the reason for the delay documented?

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<sup>18</sup> Communications Division Policy C-2, *Receiving and Logging Complaints against Personnel*, provides direction to the Communications Division personnel regarding processing and documenting complaints.

<sup>19</sup> *Ibid.*, Section IV.C.2

## **POPULATION**

The auditor requested and received from IAD DILs beginning January 24, 2017 through April 23, 2017. Initially the auditor received 189 DILs for review, but eight DILs were removed from the population for the following reasons:

- Five complaints were internally generated and therefore not received by an employee working in field operations or the Communications Division; and
- Three complaints were found while the respective supervisors were conducting a PDRD<sup>20</sup> audit.

Therefore, the remaining population consisted of 181 DILs.

## **FINDING**

The auditor reviewed 181 DILs and found that 177 (98%) of them documented that the complaint was handled in less than three hours between the time the complaint was received via an employee working in field operations or via a Service or Complaint Operator in the Communications Division and the time a supervisor contacted the complainant. There were three (1.5%) instances in which it took the Department more than three hours to respond to a complaint, and the auditor noted that only one supervisor noted the reason for the delay, leaving four of 181 incidents requiring documentation for the delayed response. Lastly, there was one (0.5%) instance in which the DIL and the associated Complaint Memorandum lacked sufficient information to determine if the complainant was contacted by the supervisor within three hours.

## **RECOMMENDATION**

None. The review determined that personnel are receiving and responding to citizen complaints in the field and are doing so in an efficient and timely manner.

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<sup>20</sup> PDRD stands for Portable Digital Recording Device (also known as a body worn camera).

## Supplemental Review - Stop Data: Error Rate of Officer Squad Assignment

9.5% of squad assignment data is incorrect; however, the cause for most of those errors has been corrected

### Objective

Significant data errors can lead to a misunderstanding of trends, analyses and undeservedly influence policing strategies that ultimately effect community outcomes. For this reason, OIG performed a data integrity check to determine the extent of errors related to self-reported officer squad<sup>1</sup> assignment at the time a stop is made.

### Key Findings

- 9.5% of all stop incidents<sup>2</sup> within the period reviewed had incorrect squad assignment data. However, the bulk of these errors is attributed to three patrol squads not having the option to select their correct assignment within the reporting system. As a result, these officers selected other incorrect assignments. This condition accounted for 73% (803 of 1,099) of all confirmed incorrect entries.
- Excluding the above-mentioned errors that resulted from a lack of a correct squad options, the residual incident error rate is 2.5 percent. OIG did not definitively determine the cause for the residual error rate.

Type of Error	#	% of all stop incidents
No squad option	803	7%
Other (residual error)	296	2.5%
Total	1,099	9.5%

### Department's Response

- Once this condition was identified and reported (as a result of this review), the appropriate personnel updated the Field Based Reporting drop down assignment options and will continue to update it accordingly going forward

<sup>1</sup> A *squad* is a unit of up to 8 officers.

<sup>2</sup> A *stop incident* is a singular stop with one or more involved subjects.

- Officers in those effected squads were notified of the newly included and correct selection option. Going forward the effected officers should select the correct assignment option.

### Recommendation

- To provide greater assurance over data accuracy, personnel should periodically perform stop data integrity checks
- Going forward, if data inaccuracies are identified, personnel should correct the data

### Background and Methodology

During each stop, an officer is required to report

- their assigned patrol squad at time of stop
- the beat in which the stop was made.

OIG reviewed 7,588 stop incidents in which an officer made a stop outside of their assigned area (i.e., reported beat was outside of their patrol area) from 11,607 total stop incidents made between 11/16 to 4/17. OIG also reviewed all stop incidents made by specialized assignments (i.e., Traffic, CRO, CRT, etc.). After reading the officer's written narrative of the stop, those 7,588 stops made outside of an officer's assigned area were tallied and labeled as:

- Confirmed correct** – An officer indeed made a stop outside of their assigned area and the narrative matched the officer's assigned squad
- Confirmed incorrect** – An officer indeed made a stop outside of their area, but the narrative did not match the officer's self-reported assignment, indicating the officer incorrectly reported their assigned squad
- Unknown** – Narrative summary did not disclose needed information to make a determination

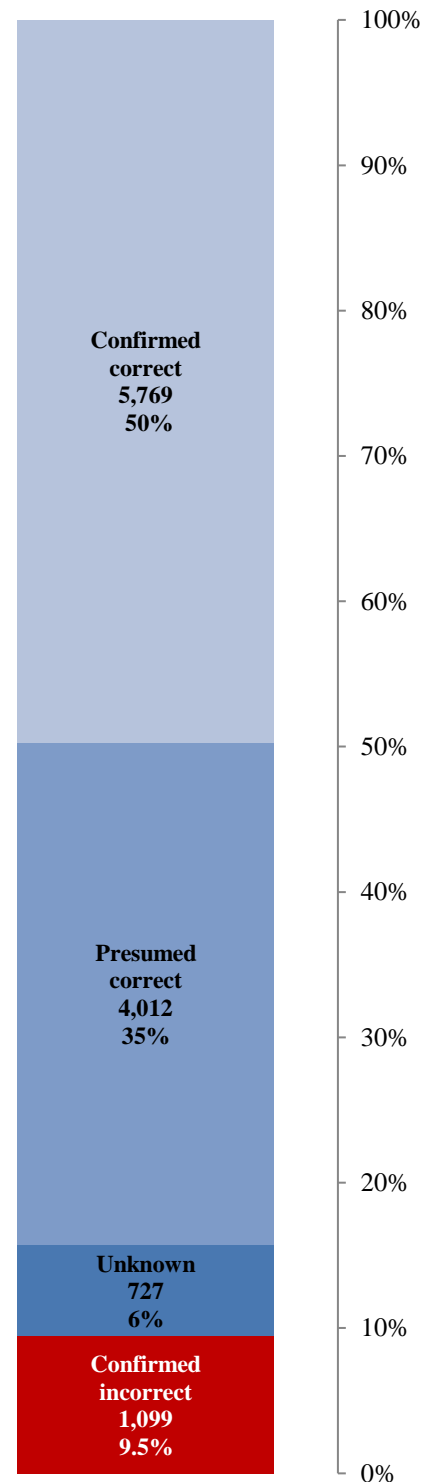
Stops made within an officer's assigned area were not reviewed, but were included in the analysis and were labeled **Presumed correct** due to the proximity of assigned squad area and location of stop.

**Conclusion**

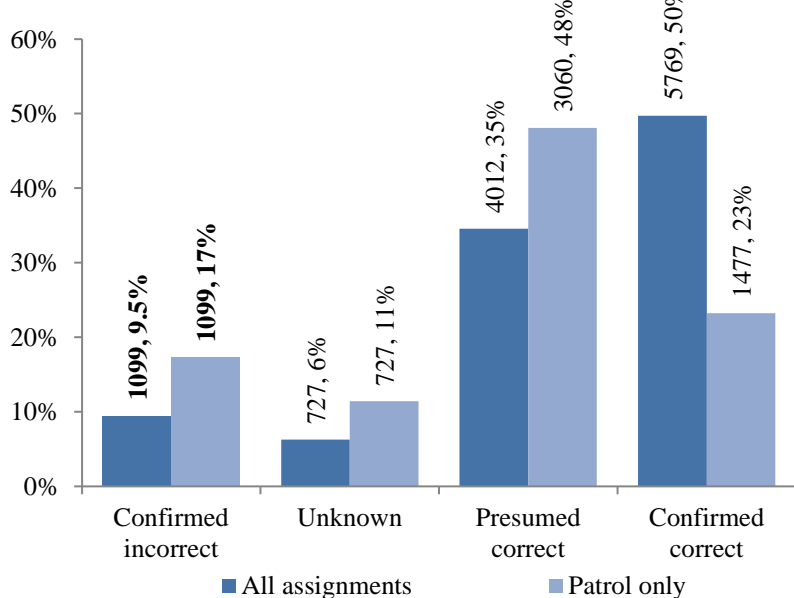
Data collection errors can lead to faulty or incomplete analyses. The data examined in this report assists the department in evaluating stop data and stop data disparities at multiple levels of geographic and positional assignments.

This review led to the discovery that the reporting form provided to officers didn't provide the necessary means for accurate squad assignments to be collected in all cases. In other cases, officers incorrectly selected squad assignments and supervisors approving the forms did not cause the error to be corrected. Changes to the Department's reports were made immediately and direction on the issue was provided to commanders and supervisors.

**Error Rate for All Assignments  
Collectively 9.5%**  
11/16 - 4/17



**Error Rate for Patrol Only Compared to All Assignments**  
11/16 - 4/17



## UPCOMING OIG REVIEWS, AUDITS AND INSPECTIONS

The next issued report will address audits, inspections and reviews completed during the 3<sup>rd</sup> quarter of 2017. The OIG will begin issuing reports on a quarterly basis rather than monthly. Our first Quarterly Progress Report will be published in October 2017 and will minimally cover topics including:

1. Oakland Police Department Crisis Intervention Training
2. Departmental Overtime Controls
3. Stop Data Assessment
4. Performance Data Review: Evaluating the consistency and accuracy of data
5. Allegations of Racial or Identity Profiling and Mandated Reporting Requirements
6. Misconduct Investigation Quality Assurance and Risk Management