

CITY OF OAKLAND

Memorandum

TO: City Administrator's Office
ATTN: Sabrina Landreth
FROM: Chief Anne Kirkpatrick
DATE: 26 July 19

RE: Command Response to Global Use of Force Audit

OVERVIEW

The Department's earlier review of Type 22 use of force (pointing a firearm) confirmed that there was underreporting of that type of force. It also identified causes that contributed to underreporting such as: a vague policy that allowed too much subjective interpretation, insufficient training and some possible willful underreporting by individual officers. The monitoring team, the plaintiff's attorneys and OPD all agreed there was a need to look more closely into this matter. As a result, I asked the Office of the Inspector General (OIG) to take a global look at how force is being reported, captured by body cameras, and reviewed by supervisors. I thank the OIG for its thoughtful work and recommendations.

Like the Type 22 audit, this audit also identified shortcomings. Set forth below is a response to each of Audit's recommendations along with the actions we are taking to address each recommendation.

Although the audit found shortcomings related to the reporting of force, both the OIG and the federal monitoring team did not find any instances where an officer used unreasonable force. The Fifty-Eighth Report of the Independent Monitor stated that their review of video "found no instance where the force was used was unwarranted or inconsistent with policy, and as previously reported, we found several instances where officers exhibited considerable patience and understanding, even though they were often faced with significant verbal abuse."

The officers' patience and professionalism in their community interactions reflect the cultural change within the Department. The OIG's efforts to thoroughly review these cases and the Department's commitment to learn from these discoveries show that the Department's internal checks and balances are working. In addition to the recommendations of the OIG's study, I have already begun taking key steps to improve and augment how force is reported, captured, and reviewed.

The Department is committed to introspection and is willing to accept and correct our shortcomings in reporting force. Introspection leads to better policing and aligns our practices to our values. In short, honest self-analysis is the new norm within the Department and will remain that way under my watch and into the future.

STEPS THE DEPARTMENT IS TAKING

Recommendation No. 1

Revise General Orders K-3 and K-4.

Actions

In September 2018, before the Type 22 audit was complete, we saw indicators that our policy on reporting force was too subjective and contributed to the underreporting. At that time, I ordered immediate training to clarify when officers must report the pointing of a firearm.

Shortly after, I also issued Special Order 9191 requiring supervisors to review body-camera footage when officers report that a person threatened an officer, resisted arrest, or battered an officer. These types of incidents can be more likely to involve force.

At the same time, the Department began writing Special Order 9196. We worked with the Police Commission and the Court's Independent Monitoring Team to reach a version we think all stakeholders will approve. The order revises General Orders K-3 and K-4 to make clear the types of force that must be reported, including firearm pointing. Special Order 9196 was passed by the Police Commission and has now moved to the meet and confer process with the OPOA.

The Department will also clarify that if an off-duty officer puts himself or herself on duty and uses force, it must be reported.

Since this course correction of re-training and supervisory mandate to review certain uses of force, our reporting numbers have increased four-fold (821 through July 18, 2019 as compared to 205 at the same time in 2018). These numbers indicate the message was delivered.

Recommendation No. 2

Reinforce and clarify body-camera policy requirements.

Actions

The Department is one of the earliest adopters of using body cameras (Personal Digital Recording Devices – PDRD) and critically reviewing that footage along with other data to address disparities in policing. We use video footage to train us in procedural justice practices. We have a new computer system—Vision—that links video footage to events. This linkage facilitates supervisory review of the video. This is an additional tool to enhance the Department's self-oversight.

It is disappointing that the audit did not find full compliance with the Department's PDRD activation policy. The audit found instances of failure to turn on the PDRD, late activations and overuse of administrative deactivations. We need to reinforce the Department's policy and expectations related to PDRD use. Direction on PDRD use now starts upon hire. Recruits now wear body cameras as soon as they start our Academy, so they are inculcated to automatically turn on their cameras. Supervisors are being trained to identify certain words and sentences in reports

that are commonly used by officers such as “guided or assisted to the ground” to ensure that the officers they supervise are reporting force and complying with the body-camera policy.

Lastly, the Department imposes progressive discipline for PDRD activation violations, sending a clear message that fully complying with the policy is a core value for this Department. Recently I imposed a 30-day suspension on a very senior officer for this failure.

Recommendation No. 3

Provide additional training on conducting critical reviews of incidents likely to involve force.

Actions:

The Department will be incorporating this training into sergeant’s continued professional training (CPT) and in command retreat training. The training will focus on identifying language in reports indicating force was used or was likely used and identifying inappropriate use of boilerplate language. When trigger language is discovered, supervisors will be trained to review video to confirm whether force was used and identify any training or PDRD activation issues.

In addition, new interactive dashboards that draw from our database make it much easier for supervisors to quickly review uses of force for an officer, a squad or an area. We expect that these new tools will give supervisors additional timely information they can use to monitor officer performance.

Recommendation No. 4

Equip all sworn personnel with body cameras.

Actions

The Department has equipped all officers and sergeants in field assignments with body-worn cameras and will be assigning cameras to all patrol lieutenants. In addition, body-worn cameras are available for check out by sworn members not assigned to the field, but who will be working a field operation.

Moving forward, the Department will be enhancing and expanding the fixed camera systems in CID interview rooms and in the building.

Recommendation No. 5

Codify Special Order 9191 into General Order M-18.

Actions

As I mentioned under the first recommendation, I issued Special Order 9191 last year. The Department will start the process of folding the order into General Order M-18. Meanwhile, Special Order 9191 stands and supervisors must follow it.

Recommendation No. 6

Incorporate technology that tracks when officers unholster their firearms.

Actions

The Department has been researching technology to track firearm use, including when a firearm is unholstered or fired. Based on the recent research and vendor demonstrations, OPD will be issuing a Request for Quotes by the end of 2019 from vendors for this technology.

Recommendation No. 7

Provide social-tactics training.

Actions

Since 2014, the Department has trained its officers and professional staff, as well as other agencies' officers, on Procedural Justice - how to treat community members fairly and respectfully. The first phase of this training was Procedural Justice Part 1. We followed the initial training with Procedural Justice Part 2 which incorporated recommendations from the Stanford linguistics study that was based on a critical review of hundreds of hours of body-camera footage. Stanford is doing a follow up to of their linguistic study to measure the effects of the Procedural Justice Part 2 training on interactions with the community.

The Department will continue to develop and deliver Procedural Justice training. The tenets of Procedural Justice have become a foundation for our training and our interactions with the public. I am extremely pleased with this work because it reflects and reinforces the culture change that has occurred in the department.

Recommendation No. 8

Incorporate Train-the-Trainer courses.

Actions

The Department collaborates with other departments to learn new and innovative approaches to policing and develop internal trainers in those subjects. For example:

- Last month our Training Lieutenant and Crime Lab Manager attended a training at the New Orleans Police Department to learn about their Ethical Policing is Courageous (EPIC) program. We will implement that program for OPD using the information our employees brought back from New Orleans.
- We have a sergeant who is trained to teach the Integrating Communications, Assessment, and Tactics (ICAT) which he teaches here at OPD as well as training other trainers.
- Earlier this month, we hosted members of the San Antonio Police Department to teach our trainers at OPD on issues related to our Trauma Informed Care and Wellness Program. This program helps employees recognize and process their own exposure to trauma and how to manage those impacts in a healthy way. Likewise, we are learning to approach our community with a trauma informed approach, recognizing that many of the communities we serve have been impacted by trauma.
- We are part-way through the first delivery of our four-module Race and Equity Academy. This training is being jointly delivered by OPD training staff and the City's Director of Race

and Equity. After the Academy sessions we will build out equity teams throughout the department to implement equity practices in the Department.

The examples above reflect the fundamental themes that shape our training - as standalone courses and well as a philosophy underlying our overall training programs. These themes include personal and organizational accountability, respect for our community and for our department, and continuous evaluation of ourselves and our impact on the community. Our goal is to create internal trainers on these subjects to support sustainable positive culture change. We are committed to investing in training as a top priority of this Department.

Recommendation No. 9

Provide specific training for Specialized Units.

Actions

The Department is currently updating Bureau of Field Operations Policy and Procedure 15-01, *Community Policing* that outlines expectations and responsibilities for Neighborhood Service Coordinators (NSC), Community Resource Officers (CRO), Foot Patrol Officers, and Crime Reduction Teams (CRT). The policy and procedure includes training recommendations for CROs and CRT supervisors.

On October 16 and 17, 2018, OPD delivered Community Resource officer (CRO) specific training centered on effective community policing. The training was based on 21st century policing initiatives and explained why current conditions require a commitment to community policing: partnerships, organizational transformation, and problem solving. Modules addressed problem-solving, reducing the risks and harms from unlawful bias, and best practices to mitigate discriminatory policing practices. The training included our Neighborhood Services Division employees and input and approval by Oakland's Safety and Services Oversight Committee and our Community Policing Advisory Board (CPAB).

On March 28, 2019, all CRO and Neighborhood Service Division employees attended a community policing problem-solving course. This training was discussed with Oakland's Safety and Services Oversight Committee and our CPAB prior to finalizing the lesson plan and included blocks of instruction developed by the CPAB and Neighborhood Crime Prevention Council Chairs and community members.

In addition to the training described above, recent training has been provided to CRO and CRT officers related to search warrants and operational strategy to reduce risk and ensure best practices in constitutional policing.

Recommendations No. 10 and No. 11.

Clarify command and supervisory authority within Special Resources Section Teams. (10)

Ensure that scene/approving/reviewing supervisors review reports by officers who are not normally assigned to the squad. (11)

Actions

Recommendations 10 and 11 are related. OPD recognizes the value of continuity in supervision and command for incidents where force is used or likely to be used. There can be staffing or logistic issues that lead to circumstances where commanders may need to share supervision of a particular event. As noted by the OIG, there is need for improvement in coordination and communication when there is more than a single supervisor or commander involved in an incident who may be approving or reviewing reports. I have directed the creation of a Focus Group of supervisors and commanders to identify where there are breakdowns in communication and information sharing related to these types of events. This group will recommend solutions to improving communication, continuity, and tracking so the appropriate and informed supervisors are approving and reviewing reports. The group will report out its recommendations by October 31, 2019.

Recommendation No. 12

The OIG should do a follow-up report.

Actions

I have requested the OIG conduct a series of spot checks in the upcoming months to evaluate compliance with the use of force reporting. In addition, the OIG will conduct a follow-up audit within the next year, and annually thereafter.